



# **My Health Records (National Application) Rules 2017**

made under section 109 of the *My Health Records Act 2012*

## **Compilation No. 3**

**Compilation date:** 11 December 2018

**Includes amendments up to:** *My Health Records Amendment (Strengthening Privacy) Act 2018*

Prepared by Department of Health

---

## About this compilation

### **This compilation**

This is a compilation of the *My Health Records (National Application Rules) 2017* that shows the text of the law as amended and in force on 11 December 2018 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

---

## Contents

<b>Part 1—Preliminary .....</b>	<b>1</b>
1 Name .....	1
3 Authority .....	1
4 Definitions.....	1
<b>Part 2—Applying opt-out model to all healthcare recipients .....</b>	<b>2</b>
5 Opt-out model applies to all healthcare recipients in Australia .....	2
<b>Part 3—Registering healthcare recipients.....</b>	<b>3</b>
6 When healthcare recipients may elect not to be registered.....	3
<b>Part 4—Handling health information for the purposes of a healthcare recipient’s My Health Record .....</b>	<b>4</b>
7 When healthcare recipients may elect not to have certain health information disclosed to System Operator .....	4
<b>Endnotes.....</b>	<b>5</b>
Endnote 1—About the endnotes .....	5
Endnote 2—Abbreviation key .....	6
Endnote 3—Legislation history .....	7
Endnote 4—Amendment history .....	8

---

## Part 1—Preliminary

### 1 Name

This instrument is the *My Health Records (National Application) Rules 2017*.

### 3 Authority

This instrument is made under the *My Health Records Act 2012*.

### 4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) healthcare recipient;
- (b) My Health Record system;
- (c) registered healthcare recipient.

In this instrument:

*Act* means the *My Health Records Act 2012*.

*healthcare identifier* has the same meaning as in the *Healthcare Identifiers Act 2010*.

*opt-out model*: see section 5.

---

## **Part 2—Applying opt-out model to all healthcare recipients**

### **5 Opt-out model applies to all healthcare recipients in Australia**

For the purposes of clause 2 of Schedule 1 to the Act, Part 2 of that Schedule (the *opt-out model*) applies to all healthcare recipients in Australia.

---

## Part 3—Registering healthcare recipients

### 6 When healthcare recipients may elect not to be registered

- (1) This section is made for the purposes of subparagraph 5(2)(c)(i) of Schedule 1 to the Act.

*Healthcare recipients who have a healthcare identifier immediately before the day this Part commences*

- (2) An election by a member of the class of healthcare recipients mentioned in paragraph (3)(a) not to be registered must be given within the period mentioned in paragraph (3)(b).
- (3) For the purposes of subsection (2):
- (a) the class of healthcare recipients is the class of healthcare recipients, each of whom, immediately before the day on which this Part commences, has a healthcare identifier; and
  - (b) the period is the period beginning on the day on which this Part commences and ending on 31 January 2019.

*Healthcare recipients who do not have a healthcare identifier immediately before the day this Part commences*

- (4) An election by a member of the class of healthcare recipients mentioned in paragraph (5)(a) not to be registered must be given on the occurrence of the event mentioned in paragraph (5)(b).
- (5) For the purposes of subsection (4):
- (a) the class of healthcare recipients is the class of healthcare recipients, each of whom, immediately before the day on which this Part commences, does not have a healthcare identifier; and
  - (b) the event is when the healthcare recipient makes an application that will result in the healthcare recipient being assigned a healthcare identifier.

---

## **Part 4—Handling health information for the purposes of a healthcare recipient’s My Health Record**

### **7 When healthcare recipients may elect not to have certain health information disclosed to System Operator**

- (1) This section is made for the purposes of subparagraph 13(2)(c)(i) of Schedule 1 to the Act.

*Healthcare recipients registered under clause 6 of Schedule 1 to the Act*

- (2) An election by a member of the class of healthcare recipients mentioned in paragraph (3)(a) not to have health information about the healthcare recipient held by the Chief Executive Medicare made available to the System Operator must be given on the occurrence of the event mentioned in paragraph (3)(b).
- (3) For the purposes of subsection (2):
- (a) the class of healthcare recipients is the class of healthcare recipients, each of whom is registered under clause 6 of Schedule 1 to the Act on or after the day on which this Part commences; and
  - (b) the event is when the healthcare recipient applies to be registered.

*Healthcare recipients registered under clause 3 of Schedule 1 to the Act*

- (4) An election by a member of the class of healthcare recipients mentioned in paragraph (5)(a) not to have health information about the healthcare recipient held by the Chief Executive Medicare made available to the System Operator must be given within the period mentioned in paragraph (5)(b).
- (5) For the purposes of subsection (4):
- (a) the class of healthcare recipients is the class of healthcare recipients, each of whom is registered under clause 3 of Schedule 1 to the Act on or after the day on which Part 3 commences; and
  - (b) the period is the period:
    - (i) beginning when the healthcare recipient is registered; and
    - (ii) ending when the healthcare recipient’s My Health Record is first accessed.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.



**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	
exp = expires/expired or ceases/ceased to have effect	reloc = relocated
F = Federal Register of Legislation	renum = renumbered
gaz = gazette	rep = repealed
LA = <i>Legislation Act 2003</i>	rs = repealed and substituted
LIA = <i>Legislative Instruments Act 2003</i>	s = section(s)/subsection(s)
(md) = misdescribed amendment can be given effect	Sch = Schedule(s)
(md not incorp) = misdescribed amendment cannot be given effect	Sdiv = Subdivision(s)
mod = modified/modification	SLI = Select Legislative Instrument
No. = Number(s)	SR = Statutory Rules
	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
<i>My Health Records (National Application) Rules 2017</i>	F2017L01558	2 December 2017	
<i>My Health Records (National Application) Amendment (Extension of Opt-out Period) Rules 2018</i>	F2018L01099	10 August 2018	
<i>My Health Records (National Application) Amendment (Extension of Opt-out Period No.2) Rules 2018</i>	F2018L01575	15 November 2018	
<i>My Health Records Amendment (Strengthening Privacy) Act 2018</i>	C2018A00154	Sch 1 (item 18): 11 December 2018 (s2(1) item 2)	

**Endnote 4—Amendment history**

---

<b>Provision affected</b>	<b>How affected</b>
Par. 6(3)(b)	F2018L01099; F2018L01575; C2018A00154
s2	Rep. LA s48D

---