

## EXPLANATORY STATEMENT

### Issued by Authority of the Minister for Health

#### *Health Legislation Amendment (eHealth) Act 2015*

#### *Health Legislation Amendment (eHealth-Governance Restructure Day) Proclamation 2016*

Items 120 and 135 of Part 2 of Schedule 1 to the *Health Legislation Amendment (eHealth) Act 2015* (the Amending Act) describe amendments that will apply on or after the governance restructure day. Item 112 of that Part defines the governance restructure day to mean a single day to be fixed by Proclamation for the purposes of that item.

The purpose of the Proclamation is to fix 1 July 2016 as the governance restructure day for the purposes of item 112 of Part 2 of Schedule 1 to the Act. This date was determined in consultation with the Department of Human Services and the Office of the Australian Information Commissioner which are impacted by the governance restructure.

The Amending Act amended the *Personally Controlled Electronic Health Records Act 2012* (renamed the *My Health Records Act 2012*), *Healthcare Identifiers Act 2010* and several other Acts to implement the Government's response to the *Review of the Personally Controlled Electronic Health Record, December 2013* and the recommendations of the *Healthcare Identifiers Act and Service Review, Final Report 2013*. Public consultation on governance of the My Health Record system was undertaken as part of a Review of the Personally Controlled Electronic Health Record system in 2013. In 2014, the Department of Health undertook a national consultation process to obtain stakeholder views about how to best implement the review recommendations.

The My Health Record system (previously known as the personally controlled electronic health record system) allows individuals and their healthcare providers to access their key health information online where and when they need it. A My Health Record is an electronic summary of an individual's health records.

The Proclamation applies amendments that affect the governance of the My Health Record system by:

- abolishing the Independent Advisory Council and Jurisdictional Advisory Committee; and
- requiring the Minister to consult the Australian Health Ministers' Advisory Council and the System Operator before making any My Health Records Rules.

Schedule 1 of the Amending Act commenced on 27 November 2015.

The Proclamation is a legislative instrument for the purposes of the *Legislation Act 2003*.

## **Statement of Compatibility with Human Rights**

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

### ***Health Legislation Amendment (eHealth-Governance Restructure Day) Proclamation 2016***

This Disallowable Legislative Instrument 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 Disallowable Legislative Instrument**

The review of the personally controlled electronic health record system (now known as the My Health Record system) found that governance for digital health nationally is in need of significant changes as it does not have the confidence of the industry. Further, it is not representative of the potential users and potential beneficiaries of the digital health system.

New governance arrangements are being implemented which include the establishment of the Australian Digital Health Agency which will become the single accountable organisation for digital health in Australia. The Disallowable Legislative Instrument fixes 1 July 2016 as the date the Australian Digital Health Agency will begin operations.

### **Human rights implications**

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.