



Privacy (Persons Reported as Missing) Rule 2014

I, Timothy Pilgrim, Privacy Commissioner, make the following rule under the *Privacy Act 1988*.

Dated: 3 March 2014

Signed

Timothy Pilgrim
Privacy Commissioner

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Part 1 — Preliminary

1 Name of Rule

This rule is the *Privacy (Persons Reported as Missing) Rule 2014*.

2 Commencement

This rule commences on 12 March 2014.

3 Purpose

- (1) The rule applies for the purposes of item 3 of the table in s 16A(1) of the *Privacy Act 1988*, which subject to conditions specified in the item in column 3 of the table, permits an APP entity to collect sensitive information, and use and disclose personal information for the purpose of locating a person reported as missing.
- (2) The rule does not permit an organisation to use or disclose government related identifiers.

4 Definitions

- (1) Unless this rule states otherwise, any word or expression used in this rule which is defined in the Privacy Act has the same meaning as in that Act.
- (2) In this rule:

child: without limiting who is a child of a person, someone is a *child* of a person if he or she is a child of a person within the meaning of the *Family Law Act 1975*.

family includes the following (without limitation):

- (a) a de facto partner of the individual
- (b) someone who is the child of the individual, or of whom the individual is the child
- (c) anyone else who would be a member of the individual's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the individual's family.

locating body means:

- (a) the Australian Federal Police
- (b) a police force or service of a State or Territory
- (c) the Salvation Army Family Tracing Service
- (d) the Australian Red Cross Tracing Service
- (e) International Social Service Australia
- (f) a Link-Up Service of a State or Territory, or
- (g) the Department of Foreign Affairs and Trade.

Office of the Australian Information Commissioner means the agency established under section 5 of the *Australian Information Commissioner Act 2010*.

person reported as missing means an individual:

- (a) who has been reported as missing to a locating body
- (b) whose whereabouts are unknown to the locating body, and
- (c) who is being sought by the locating body because there are serious concerns for their safety and/or welfare or for the purpose of re-uniting them with their family

but does not include an individual who is being sought:

- (d) in relation to legal matters, including but not limited to, debt, maintenance, support proceedings, wills, child custody, divorce or investigations into suspected criminal activity of the individual, or
- (e) for the purpose of genealogical research.

Privacy Act means the *Privacy Act 1988*.

Rule means the *Privacy (Persons Reported as Missing) Rule 2014*.

Note The following expressions have the same meaning as in subsection 6(1) of the Privacy Act:

- APP entity
- collects
- consent
- individual
- organisation
- personal information
- sensitive information.

Part 2 — Handling of personal information

5 Collection of sensitive information by a locating body

- (1) An APP entity may collect sensitive information under item 3 of the table in s 16A(1) about a person reported as missing if:
 - (a) the APP entity is a locating body
 - (b) the APP entity reasonably believes that the collection is reasonably necessary to assist the entity to locate the person reported as missing
 - (c) the information that is collected is limited to the extent reasonably necessary to make contact with, or to offer proof of life of, the person reported as missing, and
 - (d) section 7 does not apply in relation to the collection.

6 Use or disclosure of personal information without the consent of the person reported as missing

- (1) An APP entity may use or disclose personal information under item 3 of the table in subsection 16A(1) about a person reported as missing if:
 - (a) the use or disclosure of the information is in response to a request from a locating body
 - (b) the APP entity reasonably believes that the use or disclosure is reasonably necessary to assist the locating body to locate a person reported as missing
 - (c) in the case of a disclosure, the recipient of the information is a locating body
 - (d) it is unreasonable or impracticable to obtain the consent of the person reported as missing to the use or disclosure of the information
 - (e) the information that is used or disclosed is limited to the extent reasonably necessary to make contact with, or to offer proof of life of, the person reported as missing
 - (f) the use or disclosure is not contrary to any wish expressed by the person reported as missing of which the APP entity is aware, and
 - (g) section 7 does not apply in relation to the use or disclosure.
- (2) If an APP entity discloses personal information in accordance with subsection (1), the entity must make a written note of the disclosure.

7 Collection, use or disclosure must not pose a serious threat to an individual

An APP entity must not collect, use or disclose personal information about an individual under item 3 of the table in subsection 16A(1) if the APP entity reasonably believes that the collection, use or disclosure of the information would pose a serious threat to the life, health or safety of any individual.

8 Operation of this rule

- (1) It is not the intention of this rule to affect the operation of other laws that make provision with respect to the collection, use and disclosure of the personal information of a person reported as missing.

Note: This includes Part VIA of the Privacy Act (Dealing with personal information in emergencies and disasters)

- (2) Nothing in this rule is to be taken to require an APP entity to collect, use or disclose personal information.