

EXPLANATORY STATEMENT

National Health Security (Responsible Bodies) Determination 2008

Issued by Authority of the Minister for Health and Ageing

National Health Security Act 2007
Determination under subsection 3(2)

Purpose

Part 2 of the *National Health Security Act 2007* (the Act) provides for protected information to be passed between the National Focal Point (NFP), established within the Office of Health Protection in the Department of Health and Ageing, and responsible Commonwealth, State or Territory bodies that are determined by this instrument.

Legislative Provisions

Under subsection 3(2), the Minister may determine, by legislative instrument, one or more agencies nominated by the Health Minister of each State, Territory and Norfolk Island (s.3(2)(b)) and one or more Commonwealth agencies (s.3(2)(a)) to be a responsible body for the purposes of Part 2 of the Act.

A determination made under subsection 3(2) is a legislative instrument of the Act and for the *Legislative Instruments Act 2003*.

Background

The Act was passed by the Parliament on 20 September 2007.

The Act aims to:

- provide for the exchange of public health surveillance information between the Commonwealth and other jurisdictions and with the World Health Organization (WHO) to enhance the early identification of, and timely responses to, public health events of national or international significance (Part 2);
- enhance Australia's compliance with the International Health Regulations 2005 (IHR) that came into effect in June 2007 and which aim to prevent, protect against, control and provide a public health response to the international spread of disease in ways which avoid unnecessary interference with international trade and traffic; and
- establish a national scheme for the registration and regulation of laboratories handling security-sensitive biological agents (Part 3).

Operation

Part 2 authorises the disclosure of protected information, including personal information, for public health surveillance purposes when required to support an effective national or international response. It sets out the permissible purposes for which information may be collected and provides authority for disclosure of the information in certain circumstances.

- Protected information is defined in section 18 of the Act.
- Personal information has the same meaning as in the *Privacy Act 1988*.
- Permissible purpose is defined in section 8 of the Act.

Part 2 enables the establishment of a National Focal Point (NFP) to liaise with Commonwealth, State and Territory bodies in relation to public health events of national significance and for the purposes of giving effect to the IHR, and to liaise with and be accessible at all times to the WHO and other countries. The NFP operates from the National Incident Room, located in the Office of Health Protection within the Department of Health and Ageing in Canberra.

Part 2 also provides for protected information to be passed between the NFP and a responsible Commonwealth, State or Territory body. These responsible bodies are government agencies that have been nominated by each State, Territory and Norfolk Island Health Minister, and Commonwealth government agencies, each of which has been identified as an agency with which the NFP and the Minister can share protected information, including personal information, when required for a permissible purpose under the Act.

The responsible bodies will operate as contact points for liaison between the Commonwealth and the States and Territories. Formally identifying the bodies to which protected information can be disclosed will strengthen the security of the protected information. It will also improve the coordination of public health surveillance information and responses to public health events of national or international significance. In many cases, this will be formalising existing arrangements.

A responsible body will be accessible at all times to liaise and share information, and will have a secure communications capability to ensure the security of protected information.

The Act requires the Department of Health and Ageing to include in its Annual Report a report on the use of protected information (within the meaning of section 18) by the Commonwealth.

Timing

This Determination commences on 28 March 2008.

Consultation

The Minister for Health and Ageing sought nominations from the Health Minister of each State, Territory and the Acting Administrator of Norfolk Island of agencies within each jurisdiction to be determined as a responsible body for the purposes of Part 2 of the Act.

The Secretary of the Department of Health and Ageing consulted with the Commonwealth agencies that have been included in the list of responsible bodies.

The list of nominated agencies forms Schedule 1 to this Determination.

Description of the Determination

Section 1 Name of Determination

This section provides the name of the Determination.

Section 2 Commencement

This section provides for the Determination to commence on commencement of Part 2 of the Act.

Section 3 Definition

This section provides a definition of ‘Act’ to mean the *National Health Security Act 2007*.

Section 4 Determination of responsible bodies

This section provides that each agency listed in Schedule 1 is a ‘responsible Commonwealth, State or Territory body’ for the purposes of the definition in subsection 3(2).

SCHEDULE 1 RESPONSIBLE BODIES

Part 1 Commonwealth

This part lists Commonwealth responsible bodies.

Part 2 New South Wales

This part lists responsible bodies of the State of New South Wales.

Part 3 Victoria

This part lists responsible bodies of the State of Victoria.

Part 4 Queensland

This part lists responsible bodies of the State of Queensland.

Part 5 Western Australia

This part lists responsible bodies of the State of Western Australia.

Part 6 South Australia

This part lists responsible bodies of the State of South Australia.

Part 7 Tasmania

This part lists responsible bodies of the State of Tasmania.

Part 8 Australian Capital Territory

This part lists responsible bodies of the Australian Capital Territory.

Part 9 Northern Territory

This part lists responsible bodies of the Northern Territory.

Part 10 Norfolk Island

This part lists responsible bodies of Norfolk Island.