

EXPLANATORY STATEMENT
Statutory Rules 1985 No. 191
Issued by Authority of the Treasurer

CENSUS AND STATISTICS ACT 1905
DETERMINATION MADE UNDER SECTION 13

Introduction

This Determination is being made under Section 13 of the Census and Statistics Act 1905 (the Act).

2 The objective of the Determination is to enable information to be disclosed to assist the Statistician to perform statistical processing functions. It is anticipated that circumstances will exist from time to time in which the Australian Bureau of Statistics (ABS) will need to contract out work which it cannot undertake with its own resources, be they specialist equipment or skills, or other human resources. This could involve passing to the contractor information furnished in pursuance of the Act. In the absence of an appropriate Determination such passage of information would be a breach of sub-section 19 (1) of the Act.

Background

3 Section 19 of the Act provides for the confidentiality of information supplied to the ABS. Sub-section 1 of that Section provides that information may be disclosed in accordance with a Determination.

4 Authority for the Minister to make Determinations is contained in Section 13 of the Act.

5 Sub-section 13 (1) enables the Minister to authorise the Statistician to release information included in a specified class of information furnished in pursuance of the Act. It is then the responsibility of the Statistician to decide whether or not to approve the disclosure of particular information. In doing so, he will be guided by an overriding concern to maintain the confidence and trust of the persons, businesses and organisations supplying information to the ABS.

6 Sub-section 13 (2) provides that a Ministerial Determination can specify terms and conditions subject to which such information may be disclosed. Such terms and conditions may include a requirement that a person to whom the information

is being given shall undertake not to disclose any of this information to any person. The information which is released under these conditions would be protected by Section 19, the secrecy provision of the Act, and a breach of such an undertaking would therefore be an indictable offence.

7 Sub-section 13 (3) provides that a Determination may not authorise the release of identifiable information of a personal or domestic nature.

8 Sub-section 13 (4) has the effect that the provisions of the Acts Interpretation Act 1901 relating to passage of regulations in the Parliament apply to each Determination. Thus each Determination is to be notified in the Gazette, tabled in Parliament and be subject to disallowance.

9 Sub-section 13 (5) has the effect that Determinations will be published, and copies made available to the public, in the same manner as for all statutory rules.

10 The first Determination made under Section 13 of the Act was Statutory Rules 1983 No. 19.

Notes on the Clauses of this Determination

11 Clause 1 specifies the relationship between this Determination and Statutory Rules 1983 No. 19.

12 Clause 2 provides a convenient citation for the Statutory Rules 1983 No. 19 when amended by this Determination.

13 Clause 3 will enable the ABS to contract out work which it cannot undertake with its own resources, be they specialist equipment or skills, or other human resources. This may involve passing to a contractor information which would otherwise be prohibited from disclosure by Section 19 of the Act. The contractor could be another Government Department or a private person or organisation.

14 Sub-clause 7A (1) of the amended Determination sets out the terms and conditions under which information may be disclosed under this clause. It emphasises the provision of Sub-section 13 (3) of the Census and Statistics Act 1905 by not authorising the release of information of a personal or domestic nature which is likely to enable the identification of that person.

15 Sub-clause 7A (2) of the amended Determination, in conjunction with Section 19 of the Act, ensures that any information disclosed under this clause is protected from improper use.

