

EXPLANATORY STATEMENT

Issued by the authority of the Parliamentary Secretary to the Treasurer

Census and Statistics Act 1905

Proclamation appointing Census day

Subsection 8(1) of the *Census and Statistics Act 1905* (the Act) provides that the Census shall be taken in the year 1981 and every fifth year thereafter, and at such other times as are prescribed. Thus the next National Census is to be conducted in 2016.

Subsection 8(2) of the Act requires that the Census day shall be appointed for that purpose by proclamation.

The purpose of the Proclamation is to appoint the Census day for the 2016 Census. The previous Census, held in 2011, was conducted on 9 August. To maintain comparability of the time series data it is important that the 2016 Census be conducted as close as possible to that date. The Census also needs to avoid school holidays to ensure as full coverage as possible of persons in their usual place of residence.

Thus, the Proclamation appoints 9 August 2016 as the day on which the 2016 Census will be taken.

The Act specifies no conditions that need to be satisfied before the power to make the Proclamation may be exercised.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Provided in the following attachment are the details of the *Census and Statistics (2016 Census Day) Proclamation 2015*; and the statement of Compatibility with Human Rights.

Consultation

A broad public consultation process was undertaken on the nature and content of Census 2016 from 2012 to 2014. This public consultation process sought input on all aspects of the nature as well as the content of the Census. The consultation did not raise any suggestion to change the traditional Census timing of Tuesday night in early August, nor did it raise any concerns with this timing.

In May 2015, the Hon. Joe Hockey MP (Treasurer) announced that the 2016 Census would be conducted on a comparable basis to the 2011 Census. Setting the Census date to Tuesday 9 August is consistent with this announcement. No concerns have been raised with the ABS about this announcement in relation to the Census date.

ATTACHMENT A

Details of the *Census and Statistics (2016 Census Day) Proclamation 2015*

Section 1 – Name of Regulation

This section provides that the title of the instrument is the *Census and Statistics (2016 Census Day) Proclamation 2015*.

Section 2 – Commencement

This section provides that the instrument will commence the day after it is registered.

Section 3 – Authority

This section provides that the instrument is made under subsection 8(2) of the *Census and Statistics Act 1905*.

Section 4 – Schedule

This section provides that the proclaimed Census day for 2016 will be 9 August 2016.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Census and Statistics (2016 Census Day) Proclamation 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Instrument

In accordance with subsection 8(2) of the *Census and Statistics Act 1905*, the instrument proclaims the Census day as 9 August 2016.

Human rights implications

This Legislative Instrument engages, and is compatible with, the prohibition on interference with privacy. Article 17 of the International Covenant on Civil and Political Rights (ICCPR) prohibits unlawful or arbitrary interferences with a person's privacy, family, home and correspondence.

This instrument is for the purposes of proclaiming the date of the next Census to be held in 2016 and is not arbitrary, and is in pursuit of a legitimate objective. The Census aims to measure accurately the number of people and dwellings in Australian on Census Night, and a range of their key characteristics. This information is used for electoral purposes and for planning the distribution of government funds.

The conduct of the Census, as required by the *Census and Statistics Act 1905*, engages the prohibition on interference with privacy. This instrument does not impose obligations on persons to provide personal information. Such obligations associated with the collection of information from persons for the purposes of the Census are lawfully imposed by subsections 10(4) and 11(2) of the *Census and Statistics Act 1905*. Information given under the *Census and Statistics Act 1905* is protected by the secrecy provisions of section 19, which provides for offences for officers who disclose information (other than to the person from whom it was obtained) given under the Act.

Conclusion

This legislative instrument is compatible with human rights.