

EXPLANATORY STATEMENT

Issued by authority of the Minister for Home Affairs

Migration Regulations 1994

Migration (Access to Movement Records) Instrument 2025

1. The instrument, departmental reference LIN 25/001, is made under subregulations 3.10A(1) and (2) of the *Migration Regulations 1994* (the Migration Regulations).
2. The instrument repeals *Migration (Access to Movement Records) Instrument (LIN 23/015) 2023* in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.
3. The instrument commences on the day after registration, and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Background

Migration (Access to Movement Records) Instrument 2025

4. The *Migration (Access to Movement Records) Instrument 2025* is made under subregulations 3.10A(1) and (2) of the Migration Regulations.
5. Subsection 488(1) of the *Migration Act 1958* (the Migration Act) provides that a person must not read, examine, reproduce by any means, use, or disclose by any means, any part of the movement records, otherwise than in accordance with an authority given by the Minister pursuant to subsection 488(2) of that Act.
6. Subparagraph 488(2)(a)(vii) of the Migration Act provides that the Minister may authorise an officer to perform one or more actions prohibited by subsection 488(1) for the purposes of prescribed Commonwealth, State or Territory legislation.
7. Paragraph 488(2)(g) of the Migration Act permits the Minister to authorise a prescribed employee of a prescribed agency of the Commonwealth, or of a State or Territory to perform one or more of the actions prohibited by subsection 488(1) of that Act for prescribed purposes.
8. Subregulation 3.10A(1) of the Migration Regulations provides that for subparagraph 488(2)(a)(vii) of the Migration Act, Commonwealth, State or Territory legislation specified by the Minister in an instrument in writing for this subregulation is prescribed.
9. The note under the above subregulation to those Regulations provides that under subsection 488(1) of the Migration Act, a person must not read, examine, reproduce, use or disclose any part of the movement records. However, subparagraph 488(2)(a)(vii) of that Act

permits the Minister to authorise an officer to perform 1 or more of those actions for the purposes of prescribed Commonwealth, State or Territory legislation.

10. Subregulation 3.10A(2) of the Migration Regulations provides that for paragraph 488(2)(g) of the Migration Act:

- an agency of the Commonwealth, a State or a Territory specified by the Minister in an instrument in writing for this paragraph is prescribed (paragraph 3.10A(2)(a)); and
- an employee of a prescribed agency who is specified by the Minister in an instrument in writing for this paragraph is prescribed (paragraph 3.10A(2)(b)); and
- a purpose specified by the Minister in an instrument in writing for this paragraph is prescribed (paragraph 3.10A(2)(c)).

11. The note under the above subregulation to those Regulations provides that under subsection 488(1) of the Migration Act, a person must not read, examine, reproduce, use or disclose any part of the movement records. However, paragraph 488(2)(g) of that Act permits the Minister to authorise prescribed employee of a prescribed agency of the Commonwealth, or of a State or Territory, to perform 1 or more of those actions for a prescribed purpose.

12. The instrument specifies:

- the prescribed Commonwealth, State and Territory legislation for the purposes of which an officer may be authorised to access the movement records for subregulation 3.10A(1) of the Migration Regulations; and
- the prescribed agencies and employees of the Commonwealth, a State or Territory for paragraphs 3.10A(2)(a) and (b) of the Migration Regulations, and the purpose for which those employees may access the movement records pursuant to paragraph 3.10A(2)(c).

Migration (Access to Movement Records) Instrument (LIN 23/015) 2023

13. The *Migration (Access to Movement Records) Instrument (LIN 23/015) 2023* (LIN 23/015) was made under subregulations 3.10A(1) and (2) of the Migration Regulations.

14. The purpose of LIN 23/015 was to specify:

- the prescribed Commonwealth, State and Territory legislation for the purposes of which an officer was authorised to access the movement records for subregulation 3.10A(1); and
- the prescribed agencies and employees of the Commonwealth, a State or Territory for paragraphs 3.10A(2)(a) and (b) of the Migration Regulations, and the purpose for which those employees may have accessed the movement records pursuant to paragraph 3.10A(2)(c).

15. The terms ‘data base’, ‘movement records’ and ‘notified data base’ are all defined in subsection 5(1) of that Migration Act as follows:

- *data base* (except in Part 4A of the Migration Act) means a discrete body of information stored by means of a computer. The note under that definition provides that section 336A defines this term differently for the purposes of Part 4A.
- *movement records* means information stored in a notified data base.
- *notified data base* means a data base declared to be a notified data base under section 489.

16. In practice, movement records are information stored within the Department of Home Affairs (the Department) Movement Reconstruction Database, which is part of the Travel and Immigration Processing System (TRIPS).
17. Information within the movement records include the name, date of birth, gender, date of entry to or departure from Australia, port, airport or flight, passport details, and any visa information for persons who enter and leave Australia.

Purpose

Migration (Access to Movement Records) Instrument 2025

18. Similar to LIN 23/015, the purpose of this instrument is to specify:
- the prescribed Commonwealth, State and Territory legislation for the purposes of which an officer may be authorised to access the movement records for subregulation 3.10A(1) of the Migration Regulations; and
 - the prescribed agencies and employees of the Commonwealth, a State or Territory for paragraphs 3.10A(2)(a) and (b) of the Migration Regulations, and the purpose for which those employees may access the movement records pursuant to paragraph 3.10A(2)(c).
19. Certain employees within a number of Commonwealth, State and Territory government agencies consistently require access to the movement records to perform statutory duties and associated functions and to properly administer Commonwealth, State or Territory legislation mentioned in Schedule 1 or 2 to this instrument.

Consultation

20. External consultation was undertaken with government agencies which have requested access to the Movements Reconstruction Database or for which access is currently being negotiated.
21. Consultation was also undertaken where agencies requested an update to the agency name/s, employees, legislation or prescribed purpose/s. Consultation was undertaken with the following agencies:
- Australian Taxation Office (ATO);
 - Australian Criminal Intelligence Commission (ACIC)\
 - Board of Professional Engineers Queensland;
 - Building Commission of NSW (operating under the Department of Customer Service NSW Portfolio);
 - Clean Energy Regulator (CER);
 - Department of Agriculture, Fisheries and Forestry (DAFF);
 - Department of Defence – Defence Intelligence Organisation (DIO);
 - Department of Foreign Affairs and Trade (DFAT);
 - Department of Health, Disability and Ageing;
 - Department of Home Affairs
 - Department of Justice and Community Safety, Victoria;
 - Department of Mines, Industry Regulation and Safety Western Australia (DMIRS);
 - Department of Primary Industries and Regional Development NSW;
 - Department of Treasury and Finance; South Australia;

- Department of Veterans Affairs (DVA);
- National Anti-Corruption Commission (NACC);
- National Disability Insurance Agency (NDIA);
- National Disability Insurance Scheme Quality and Safeguards Commission (NDIS Quality and Safeguards Commission);
- New South Wales Fair Trading (operating under the Department of Customer Service NSW Portfolio);
- Revenue New South Wales;
- RevenueWA, and
- State Revenue Office, Victoria (SRO Vic).

Documents incorporated by reference

22. The instrument incorporates a number of pieces of Commonwealth, State and Territory legislation by reference as in force from time to time, in accordance with section 10A of the Acts Interpretation Act as applied by paragraph 13(1)(a) of the Legislation Act.
23. Commonwealth legislation incorporated by reference can be accessed on the Federal Register of Legislation website (www.legislation.gov.au). State and Territory legislation can be accessed via the respective online databases:
 - NSW legislation: www.legislation.nsw.gov.au;
 - Victorian legislation: www.legislation.vic.gov.au;
 - Queensland Legislation: www.legislation.qld.gov.au;
 - South Australian Legislation: www.legislation.sa.gov.au;
 - Western Australian Legislation: www.legislation.wa.gov.au;
 - Tasmanian Legislation: www.legislation.tas.gov.au;
 - ACT Legislation Register: www.legislation.act.gov.au;
 - Northern Territory Legislation: www.legislation.nt.gov.au.

Details of the instrument

24. Details of the instrument are set out in **Attachment A**.

Parliamentary scrutiny etc.

25. The instrument is subject to disallowance under section 42 of the Legislation Act.
26. A Statement of Compatibility with Human Rights has been prepared in relation to the instrument, and provides that to the extent the instrument may limit the prohibition against arbitrary or unlawful interference with privacy, this is necessary in furtherance of a legitimate objective and is proportionate to that objective. The Statement is included at **Attachment B** to this explanatory statement.
27. The instrument was made by a delegate of the Minister under subregulations 3.10A(1) and (2) of the Migration Regulations.

Details of the *Migration (Access to Movement Records) Instrument 2025*

Section 1 Name

This section provides that the name of the instrument is the *Migration (Access to Movement Records) Instrument 2025* (the instrument).

Section 2 Commencement

This section provides that the instrument commences on the day after registration on the Federal Register of Legislation.

Section 3 Authority

This section provides that the instrument is made under the following provisions of the Migration Regulations 1994:

- subregulation 3.10A(1); and
- subregulation 3.10A(2).

Section 4 Definitions

This section sets out definitions of terms used in this instrument.

Subsection 4(1) of the instrument provides for the following definitions:

- ***Act*** means the *Migration Act 1958*.
- ***Regulations*** means the *Migration Regulations 1994*.
- ***security vetting*** includes pre-employment screening and ongoing assessment of the eligibility and suitability of a person to be employed by that agency.

Subsection 4(2) of the instrument provides that in this instrument, an APS level in the following table is an abbreviation of the approved classification of an APS employee under the *Public Service Classification Rules 2000* (Cth):

APS level	Approved classification
APS 1	APS Level 1
APS 2	APS Level 2
APS 3	APS Level 3
APS 4	APS Level 4
APS 5	APS Level 5
APS 6	APS Level 6
EL 1	Executive Level 1
EL 2	Executive Level 2
SES 1	Senior Executive Service Band 1
SES 2	Senior Executive Service Band 2

Section 5 Schedules

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

Section 6 Commonwealth, State or Territory legislation

This section provides that for subregulation 3.10A(1) of the Regulations, the Commonwealth, State or Territory legislation is specified in Schedule 1.

The note under section 6 of this instrument provides that the Minister may authorise an officer to perform one or more actions prohibited under subsection 488(1) of the Migration Act for the purposes of prescribed Commonwealth, State or Territory legislation—see subparagraph 488(2)(a)(vii) of that Act.

Section 7 Agencies, employees and purposes

The section provides for the specified agencies, employees and purposes.

Subsection 7(1) of the instrument provides that for paragraphs 3.10A(2)(a), (b) and (c) of the Regulations:

- each agency of the Commonwealth, a State or a Territory is specified in Schedule 2 (paragraph 7(1)(a) of this instrument); and
- each employee of an agency mentioned in an item of Schedule 2 is specified (paragraph 7(1)(b) of this instrument); and
- each purpose of an agency mentioned in an item of Schedule 2 is specified (paragraph 7(1)(c) of this instrument).

The note under paragraph 7(c) of this instrument provides that the Minister may authorise a prescribed employee of a prescribed agency of the Commonwealth, or of a State or Territory to perform one or more actions prohibited under subsection 488(1) of the Migration Act—see paragraph 488(2)(g) of that Act.

Schedule 1 Commonwealth, State and Territory legislation

Schedule 1 of the instrument lists Commonwealth, State and Territory legislation for the purposes of subregulation 3.10A(1) of the Regulations and section 6 (above) of this instrument. This enables the Minister to authorise officers to perform actions which would otherwise be prohibited under subsection 488(1) but for subparagraph 488(2)(a)(vii) of the Migration Act.

Schedule 2 Agencies, employees and purposes

Schedule 2 of the instrument lists specified Commonwealth, State or Territory agencies, employees and purposes for paragraphs 3.10A(2)(a), (b) and (c) of the Regulations and section 7 (above) to this instrument. This enables the Minister to authorise these employees of these agencies to perform actions which would otherwise be prohibited under subsection 488(1) but for paragraph 488(2)(g) of the Migration Act, provided that those actions are for a specified purpose.

Schedule 3 Repeals

Item 1 of Schedule 3 to the instrument repeals the *Migration (Access to Movement Records) Instrument (LIN 23/015) 2023* entirely.

Statement of Compatibility with Human Rights

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

Migration (Access to Movement Records) Instrument (LIN 25/001) 2025

This 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

Subsection 488(1) of the *Migration Act 1958* (the Act) provides that a person must not read; examine; reproduce by any means; use; disclose by any means; any part of the Movement Records, otherwise than in accordance with an authority given under subsection 488(2) of the Act. A penalty applies to the performing of an act prohibited by subsection 488(1), unless when authorised in accordance with subsection 488(2) of the Act.

The term ‘Movement Records’ means information stored in a notified data base, which the Movements Reconstruction Database (referred to as the Movement Data Base in Gazette Notice 34 dated 31 August 1994) is declared to be pursuant to section 489 of the Act.

The Movement Reconstruction Database contains information kept for the purposes of the Act in relation to the entry into, and departure of persons from, Australia since June 1981. The information may include a traveller's name, date of birth, gender and relationship status, country of birth, departure and/or arrival date, travel document number and country, port code and flight/vessel details, visa subclass and expiry date, and the number of movements.

The circumstances in which the Minister may authorise a person to perform one or more of the actions prohibited by subsection 488(1) of the Act include where the action is required for the purposes of prescribed legislation (subparagraph 488(2)(a)(vii) of the Act) and where the action is being performed by a prescribed employee of a prescribed agency for a prescribed purpose (subsection 488(2)(g) of the Act).

Subsection 5(1) of the Act defines ‘prescribed’ to mean prescribed by the regulations. The regulation which prescribes the matters for the purposes of subparagraph 488(2)(a)(vii) and paragraph 488(2)(g) is regulation 3.10A of the *Migration Regulations 1994* (Cth) (the Regulations).

Regulation 3.10A states –

- (1) For subparagraph 488(2)(a)(vii) of the Act, Commonwealth, State or Territory legislation specified by the Minister in an instrument in writing for this subregulation is prescribed.

Note: Under subsection 488(1) of the Act, a person must not read, examine, reproduce, use or disclose any part of the Movement Records. However, subparagraph 488(2)(a)(vii) of the Act permits the Minister to authorise an officer to perform one or more of those actions for the purposes of prescribed Commonwealth, State or Territory legislation.

(2) For paragraph 488(2)(g) of the Act:

- (a) an agency of the Commonwealth, a State or a Territory specified by the Minister in an instrument in writing for this paragraph is prescribed; and
- (b) an employee of a prescribed agency who is specified by the Minister in an instrument in writing for this paragraph is prescribed; and
- (c) a purpose specified by the Minister in an instrument in writing for this paragraph is prescribed.

Note: Under subsection 488(1) of the Act, a person must not read, examine, reproduce, use or disclose any part of the Movement Records. However, paragraph 488(2)(g) of the Act permits the Minister to authorise a prescribed employee of a prescribed agency of the Commonwealth, or of a State or Territory, to perform one or more of those actions for a prescribed purpose.

Accordingly, *Migration (Access to Movement Records) Instrument (LIN 25/001) 2025* (the Instrument) prescribes the legislation for the purposes of subparagraph 488(2)(a)(vii) and employees, agencies and purposes for the purposes of paragraph 488(2)(g) of the Act.

This Instrument also repeals *Migration (Access to Movement Records) Instrument (LIN 23/015) 2023*, signed on 11 July 2023 and cited as LIN 23/015.

The key changes in this Instrument from LIN 23/015 are:

Schedule 1

Addition, amendment or removal of legislation:

- *Aged Care Act 1997* (Cth);
- *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997* (Cth);
- *Children and Young People (Safety) Act 2017* (SA);
- *Children, Young Persons and Their Families Act 1997* (Tas);
- *County Court Act 1958* (Vic);
- *Disability Services and Inclusion (Consequential Amendments and Transitional Provisions) Act 2023* (Cth);
- *Evidence Act 1995* (Cth);
- *Financial Transaction Reports Amendment (Transitional Arrangements) Act 2008* (Cth);
- *Fines Reform Act 2014* (Vic);
- *Infringements Act 2006* (Vic);
- *Magistrates' Court Act 1989* (Vic);
- *National Anti-Corruption Commission Act 2022* (Cth);
- *Public Service Act 1999* (Cth);
- *Public Health and Wellbeing Act 2008* (Vic);
- *Sentencing Act 1991* (Vic);
- *Sheriff Act 2009* (Vic);

- *Supreme Court Act 1986* (Vic); and
- *Trade Support Loans Amendment Act 2023* (Cth).

This instrument either removes or replaces reference to any repealed legislation specified in LIN 23/015.

Schedule 2

The purposes and employees of several agencies have been updated to reflect changes to agency structures and to confine access to purposes under specified acts that the agencies administer. These changes effectively restrict Movement Records to specific levels of staff or work areas in specific agencies for specific purposes.

The following ten agencies have been added to facilitate access to Movement Records to enable those agencies to perform their statutory duties and associated functions effectively:

- Board of Professional Engineers Queensland;
- Building Commission of NSW (operating under the Department of Customer Service NSW Portfolio);
- Department of Defence – Defence Intelligence Organisation (DIO);
- Department of Justice and Community Safety, Victoria;
- Department of Mines, Industry Regulation and Safety Western Australia (DMIRS);
- Department of Primary Industries and Regional Development NSW;
- Department of Veterans Affairs (DVA);
- National Anti-Corruption Commission (NACC);
- National Disability Insurance Scheme Quality and Safeguards Commission;
- New South Wales Fair Trading (operating under the Department of Customer Service NSW Portfolio).

The names of the following agencies have been updated to reflect changes to agency names from Machinery of Government changes:

- Administrative Review Tribunal (formerly the Administrative Appeals Tribunal);
- Department of Health, Disability and Ageing (formerly Department of Health and Aged Care); and
- RevenueWA (formerly the Office of State Revenue, Western Australia).

Human rights implications

This Disallowable Legislative Instrument engages the prohibition against arbitrary or unlawful interference with privacy. Article 17(1) of the *International Covenant on Civil and Political Rights* (ICCPR) states that:

‘No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.’

Article 17(2) of the ICCPR states that:

‘Everyone has the right to the protection of the law against such interference or attacks.’

The prohibition against arbitrary or unlawful interference with privacy is engaged as the Instrument seeks to control government access to the personal information in Movement Records. The access to Movement Records will be lawful as authorised by this Instrument. To the extent that this Instrument may limit the prohibition against arbitrary or unlawful interference with privacy through the sharing of Movement Records, this is necessary, reasonable and proportionate in meeting the policy objectives of regulation 3.10A, that is to facilitate government and law enforcement agencies in the exercise of their functions and duties. In particular, the following additional agencies have been added to the Instrument for the following reasons:

- **The Board of Professional Engineers Queensland** is specified so that Movement Records can be accessed to enhance the effectiveness of their investigative processes, such as in relation to locating and/or determining the whereabouts of engineers under investigation or persons suspected of committing offences against the *Professional Engineers Act 2002* (Qld). This includes identifying whether engineers under investigation, suspects, or witnesses may be outside of Australia at a specific time, and to identify any of these individuals facing serious criminal charges who may have been deported from Australia.
- **Department of Customer Service NSW:**
 - **The Building Commission NSW (BC NSW)** is specified so that Movement Records can be accessed to enhance their ability to effectively carry their statutory duties and responsibilities. BC NSW’s role incorporates the regulation of building work and the licensing of tradespeople across NSW. In instances where BC NSW are investigating potential breaches of building standards or licensing requirements, access to Movement Records can be invaluable, assisting the agency to determine the whereabouts of individuals subject to investigation, to ensure effective enforcement actions, as well as assisting in the investigation and prosecution of matters under various acts the agency administers, including; the *Fair Trading Act 1987*, the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*, the *Home Building Act 1989*, and the *Crimes Act 1900* (Cth) and
 - **New South Wales Fair Trading** is specified so that Movement Records can be accessed to conduct compliance and enforcement actions under the *Fair Trading Act 1987* (NSW) and the *Crimes Act 1900* (Cth).
- **Department of Defence – Defence Intelligence Organisation (DIO)** is specified so that Movement Records can be accessed to assist the DIO in complying with the rules made under section 41C of the *Intelligence Services Act 2001* (Cth) regarding the communication and retention of intelligence information concerning Australian persons.
- **Department of Justice and Community Safety, Victoria** is specified so that Movement Records can be accessed to enable employees of the agency to conduct investigations into infringements under various Acts, including; the *Sheriff Act 2009* (Vic) - in particular section 7, to enable the Sheriff of Victoria to undertake the Sheriff’s functions, powers, and duties; the *Fines Reform Act 2014* (Vic) - in particular section 5, to enable the Director, Fines Victoria to carry out his or her legislative functions, and to enforce ‘infringement offences’ as an ‘enforcement agency’, as defined in section 3 of the *Infringements Act 2006* (Vic).

- **Department of Mines, Industry Regulations and Safety Western Australia (DMIRS)** is specified so that Movement Records can be accessed to enable Industrial Inspectors employed in the Private Sector Labour Relations Division of DMIRS who perform statutory duties to investigate and administer compliance under the *Children and Community Services Act 2004* (WA), the *Industrial Relations Act 1979* (WA), the *Long Service Leave Act 1958* (WA), and the *Minimum Conditions of Employment Act 1993* (WA).
- **Department of Primary Industries and Regional Development NSW** is specified so that Movement Records can be accessed to enable Fisheries Officers in the NSW Department of Primary Industries and Regional Development Fisheries Compliance Unit to investigate and prosecute persons found committing offences under the *Fisheries Management Act 1994* (NSW), *Marine Estate Management Act 2014* (NSW), and associated regulations. These prosecutions can lead to the need to issue court attendance notices for a range of offences. Successful serving of a court attendance notice may depend at times on confirmation the offender is currently located in Australia or overseas.
- **Department of Veterans' Affairs (DVA)** is specified so that Movement Records can be accessed to enable DVA employees to:
 - monitor eligibility for services and ensure compliance by claimants with provisions for receipt of services;
 - monitor and enforce compliance by DVA service providers;
 - investigate potential fraud and seek criminal prosecution; and
 - recover revenue debt.

DVA employees conduct these actions under the *Veterans' Entitlements Act 1986* (Cth), the *Defence Service Homes Act 1918* (Cth), *Military Rehabilitation and Compensation Act 2004* (Cth), the *Safety Rehabilitation and Compensation Act 1988* (Cth), the *War Graves Act 1980* (Cth), and the *Social Security Act 1991* (Cth).

National Anti-Corruption Commission (NACC) is specified so that Movement Records can be accessed to detect, investigate and report on serious systemic corruption in the public sector. This includes conduct that occurred before or after it was established. They operate under and are governed by the *National Anti-Corruption Commission Act 2022* (Cth)

National Disability Insurance Scheme Quality and Safeguards Commission (NDIS Quality and Safeguards Commission) is specified so that Movement Records can be accessed to conduct compliance and enforcement actions under Division 8 of the *National Disability Insurance Scheme 2013* (Cth). This includes powers relating to monitoring, investigations, civil penalties, infringement notices and initiating compliance orders, banning orders, revocation of registration, enforceable undertaking and injunctions.

The limited purposes and delegations that the Instrument sets out ensure that the Instrument imposes ensure that the access to Movement Records only occurs where it is necessary for persons who have a need to access the information in the exercise of their functions under legislation. As such, preventing broad access to Movement Records and limiting it to those persons and agencies who have a need for the exercise of power that is reasonable and proportionate to the legitimate objective of facilitating government and law enforcement agencies in the exercise of their statutory duties, and associated functions.

Further, the protection of the right in Article 17(1), and consistent with the requirement in Article 17(2), is set out in domestic law under the *Privacy Act 1988* (Cth) (the Privacy Act). The Privacy Act contains the Australian Privacy Principles, which regulate how agencies may collect, use, disclose, and store personal information, and how individuals may access and correct personal information held about them. Given that the proposed dissemination of the information in the Movements

Reconstruction Database will be executed in accordance with the Privacy Act, the personal information contained in this database will be afforded the legal protection of the Privacy Act.

Additionally, the Instrument itself provides lawful protections in that it restricts the disclosure of the personal information in Movement Records to officers and employees in particular agencies acting under particular legislation, and for purposes specified in the instrument. The Act imposes a penalty of imprisonment for 2 years for the unlawful access to Movement Records contrary to section 488 of the Act.

Conclusion

To the extent the Instrument may limit the prohibition against arbitrary or unlawful interference with privacy, as discussed above, this is necessary in furtherance of a legitimate objective, and is reasonable and proportionate to that objective. This Disallowable Legislative Instrument is compatible with the relevant human rights obligations for the reasons outlined above.

Issued by authority of the Minister for Home Affairs