

EXPLANATORY STATEMENT

Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2013

Summary

The *Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2013* (the Guidelines) are made under paragraph 209(a) of the *Social Security (Administration) Act 1999* (the Act).

The purpose of the Guidelines is to assist the Secretary (or the delegate) of the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) in the exercise of their power under paragraph 208(1)(a) to disclose information in the public interest.

The disclosure of relevant information to a person, under paragraph 208(1)(a) of the Act in accordance with the Guidelines, does not give that person the authority to disclose that information to further parties, unless this disclosure is for the purpose for which the information was disclosed to the person, as permitted by paragraph 202(2)(e) of the Act, or the disclosure is otherwise authorised under law.

The Guidelines are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Changes to the 2010 Guidelines

The Guidelines revoke the *Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2010*. The new Guidelines largely replicate the 2010 Guidelines, subject to a number of changes. The new Guidelines:

- expand the scope of section 16 to permit the disclosure of relevant information to a State or Territory public housing department or authority, or their agent or contracted service provider, to facilitate the administration of the vulnerable welfare payment recipient income management measure;
- insert new section 17C to permit the disclosure of relevant information about a person's social security concessions where responsibility for the provision of services to them has been transferred from one public utility to another; and
- make a number of minor and technical amendments.

More detailed information about the changes is set out below.

Section 16 – Public Housing Administration

Prior to its amendment, section 16 permitted the disclosure of information about a resident or tenant of public housing or other State or Territory managed housing to facilitate rent calculation or rent deduction, or to facilitate the administration of an income confirmation service.

Under this amendment to the Guidelines, the content of former section 16 will be retained in new subsection 16(1). A new subsection 16(2) will be inserted. New subsection 16(2) applies to information about a resident, an applicant to become a tenant, or a tenant of public housing or other State or Territory managed housing. Under this provision, relevant information may be disclosed to a department or any other authority of a State or Territory, or their agent or contracted service provider, to facilitate the administration of the vulnerable welfare payment recipient income management measure (the vulnerable measure).

The vulnerable measure is one of the bases on which a person can be subject to the income management regime in Part 3B of the *Social Security (Administration) Act 1999*. The vulnerable measure is directed at supporting people who are vulnerable to circumstances such as financial crisis, economic abuse or homelessness.

The purpose of new subsection 16(2) is to enable disclosures of information to public housing bodies to facilitate the administration of the vulnerable measure. Public housing bodies regularly refer people to the Department of Human Services (DHS) for assessment under the vulnerable measure. This often happens, for example, if they are considered to be at risk of homelessness or if they are behind in their rental payments. The provision of information by DHS about the progress of their assessment under the vulnerable measure will assist the public housing bodies, such as by enabling them to determine action to take in relation to the person's rental arrears.

Section 17C – Public Utilities

New section 17C will permit the disclosure of relevant information about a person's social security concessions where responsibility for the provision of services to them has been transferred from one public utility to another. The purpose of the amendment is to facilitate improved customer service for Commonwealth concession card holders who receive a concessional rate on their utilities bill.

New section 17C will apply in relation to the disclosure of information about the customers of a public utility. The term "public utility" is defined in subsection 17C(2) to mean a legal entity that provides, or is related to a legal entity that provides, water, sewerage, gas, electricity or telecommunications services to the public.

New section 17C will apply where the customer of a public utility has provided consent to enable that public utility to confirm their entitlement to a social

security related concession. This confirmation is provided through the Centrelink Confirmation eServices (CCeS), administered by the Department of Human Services. Where responsibility for the provision of services to that customer has been transferred to another public utility and, where necessary, the second public utility advises the Commonwealth of the customer's contact details, relevant information may be disclosed to the second public utility to enable it to confirm the customer's entitlement to a social security related concession through the CCeS. This is intended to cover a range of situations where responsibility for the provision of services to customers has been transferred. This may arise through changes in the ownership of public utilities (eg as the result of merger or acquisition). It may also arise, for example, where a public utility enters in to an arrangement for another public utility to take over responsibility for some or all of its customers.

Minor and technical amendments

The Guidelines make the following minor technical amendments:

- replace the definition of, and references to, "Centrelink" with a definition of, and references to, "Human Services Department" (sections 5, 7, 9, 11, 13 and 24);
- update references to legislation administered by the Department of Human Services (section 5);
- omit a definition (of the term "Chief Executive Officer of Medicare Australia" in section 5) and a note (at the end of section 22) as they are no longer considered necessary; and
- update a reference to the value of a penalty unit for the purposes of the *Crimes Act 1914* (in a note at the end of section 9).

A detailed description of the full Guidelines follows.

Part 1 – Preliminary

Part 1 sets out preliminary information about the Guidelines, namely, the name of the Guidelines (**section 1**), commencement (**section 2**), revocation of the former instrument (**section 3**), purpose (**section 4**), definitions (**section 5**) and matters to which the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs must have regard (**section 6**).

Section 5 has been amended to replace the definition of "Centrelink" with a new definition of "Human Services Department". This latter term is a more appropriate term for the purposes of the Guidelines. All references in the Guidelines to "Centrelink" have been replaced with references to "Human Services Department" (see sections 7, 9, 11, 13 and 24). The definition of "Chief Executive Officer of Medicare Australia" has been omitted as it is no longer considered necessary. In the definition of "Minister", a reference to the

“*Commonwealth Services Delivery Agency Act 1997*”, which has been repealed, has been replaced with references to the “*Human Services (Centrelink) Act 1997*” and the “*Human Services (Medicare) Act 1973*”.

Section 6 provides that the Secretary must have regard to certain matters in giving a public interest certificate. The Secretary must have regard to any situation in which a person (to whom the information relates) is, or may be, subject to physical, psychological or emotional abuse. The Secretary must also have regard to whether the person in such a situation may be unable to give notice of his or her circumstances because of age, disability or social, cultural, family or other reasons. Section 6 is intended to ensure that these matters are taken into account in giving a public interest certificate, such as where relevant information may be disclosed in relation to situations involving individuals who may not be in a position to seek assistance themselves.

Part 2 – Guidelines – public interest certificate (general)

Part 2 sets out how the disclosure of relevant information can generally occur under paragraph 208(1)(a) of the Act.

Subsection 7(1) provides that a public interest certificate may be given by the Secretary if:

- the information cannot reasonably be obtained from another source other than the Department or the Department of Human Services (DHS); and
- the disclosure will be to a person who has sufficient interest in the information; and
- the Secretary is satisfied that disclosure is for the purpose of section 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 17A, 17B, 17C, or 18 or subsection 13(1) or (2).

Subsection 7(2) provides that a person has *sufficient interest* in the relevant information if either the Secretary is satisfied that the person has a genuine and legitimate interest in the information or the person is a Minister.

Section 8 permits disclosure of relevant information where necessary to prevent, or lessen, a threat to the life, health or welfare of a person.

Paragraph 9(1)(a) permits disclosure of relevant information if the disclosure is necessary:

- for the enforcement of a criminal law that relates to an indictable offence punishable by imprisonment of 2 years or more;
- for the enforcement of a law imposing a pecuniary penalty equivalent to 40 penalty units or more; or
- to prevent an act that may have a significant adverse effect on the public revenue.

Paragraph 9(1)(b) permits disclosure of relevant information where the disclosure relates to an offence, or threatened offence, against a Commonwealth employee or Commonwealth property, or in premises of the Department (ie FaHCSIA) or DHS.

Subsection 9(2) defines the terms ‘criminal law’ and ‘penalty unit’.

A **note** at the end of **section 9** quotes subsection 4AA(1) of the *Crimes Act 1914*. This note has been amended by updating the definition of the term “penalty unit” to mean “\$170” rather than “\$110”.

Section 10 permits disclosure of relevant information where necessary to correct a mistake of fact in relation to the administration of a program of the Department where either the integrity of the program is at risk if the mistake of fact is not corrected or the mistake of fact relates to a matter that has been, or will be, published.

Section 11 permits the disclosure of relevant information if the disclosure is necessary to brief a Minister (as defined in section 5):

- to enable the Minister to consider complaints or issues by, or on behalf of a person, and respond to that person accordingly;
- for a meeting or forum that the Minister is to attend;
- in relation to issues raised, or proposed to be raised by or on behalf of a person so that the Minister can respond by correcting a mistake of fact, a misleading perception or impression, or a misleading statement;
- about a DHS error or delay; or
- about an anomalous or unusual operation of the social security law.

Section 12 permits disclosure of relevant information to a court, coronial enquiry, Royal Commission, department or any other authority of a State or Territory if the information is about a reported missing person and the disclosure is necessary either to assist such a body in relation to the whereabouts of the missing person or to locate a person (including the missing person). However, disclosure will only be possible if there is no reasonable ground to believe that the missing person would not want the information disclosed.

For the purposes of this section, a reported missing person would include a person who has had a missing person’s report about them filed with the police.

Subsection 13(1) permits disclosure of relevant information about a deceased person where the disclosure is:

- necessary to assist a court, coronial enquiry, Royal Commission, department or any other authority of a State or Territory in relation to the death of the person;
- necessary to locate a relative or beneficiary of the deceased person;

- necessary to help an individual or authority responsible for the administration of the estate of the deceased person in relation to the administration of the estate of the deceased person; or
- is in relation to the Department of Human Services transferring information to the relevant authority responsible for administering the social security system in another country regarding the deceased person who, prior to their death, was qualified for or in receipt of an Australian social security payment or held a Commonwealth Seniors Health Card.

However, disclosure will only be possible if there is no reasonable ground to believe that the deceased person would not have wanted the information disclosed.

Subsection 13(2) permits disclosure of relevant information where the information is to establish the death of a person or the place where the death of a person is registered.

Section 14 permits disclosure of relevant information where it is necessary to ensure a child who should be enrolled in, or attending, school, is enrolled or attending.

In administering Part 3B of the Act, DHS may collect information from parents or schools regarding the enrolment or attendance of children at school. However, State and Territory education departments and schools may not necessarily have certain information on their own records. For example, they may not be aware of children who are not enrolled at school. Section 14 will facilitate the release of information to ensure children who should be enrolled and attending school, under State and Territory laws, are so enrolled and attending in accordance with those laws.

Attendance at school is one of the principal indicators for school achievement and students who are regularly absent from school are those at greatest risk of dropping out of school early, becoming long-term unemployed, dependent on welfare and being involved in the justice system. Section 14 is intended to ensure that relevant information held by the Commonwealth is provided to relevant State/Territory authorities and schools so that action can be taken to facilitate enrolment and improve attendance in accordance with State/Territory laws.

Section 15 permits the disclosure of relevant information where it is necessary to plan for, meet or monitor infrastructure and resource needs in one or more schools.

Section 16 has been amended to expand the scope of disclosures that are permitted in relation to the administration of public housing.

Prior to its amendment, section 16 permitted the disclosure of information about a resident or tenant of public housing or other State or Territory

managed housing to facilitate rent calculation or rent deduction, or to facilitate the administration of an income confirmation service to avoid mistakes, underpayments and overpayments of rents, pensions and allowances.

Under the amended Guidelines, the content of former section 16 will be retained in **new subsection 16(1)**. This provision authorises the disclosure of income details about people in public housing from DHS to bodies such as State Housing Authorities (SHAs) to allow for the accurate calculation of rents. Subsection 16(1) also authorises the disclosure of information from DHS to bodies such as SHAs in the context of the administration of an income confirmation service (such as the Automatic Income Confirmation Service). The disclosure of information under this provision provides administrative efficiency for government agencies and those in public housing who need to have their rents determined according to their household income.

A **new subsection 16(2)** will be inserted. New subsection 16(2) applies to information about a resident, an applicant to become a tenant, or a tenant of public housing or other state or Territory managed housing. Under this provision, relevant information may be disclosed to a department or any other authority of a State or Territory, or their agent or contracted service provider, to facilitate the administration of the vulnerable welfare payment recipient income management measure (the vulnerable measure).

The vulnerable measure is one of the bases on which a person can be subject to the income management regime in Part 3B of the *Social Security (Administration) Act 1999*. The vulnerable measure is directed at supporting people who are vulnerable to circumstances such as financial crisis, economic abuse or homelessness.

The purpose of new subsection 16(2) is to enable disclosures of information to public housing bodies to facilitate the administration of the vulnerable measure. Public housing bodies regularly refer people to the Department of Human Services (DHS) for assessment under the vulnerable measure. This often happens, for example, if they are considered to be at risk of homelessness or if they are behind in their rental payments. The provision of information by DHS about the progress of their assessment under the vulnerable measure will assist the public housing bodies, such as by enabling them to determine action to take in relation to the person's rental arrears.

Subsection 17(1) provides for relevant information to be disclosed where it is necessary for the establishment of the Queensland Family Responsibilities Commission (FRC) or to assist in the performance of its functions or the exercise of its powers. Among other things, relevant information can be disclosed under subsection 17(1) to support decision-making by the FRC. This would include enabling the FRC to correctly identify persons who are within its jurisdiction.

Subsection 17(2) provides that the Family Responsibilities Commission means the Commission established by section 9 of the *Family Responsibilities Commission Act 2008* (Qld).

Section 17A permits the disclosure of relevant information where the information will be used by a State, Territory or the Commonwealth government for the purpose of contacting someone in respect of their possible entitlement to compensation or other forms of recompense in a reparation process.

Section 17B allows for the disclosure of relevant information to a State or Territory Child Protection agency if the disclosure is necessary for the purpose of contacting a child's parent or relative. For example, section 17B may apply when a Child Protection agency is seeking to contact a parent to assist in a court case relating to the child.

Subsection 17B(2) provides that Child Protection agency means a government agency that carries out child protection functions.

New section 17C will permit the disclosure of relevant information about a person's social security concessions where responsibility for the provision of services to them has been transferred from one public utility to another. The purpose of the amendment is to facilitate improved customer service for Commonwealth concession card holders who receive a concessional rate on their utilities bill.

New section 17C will apply in relation to the disclosure of information about the customers of a public utility. The term "public utility" is defined in subsection 17C(2) to mean a legal entity that provides, or is related to a legal entity that provides, water, sewerage, gas, electricity or telecommunications services to the public.

New section 17C will apply where the customer of a public utility has provided consent to enable that public utility to confirm their entitlement to a social security related concession. This confirmation is provided through the Centrelink Confirmation eServices (CCeS), administered by the Department of Human Services. Where responsibility for the provision of services to that customer has been transferred to another public utility and, where necessary, the second public utility advises the Commonwealth of the customer's contact details, relevant information may be disclosed to the second public utility to enable it to confirm the customer's entitlement to a social security related concession through the CCeS. This is intended to cover a range of situations where responsibility for the provision of services to customers has been transferred. This may arise through changes in the ownership of public utilities (eg as the result of merger or acquisition). It may also arise, for example, where a public utility enters in to an arrangement for another public utility to take over responsibility for some or all of its customers.

Subsection 18(1) provides that relevant information can be disclosed to facilitate the progress or resolution of any matters of relevance within the portfolio responsibilities of a department administering any part of the social security or family assistance law. **Subsection 18(2)** provides that "a matter of relevance to a department" is a matter that falls within the portfolio

responsibilities of that department and which provides assistance or services to a class of people which is wholly or partly comprised of people receiving payments or entitlements under the social security law or the family assistance law.

FaHCSIA and other departments that administer the social security law or family assistance law also administer programs and schemes that deliver additional support and assistance to people who may or may not be in receipt of social security or family assistance payments or entitlements. This additional support does not necessarily fall within the social security law or the family assistance law. Section 18 enables the disclosure of relevant information where it is necessary to facilitate or progress a departmental program or scheme that is designed to deliver services to support and assist a class of people wholly or partly comprised of social security or family assistance recipients, whether or not that program or scheme falls within the social security law or family assistance law.

This section enables a delegate to disclose information where the disclosure is not already authorised by section 202 of the Act, or by another section in these Guidelines. Section 18 mirrors an equivalent provision of the *Family Assistance (Public Interest Certificate) (FaHCSIA) Guidelines 2010*.

Part 3 – Guidelines – public interest certificate (homeless young person)

Part 3 sets out how the release of relevant information can occur under paragraph 208(1)(a) of the Act in relation to homeless young people.

Section 19 provides that this Part applies if relevant information relates to a homeless young person. It also provides definitions of the terms 'homeless young person' and 'parent' for the purposes of Part 3.

Subsection 20(1) provides that a public interest certificate may be given by the Secretary if:

- the information cannot be obtained from a source other than the Department or DHS;
- the Secretary is satisfied that no harm will result to the homeless young person if information is disclosed; and
- the Secretary is satisfied that the disclosure is for the purpose of section 21, 22, 23 or 24.

Subsection 20(2) provides that a public interest certificate may also be given by the Secretary if:

- the information cannot be obtained from another source other than the Department or DHS;
- the disclosure will be made to a welfare authority of a State or Territory;
- the homeless young person to whom the information relates is either in the care of a welfare authority of a State or Territory or is under 15 years of age; and

- the Secretary is satisfied that no harm will result to the homeless young person if the information is disclosed.

Section 21 permits disclosure of relevant information to an appropriate authority if the information is about a family member of a homeless young person and the Secretary is satisfied that the homeless young person or a family member of the homeless young person has been subjected to abuse or violence.

Section 22 permits disclosure of information where necessary to verify a circumstance by which a homeless young person under the age of 15 years may qualify for a social security payment on the ground of being a homeless person. Information may also be disclosed if, in order to verify the circumstance, a parent or the parents of a homeless young person must be asked whether the homeless young person is able to live at the home of his or her parent/s.

Section 23 permits disclosure of information to facilitate reconciliation, or possible reconciliation, between a homeless young person and his or her parent/s.

Section 24 permits disclosure of information where necessary to inform the parent or parents of a homeless young person whether that person has been in contact with FaHCSIA or DHS. This section will only apply where the parent or parents have sought such an assurance.

Consultation

FaHCSIA consulted with the Department of Education, Employment and Workplace Relations and the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education in the development of the changes incorporated in the Guidelines. Those Departments may consider making corresponding Guidelines in relation to the disclosure of information relating to matters within their respective portfolios. FaHCSIA also consulted with the Department of Human Services in the development of these changes, as that Department is responsible for the implementation of changes in the Guidelines. FaHCSIA also consulted the Office of the Australian Information Commissioner (OAIC) in relation to the making of the Guidelines. The OAIC has no concerns with the Guidelines.

FaHCSIA consulted several private organisations in relation to new section 17C of the Guidelines. No general public consultation was considered necessary, as the changes in the Guidelines will have only a minor and highly-targeted impact.

Regulatory Analysis

This Determination does not require a Regulatory Impact Statement. The Guidelines are not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

Statement of Compatibility with Human Rights

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

Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2013

The *Social Security (Public interest Certificate Guidelines) (FaHCSIA) Determination 2013* 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 Legislative Instrument

The Determination is made under paragraph 209(a) of the *Social Security (Administration) Act 1999* (the Act). The purpose of the Determination is to provide guidelines to assist the Secretary (or a delegate) of the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) in the exercise of their power under paragraph 208(1)(a) of the Act to disclose information in the public interest.

The social security system involves the collection, use, storage and disclosure of significant amounts of information, much of which is of a personal nature. Part 5 of the Act provides a legal framework to ensure that a high level of protection is accorded to such information. Personal information handled under the social security system is also protected by the *Privacy Act 1988*.

Part 5 of the Act contains comprehensive provisions relating to the management of personal information, including provisions relating to the disclosure of such information. Among these provisions, paragraph 208(1)(a) provides that the Secretary (or the delegate) can disclose information acquired by an officer under the social security law if they certify that it is necessary in the public interest to do so in a particular case or class of cases. A certificate under this provision must specify the persons to whom, and the purposes for which, the information is provided. Under paragraph 209(a), the Minister has the power to make guidelines for the exercise of the Secretary's power in paragraph 208(1)(a).

Prior to the current Determination, the Minister most recently exercised the guideline-making power by making the *Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2010* (the 2010 Determination). The 2010 Determination provided guidelines relating to the disclosure of information in the public interest in a number of precisely-defined situations, and subject to a number of conditions (including that the information cannot reasonably be obtained from other sources and the person receiving the information has a sufficient interest in it).

The current Determination retains the content of the 2010 Determination (which is revoked), but adds two new situations in which information can be disclosed in the public interest. These two situations are as follows:

- **the public housing administration measure**, which expands the scope of section 16 to permit the disclosure of relevant information to a State or Territory public housing department or authority, or their agent or contracted service provider, to facilitate the administration of the vulnerable welfare payment recipient income management measure; and
- **the public utilities measure**, which inserts new section 17C to permit the disclosure of relevant information about a person's social security concessions where responsibility for the provision of services to them has been transferred from one public utility to another.

Each of those situations is precisely-defined, and is subject to the condition that information can only be disclosed if it cannot reasonably be obtained from a source other than FaHCSIA or the Department of Human Services (DHS), and that the person to whom the information relates has "sufficient interest" in the information (see section 7 of the Determination). The term "sufficient interest" is satisfied if the person has a genuine and legitimate interest in the information or the person is a Minister (as defined in section 5).

Human rights implications

Interference with privacy

The Determination engages the prohibition on interference with privacy, which impacts on changes to Commonwealth secrecy provisions relating to personal information, such as this Act. Article 17 of the International Covenant on Civil and Political Rights (ICCPR) prohibits unlawful or arbitrary interferences with a person's privacy. It also provides that persons have a right to the protection of the law against such interference.

The use of the term "arbitrary" in Article 17 means that any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in all the circumstances. It is recognised that limitations may be imposed on the general prohibition on interference with privacy, provided that such limitations are reasonable, necessary and proportionate.

The two new measures incorporated in this Determination are reasonable, necessary and proportionate. Each of the measures is reasonable in that each addresses a particular situation where a public benefit will flow from the disclosure of the information. In the case of the public housing administration measure, the purpose of the disclosure is to assist in the efficient and co-ordinated provision of Commonwealth and State/Territory entitlements and services to vulnerable persons who are in financial crisis or at risk of homelessness. In the case of the public utilities measure, the purpose of the

disclosure is to assist in the efficient provision of information about a person's social security concessions, where it is not possible to follow the normal practice of relying on a customer's consent, because responsibility for the provision of services to them has been transferred from one public utility to another.

Each of the measures is necessary as there are no viable and cost-effective alternatives to the relevant disclosures.

Each of the measures is also proportionate, as they are each precisely-defined and suitably qualified to ensure that they carefully target the issues they are addressing. This means that any officer making a public interest certificate on the basis of the new guidelines has a tightly-controlled discretion which is appropriate and proportionate in the circumstances.

There are a number of safeguards in place in relation to the disclosure of information under the new measures, many of which apply (and have applied over time) in relation to public interest disclosures under other provisions in the Determination. These include the following:

- As noted above, while the Privacy Act continues to apply in relation to the management of social security information, the social security law imposes a higher level of protection to such information than is imposed under the Privacy Act. For example, criminal sanctions apply for the unauthorised use or disclosure of information under the social security law (for example, section 204 of the *Social Security (Administration) Act 1999*);
- Public interest certificates made on the basis of the guidelines in the Determination are made by experienced Commonwealth officers (usually in DHS) at appropriate levels, and are subject to administrative arrangements which recognise the significance of such decisions;
- In appropriate circumstances, the disclosure of information under the Determination may be accompanied by additional measures to further protect the information (eg Deeds of confidentiality may be required for recipients of the information); and
- The social security law provides that information provided to a person on the basis of a public interest certificate must be used for the purpose for which it was provided. It is not possible for that recipient to disclose the information to other parties unless the disclosure is for the same purpose or the disclosure is otherwise authorised by law.

Right to social security

The Determination also engages the right to social security as recognised in Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to social security requires that a system be established under domestic law, and that public authorities must take

responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The new measures in the Determination promote this right. The public housing administration measure promotes this right by enabling disclosures of information to assist in the efficient and co-ordinated provision of Commonwealth social security entitlements and State/Territory services related to public housing. The public utilities measure promotes this right by enabling the provision of information about a person's social security concessions to ensure such concessions are properly delivered.

Concluding remarks

The Determination is compatible with human rights because it promotes the right to social security. To the extent that the right to privacy is limited, those limitations are reasonable, necessary and proportionate, and appropriate safeguards are in place.

Conclusion

The Determination is compatible with human rights.