EXPLANATORY STATEMENT

Issued by the authority of the Minister for Communications

# Enhancing Online Safety for Children Act 2015

*Enhancing Online Safety for Children Commencement Proclamation 2015*

# Item 2 of the table in subsection 2(1) of the Enhancing Online Safety for Children Act 2015 (the Act) provides that sections 3 to 108 of the Act commence on a single day to be fixed by proclamation. However, if the provisions do not commence within the period of six months beginning on the day the Act receives the Royal Assent, they commence on the day after the end of that period. The Act received the Royal Assent on 24 March 2015.

The Proclamation fixes 1 July 2015 as the day on which sections 3 to 108 of the Act commence.

The Act establishes the Children’s e-Safety Commissioner (the Commissioner) to take a national leadership role in online safety for children, and provides for the Commissioner’s functions and powers. It provides for a complaints system for cyber‑bullying material targeted at an Australian child and a two-tiered system for the rapid removal of that material from large social media services. The Act adopts enforcement arrangements set out in the *Regulatory Powers (Standard Provisions) Act 2014* in respect of civil penalties, enforceable undertakings and injunctions for the purposes of the Act. It also establishes the Children’s Online Safety Special Account to fund the Commissioner’s activities.

As a result of the Proclamation, Schedule 1, Part 1 of Schedule 2 and Schedule 3 to the *Enhancing Online Safety for Children (Consequential Amendments) Act 2015* (the Consequential Amendments Act) also commence. The Consequential Amendments Act, which also received the Royal Assent on 24 March 2015, contains consequential amendments to other Acts arising from the establishment of the Commissioner, including transferring responsibility for the administration of the online content scheme under Schedules 5 and 7 to the *Broadcasting Services Act 1992* from the Australian Communications and Media Authority (ACMA) to the Commissioner.

Delayed commencement of sections 3 to 108 of the Act was adopted to allow time to establish processes for the Office of the Children’s e-Safety Commissioner ahead of commencement. The Department of Communications consulted the ACMA and the Children’s e-Safety Commissioner designate regarding the commencement date for sections 3 to 108 of the Act.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. However, the Proclamation is not subject to the disallowance provisions of the *Legislative Instruments Act 2003*, by application of item 42 of subsection 44(2) of that Act.