

EXPLANATORY STATEMENT

Migration Regulations 1994

ACCESS TO MOVEMENT RECORDS (REGULATION 3.10A)

1. This Instrument is made under regulation 3.10A of the *Migration Regulations 1994* ('the Regulations').
2. Subregulation 3.10A(1) of the Regulations provides that for the purposes of subparagraph 488(2)(a)(vii) of the Act, Commonwealth, State or Territory legislation specified by the Minister in an instrument in writing is prescribed.
3. Subregulation 3.10A(2) of the Regulations provides that for paragraph 488(2)(g) of the Act, an agency of the Commonwealth, a State or a Territory, an employee of a prescribed agency, and an employee of a prescribed agency who is specified by the Minister in an instrument in writing for this paragraph is prescribed, and a purpose specified by the Minister in a instrument in writing is prescribed.
4. Subsection 488(1) of the *Migration Act 1958* ('the Act') provides that a person must not read, examine, reproduce, use or disclose any part of movement records otherwise than in accordance with an authority given under subsection 488(2). Subsection 488(2) of the Act provides that the Minister may authorise an officer to perform one or more of the actions prohibited by subsection 488(1).
5. Specifically, subparagraph 488(2)(a)(vii) of the Act permits the Minister to authorise an officer to perform one or more of the actions for the purposes of prescribed Commonwealth, State or Territory legislation. Paragraph 488(2)(g) of the Act permits the Minister to authorise a prescribed employee of a prescribed agency of the Commonwealth, or of a State or Territory, to perform one or more of those actions for prescribed purposes.

6. The purpose of the Instrument is to facilitate the administration of prescribed legislation and minimise fraud against the Commonwealth by enabling access to movement records to be authorised in a controlled and responsive manner.
7. The Instrument operates to allow the use of movement records information by external agencies in order to administer various legislation. The Instrument will allow prescribed employees of a prescribed Commonwealth, State or Territory agency to read, examine, reproduce, use or disclose movement records for prescribed purposes.
8. The Instrument has been updated to reflect the integration of Centrelink and the Child Support Agency to the Department of Human Services.
9. Consultation was undertaken before the Instrument was made with the Department of Human Services.
10. The Instrument has also been updated to permit access to movement records by specified employees of the Attorney-General's Department for the purposes of exercising child protection measures and assisting to combat child abduction.
11. Consultation was undertaken before the Instrument was made with the Attorney-General's Department.
12. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Reference 12864).
13. This Instrument, IMMI 11/049, commences on the day after signature.