

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Social Services

National Redress Scheme for Institutional Child Sexual Abuse Act 2018

National Redress Scheme for Institutional Child Sexual Abuse Amendment (2025 Measures No. 1) Rules 2025

Purpose

The purpose of the *National Redress Scheme for Institutional Child Sexual Abuse Amendment (2025 Measures No. 1) Rules 2025* (the Instrument) is to amend the *National Redress Scheme for Institutional Child Sexual Abuse Rules 2018* (the Rules) to:

- ensure that the relevant provisions of New South Wales (NSW) legislation are prescribed to allow a person to give information requested by the Operator for the purposes of the National Redress Scheme for Institutional Child Sexual Abuse (the Scheme);
- insert a new Division (Division 7) to include special rules for crediting reassessment surplus to institutions and funders of last resort;
- prescribe how written notices regarding reassessments relating to deceased applicants must be given and what content they must contain for the purposes of sections 71M, 71N and 71P of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the Act);
- insert a new part (Part 8A) dealing with notices relating to reassessment of determinations (other than deceased applicants);
- insert new provisions requiring written notices to be provided in certain circumstances, including the withdrawal of an application, the revocation of a determination or the withdrawal of an offer of redress;
- insert a new section (section 54A) which allows the Operator to make disclosures for the purposes of exempting redress payments from residential aged care asset testing under the *Aged Care Act 1997* (Aged Care Act) and the *Aged Care (Transitional Provisions) Act 1997* (Aged Care Transitional Provisions Act).

The NSW Regulation

As a result of amendments to the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Regulation 2018* (NSW), minor references to section 15(b)(2) of the Rules have been updated to reflect sections of NSW legislative instruments which are exempt from information sharing with the Operator of the Scheme.

Reassessments

National Redress Scheme for Institutional Child Sexual Abuse Amendment (2025 Measures No. 1) Rules 2025

In its Final Response to the Second Year Review of the National Redress Scheme for Institutional Child Sexual Abuse, the Australian Government committed to address the disadvantage faced by applicants to the Scheme who received a determination when one or more of the institutions named on their application were not participating in the Scheme, but subsequently joined the Scheme.

Amendments were made to the Act by the *National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024* to establish a 'reassessment' process. These provisions commenced on 29 September 2024. The provisions allow applications for redress to be reassessed where a determination was made on that application with one or more non-participating institutions that were identified in the application, and the non-participating institution(s) subsequently joins the Scheme or government(s) agree to act as funder(s) of last resort for the institution(s).

Prior to 29 September 2024, an applicant who had named both a participating and non-participating institution was not offered a redress payment or a direct personal response from the non-participating institution. A fundamental tenet of the Scheme is that an applicant can only make one application; therefore, the applicant could not re-apply to the Scheme where the named non-participating institution joined the Scheme after the applicant had accepted their offer of redress. This meant the applicant had no available option to access redress from that institution.

Amendments to the Rules are required to operationalise certain aspects of the reassessment process.

Exempting Redress payments from residential aged care asset testing

The Commonwealth Department of Health and Aged Care (DoHAC) made a policy decision to exempt redress payments from residential aged care asset testing. The Instrument amends the Rules to authorise the sharing of protected information (within the meaning of section 92 of the Act) with Services Australia, and the Department of Veterans' Affairs (DVA) via a public interest certificate for the purpose of exempting redress payments from residential aged care asset testing.

The protected information to be shared will be limited to only what is necessary to identify an applicant and the amount of their redress payment. In most cases this will be an applicant's name, date of birth, Customer Reference Number (CRN) and redress payment amount.

The sharing of the information is for a beneficial purpose as it will ensure that redress payments do not impact survivor's entitlements to residential aged care subsidy under the Aged Care Act and the Aged Care Transitional Provisions Act. Personal information will continue to be subject to the privacy protections provided by the *Privacy Act 1988*. A Privacy Impact Assessment is being prepared to ensure

that protected information is given all appropriate protections and to ensure that the scope of the proposed disclosure is proportionate to the policy intent.

Authority

The Instrument is made under section 179 of the Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that a power to make a legislative instrument includes a power to repeal, rescind, revoke, amend, or vary that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.

Commencement

This Instrument commences on the day after it is registered on the Federal Register of Legislation.

Consultation

All State and Territory Governments were consulted in the preparation of this Instrument in line with the Scheme's governance arrangements set out in the Intergovernmental Agreement on the National Redress Scheme for Institutional Child Sexual Abuse. No objections were raised by the States and Territories in relation to the amendments to the Rules to be made by this Instrument.

The Department of Social Services (the Department) has also consulted the National Redress Scheme Interjurisdictional Committee, Ministers Redress Scheme Governance Board, Services Australia, and the Attorney General's Department on the amendments to the Rule made by the Instrument.

The Department has consulted with DoHAC about the proposed amendment to the Rules allowing for the sharing of protected information with Services Australia and, DVA to exempt redress payments from residential aged care asset testing.

The Department has also consulted with the NSW Government and the National Redress Scheme Interjurisdictional Committee about the amendments requested by NSW to align references to NSW legislation regarding general information sharing provisions to those in Section 15B – that is, State or Territory laws which may prevent a person from providing information to the Operator of the Redress Scheme. No substantive issues were raised during consultation with respect to these measures.

Impact Analysis

The Office of Impact Analysis (OIA) was consulted and considered that a detailed analysis is not required under the Australian Government's Policy Impact Analysis

Framework and no regulatory impact statement was required. The OIA reference numbers are OIA24-07704 and OIA24-08285.

Details of the Instrument

Details of the Instrument are set out in the **Explanation of Provisions**.

Parliamentary scrutiny etc.

The Instrument is subject to disallowance under section 42 of the *Legislation Act 2003*.

A Statement of Compatibility with Human Rights has been prepared in relation to the Instrument and provides that the Instrument is compatible with human rights as it advances the protection of the rights of people who have experienced child sexual abuse in Australia. To the extent that the Instrument limits the right to privacy, these limitations are reasonable, proportionate and for a legitimate objective.

The Statement is included after the Explanation of Provisions.

Explanation of provisions

Section 1 – Name

This section provides that the name of the Instrument is the *National Redress Scheme for Institutional Child Sexual Abuse Amendment (2025 Measures No. 1) Rules 2025*.

Section 2 – Commencement

This section provides that the Instrument commences on the day after registration.

Section 3 – Authority

This section provides that the Instrument is made under section 179 of *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the Act).

Subsection 33(3) of the *Acts Interpretation Act 1901* relevantly provides that a power to make a legislative instrument includes a power to repeal, rescind, revoke, amend, or vary that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.

Section 4 – Schedules

This section provides each instrument that is specified in Schedule 1 to the Instrument is amended or repealed as set out in the applicable items in Schedule 1, and any other item in Schedule 1 to the instrument has effect according to its terms.

Schedule 1 – Amendments

Items [1] – [3] – Section 15B

Section 27 of the Act allows a person to give information requested by the Operator for the purposes of the Scheme where a law of a state or territory is prescribed in the Rules.

Item 1 omits paragraph 20P of section 15B (table item 2, column 2, paragraph (e)) and substitutes 21N. The effect of this change is that section 21N of the *Health Administration Act 1982* (NSW) is a law of NSW that is prescribed for the purposes of section 27 of the Act.

Item 2 omits the word “sections” from section 15B (table item 2, column 2, paragraph (g)) and inserts the word “79Q”. The amendment prescribes section 79Q of the *Independent Commission Against Corruption Act 1998* (NSW) as a law of NSW that is prescribed for the purposes of section 27 of the Act.

Item 3 omits the word “section” from section 15B (table item 2, column 2, paragraph (m)) and substitutes the words “sections 45 and 49D”. The amendments prescribe sections 45 and 49D of the *Private Health Facilities Act 2007* (NSW) as a law of NSW that is prescribed for the purposes of section 27 of the Act.

The purpose of items 1 to 3 is to make minor and technical changes to the Rules to accord with amendments being made to the list of NSW legislative provisions which are exempted from general information sharing provisions under the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Regulation 2018* (NSW).

Item [4] – Division 7

Paragraph 71Z(3)(b) of the Act requires the Commonwealth to repay so much of the reassessment surplus as is not set off to a person prescribed in the rules.

This item inserts new Division 7 (consisting of section 29A), which is made for the purposes of paragraph 71Z(3)(b) of the Act. In the case of a defunct institution, the Operator will undertake best endeavours to pay the surplus to either:

- a person that may have taken responsibility for the defunct institution; or
- any person identified in accordance with the constitution or other governing documents of the institution; or
- any person identified in accordance with the directions of a liquidator.

The purpose of new section 29A is to formalise the process through which a reassessment surplus is to be repaid by the Operator.

Item [5] – section 31

This item inserts note 4 at the end of section 31. It provides that section 31 of the Rules applies to acceptance documents made for a new offer of redress based on a reassessment decision as a result of the operation of subsection 71H(2) of the Act.

Subsection 71H(2) of the Act provides that certain provisions in the Act apply in relation to the new offer of redress and the new determination in the same way as they apply to an offer and determination of an application for redress.

The purpose of this item is to set out the requirements for the content of acceptance documents for a new offer of redress based on a reassessment decision, consistent with current requirements.

Item [6] – section 32 (simplified outline)

This item substitutes a revised simplified outline of Part 8 of the Rules relating to the provision of redress.

The simplified outline contains a summary of the Operator's obligation to give notice relating to any additional redress payment payable as a result of a reassessment decision or on review of such a decision.

Item [7] – sections 35A, 35B, 35C and Part 8A

This item inserts new sections 35A, 35B and 35C, which sets out who the Operator must give written notice to where sections 71M, 71N and 71P of the Act applies, respectively.

The notice must also state:

- the reasons for the reassessment decision or review of the reassessment decision;
- the total amount of redress payable; and
- any difference between the amount of the current determination and the amount of the additional redress payment.

The purpose of sections 71M, 71N and 71P of the Act is to address circumstances where a person has agreed to have a reassessment, but dies:

- before they accept, decline or withdraw an offer; or
- before the Operator makes a reassessment decision; or
- before a relevant institution joins the scheme before the Operator is able to invite a person to agree to a reassessment.

This item also inserts new Part 8A – Notice relating to reassessment of determinations. The purpose of new Part 8A is to set out circumstances where the Operator is not required to provide written notice to certain institutions.

New section 35D provides a simplified outline of that new Part. It provides that a notice of a reassessee's agreement to undergo a reassessment and notice of a reassessment decision is not required to be given to a participating institution or jurisdiction that has ceased to be a participating or partly-participating institution.

Subsection 71B(4) of the Act requires the Operator to give written notice of the reassessee's agreement to undergo a reassessment to each participating institution and participating jurisdiction. New section 35E of the Rules prescribes that written notice under subsection 71B(4) is not required in circumstances where an institution has ceased to be a participating or partly-participating institution and is not listed under sections 164, 164A, 164B, 164C or 164D of the Act.

Subsection 71F(2) of the Act requires the Operator to give written notice of the reassessment decision to each institution and participating jurisdiction that was given written notice of the reassessee's agreement under subsection 71B(4). New section 35F of the Rules prescribes that written notice under subsection 71E(2) is not required where an institution has ceased to be a participating or partly-

participating institution and is not listed under sections 164, 164A, 164B, 164C or 164D of the Act.

Item [8] – Section 38 (simplified outline)

This item revises the simplified outline at section 38 of the Rules to outline when a reassessment a person is taken to have revoked their agreement to have a reassessment of the determination, at the time a security notice comes into force.

Items [9] to [12] – Section 39

Item 9 revises the heading of section 39 of the Rules to include references to new subsections 71(2A) and (2B) of the Act.

Item 10 inserts new paragraphs 39(1)(c) and (d). Subsection 39(2) of the Act requires the Operator to give written notice of the withdrawal of the application and, if relevant, the revocation of the determination and withdrawal of the offer.

New paragraphs 39(1)(c) and (d) will require written notice to be provided where subsections 71(2A) and (2B) of the Act apply.

Subsection 71(2A) of the Act provides that if, at the time a security notice comes into force, the person has agreed to have the operator reassess a determination, but a reassessment decision has not yet been made, then the person is taken to have revoked their agreement to the reassessment.

Subsection 71(2B) of the Act provides that if, at the time that a security notice comes into force, a new offer of redress has been given to a person as part of the reassessment process, but the offer has not yet been accepted, declined or withdrawn; then the new offer is taken to have been withdrawn, the reassessment decision is taken to be revoked and the person is taken to have revoked their agreement to the reassessment taking place.

Item 11 inserts new subparagraphs 39(2)(b)(iii) and (iv).

Subsection 39(2) of the Act requires the Operator to give written notice of the withdrawal of the application and, if relevant, the revocation of the determination and withdrawal of the offer.

If a determination is revoked and the offer is withdrawn, new subparagraphs 39(2)(b)(iii) and (iv) requires an Operator to give written notice to each institution and person where section 71E or 71F applies.

Item 12 also revises subsection 39(3) by adding that the Operator is not required to give notice to an institution if, because of the revocation of the agreement to reassessment, section 71C of the Act requires notice to be given to the institution. The amendments to subsection 39(3) allow the Operator to avoid having to give multiple notices to the same institution if a notice is required under the Act and Rules.

Item [13] – Subsection 43(1)(b)

This item omits the reference to section 54, and instead substitutes section 54A. The purpose of this amendment is to ensure new section 54A is captured so that the Operator may certify for the purposes of paragraph 95(1)(a) of the Act that disclosure of protected information is necessary in the public interest for the purposes of that provision.

Item [14] – New Section 54A

This item inserts new section 54A which provides an additional reason for which the Operator may certify for the purposes of paragraph 95(1)(a) of the Act that disclosure of protected information, that relates to a person and was provided to, or obtained by, an officer of the scheme for the purposes of the Scheme, is necessary in the public interest.

The protected information being disclosed, will be limited to that which is necessary to achieve this purpose; that is information required to identify an applicant, and their redress payment amount when the person enters residential aged care. In most cases, the information required to identify an applicant will be limited to their name, date of birth and CRN. The Operator may be satisfied that the disclosure is necessary for the purpose of working out whether an amount is excluded from the value of a person's assets for residential aged care asset testing for the purposes of the *Aged Care Act 1997* and the *Aged Care (Transitional Provisions) Act 1997* in accordance with the *Subsidy Principles 2014* and the *Aged Care (Transitional Provisions) Principles 2014*. The disclosure of protected information will be made by the Operator to persons conducting residential aged care means assessments, including Services Australia, and the Department of Veterans' Affairs (DVA).

The inclusion of redress amounts in residential aged care asset testing has the potential to negatively impact any person who has received a redress payment. The purpose of new section 54A is to enable disclosure of protected information to ensure that redress amounts can be excluded from residential aged care asset testing under the *Aged Care Act 1997* and *Aged Care (Transitional Provisions) Act 1997* to negate this effect.

Those entering residential aged care are assessed for their eligibility to receive a subsidy for some or all of the costs towards residential aged care. Services Australia (or DVA for DVA clients) conduct a means assessment to work out: the amount of funding the person will get from the government as a resident; and the amount of fees the resident can be charged. Before 1 January 2025, payments made under the Scheme were included in the assets test for residential care which disadvantages survivors attempting to access these services and potentially resulting in that survivor having to pay more for residential care. From 1 January 2025, Redress payments are exempt from the residential aged care assets test as a result of

amendments to the *Subsidy Principles 2014* and *Aged Care (Transitional Provisions) Principles 2014*.

Under the *Aged Care Act 2024*, payments made under the Scheme will continue to be excluded from that assets test. People who have received a payment under the Scheme will no longer financially disadvantaged when accessing residential aged care services due to receiving the payment.

For the avoidance of doubt, whilst new section 54A refers to the *Aged Care Act*, *Subsidy Principles 2014* and the *Aged Care (Transitional Provisions) Principles 2014*, the Instrument does not apply, adopt or incorporate any provisions of the referenced Act or legislative instruments for the purposes of section 14 of the *Legislative Act 2003*.

Item [15] – Section 54A

This item renumbers section 54A to 54AA. This is required due to the insertion of the new 54A by item 14.

Statement of Compatibility with Human Rights

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

National Redress Scheme for Institutional Child Sexual Abuse Act 2018

National Redress Scheme for Institutional Child Sexual Abuse Amendment (2025 Measures No. 1) Rules 2025

The *National Redress Scheme for Institutional Child Sexual Abuse Amendment (2025 Measures No. 1) Rules 2025* (the 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*. To the extent that it limits rights, these limits are necessary and proportionate to achieving a legitimate objective.

Overview of the legislative instrument

The purpose of the Instrument is to amend the *National Redress Scheme for Institutional Child Sexual Abuse Rules 2018* (the Rules) to

- ensure that the relevant provisions of New South Wales (NSW) legislation are prescribed to allow a person to give information requested by the Operator for the purposes of the National Redress Scheme for Institutional Child Sexual Abuse (the Scheme);
- insert a new Division (Division 7) to include special rules for crediting reassessment surplus to institutions and funders of last resort;
- prescribe how written notices regarding reassessments relating to deceased applicants must be given and what content they must contain for the purposes of sections 71M, 71N and 71P of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the Act);
- insert a new part (Part 8A) dealing with notices relating to reassessment of determinations (other than deceased applicants);
- insert new provisions requiring written notices to be provided in certain circumstances, including the withdrawal of an application, the revocation of a determination or the withdrawal of an offer of redress;
- insert a new section (section 54A) which allows the Operator to make disclosures for the purposes of exempting redress payments from residential aged care asset testing under the *Aged Care Act 1997* (Aged Care Act) and the *Aged Care (Transitional Provisions) Act 1997* (Aged Care Transitional Provisions Act).

The NSW Regulation

As a result of amendments to the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Regulation 2018* (NSW), minor references

National Redress Scheme for Institutional Child Sexual Abuse Amendment (2025 Measures No. 1) Rules 2025

to section 15(b)(2) of the Rules have been updated to reflect sections of NSW legislative instruments which are exempt from information sharing with the Operator of the Scheme.

Reassessments

In its Final Response to the Second Year Review of the National Redress Scheme for Institutional Child Sexual Abuse, the Australian Government committed to address the disadvantage faced by applicants to the Scheme who received a determination when one or more of the institutions named on their application were not participating in the Scheme, but subsequently joined the Scheme.

Amendments were made to the Act by the *National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024* to establish a 'reassessment' process. These provisions commenced on 29 September 2024. The provisions allow applications for redress to be reassessed where a determination was made on that application with one or more non-participating institutions that were identified in the application, and the non-participating institution(s) subsequently joins the Scheme or government(s) agree to act as funder(s) of last resort for the institution(s).

Prior to 29 September 2024, an applicant who had named both a participating and non-participating institution was not offered a redress payment or a direct personal response from the non-participating institution. A fundamental tenet of the Scheme is that an applicant can only make one application; therefore, the applicant could not re-apply to the Scheme where the named non-participating institution joined the Scheme after the applicant had accepted their offer of redress. This meant the applicant had no available option to access redress from that institution.

Amendments to the Rules are required to operationalise certain aspects of the reassessment process.

Exempting Redress payments from residential aged care asset testing

The Commonwealth Department of Health and Aged Care (DoHAC) made a policy decision to exempt redress payments from residential aged care asset testing. The Instrument amends the Rules to authorise the sharing of protected information (within the meaning of section 92 of the Act) with Services Australia, the Department of Veterans' Affairs (DVA) and DoHAC Care via a public interest certificate for the purpose of exempting redress payments from residential aged care asset testing.

Human rights implications

The Instrument engages with the following human rights:

- The right of the child to be protected from abuse, neglect, sexual exploitation and sexual abuse and the right to state-sponsored recovery for child victims of abuse – Articles 3, 19, 34 and 39 of the Convention on the Rights of the Child (CRC)
- The right to privacy – Article 16 of the CRC and Article 17 of the International Covenant on Civil and Political Rights (ICCPR)
- The right to health – Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The right to social security – Article 9 of the ICESCR
- The right to effective remedy – Article 2(3) of the ICCPR

Reassessments

The Statement of Compatibility with Human Rights for the *National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024* included additional human rights implications relevant to the introduction of reassessments into the Scheme's primary legislation. The implementation of reassessments is supported by these Rule changes and as such, the following rights are relevant to the implementation of reassessments:

- Article 3 of the CRC provides that the best interests of the child shall be the primary consideration of social welfare institutions, courts, administrative authorities or legislative bodies in all actions concerning children.
- Article 19 of the CRC provides that States Parties shall take all appropriate measures to protect the child from all forms physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
- Article 34 of the CRC provides that States Parties undertake to protect and prevent the child from all forms of sexual exploitation and sexual abuse.
- Article 39 of the CRC provides for the right to state-supported recovery for child victims of neglect, exploitation and abuse.
- Article 12 of ICESCR guarantees the right of everyone to the highest attainable standard of physical and mental health.
- Article 2(3) of the ICCPR provides that States Parties undertake to ensure that any person whose rights of freedoms are violated shall have an effective remedy.

The Scheme currently provides an effective remedy to people and supports the recovery of people who have experienced institutional child sexual abuse by enabling recognition of past abuse and providing access to redress, including a redress payment, a direct personal response from the responsible institution/s and access to counselling and psychological care services. Maximising access to these components is a critical part of furthering the above rights.

This Instrument further promotes these rights by bringing the Rules into alignment with the Act, thereby increasing survivors' ability to access redress and outcomes under the Scheme. Aligning the Redress Act and Rules ensures the Scheme can fulfill its commitment to deliver reassessments on relevant applications, and enables supported recovery, including a direct personal response for survivors of institutional child sexual abuse to occur. This is particularly important for those survivors who applied earlier to the Scheme when fewer institutions were participating and will ensure a fairer approach to redress for those applicants who had their application finalised with one or more participating institutions not participating in the Scheme.

Applicants to the Scheme can only receive redress once and the principle of a single application remains an important part of the Scheme's design. However, there are some survivors who have been unfairly disadvantaged when, at the time their application was finalised, a relevant institution had not yet joined the Scheme. This Instrument supports the Act in addressing this by making amendments which are relevant for reassessments of a determination where an institution identified through an application later joins the Scheme, or where a government later agrees to be the funder of last resort for an institution.

The reassessment process, introduced in primary legislation and supported by the Rules, allows survivors to benefit from the Scheme to the greatest extent possible, not just financially but also by providing the option of a direct personal response from every institution responsible for the abuse of that survivor. The amendments support and promote the above human rights.

Exempting Redress payments from residential aged care asset testing

Amendments to the Rules about the exemption of redress payments from residential aged care asset testing engages the following human rights:

- Article 16 of the CRC and Article 17 of the ICCPR provides that no one shall be subjected to arbitrary or unlawful interference with their privacy. Further, everyone has the right to the protection of the law against such interference or attacks.
- Article 9 of the ICESCR recognises the right of everyone to social security, including social insurance.

Following updates to the Aged Care Act, the amount of a person's redress payment will be excluded from a person's assets for the purposes of means testing for the residential aged care subsidy.

Amending the Rules to share protected information with the Department of Health and Aged Care, Services Australia and the Department of Veterans' Affairs, via a public interest certificate, ensures that people who have received a payment for redress from the Scheme will not need to contribute more to their residential aged care fees because of that redress payment. The amendment addresses potential

disadvantage which may be experienced by those who have received a redress payment and are entering the residential aged care system.

This Rule amendment engages the right to privacy. The amendments have been drafted narrowly to ensure that the handling of sensitive personal and protected information is reasonable, necessary and proportionate to the relevant aims of the provision. The new information sharing provisions are necessary to achieve the legitimate aims of preventing disadvantage to survivors who have received a redress payment and requires the Operator to certify that the disclosure is necessary in the public interest. The amendments do not impact the protections provided by the *Privacy Act 1988*.

The amendment also seeks to remove an existing barrier contributing toward state-supported recovery of survivors by prescribing a mechanism to share protected information between agencies without a redress applicant needing to disclose to anyone, including family who may assist them when entering residential aged care, that they received redress. This authorisation is based on the premise that the survivor should not have to disclose traumatising information to other people or another institution.

This legislative change further supports survivors who may enter residential aged care many years after receiving redress. A survivor will not have to recall or keep records of their redress payments, noting that a person may receive monies under various schemes during their life, because the information will be disclosed by the Department of Social Services to the relevant agencies. Amendments to support this authorisation ensure the burden to disclose institutional child sexual abuse is not solely on the survivor, their family, or those supporting them to enter residential aged care. This amendment supports the state-supported recovery of survivors of institutional child sexual abuse by coordinating efforts between agencies to allow for information exchange that will benefit survivors entering residential aged care facilities.

The NSW Regulation

The amendments aligning the Rules with changes to the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Regulation 2018* (NSW) is a technical amendment and does not have any human rights implications.

Conclusion

This Instrument is compatible with human rights because it promotes the protection of human rights for people who have experienced institutional child sexual abuse in Australia. It does not introduce any limitations on human rights. To the extent that the Instrument limits the right to privacy, these limitations are proportionate and for a legitimate objective.

The Hon Amanda Rishworth MP, Minister for Social Services