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The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Privacy Amendment (Enhancing Privacy  
Protection) Bill 2012**

**No.     , 2012**

*(Attorney-General)*

**A Bill for an Act to amend the law relating to  
privacy, and for other purposes**



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1     **A Bill for an Act to amend the law relating to**  
2     **privacy, and for other purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act may be cited as the *Privacy Amendment (Enhancing*  
6                     *Privacy Protection) Act 2012*.

7     **2 Commencement**

8                     (1) Each provision of this Act specified in column 1 of the table  
9                     commences, or is taken to have commenced, in accordance with  
10                    column 2 of the table. Any other statement in column 2 has effect  
11                    according to its terms.  
12

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 to 4	The day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent.	
3. Schedule 5, items 1 to 70	The day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent.	
4. Schedule 5, item 71	The later of: (a) the start of the day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent; and (b) immediately after the commencement of section 73 of the <i>Personally Controlled Electronic Health Records Act 2012</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedule 5, items 72 to 79	The day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent.	
6. Schedule 5, item 80	The later of: (a) the start of the day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent; and (b) immediately after the commencement of section 105 of the <i>Stronger Futures in the Northern Territory Act 2012</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
7. Schedule 5, items 81 to 131	The day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent.	



<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
8. Schedule 5 item 132	The later of: (a) the start of the day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent; and (b) immediately after the commencement of item 24 of Schedule 5 to the <i>Consumer Credit and Corporations Legislation Amendment (Enhancements) Act 2012</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
9. Schedule 5, items 133 to 155	The day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent.	
10. Schedule 5, item 156	The day this Act receives the Royal Assent.	
11. Schedule 5, items 157 to 161	The day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent.	
12. Schedule 5, item 162	The day this Act receives the Royal Assent.	
13. Schedule 5, items 163 to 171	The day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent.	
14. Schedule 5, item 172	The later of: (a) the start of the day after the end of the period of 9 months beginning on the day this Act receives the Royal Assent; and (b) immediately after the commencement of item 32 of Schedule 1 to the <i>Personally Controlled Electronic Health Records (Consequential Amendments) Act 2012</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
15. Schedule 5, items 173 to 180	The day after the end of the period of 9 months beginning on the day this Act	



1 **Schedule 1—Australian Privacy Principles**  
2

3 *Privacy Act 1988*

4 **1 Section 3**

5 Omit “, disclosure or transfer”, substitute “or disclosure”.

6 **2 Section 3 (note)**

7 Omit “National”, substitute “Australian”.

8 **3 Section 5**

9 Repeal the section.

10 **4 Subsection 6(1) (paragraph (i) of the definition of agency)**

11 Repeal the paragraph.

12 **5 Subsection 6(1)**

13 Insert:

14 *APP complaint* means a complaint about an act or practice that, if  
15 established, would be an interference with the privacy of an  
16 individual because it breached an Australian Privacy Principle.

17 **6 Subsection 6(1)**

18 Insert:

19 *APP entity* means an agency or organisation.

20 **7 Subsection 6(1)**

21 Insert:

22 *APP privacy policy* has the meaning given by Australian Privacy  
23 Principle 1.3.

24 **8 Subsection 6(1)**

25 Insert:

26 *Australian law* means:

27 (a) an Act of the Commonwealth or of a State or Territory; or

- 1 (b) regulations, or any other instrument, made under such an Act;  
2 or  
3 (c) a Norfolk Island enactment; or  
4 (d) a rule of common law or equity.

5 **9 Subsection 6(1)**

6 Insert:

7 *Australian Privacy Principle* has the meaning given by section 14.

8 **10 Subsection 6(1)**

9 Insert:

10 *collects*: an entity *collects* personal information only if the entity  
11 collects the personal information for inclusion in a record or  
12 generally available publication.

13 **11 Subsection 6(1)**

14 Insert:

15 *Commonwealth record* has the same meaning as in the *Archives*  
16 *Act 1983*.

17 **12 Subsection 6(1)**

18 Insert:

19 *court/tribunal order* means an order, direction or other instrument  
20 made by:

- 21 (a) a court; or  
22 (b) a tribunal; or  
23 (c) a judge (including a judge acting in a personal capacity) or a  
24 person acting as a judge; or  
25 (d) a magistrate (including a magistrate acting in a personal  
26 capacity) or a person acting as a magistrate; or  
27 (e) a member or an officer of a tribunal;

28 and includes an order, direction or other instrument that is of an  
29 interim or interlocutory nature.

30 **13 Subsection 6(1)**

31 Insert:

---

1                    *de facto partner* of an individual has the meaning given by the *Acts*  
2                    *Interpretation Act 1901*.

3                    **14 Subsection 6(1)**

4                    Insert:

5                    *de-identified*: personal information is *de-identified* if the  
6                    information is no longer about an identifiable individual or an  
7                    individual who is reasonably identifiable.

8                    **15 Subsection 6(1) (definition of *eligible case manager*)**

9                    Repeal the definition.

10                   **16 Subsection 6(1) (after paragraph (b) of the definition of**  
11                   ***enforcement body*)**

12                   Insert:

13                   (ba) the CrimTrac Agency; or

14                   **17 Subsection 6(1) (after paragraph (c) of the definition of**  
15                   ***enforcement body*)**

16                   Insert:

17                   (ca) the Immigration Department; or

18                   **18 Subsection 6(1) (after paragraph (e) of the definition of**  
19                   ***enforcement body*)**

20                   Insert:

21                   (ea) the Office of the Director of Public Prosecutions, or a similar  
22                   body established under a law of a State or Territory; or

23                   **19 Subsection 6(1) (after paragraph (l) of the definition of**  
24                   ***enforcement body*)**

25                   Insert:

26                   (la) the Corruption and Crime Commission of Western Australia;  
27                   or

28                   **20 Subsection 6(1)**

29                   Insert:

30                   *enforcement related activity* means:

- 1 (a) the prevention, detection, investigation, prosecution or  
2 punishment of:  
3 (i) criminal offences; or  
4 (ii) breaches of a law imposing a penalty or sanction; or  
5 (b) the conduct of surveillance activities, intelligence gathering  
6 activities or monitoring activities; or  
7 (c) the conduct of protective or custodial activities; or  
8 (d) the enforcement of laws relating to the confiscation of the  
9 proceeds of crime; or  
10 (e) the protection of the public revenue; or  
11 (f) the prevention, detection, investigation or remedying of  
12 misconduct of a serious nature, or other conduct prescribed  
13 by the regulations; or  
14 (g) the preparation for, or conduct of, proceedings before any  
15 court or tribunal, or the implementation of court/tribunal  
16 orders.

17 **21 Subsection 6(1)**

18 Insert:

19 *entity* means:

- 20 (a) an agency; or  
21 (b) an organisation; or  
22 (c) a small business operator.

23 **22 Subsection 6(1) (definition of *generally available***  
24 ***publication*)**

25 Repeal the definition, substitute:

26 *generally available publication* means a magazine, book, article,  
27 newspaper or other publication that is, or will be, generally  
28 available to members of the public:

- 29 (a) whether or not it is published in print, electronically or in any  
30 other form; and  
31 (b) whether or not it is available on the payment of a fee.

32 **23 Subsection 6(1)**

33 Insert:

---

1                    **government related identifier** of an individual means an identifier  
2                    of the individual that has been assigned by:

- 3                    (a) an agency; or  
4                    (b) a State or Territory authority; or  
5                    (c) an agent of an agency, or a State or Territory authority, acting  
6                    in its capacity as agent; or  
7                    (d) a contracted service provider for a Commonwealth contract,  
8                    or a State contract, acting in its capacity as contracted service  
9                    provider for that contract.

10                   **24 Subsection 6(1)**

11                   Insert:

12                   **holds**: an entity **holds** personal information if the entity has  
13                   possession or control of a record that contains the personal  
14                   information.

15                   Note:            See section 10 for when an agency is taken to hold a record.

16                   **25 Subsection 6(1)**

17                   Insert:

18                   **identifier** of an individual means a number, letter or symbol, or a  
19                   combination of any or all of those things, that is used to identify  
20                   the individual or to verify the identity of the individual, but does  
21                   not include:

- 22                   (a) the individual's name; or  
23                   (b) the individual's ABN (within the meaning of the *A New Tax*  
24                   *System (Australian Business Number) Act 1999*); or  
25                   (c) anything else prescribed by the regulations.

26                   **26 Subsection 6(1)**

27                   Insert:

28                   **Immigration Department** means the Department administered by  
29                   the Minister administering the *Migration Act 1958*.

30                   **27 Subsection 6(1) (definition of *Information Privacy***  
31                   ***Principle*)**

32                   Repeal the definition.

1 **28 Subsection 6(1) (definition of *IPP complaint*)**

2 Repeal the definition.

3 **29 Subsection 6(1)**

4 Insert:

5 *misconduct* includes fraud, negligence, default, breach of trust,  
6 breach of duty, breach of discipline or any other misconduct in the  
7 course of duty.

8 **30 Subsection 6(1) (definition of *National Privacy Principle*)**

9 Repeal the definition.

10 **31 Subsection 6(1)**

11 Insert:

12 *non-profit organisation* means an organisation:  
13 (a) that is a non-profit organisation; and  
14 (b) that engages in activities for cultural, recreational, political,  
15 religious, philosophical, professional, trade or trade union  
16 purposes.

17 **32 Subsection 6(1) (definition of *NPP complaint*)**

18 Repeal the definition.

19 **33 Subsection 6(1)**

20 Insert:

21 *overseas recipient*, in relation to personal information, has the  
22 meaning given by Australian Privacy Principle 8.1.

23 **34 Subsection 6(1)**

24 Insert:

25 *permitted general situation* has the meaning given by section 16A.

26 **35 Subsection 6(1)**

27 Insert:

28 *permitted health situation* has the meaning given by section 16B.



1 **36 Subsection 6(1) (definition of *personal information*)**

2 Repeal the definition, substitute:

3 *personal information* means information or an opinion about an  
4 identified individual, or an individual who is reasonably  
5 identifiable:

- 6 (a) whether the information or opinion is true or not; and  
7 (b) whether the information or opinion is recorded in a material  
8 form or not.

9 **37 Subsection 6(1) (definition of *record*)**

10 Omit “means”, substitute “includes”.

11 **38 Subsection 6(1) (paragraphs (b) and (c) of the definition of**  
12 ***record*)**

13 Repeal the paragraphs, substitute:

- 14 (b) an electronic or other device;

15 **39 Subsection 6(1) (at the end of the definition of *record*)**

16 Add:

17 Note: For *document*, see section 2B of the *Acts Interpretation Act 1901*.

18 **40 Subsection 6(1)**

19 Insert:

20 *responsible person* has the meaning given by section 6AA.

21 **41 Subsection 6(1) (subparagraph (a)(viii) of the definition of**  
22 ***sensitive information*)**

23 Omit “preferences”, substitute “orientation”.

24 **42 Subsection 6(1) (at the end of the definition of *sensitive***  
25 ***information*)**

26 Add:

- 27 ; or (d) biometric information that is to be used for the purpose of  
28 automated biometric verification or biometric identification;  
29 or  
30 (e) biometric templates.

1 **43 Subsection 6(1) (definition of *solicit*)**

2 Repeal the definition.

3 **44 Subsection 6(1)**

4 Insert:

5 *solicits*: an entity *solicits* personal information if the entity requests  
6 another entity to provide the personal information, or to provide a  
7 kind of information in which that personal information is included.

8 **45 Subsection 6(1) (definition of *use*)**

9 Repeal the definition.

10 **46 Subsection 6(2)**

11 Repeal the subsection.

12 **47 Paragraph 6(7)(a)**

13 Omit “IPP”, substitute “APP”.

14 **48 Paragraph 6(7)(d)**

15 Repeal the paragraph.

16 **49 Paragraph 6(7)(f)**

17 Omit “NPP”, substitute “APP”.

18 **50 Subsection 6(10)**

19 Omit “and 16E”, substitute “and 16”.

20 **51 Paragraph 6(10)(a)**

21 Omit “(within the meaning of the *Acts Interpretation Act 1901*)”.

22 **52 After section 6**

23 Insert:

24 **6AA Meaning of *responsible person***

25 (1) A *responsible person* for an individual is:

26 (a) a parent of the individual; or

- 
- 1 (b) a child or sibling of the individual if the child or sibling is at  
 2 least 18 years old; or  
 3 (c) a spouse or de facto partner of the individual; or  
 4 (d) a relative of the individual if the relative is:  
 5 (i) at least 18 years old; and  
 6 (ii) a member of the individual’s household; or  
 7 (e) a guardian of the individual; or  
 8 (f) a person exercising an enduring power of attorney granted by  
 9 the individual that is exercisable in relation to decisions about  
 10 the individual’s health; or  
 11 (g) a person who has an intimate personal relationship with the  
 12 individual; or  
 13 (h) a person nominated by the individual to be contacted in case  
 14 of emergency.

15 (2) In this section:

16 **child**: without limiting who is a child of an individual for the  
 17 purposes of subsection (1), each of the following is a **child** of an  
 18 individual:

- 19 (a) an adopted child, stepchild, exnuptial child or foster child of  
 20 the individual;  
 21 (b) someone who is a child of the individual within the meaning  
 22 of the *Family Law Act 1975*.

23 **parent**: without limiting who is a parent of an individual for the  
 24 purposes of subsection (1), someone is a **parent** of an individual if  
 25 the individual is his or her child because of the definition of **child**  
 26 in this subsection.

27 **relative** of an individual (the **first individual**) means a grandparent,  
 28 grandchild, uncle, aunt, nephew or niece of the first individual and  
 29 for this purpose, relationships to the first individual may also be  
 30 traced to or through another individual who is:

- 31 (a) a de facto partner of the first individual; or  
 32 (b) the child of the first individual because of the definition of  
 33 **child** in this subsection.

34 **sibling** of an individual includes:

- 1 (a) a half-brother, half-sister, adoptive brother, adoptive sister,  
2 step-brother, step-sister, foster-brother and foster-sister of the  
3 individual; and  
4 (b) another individual if a relationship referred to in  
5 paragraph (a) can be traced through a parent of either or both  
6 of the individuals.

7 *stepchild*: without limiting who is a stepchild of an individual,  
8 someone is a *stepchild* of an individual if he or she would be the  
9 individual's stepchild except that the individual is not legally  
10 married to the individual's de facto partner.

11 **53 Section 6A (heading)**

12 Repeal the heading, substitute:

13 **6A Breach of an Australian Privacy Principle**

14 **54 Subsection 6A(1) (heading)**

15 Repeal the heading.

16 **55 Subsection 6A(1)**

17 Omit "a National", substitute "an Australian".

18 **56 Subsection 6A(1)**

19 Omit "that National Privacy Principle", substitute "that principle".

20 **57 Subsection 6A(2)**

21 Omit "a National", substitute "an Australian".

22 **58 Paragraph 6A(2)(b)**

23 Omit "the Principle", substitute "the principle".

24 **59 Subsections 6A(3) and (4)**

25 Omit "a National", substitute "an Australian".

26 **60 Subparagraphs 6C(4)(b)(ii) and (iii)**

27 Omit " , disclosure and transfer", substitute "and disclosure".

28 **61 Subsection 6EA(1)**

---

1 Omit “(except section 16D)”.

2 **62 Paragraph 6F(3)(b)**

3 Omit “, disclosure and transfer”, substitute “and disclosure”.

4 **63 Paragraph 7(1)(a)**

5 Omit “an eligible case manager or”.

6 **64 Paragraph 7(1)(cb)**

7 Repeal the paragraph.

8 **65 Paragraphs 7(1)(d) and (e)**

9 Omit “, an eligible hearing service provider or an eligible case  
10 manager”, substitute “or an eligible hearing service provider”.

11 **66 Paragraphs 7(1)(ea) and (eb)**

12 Repeal the paragraphs.

13 **67 Subsection 7(2)**

14 Omit “Information Privacy Principles, the National”, substitute  
15 “Australian”.

16 **68 Subsection 7B(1) (note)**

17 Omit “section 16E”, substitute “section 16”.

18 **69 Subsections 7B(1) and (2) (notes)**

19 Omit “National”, substitute “Australian”.

20 **70 Paragraph 8(2)(b)**

21 Omit “is not the record-keeper in relation to”, substitute “does not  
22 hold”.

23 **71 Subsection 8(2)**

24 Omit “of the record-keeper in relation to”, substitute “of the agency that  
25 holds”.

26 **72 Section 9**

27 Repeal the section.

1 **73 Section 10 (heading)**

2 Repeal the heading, substitute:

3 **10 Agencies that are taken to hold a record**

4 **74 Subsections 10(1) to (3)**

5 Repeal the subsections.

6 **75 Subsections 10(4) and (5)**

7 Omit “as the record-keeper in relation to”, substitute “to be the agency  
8 that holds”.

9 **76 Section 12**

10 Repeal the section.

11 **77 Subsection 13B(1) (note)**

12 Omit “National” (wherever occurring), substitute “Australian”.

13 **78 Subsection 13B(1) (note)**

14 Omit “Principle 2”, substitute “Principle 6”.

15 **79 Subsection 13B(1A) (note)**

16 Omit “National”, substitute “Australian”.

17 **80 Subsection 13C(1) (note)**

18 Omit “National” (wherever occurring), substitute “Australian”.

19 **81 Subsection 13C(1) (note)**

20 Omit “Principle 2”, substitute “Principle 6”.

21 **82 Divisions 2 and 3 of Part III**

22 Repeal the Divisions, substitute:

23 **Division 2—Australian Privacy Principles**

24 **14 *Australian Privacy Principles***

25 (1) The *Australian Privacy Principles* are set out in the clauses of  
26 Schedule 1.

1 (2) A reference in any Act to an Australian Privacy Principle by a  
 2 number is a reference to the Australian Privacy Principle with that  
 3 number.

4 **15 APP entities must comply with Australian Privacy Principles**

5 An APP entity must not do an act, or engage in a practice, that  
 6 breaches an Australian Privacy Principle.

7 **16 Personal, family or household affairs**

8 Nothing in the Australian Privacy Principles applies to:  
 9 (a) the collection, holding, use or disclosure of personal  
 10 information by an individual; or  
 11 (b) personal information held by an individual;  
 12 only for the purposes of, or in connection with, his or her personal,  
 13 family or household affairs.

14 **16A Permitted general situations in relation to the collection, use or**  
 15 **disclosure of personal information**

16 (1) A *permitted general situation* exists in relation to the collection,  
 17 use or disclosure by an APP entity of personal information about  
 18 an individual, or of a government related identifier of an  
 19 individual, if:  
 20 (a) the entity is an entity of a kind specified in an item in column  
 21 1 of the table; and  
 22 (b) the item in column 2 of the table applies to the information or  
 23 identifier; and  
 24 (c) such conditions as are specified in the item in column 3 of  
 25 the table are satisfied.  
 26

---

**Permitted general situations**

---

<b>Item</b>	<b>Column 1 Kind of entity</b>	<b>Column 2 Item applies to</b>	<b>Column 3 Condition(s)</b>
1	APP entity	(a) personal information; or (b) a government	(a) it is unreasonable or impracticable to obtain the individual's consent to the collection, use or disclosure; and (b) the entity reasonably believes that

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**Schedule 1 Australian Privacy Principles**

<b>Permitted general situations</b>			
<b>Item</b>	<b>Column 1 Kind of entity</b>	<b>Column 2 Item applies to</b>	<b>Column 3 Condition(s)</b>
		related identifier.	the collection, use or disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.
2	APP entity	(a) personal information; or (b) a government related identifier.	(a) the entity has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the entity's functions or activities has been, is being or may be engaged in; and (b) the entity reasonably believes that the collection, use or disclosure is necessary in order for the entity to take appropriate action in relation to the matter.
3	APP entity	Personal information	(a) the entity reasonably believes that the collection, use or disclosure is reasonably necessary to assist any APP entity, body or person to locate a person who has been reported as missing; and (b) the collection, use or disclosure complies with the rules made under subsection (2).
4	APP entity	Personal information	The collection, use or disclosure is reasonably necessary for the establishment, exercise or defence of a legal or equitable claim.
5	APP entity	Personal information	The collection, use or disclosure is reasonably necessary for the purposes of a confidential alternative dispute resolution process.
6	Agency	Personal information	The entity reasonably believes that the collection, use or disclosure is necessary for the entity's diplomatic or consular functions or activities.
7	Defence Force	Personal information	The entity reasonably believes that the collection, use or disclosure is



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**Permitted general situations**

<b>Item</b>	<b>Column 1 Kind of entity</b>	<b>Column 2 Item applies to</b>	<b>Column 3 Condition(s)</b>
			necessary for any of the following occurring outside Australia and the external Territories: (a) war or warlike operations; (b) peacekeeping or peace enforcement; (c) civil aid, humanitarian assistance, medical or civil emergency or disaster relief.

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- (2) The Commissioner may, by legislative instrument, make rules relating to the collection, use or disclosure of personal information that apply for the purposes of item 3 of the table in subsection (1).

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**16B Permitted health situations in relation to the collection, use or disclosure of health information**

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*Collection—provision of a health service*

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- (1) A *permitted health situation* exists in relation to the collection by an organisation of health information about an individual if:

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- (a) the information is necessary to provide a health service to the individual; and

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- (b) either:

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- (i) the collection is required or authorised by or under an Australian law (other than this Act); or

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- (ii) the information is collected in accordance with rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind the organisation.

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*Collection—research etc.*

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- (2) A *permitted health situation* exists in relation to the collection by an organisation of health information about an individual if:

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- (a) the collection is necessary for any of the following purposes:

- 1 (i) research relevant to public health or public safety;  
2 (ii) the compilation or analysis of statistics relevant to  
3 public health or public safety;  
4 (iii) the management, funding or monitoring of a health  
5 service; and  
6 (b) that purpose cannot be served by the collection of  
7 information about the individual that is de-identified  
8 information; and  
9 (c) it is impracticable for the organisation to obtain the  
10 individual's consent to the collection; and  
11 (d) any of the following apply:  
12 (i) the collection is required by or under an Australian law  
13 (other than this Act);  
14 (ii) the information is collected in accordance with rules  
15 established by competent health or medical bodies that  
16 deal with obligations of professional confidentiality  
17 which bind the organisation;  
18 (iii) the information is collected in accordance with  
19 guidelines approved under section 95A for the purposes  
20 of this subparagraph.

21 *Use or disclosure—research etc.*

- 22 (3) A **permitted health situation** exists in relation to the use or  
23 disclosure by an organisation of health information about an  
24 individual if:  
25 (a) the use or disclosure is necessary for research, or the  
26 compilation or analysis of statistics, relevant to public health  
27 or public safety; and  
28 (b) it is impracticable for the organisation to obtain the  
29 individual's consent to the use or disclosure; and  
30 (c) the use or disclosure is conducted in accordance with  
31 guidelines approved under section 95A for the purposes of  
32 this paragraph; and  
33 (d) in the case of disclosure—the organisation reasonably  
34 believes that the recipient of the information will not disclose  
35 the information, or personal information derived from that  
36 information.

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*Use or disclosure—genetic information*

- 1
- 2 (4) A **permitted health situation** exists in relation to the use or  
 3 disclosure by an organisation of genetic information about an  
 4 individual (the **first individual**) if:
- 5 (a) the organisation has obtained the information in the course of  
 6 providing a health service to the first individual; and
- 7 (b) the organisation reasonably believes that the use or disclosure  
 8 is necessary to lessen or prevent a serious threat to the life,  
 9 health or safety of another individual who is a genetic  
 10 relative of the first individual; and
- 11 (c) the use or disclosure is conducted in accordance with  
 12 guidelines approved under section 95AA; and
- 13 (d) in the case of disclosure—the recipient of the information is a  
 14 genetic relative of the first individual.

*Disclosure—responsible person for an individual*

- 15
- 16 (5) A **permitted health situation** exists in relation to the disclosure by  
 17 an organisation of health information about an individual if:
- 18 (a) the organisation provides a health service to the individual;  
 19 and
- 20 (b) the recipient of the information is a responsible person for the  
 21 individual; and
- 22 (c) the individual:
- 23 (i) is physically or legally incapable of giving consent to  
 24 the disclosure; or
- 25 (ii) physically cannot communicate consent to the  
 26 disclosure; and
- 27 (d) another individual (the **carer**) providing the health service for  
 28 the organisation is satisfied that either:
- 29 (i) the disclosure is necessary to provide appropriate care  
 30 or treatment of the individual; or
- 31 (ii) the disclosure is made for compassionate reasons; and
- 32 (e) the disclosure is not contrary to any wish:
- 33 (i) expressed by the individual before the individual  
 34 became unable to give or communicate consent; and
- 35 (ii) of which the carer is aware, or of which the carer could  
 36 reasonably be expected to be aware; and

- 1 (f) the disclosure is limited to the extent reasonable and  
2 necessary for a purpose mentioned in paragraph (d).

3 **16C Acts and practices of overseas recipients of personal**  
4 **information**

- 5 (1) This section applies if:  
6 (a) an APP entity discloses personal information about an  
7 individual to an overseas recipient; and  
8 (b) Australian Privacy Principle 8.1 applies to the disclosure of  
9 the information; and  
10 (c) the Australian Privacy Principles do not apply, under this  
11 Act, to an act done, or a practice engaged in, by the overseas  
12 recipient in relation to the information; and  
13 (d) the overseas recipient does an act, or engages in a practice, in  
14 relation to the information that would be a breach of the  
15 Australian Privacy Principles (other than Australian Privacy  
16 Principle 1) if those Australian Privacy Principles so applied  
17 to that act or practice.
- 18 (2) The act done, or the practice engaged in, by the overseas recipient  
19 is taken, for the purposes of this Act:  
20 (a) to have been done, or engaged in, by the APP entity; and  
21 (b) to be a breach of those Australian Privacy Principles by the  
22 APP entity.

23 **83 Section 37 (table items 6 and 7)**

24 Repeal the items.

25 **84 Subsections 54(2) and 57(2) (definition of *agency*)**

26 Omit “, an eligible hearing service provider or an eligible case  
27 manager”, substitute “or an eligible hearing service provider”.

28 **85 Paragraph 80H(2)(e)**

29 Omit “people who are *responsible* (within the meaning of subclause 2.5  
30 of Schedule 3)”, substitute “responsible persons”.

31 **86 Subparagraph 80P(1)(c)(v)**

32 Repeal the subparagraph, substitute:

- 33 (v) a responsible person for the individual; and
-

1 **87 Paragraph 80Q(1)(c)**

2 Omit “*responsible* for the individual (within the meaning of subclause  
3 2.5 of Schedule 3)”, substitute “a responsible person for the individual”.

4 **88 At the end of subsection 95(1)**

5 Add “by agencies”.

6 **89 Subsections 95(2) and (4)**

7 Omit “Information” (wherever occurring), substitute “Australian”.

8 **90 Section 95A (heading)**

9 Repeal the heading, substitute:

10 **95A Guidelines for Australian Privacy Principles about health**  
11 **information**

12 **91 Subsection 95A(1)**

13 Omit “National Privacy Principles (the *NPPs*)”, substitute “Australian  
14 Privacy Principles”.

15 **92 Subsection 95A(2)**

16 Omit “subparagraph 2.1(d)(ii) of the *NPPs*”, substitute “paragraph  
17 16B(3)(c)”.

18 **93 Subsection 95A(3)**

19 Omit “*NPPs* (other than paragraph 2.1(d))”, substitute “Australian  
20 Privacy Principles (disregarding subsection 16B(3))”.

21 **94 Subsection 95A(4)**

22 Omit “subparagraph 10.3(d)(iii) of the *NPPs*”, substitute “subparagraph  
23 16B(2)(d)(iii)”.

24 **95 Subsection 95A(5)**

25 Omit “*NPPs* (other than paragraph 10.3(d))”, substitute “Australian  
26 Privacy Principles (disregarding subsection 16B(2))”.

27 **96 Section 95AA (heading)**

28 Repeal the heading, substitute:

1 **95AA Guidelines for Australian Privacy Principles about genetic**  
2 **information**

3 **97 Subsection 95AA(1)**

4 Omit “National Privacy Principles (the *NPPs*)”, substitute “Australian  
5 Privacy Principles”.

6 **98 Subsection 95AA(2)**

7 Omit “subparagraph 2.1(ea)(ii) of the *NPPs*”, substitute “paragraph  
8 16B(4)(c)”.

9 **99 Subsection 95AA(2)**

10 Omit “(whether or not the threat is imminent)”.

11 **100 Subsection 95B(1)**

12 Omit “Information”, substitute “Australian”.

13 **101 Section 95C**

14 Omit “a National”, substitute “an Australian”.

15 **102 Subsections 100(2) to (4)**

16 Repeal the subsections, substitute:

17 (2) Before the Governor-General makes regulations for the purposes of  
18 Australian Privacy Principle 9.3 prescribing a government related  
19 identifier, an organisation or a class of organisations, and  
20 circumstances, the Minister must be satisfied that:

21 (a) the relevant agency or State or Territory authority or, if the  
22 relevant agency or State or Territory authority has a principal  
23 executive, the principal executive:

- 24 (i) has agreed that the adoption, use or disclosure of the  
25 identifier by the organisation, or the class of  
26 organisations, in the circumstances is appropriate; and  
27 (ii) has consulted the Commissioner about that adoption,  
28 use or disclosure; and

29 (b) the adoption, use or disclosure of the identifier by the  
30 organisation, or the class of organisations, in the  
31 circumstances can only be for the benefit of the individual to  
32 whom the identifier relates.

- 1 (3) Subsection (2) does not apply to the making of regulations for the  
 2 purposes of Australian Privacy Principle 9.3 that relate to the use  
 3 or disclosure of a government related identifier by an organisation,  
 4 or a class of organisations, in particular circumstances if:
- 5 (a) the identifier is a kind commonly used in the processing of  
 6 pay, or deductions from pay, of Commonwealth officers, or a  
 7 class of Commonwealth officers; and
  - 8 (b) the circumstances of the use or disclosure of the identifier  
 9 relate to the provision by:
    - 10 (i) the organisation; or
    - 11 (ii) the class of organisations;  
 12 of superannuation services (including the management,  
 13 processing, allocation and transfer of superannuation  
 14 contributions) for the benefit of Commonwealth officers or  
 15 the class of Commonwealth officers; and
  - 16 (c) before the regulations are made, the Minister consults the  
 17 Commissioner about the proposed regulations.

18 **103 Part X**

19 Repeal the Part.

20 **104 Schedules 1 and 3**

21 Repeal the Schedules, substitute:

22 **Schedule 1—Australian Privacy Principles**

23 Note: See section 14.

24 **Overview of the Australian Privacy Principles**

25 *Overview*

26 This Schedule sets out the Australian Privacy Principles.

27 Part 1 sets out principles that require APP entities to consider the  
 28 privacy of personal information, including ensuring that APP  
 29 entities manage personal information in an open and transparent  
 30 way.

31 Part 2 sets out principles that deal with the collection of personal  
 32 information including unsolicited personal information.

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Part 3 sets out principles about how APP entities deal with personal information and government related identifiers. The Part includes principles about the use and disclosure of personal information and those identifiers.

Part 4 sets out principles about the integrity of personal information. The Part includes principles about the quality and security of personal information.

Part 5 sets out principles that deal with requests for access to, and the correction of, personal information.

*Australian Privacy Principles*

The Australian Privacy Principles are:

Australian Privacy Principle 1—open and transparent management of personal information

Australian Privacy Principle 2—anonymity and pseudonymity

Australian Privacy Principle 3—collection of solicited personal information

Australian Privacy Principle 4—dealing with unsolicited personal information

Australian Privacy Principle 5—notification of the collection of personal information

Australian Privacy Principle 6—use or disclosure of personal information

Australian Privacy Principle 7—direct marketing

Australian Privacy Principle 8—cross-border disclosure of personal information

Australian Privacy Principle 9—adoption, use or disclosure of government related identifiers



1 Australian Privacy Principle 10—quality of personal  
2 information

3 Australian Privacy Principle 11—security of personal  
4 information

5 Australian Privacy Principle 12—access to personal  
6 information

7 Australian Privacy Principle 13—correction of personal  
8 information

9 **Part 1—Consideration of personal information**  
10 **privacy**  
11

12 **1 Australian Privacy Principle 1—open and transparent**  
13 **management of personal information**

14 1.1 The object of this principle is to ensure that APP entities manage  
15 personal information in an open and transparent way.

16 *Compliance with the Australian Privacy Principles etc.*

17 1.2 An APP entity must take such steps as are reasonable in the  
18 circumstances to implement practices, procedures and systems  
19 relating to the entity's functions or activities that:

- 20 (a) will ensure that the entity complies with the Australian  
21 Privacy Principles and a registered APP code (if any) that  
22 binds the entity; and  
23 (b) will enable the entity to deal with inquiries or complaints  
24 from individuals about the entity's compliance with the  
25 Australian Privacy Principles or such a code.

26 *APP Privacy policy*

27 1.3 An APP entity must have a clearly expressed and up-to-date policy  
28 (the **APP privacy policy**) about the management of personal  
29 information by the entity.

- 1                   1.4 Without limiting subclause 1.3, the APP privacy policy of the APP  
2                   entity must contain the following information:
- 3                   (a) the kinds of personal information that the entity collects and  
4                   holds;
  - 5                   (b) how the entity collects and holds personal information;
  - 6                   (c) the purposes for which the entity collects, holds, uses and  
7                   discloses personal information;
  - 8                   (d) how an individual may access personal information about the  
9                   individual that is held by the entity and seek the correction of  
10                  such information;
  - 11                  (e) how an individual may complain about a breach of the  
12                  Australian Privacy Principles, or a registered APP code (if  
13                  any) that binds the entity, and how the entity will deal with  
14                  such a complaint;
  - 15                  (f) whether the entity is likely to disclose personal information  
16                  to overseas recipients;
  - 17                  (g) if the entity is likely to disclose personal information to  
18                  overseas recipients—the countries in which such recipients  
19                  are likely to be located if it is practicable to specify those  
20                  countries in the policy.

21                                   *Availability of APP privacy policy etc.*

- 22                   1.5 An APP entity must take such steps as are reasonable in the  
23                   circumstances to make its APP privacy policy available:
- 24                   (a) free of charge; and
  - 25                   (b) in such form as is appropriate.

26                   Note:        An APP entity will usually make its APP privacy policy available on  
27                   the entity's website.

- 28                   1.6 If a person or body requests a copy of the APP privacy policy of an  
29                   APP entity in a particular form, the entity must take such steps as  
30                   are reasonable in the circumstances to give the person or body a  
31                   copy in that form.

## 32                   **2 Australian Privacy Principle 2—anonymity and pseudonymity**

- 33                   2.1 Individuals must have the option of not identifying themselves, or  
34                   of using a pseudonym, when dealing with an APP entity in relation  
35                   to a particular matter.

- 1                   2.2 Subclause 2.1 does not apply if, in relation to that matter:  
 2                   (a) the APP entity is required or authorised by or under an  
 3                   Australian law, or a court/tribunal order, to deal with  
 4                   individuals who have identified themselves; or  
 5                   (b) it is impracticable for the APP entity to deal with individuals  
 6                   who have not identified themselves.

7                   **Part 2—Collection of personal information**  
 8

9                   **3 Australian Privacy Principle 3—collection of solicited personal**  
 10                   **information**

11                   *Personal information other than sensitive information*

- 12                   3.1 If an APP entity is an agency, the entity must not collect personal  
 13                   information (other than sensitive information) unless the  
 14                   information is reasonably necessary for, or directly related to, one  
 15                   or more of the entity’s functions or activities.  
 16                   3.2 If an APP entity is an organisation, the entity must not collect  
 17                   personal information (other than sensitive information) unless the  
 18                   information is reasonably necessary for one or more of the entity’s  
 19                   functions or activities.

20                   *Sensitive information*

- 21                   3.3 An APP entity must not collect sensitive information about an  
 22                   individual unless:  
 23                   (a) the individual consents to the collection of the information  
 24                   and:  
 25                   (i) if the entity is an agency—the information is reasonably  
 26                   necessary for, or directly related to, one or more of the  
 27                   entity’s functions or activities; or  
 28                   (ii) if the entity is an organisation—the information is  
 29                   reasonably necessary for one or more of the entity’s  
 30                   functions or activities; or  
 31                   (b) subclause 3.4 applies in relation to the information.  
 32                   3.4 This subclause applies in relation to sensitive information about an  
 33                   individual if:

- 1 (a) the collection of the information is required or authorised by  
2 or under an Australian law or a court/tribunal order; or  
3 (b) a permitted general situation exists in relation to the  
4 collection of the information by the APP entity; or  
5 (c) the APP entity is an organisation and a permitted health  
6 situation exists in relation to the collection of the information  
7 by the entity; or  
8 (d) the APP entity is an enforcement body and the entity  
9 reasonably believes that:  
10 (i) if the entity is the Immigration Department—the  
11 collection of the information is reasonably necessary  
12 for, or directly related to, one or more enforcement  
13 related activities conducted by, or on behalf of, the  
14 entity; or  
15 (ii) otherwise—the collection of the information is  
16 reasonably necessary for, or directly related to, one or  
17 more of the entity's functions or activities; or  
18 (e) the APP entity is a non-profit organisation and both of the  
19 following apply:  
20 (i) the information relates to the activities of the  
21 organisation;  
22 (ii) the information relates solely to the members of the  
23 organisation, or to individuals who have regular contact  
24 with the organisation in connection with its activities.

25 *Means of collection*

26 3.5 An APP entity must collect personal information only by lawful  
27 and fair means.

28 3.6 An APP entity must collect personal information about an  
29 individual only from the individual unless:

- 30 (a) if the entity is an agency:  
31 (i) the individual consents to the collection of the  
32 information from someone other than the individual; or  
33 (ii) the entity is required or authorised by or under an  
34 Australian law, or a court/tribunal order, to collect the  
35 information from someone other than the individual; or  
36 (b) it is unreasonable or impracticable to do so.

---

*Solicited personal information*

3.7 This principle applies to the collection of personal information that is solicited by an APP entity.

**4 Australian Privacy Principle 4—dealing with unsolicited personal information**

4.1 If:

- (a) an APP entity receives personal information; and
- (b) the entity did not solicit the information;

the entity must, within a reasonable period after receiving the information, determine whether or not the entity could have collected the information under Australian Privacy Principle 3 if the entity had solicited the information.

4.2 The APP entity may use or disclose the personal information for the purposes of making the determination under subclause 4.1.

4.3 If:

- (a) the APP entity determines that the entity could not have collected the personal information; and
- (b) the information is not contained in a Commonwealth record;

the entity must, as soon as practicable but only if it is lawful and reasonable to do so, destroy the information or ensure that the information is de-identified.

4.4 If subclause 4.3 does not apply in relation to the personal information, Australian Privacy Principles 5 to 13 apply in relation to the information as if the entity had collected the information under Australian Privacy Principle 3.

**5 Australian Privacy Principle 5—notification of the collection of personal information**

5.1 At or before the time or, if that is not practicable, as soon as practicable after, an APP entity collects personal information about an individual, the entity must take such steps (if any) as are reasonable in the circumstances:

- (a) to notify the individual of such matters referred to in subclause 5.2 as are reasonable in the circumstances; or

- 1 (b) to otherwise ensure that the individual is aware of any such  
2 matters.
- 3 5.2 The matters for the purposes of subclause 5.1 are as follows:  
4 (a) the identity and contact details of the APP entity;  
5 (b) if:  
6 (i) the APP entity collects the personal information from  
7 someone other than the individual; or  
8 (ii) the individual may not be aware that the APP entity has  
9 collected the personal information;  
10 the fact that the entity so collects, or has collected, the  
11 information and the circumstances of that collection;  
12 (c) if the collection of the personal information is required or  
13 authorised by or under an Australian law or a court/tribunal  
14 order—the fact that the collection is so required or authorised  
15 (including the name of the Australian law, or details of the  
16 court/tribunal order, that requires or authorises the  
17 collection);  
18 (d) the purposes for which the APP entity collects the personal  
19 information;  
20 (e) the main consequences (if any) for the individual if all or  
21 some of the personal information is not collected by the APP  
22 entity;  
23 (f) any other APP entity, body or person, or the types of any  
24 other APP entities, bodies or persons, to which the APP  
25 entity usually discloses personal information of the kind  
26 collected by the entity;  
27 (g) that the APP privacy policy of the APP entity contains  
28 information about how the individual may access the  
29 personal information about the individual that is held by the  
30 entity and seek the correction of such information;  
31 (h) that the APP privacy policy of the APP entity contains  
32 information about how the individual may complain about a  
33 breach of the Australian Privacy Principles, or a registered  
34 APP code (if any) that binds the entity, and how the entity  
35 will deal with such a complaint;  
36 (i) whether the APP entity is likely to disclose the personal  
37 information to overseas recipients;  
38 (j) if the APP entity is likely to disclose the personal information  
39 to overseas recipients—the countries in which such recipients

1 are likely to be located if it is practicable to specify those  
 2 countries in the notification or to otherwise make the  
 3 individual aware of them.

4 **Part 3—Dealing with personal information**  
 5

6 **6 Australian Privacy Principle 6—use or disclosure of personal**  
 7 **information**

8 *Use or disclosure*

9 6.1 If an APP entity holds personal information about an individual  
 10 that was collected for a particular purpose (the *primary purpose*),  
 11 the entity must not use or disclose the information for another  
 12 purpose (the *secondary purpose*) unless:

- 13 (a) the individual has consented to the use or disclosure of the  
 14 information; or
- 15 (b) subclause 6.2 or 6.3 applies in relation to the use or  
 16 disclosure of the information.

17 Note: Australian Privacy Principle 8 sets out requirements for the disclosure  
 18 of personal information to a person who is not in Australia or an  
 19 external Territory.

20 6.2 This subclause applies in relation to the use or disclosure of  
 21 personal information about an individual if:

- 22 (a) the individual would reasonably expect the APP entity to use  
 23 or disclose the information for the secondary purpose and the  
 24 secondary purpose is:
  - 25 (i) if the information is sensitive information—directly  
 26 related to the primary purpose; or
  - 27 (ii) if the information is not sensitive information—related  
 28 to the primary purpose; or
- 29 (b) the use or disclosure of the information is required or  
 30 authorised by or under an Australian law or a court/tribunal  
 31 order; or
- 32 (c) a permitted general situation exists in relation to the use or  
 33 disclosure of the information by the APP entity; or
- 34 (d) the APP entity is an organisation and a permitted health  
 35 situation exists in relation to the use or disclosure of the  
 36 information by the entity; or

1 (e) the APP entity reasonably believes that the use or disclosure  
2 of the information is reasonably necessary for one or more  
3 enforcement related activities conducted by, or on behalf of,  
4 an enforcement body.

5 6.3 This subclause applies in relation to the disclosure of personal  
6 information about an individual by an APP entity that is an agency  
7 if:

- 8 (a) the agency is not an enforcement body; and  
9 (b) the information is biometric information or biometric  
10 templates; and  
11 (c) the recipient of the information is an enforcement body; and  
12 (d) the disclosure is conducted in accordance with the guidelines  
13 made by the Commissioner for the purposes of this  
14 paragraph.

15 6.4 If:

- 16 (a) the APP entity is an organisation; and  
17 (b) subsection 16B(2) applied in relation to the collection of the  
18 personal information by the entity;  
19 the entity must take such steps as are reasonable in the  
20 circumstances to ensure that the information is de-identified before  
21 the entity discloses it in accordance with subclause 6.1 or 6.2.

22 *Written note of use or disclosure*

23 6.5 If an APP entity uses or discloses personal information in  
24 accordance with paragraph 6.2(e), the entity must make a written  
25 note of the use or disclosure.

26 *Related bodies corporate*

27 6.6 If:

- 28 (a) an APP entity is a body corporate; and  
29 (b) the entity collects personal information from a related body  
30 corporate;  
31 this principle applies as if the entity's primary purpose for the  
32 collection of the information were the primary purpose for which  
33 the related body corporate collected the information.



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*Exceptions*

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2           6.7 This principle does not apply to the use or disclosure by an  
3           organisation of:  
4           (a) personal information for the purpose of direct marketing; or  
5           (b) government related identifiers.

6           **7 Australian Privacy Principle 7—direct marketing**

7           *Prohibition on direct marketing*

- 8           7.1 If an organisation holds personal information about an individual,  
9           the organisation must not use or disclose the information for the  
10          purpose of direct marketing.

11          Note:        An act or practice of an agency may be treated as an act or practice of  
12                    an organisation, see section 7A.

13          *Exceptions—personal information other than sensitive information*

- 14          7.2 Despite subclause 7.1, an organisation may use or disclose  
15          personal information (other than sensitive information) about an  
16          individual for the purpose of direct marketing if:

- 17               (a) the organisation collected the information from the  
18               individual; and  
19               (b) the individual would reasonably expect the organisation to  
20               use or disclose the information for that purpose; and  
21               (c) the organisation provides a simple means by which the  
22               individual may easily request not to receive direct marketing  
23               communications from the organisation; and  
24               (d) the individual has not made such a request to the  
25               organisation.

- 26          7.3 Despite subclause 7.1, an organisation may use or disclose  
27          personal information (other than sensitive information) about an  
28          individual for the purpose of direct marketing if:

- 29               (a) the organisation collected the information from:  
30                   (i) the individual and the individual would not reasonably  
31                   expect the organisation to use or disclose the  
32                   information for that purpose; or  
33                   (ii) someone other than the individual; and  
34               (b) either:

- 1 (i) the individual has consented to the use or disclosure of  
2 the information for that purpose; or  
3 (ii) it is impracticable to obtain that consent; and  
4 (c) the organisation provides a simple means by which the  
5 individual may easily request not to receive direct marketing  
6 communications from the organisation; and  
7 (d) in each direct marketing communication with the individual:  
8 (i) the organisation includes a prominent statement that the  
9 individual may make such a request; or  
10 (ii) the organisation otherwise draws the individual's  
11 attention to the fact that the individual may make such a  
12 request; and  
13 (e) the individual has not made such a request to the  
14 organisation.

15 *Exception—sensitive information*

- 16 7.4 Despite subclause 7.1, an organisation may use or disclose  
17 sensitive information about an individual for the purpose of direct  
18 marketing if the individual has consented to the use or disclosure  
19 of the information for that purpose.

20 *Exception—contracted service providers*

- 21 7.5 Despite subclause 7.1, an organisation may use or disclose  
22 personal information for the purpose of direct marketing if:  
23 (a) the organisation is a contracted service provider for a  
24 Commonwealth contract; and  
25 (b) the organisation collected the information for the purpose of  
26 meeting (directly or indirectly) an obligation under the  
27 contract; and  
28 (c) the use or disclosure is necessary to meet (directly or  
29 indirectly) such an obligation.

30 *Individual may request not to receive direct marketing  
31 communications etc.*

- 32 7.6 If an organisation (the **first organisation**) uses or discloses  
33 personal information about an individual:  
34 (a) for the purpose of direct marketing by the first organisation;  
35 or

- 1 (b) for the purpose of facilitating direct marketing by other  
 2 organisations;  
 3 the individual may:  
 4 (c) if paragraph (a) applies—request not to receive direct  
 5 marketing communications from the first organisation; and  
 6 (d) if paragraph (b) applies—request the organisation not to use  
 7 or disclose the information for the purpose referred to in that  
 8 paragraph; and  
 9 (e) request the first organisation to provide its source of the  
 10 information.

- 11 7.7 If an individual makes a request under subclause 7.6, the first  
 12 organisation must not charge the individual for the making of, or to  
 13 give effect to, the request and:  
 14 (a) if the request is of a kind referred to in paragraph 7.6(c) or  
 15 (d)—the first organisation must give effect to the request  
 16 within a reasonable period after the request is made; and  
 17 (b) if the request is of a kind referred to in paragraph 7.6(e)—the  
 18 organisation must, within a reasonable period after the  
 19 request is made, notify the individual of its source unless it is  
 20 impracticable or unreasonable to do so.

21 *Interaction with other legislation*

- 22 7.8 This principle does not apply to the extent that any of the following  
 23 apply:  
 24 (a) the *Do Not Call Register Act 2006*;  
 25 (b) the *Spam Act 2003*;  
 26 (c) any other Act of the Commonwealth, or a Norfolk Island  
 27 enactment, prescribed by the regulations.

28 **8 Australian Privacy Principle 8—cross-border disclosure of**  
 29 **personal information**

- 30 8.1 Before an APP entity discloses personal information about an  
 31 individual to a person (the *overseas recipient*):  
 32 (a) who is not in Australia or an external Territory; and  
 33 (b) who is not the entity or the individual;  
 34 the entity must take such steps as are reasonable in the  
 35 circumstances to ensure that the overseas recipient does not breach

1 the Australian Privacy Principles (other than Australian Privacy  
2 Principle 1) in relation to the information.

3 Note: In certain circumstances, an act done, or a practice engaged in, by the  
4 overseas recipient is taken, under section 16C, to have been done, or  
5 engaged in, by the APP entity and to be a breach of the Australian  
6 Privacy Principles.

7 8.2 Subclause 8.1 does not apply to the disclosure of personal  
8 information about an individual by an APP entity to the overseas  
9 recipient if:

- 10 (a) the entity reasonably believes that:
- 11 (i) the recipient of the information is subject to a law, or  
12 binding scheme, that has the effect of protecting the  
13 information in a way that, overall, is at least  
14 substantially similar to the way in which the Australian  
15 Privacy Principles protect the information; and
  - 16 (ii) there are mechanisms that the individual can access to  
17 take action to enforce that protection of the law or  
18 binding scheme; or
- 19 (b) both of the following apply:
- 20 (i) the entity expressly informs the individual that if he or  
21 she consents to the disclosure of the information,  
22 subclause 8.1 will not apply to the disclosure;
  - 23 (ii) after being so informed, the individual consents to the  
24 disclosure; or
- 25 (c) the disclosure of the information is required or authorised by  
26 or under an Australian law or a court/tribunal order; or
- 27 (d) a permitted general situation (other than the situation referred  
28 to in item 4 or 5 of the table in subsection 16A(1)) exists in  
29 relation to the disclosure of the information by the APP  
30 entity; or
- 31 (e) the entity is an agency and the disclosure of the information  
32 is required or authorised by or under an international  
33 agreement relating to information sharing to which Australia  
34 is a party; or
- 35 (f) the entity is an agency and both of the following apply:
- 36 (i) the entity reasonably believes that the disclosure of the  
37 information is reasonably necessary for one or more  
38 enforcement related activities conducted by, or on  
39 behalf of, an enforcement body;

- 1 (ii) the recipient is a body that performs functions, or  
 2 exercises powers, that are similar to those performed or  
 3 exercised by an enforcement body.

4 **9 Australian Privacy Principle 9—adoption, use or disclosure of**  
 5 **government related identifiers**

6 *Adoption of government related identifiers*

7 9.1 An organisation must not adopt a government related identifier of  
 8 an individual as its own identifier of the individual unless:

- 9 (a) the adoption of the government related identifier is required  
 10 or authorised by or under an Australian law or a  
 11 court/tribunal order; or  
 12 (b) subclause 9.3 applies in relation to the adoption.

13 Note: An act or practice of an agency may be treated as an act or practice of  
 14 an organisation, see section 7A.

15 *Use or disclosure of government related identifiers*

16 9.2 An organisation must not use or disclose a government related  
 17 identifier of an individual unless:

- 18 (a) the use or disclosure of the identifier is reasonably necessary  
 19 for the organisation to verify the identity of the individual for  
 20 the purposes of the organisation’s activities or functions; or  
 21 (b) the use or disclosure of the identifier is reasonably necessary  
 22 for the organisation to fulfil its obligations to an agency or a  
 23 State or Territory authority; or  
 24 (c) the use or disclosure of the identifier is required or authorised  
 25 by or under an Australian law or a court/tribunal order; or  
 26 (d) a permitted general situation (other than the situation referred  
 27 to in item 4 or 5 of the table in subsection 16A(1)) exists in  
 28 relation to the use or disclosure of the identifier; or  
 29 (e) the organisation reasonably believes that the use or disclosure  
 30 of the identifier is reasonably necessary for one or more  
 31 enforcement related activities conducted by, or on behalf of,  
 32 an enforcement body; or  
 33 (f) subclause 9.3 applies in relation to the use or disclosure.

34 Note: An act or practice of an agency may be treated as an act or practice of  
 35 an organisation, see section 7A.

1 *Regulations about adoption, use or disclosure*

2 9.3 This subclause applies in relation to the adoption, use or disclosure  
3 by an organisation of a government related identifier of an  
4 individual if:

- 5 (a) the identifier is prescribed by the regulations; and  
6 (b) the organisation is prescribed by the regulations, or is  
7 included in a class of organisations prescribed by the  
8 regulations; and  
9 (c) the adoption, use or disclosure occurs in the circumstances  
10 prescribed by the regulations.

11 Note: There are prerequisites that must be satisfied before the matters  
12 mentioned in this subclause are prescribed, see subsections 100(2) and  
13 (3).

14 **Part 4—Integrity of personal information**  
15

16 **10 Australian Privacy Principle 10—quality of personal information**

17 10.1 An APP entity must take such steps (if any) as are reasonable in  
18 the circumstances to ensure that the personal information that the  
19 entity collects is accurate, up-to-date and complete.

20 10.2 An APP entity must take such steps (if any) as are reasonable in  
21 the circumstances to ensure that the personal information that the  
22 entity uses or discloses is, having regard to the purpose of the use  
23 or disclosure, accurate, up-to-date, complete and relevant.

24 **11 Australian Privacy Principle 11—security of personal  
25 information**

26 11.1 If an APP entity holds personal information, the entity must take  
27 such steps as are reasonable in the circumstances to protect the  
28 information:

- 29 (a) from misuse, interference and loss; and  
30 (b) from unauthorised access, modification or disclosure.

31 11.2 If:

- 32 (a) an APP entity holds personal information about an  
33 individual; and

- 1 (b) the entity no longer needs the information for any purpose for  
2 which the information may be used or disclosed by the entity  
3 under this Schedule; and  
4 (c) the information is not contained in a Commonwealth record;  
5 and  
6 (d) the entity is not required by or under an Australian law, or a  
7 court/tribunal order, to retain the information;  
8 the entity must take such steps as are reasonable in the  
9 circumstances to destroy the information or to ensure that the  
10 information is de-identified.

11 **Part 5—Access to, and correction of, personal**  
12 **information**  
13

14 **12 Australian Privacy Principle 12—access to personal information**

15 *Access*

- 16 12.1 If an APP entity holds personal information about an individual,  
17 the entity must, on request by the individual, give the individual  
18 access to the information.

19 *Exception to access—agency*

- 20 12.2 If:  
21 (a) the APP entity is an agency; and  
22 (b) the entity is required or authorised to refuse to give the  
23 individual access to the personal information by or under:  
24 (i) the Freedom of Information Act; or  
25 (ii) any other Act of the Commonwealth, or a Norfolk  
26 Island enactment, that provides for access by persons to  
27 documents;  
28 then, despite subclause 12.1, the entity is not required to give  
29 access to the extent that the entity is required or authorised to  
30 refuse to give access.

1 *Exception to access—organisation*

2 12.3 If the APP entity is an organisation then, despite subclause 12.1,  
3 the entity is not required to give the individual access to the  
4 personal information to the extent that:

- 5 (a) the entity reasonably believes that giving access would pose a  
6 serious threat to the life, health or safety of any individual, or  
7 to public health or public safety; or  
8 (b) giving access would have an unreasonable impact on the  
9 privacy of other individuals; or  
10 (c) the request for access is frivolous or vexatious; or  
11 (d) the information relates to existing or anticipated legal  
12 proceedings between the entity and the individual, and would  
13 not be accessible by the process of discovery in those  
14 proceedings; or  
15 (e) giving access would reveal the intentions of the entity in  
16 relation to negotiations with the individual in such a way as  
17 to prejudice those negotiations; or  
18 (f) giving access would be unlawful; or  
19 (g) denying access is required or authorised by or under an  
20 Australian law or a court/tribunal order; or  
21 (h) both of the following apply:  
22 (i) the entity has reason to suspect that unlawful activity, or  
23 misconduct of a serious nature, that relates to the  
24 entity's functions or activities has been, is being or may  
25 be engaged in;  
26 (ii) giving access would be likely to prejudice the taking of  
27 appropriate action in relation to the matter; or  
28 (i) giving access would be likely to prejudice one or more  
29 enforcement related activities conducted by, or on behalf of,  
30 an enforcement body; or  
31 (j) giving access would reveal evaluative information generated  
32 within the entity in connection with a commercially sensitive  
33 decision-making process.

34 *Dealing with requests for access*

35 12.4 The APP entity must:

- 36 (a) respond to the request for access to the personal information:



- 
- 1 (i) if the entity is an agency—within 30 days after the  
 2 request is made; or  
 3 (ii) if the entity is an organisation—within a reasonable  
 4 period after the request is made; and  
 5 (b) give access to the information in the manner requested by the  
 6 individual, if it is reasonable and practicable to do so.

7 *Other means of access*

- 8 12.5 If the APP entity refuses:  
 9 (a) to give access to the personal information because of  
 10 subclause 12.2 or 12.3; or  
 11 (b) to give access in the manner requested by the individual;  
 12 the entity must take such steps (if any) as are reasonable in the  
 13 circumstances to give access in a way that meets the needs of the  
 14 entity and the individual.

- 15 12.6 Without limiting subclause 12.5, access may be given through the  
 16 use of a mutually agreed intermediary.

17 *Access charges*

- 18 12.7 If the APP entity is an agency, the entity must not charge the  
 19 individual for the making of the request or for giving access to the  
 20 personal information.

- 21 12.8 If:

- 22 (a) the APP entity is an organisation; and  
 23 (b) the entity charges the individual for giving access to the  
 24 personal information;  
 25 the charge must not be excessive and must not apply to the making  
 26 of the request.

27 *Refusal to give access*

- 28 12.9 If the APP entity refuses to give access to the personal information  
 29 because of subclause 12.2 or 12.3, or to give access in the manner  
 30 requested by the individual, the entity must give the individual a  
 31 written notice that sets out:

- 32 (a) the reasons for the refusal except to the extent that, having  
 33 regard to the grounds for the refusal, it would be  
 34 unreasonable to do so; and

- 1 (b) the mechanisms available to complain about the refusal; and  
2 (c) any other matter prescribed by the regulations.

3 12.10 If the APP entity refuses to give access to the personal information  
4 because of paragraph 12.3(j), the reasons for the refusal may  
5 include an explanation for the commercially sensitive decision.

6 **13 Australian Privacy Principle 13—correction of personal**  
7 **information**

8 *Correction*

9 13.1 If:

- 10 (a) an APP entity holds personal information about an  
11 individual; and  
12 (b) either:  
13 (i) the entity is satisfied that, having regard to a purpose for  
14 which the information is held, the information is  
15 inaccurate, out-of-date, incomplete, irrelevant or  
16 misleading; or  
17 (ii) the individual requests the entity to correct the  
18 information;

19 the entity must take such steps (if any) as are reasonable in the  
20 circumstances to correct that information to ensure that, having  
21 regard to the purpose for which it is held, the information is  
22 accurate, up-to-date, complete, relevant and not misleading.

23 *Notification of correction to third parties*

24 13.2 If:

- 25 (a) the APP entity corrects personal information about an  
26 individual that the entity previously disclosed to another APP  
27 entity; and  
28 (b) the individual requests the entity to notify the other APP  
29 entity of the correction;

30 the entity must take such steps (if any) as are reasonable in the  
31 circumstances to give that notification unless it is impracticable or  
32 unlawful to do so.

1                                    *Refusal to correct information*

2            13.3 If the APP entity refuses to correct the personal information as  
3            requested by the individual, the entity must give the individual a  
4            written notice that sets out:

- 5                    (a) the reasons for the refusal except to the extent that it would  
6                    be unreasonable to do so; and  
7                    (b) the mechanisms available to complain about the refusal; and  
8                    (c) any other matter prescribed by the regulations.

9                                    *Request to associate a statement*

10           13.4 If:

- 11                    (a) the APP entity refuses to correct the personal information as  
12                    requested by the individual; and  
13                    (b) the individual requests the entity to associate with the  
14                    information a statement that the information is inaccurate,  
15                    out-of-date, incomplete, irrelevant or misleading;

16            the entity must take such steps as are reasonable in the  
17            circumstances to associate the statement in such a way that will  
18            make the statement apparent to users of the information.

19                                    *Dealing with requests*

20           13.5 If a request is made under subclause 13.1 or 13.4, the APP entity:

- 21                    (a) must respond to the request:  
22                            (i) if the entity is an agency—within 30 days after the  
23                            request is made; or  
24                            (ii) if the entity is an organisation—within a reasonable  
25                            period after the request is made; and  
26                    (b) must not charge the individual for the making of the request,  
27                    for correcting the personal information or for associating the  
28                    statement with the personal information (as the case may be).  
29

1  
2

## Schedule 2—Credit reporting

3

### *Privacy Act 1988*

4

#### **1 Before section 6**

5

Insert:

6

#### **Division 1—General definitions**

7

#### **2 Subsection 6(1)**

8

Insert:

9

*access seeker* has the meaning given by subsection 6L(1).

10

#### **3 Subsection 6(1)**

11

Insert:

12

*affected information recipient* means:

13

(a) a mortgage insurer; or

14

(b) a trade insurer; or

15

(c) a body corporate referred to in paragraph 21G(3)(b); or

16

(d) a person referred to in paragraph 21G(3)(c); or

17

(e) an entity or adviser referred to in paragraph 21N(2)(a).

18

#### **4 Subsection 6(1)**

19

Insert:

20

*amount of credit* has the meaning given by subsection 6M(2).

21

#### **5 Subsection 6(1)**

22

Insert:

23

*Bankruptcy Act* means the *Bankruptcy Act 1966*.

24

#### **6 Subsection 6(1)**

25

Insert:

26

*ban period* has the meaning given by subsection 20K(3).

---

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**7 Subsection 6(1) (definition of *commercial credit*)**

Repeal the definition, substitute:

*commercial credit* means credit (other than consumer credit) that is applied for by, or provided to, a person.

**8 Subsection 6(1)**

Insert:

*commercial credit related purpose* of a credit provider in relation to a person means the purpose of:

- (a) assessing an application for commercial credit made by the person to the provider; or
- (b) collecting payments that are overdue in relation to commercial credit provided by the provider to the person.

**9 Subsection 6(1)**

Insert:

*consumer credit* means credit:

- (a) for which an application has been made by an individual to a credit provider, or that has been provided to an individual by a credit provider, in the course of the provider carrying on a business or undertaking as a credit provider; and
- (b) that is intended to be used wholly or primarily:
  - (i) for personal, family or household purposes; or
  - (ii) to acquire, maintain, renovate or improve residential property for investment purposes; or
  - (iii) to refinance consumer credit that has been provided wholly or primarily to acquire, maintain, renovate or improve residential property for investment purposes.

**10 Subsection 6(1)**

Insert:

*consumer credit liability information*: if a credit provider provides consumer credit to an individual, the following information about the consumer credit is *consumer credit liability information* about the individual:

- (a) the name of the provider;

- 1 (b) whether the provider is a licensee;  
2 (c) the type of consumer credit;  
3 (d) the day on which the consumer credit is entered into;  
4 (e) the terms or conditions of the consumer credit:  
5 (i) that relate to the repayment of the amount of credit; and  
6 (ii) that are prescribed by the regulations;  
7 (f) the maximum amount of credit available under the consumer  
8 credit;  
9 (g) the day on which the consumer credit is terminated or  
10 otherwise ceases to be in force.

### 11 **11 Subsection 6(1)**

12 Insert:

13 *consumer credit related purpose* of a credit provider in relation to  
14 an individual means the purpose of:

- 15 (a) assessing an application for consumer credit made by the  
16 individual to the provider; or  
17 (b) collecting payments that are overdue in relation to consumer  
18 credit provided by the provider to the individual.

### 19 **12 Subsection 6(1)**

20 Insert:

21 *court proceedings information* about an individual means  
22 information about a judgement of an Australian court:

- 23 (a) that is made, or given, against the individual in proceedings  
24 (other than criminal proceedings); and  
25 (b) that relates to any credit that has been provided to, or applied  
26 for by, the individual.

### 27 **13 Subsection 6(1)**

28 Insert:

29 *CP derived information* about an individual means any personal  
30 information (other than sensitive information) about the individual:

- 31 (a) that is derived from credit reporting information about the  
32 individual that was disclosed to a credit provider by a credit  
33 reporting body under Division 2 of Part IIIA; and

- 
- 1 (b) that has any bearing on the individual's credit worthiness;  
2 and  
3 (c) that is used, has been used or could be used in establishing  
4 the individual's eligibility for consumer credit.

5 **14 Subsection 6(1)**

6 Insert:

7 ***CRB derived information*** about an individual means any personal  
8 information (other than sensitive information) about the individual:

- 9 (a) that is derived by a credit reporting body from credit  
10 information about the individual that is held by the body; and  
11 (b) that has any bearing on the individual's credit worthiness;  
12 and  
13 (c) that is used, has been used or could be used in establishing  
14 the individual's eligibility for consumer credit.

15 **15 Subsection 6(1) (definition of *credit*)**

16 Repeal the definition, substitute:

17 ***credit*** has the meaning given by subsections 6M(1) and (3).

18 **16 Subsection 6(1) (definition of *credit card*)**

19 Omit "loans" (wherever occurring), substitute "credit".

20 **17 Subsection 6(1)**

21 Insert:

22 ***credit eligibility information*** about an individual means:

- 23 (a) credit reporting information about the individual that was  
24 disclosed to a credit provider by a credit reporting body  
25 under Division 2 of Part IIIA; or  
26 (b) CP derived information about the individual.

27 **18 Subsection 6(1) (definition of *credit enhancement*)**

28 Omit "a loan", substitute "credit".

29 **19 Subsection 6(1) (paragraphs (a) and (b) of the definition of**  
30 ***credit enhancement*)**

31 Omit "the loan", substitute "the credit".

1 **20 Subsection 6(1)**

2 Insert:

3 *credit guarantee purpose* of a credit provider in relation to an  
4 individual means the purpose of assessing whether to accept the  
5 individual as a guarantor in relation to:

- 6 (a) credit provided by the provider to a person other than the  
7 individual; or  
8 (b) credit for which an application has been made to the provider  
9 by a person other than the individual.

10 **21 Subsection 6(1)**

11 Insert:

12 *credit information* has the meaning given by section 6N.

13 **22 Subsection 6(1) (definition of *credit information file*)**

14 Repeal the definition.

15 **23 Subsection 6(1) (definition of *credit provider*)**

16 Omit “section 11B”, substitute “sections 6G to 6K”.

17 **24 Subsection 6(1) (definition of *credit report*)**

18 Repeal the definition.

19 **25 Subsection 6(1) (definition of *credit reporting agency*)**

20 Repeal the definition.

21 **26 Subsection 6(1)**

22 Insert:

23 *credit reporting body* means:

- 24 (a) an organisation; or  
25 (b) an agency prescribed by the regulations;  
26 that carries on a credit reporting business.

27 **27 Subsection 6(1) (definition of *credit reporting business*)**

28 Repeal the definition, substitute:

29 *credit reporting business* has the meaning given by section 6P.

---



1 **28 Subsection 6(1)**

2 Insert:

3 *credit reporting information* about an individual means credit  
4 information, or CRB derived information, about the individual.

5 **29 Subsection 6(1)**

6 Insert:

7 *credit worthiness* of an individual means the individual's:  
8 (a) eligibility to be provided with consumer credit; or  
9 (b) history in relation to consumer credit; or  
10 (c) capacity to repay an amount of credit that relates to consumer  
11 credit.

12 **30 Subsection 6(1) (definition of *current credit provider*)**

13 Repeal the definition.

14 **31 Subsection 6(1)**

15 Insert:

16 *default information* has the meaning given by section 6Q.

17 **32 Subsection 6(1) (definition of *eligible communications***  
18 ***service*)**

19 Repeal the definition.

20 **33 Subsection 6(1) (definition of *guarantee*)**

21 Repeal the definition, substitute:

22 *guarantee* includes an indemnity given against the default of a  
23 person in making a payment in relation to credit that has been  
24 applied for by, or provided to, the person.

25 **34 Subsection 6(1)**

26 Insert:

27 *identification information* about an individual means:  
28 (a) the individual's full name; or  
29 (b) an alias or previous name of the individual; or

- 1 (c) the individual's date of birth; or  
2 (d) the individual's sex; or  
3 (e) the individual's current or last known address, and 2 previous  
4 addresses (if any); or  
5 (f) the name of the individual's current or last known employer;  
6 or  
7 (g) if the individual holds a driver's licence—the individual's  
8 driver's licence number.

9 **35 Subsection 6(1)**

10 Insert:

11 *information request* has the meaning given by section 6R.

12 **36 Subsection 6(1)**

13 Insert:

14 *interested party* has the meaning given by subsections 20T(3) and  
15 21V(3).

16 **37 Subsection 6(1)**

17 Insert:

18 *licensee* has the meaning given by the *National Consumer Credit*  
19 *Protection Act 2009*.

20 **38 Subsection 6(1) (definition of *loan*)**

21 Repeal the definition.

22 **39 Subsection 6(1)**

23 Insert:

24 *managing credit* does not include an act relating to the collection  
25 of overdue payments in relation to credit.

26 **40 Subsection 6(1) (definition of *mortgage credit*)**

27 Repeal the definition, substitute:

28 *mortgage credit* means consumer credit:

- 
- 1 (a) that is provided in connection with the acquisition,  
2 maintenance, renovation or improvement of real property;  
3 and  
4 (b) in relation to which the real property is security.

#### 5 **41 Subsection 6(1)**

6 Insert:

7 *mortgage insurance purpose* of a mortgage insurer in relation to  
8 an individual is the purpose of assessing:

- 9 (a) whether to provide insurance to, or the risk of providing  
10 insurance to, a credit provider in relation to mortgage credit:  
11 (i) provided by the provider to the individual; or  
12 (ii) for which an application to the provider has been made  
13 by the individual; or  
14 (b) the risk of the individual defaulting on mortgage credit in  
15 relation to which the insurer has provided insurance to a  
16 credit provider; or  
17 (c) the risk of the individual being unable to meet a liability that  
18 might arise under a guarantee provided, or proposed to be  
19 provided, in relation to mortgage credit provided by a credit  
20 provider to another person.

#### 21 **42 Subsection 6(1) (definition of *mortgage insurer*)**

22 Repeal the definition, substitute:

23 *mortgage insurer* means an organisation, or small business  
24 operator, that carries on a business or undertaking that involves  
25 providing insurance to credit providers in relation to mortgage  
26 credit provided by providers to other persons.

#### 27 **43 Subsection 6(1)**

28 Insert:

29 *National Personal Insolvency Index* has the meaning given by the  
30 Bankruptcy Act.

#### 31 **44 Subsection 6(1)**

32 Insert:

1                    *new arrangement information* has the meaning given by  
2                    section 6S.

3                    **45 Subsection 6(1)**

4                    Insert:

5                    *payment information* has the meaning given by section 6T.

6                    **46 Subsection 6(1)**

7                    Insert:

8                    *penalty unit* has the meaning given by section 4AA of the *Crimes*  
9                    *Act 1914*.

10                  **47 Subsection 6(1)**

11                  Insert:

12                  *pending correction request* in relation to credit information or  
13                  CRB derived information means:

- 14                  (a) a request made under subsection 20T(1) in relation to the  
15                  information if a notice has not been given under subsection  
16                  20U(2) or (3) in relation to the request; or  
17                  (b) a request made under subsection 21V(1) in relation to the  
18                  information if:  
19                  (i) the credit reporting body referred to in subsection  
20                  20V(3) has been consulted about the request under  
21                  subsection 21V(3); and  
22                  (ii) a notice has not been given under subsection 21W(2) or  
23                  (3) in relation to the request.

24                  **48 Subsection 6(1)**

25                  Insert:

26                  *pending dispute* in relation to credit information or CRB derived  
27                  information means:

- 28                  (a) a complaint made under section 23A that relates to the  
29                  information if a decision about the complaint has not been  
30                  made under subsection 23B(4); or  
31                  (b) a matter that relates to the information and that is still being  
32                  dealt with by a recognised external dispute resolution  
33                  scheme; or

1 (c) a complaint made to the Commissioner under Part V that  
2 relates to the information and that is still being dealt with.

3 **49 Subsection 6(1)**

4 Insert:

5 *permitted CP disclosure* has the meaning given by sections 21J to  
6 21N.

7 **50 Subsection 6(1)**

8 Insert:

9 *permitted CP use* has the meaning given by section 21H.

10 **51 Subsection 6(1)**

11 Insert:

12 *permitted CRB disclosure* has the meaning given by section 20F.

13 **52 Subsection 6(1)**

14 Insert:

15 *personal insolvency information* has the meaning given by  
16 section 6U.

17 **53 Subsection 6(1)**

18 Insert:

19 *pre-screening assessment* means an assessment made under  
20 paragraph 20G(2)(d).

21 **54 Subsection 6(1)**

22 Insert:

23 *purchase*, in relation to credit, includes the purchase of rights to  
24 receive payments relating to the credit.

25 **55 Subsection 6(1)**

26 Insert:

27 *regulated information* of an affected information recipient means:

- 1 (a) if the recipient is a mortgage insurer or trade insurer—  
2 personal information disclosed to the recipient under  
3 Division 2 or 3 of Part IIIA; or  
4 (b) if the recipient is a body corporate referred to in paragraph  
5 21G(3)(b)—credit eligibility information disclosed to the  
6 recipient under that paragraph; or  
7 (c) if the recipient is a person referred to in paragraph  
8 21G(3)(c)—credit eligibility information disclosed to the  
9 recipient under that paragraph; or  
10 (d) if the recipient is an entity or adviser referred to in paragraph  
11 21N(2)(a)—credit eligibility information disclosed to the  
12 recipient under subsection 21N(2).

13 **56 Subsection 6(1)**

14 Insert:

15 *repayment history information* has the meaning given by  
16 subsection 6V(1).

17 **57 Subsection 6(1)**

18 Insert:

19 *residential property* has the meaning given by section 204 of the  
20 National Credit Code (within the meaning of the *National*  
21 *Consumer Credit Protection Act 2009*).

22 **58 Subsection 6(1)**

23 Insert:

24 *respondent* for a complaint made under section 23A means the  
25 credit reporting body or credit provider to which the complaint is  
26 made.

27 **59 Subsection 6(1)**

28 Insert:

29 *retention period* has the meaning given by sections 20W and 20X.

30 **60 Subsection 6(1) (subparagraphs (a)(i) and (ii) of the**  
31 **definition of *securitisation arrangement*)**

32 Repeal the subparagraphs, substitute:

- 
- 1 (i) credit that has been, or is to be, provided by a credit  
2 provider; or  
3 (ii) the purchase of credit by a credit provider;

4 **61 Subsection 6(1) (paragraph (b) of the definition of**  
5 ***securitisation arrangement*)**

6 Omit “loans”, substitute “credit”.

7 **62 Subsection 6(1)**

8 Insert:

9 *securitisation related purpose* of a credit provider in relation to an  
10 individual is the purpose of:

- 11 (a) assessing the risk in purchasing, by means of a securitisation  
12 arrangement, credit that has been provided to, or applied for  
13 by:  
14 (i) the individual; or  
15 (ii) a person for whom the individual is, or is proposing to  
16 be, a guarantor; or  
17 (b) assessing the risk in undertaking credit enhancement in  
18 relation to credit:  
19 (i) that is, or is proposed to be, purchased or funded by  
20 means of a securitisation arrangement; and  
21 (ii) that has been provided to, or applied for by, the  
22 individual or a person for whom the individual is, or is  
23 proposing to be, a guarantor.

24 **63 Subsection 6(1) (definition of *serious credit infringement*)**

25 Repeal the definition, substitute:

26 *serious credit infringement* means:

- 27 (a) an act done by an individual that involves fraudulently  
28 obtaining consumer credit, or attempting fraudulently to  
29 obtain consumer credit; or  
30 (b) an act done by an individual that involves fraudulently  
31 evading the individual’s obligations in relation to consumer  
32 credit, or attempting fraudulently to evade those obligations;  
33 or  
34 (c) an act done by an individual if:

- 1 (i) a reasonable person would consider that the act  
2 indicates an intention, on the part of the individual, to  
3 no longer comply with the individual's obligations in  
4 relation to consumer credit provided by a credit  
5 provider; and  
6 (ii) the provider has, after taking such steps as are  
7 reasonable in the circumstances, been unable to contact  
8 the individual about the act; and  
9 (iii) at least 6 months have passed since the provider last had  
10 contact with the individual.

11 **64 Subsection 6(1)**

12 Insert:

- 13 *trade insurance purpose* of a trade insurer in relation to an  
14 individual is the purpose of assessing:  
15 (a) whether to provide insurance to, or the risk of providing  
16 insurance to, a credit provider in relation to commercial  
17 credit provided by the provider to the individual or another  
18 person; or  
19 (b) the risk of a person defaulting on commercial credit in  
20 relation to which the insurer has provided insurance to a  
21 credit provider.

22 **65 Subsection 6(1) (definition of *trade insurer*)**

23 Repeal the definition, substitute:

24 *trade insurer* means an organisation, or small business operator,  
25 that carries on a business or undertaking that involves providing  
26 insurance to credit providers in relation to commercial credit  
27 provided by providers to other persons.

28 **66 Subsections 6(5A) to (5D)**

29 Repeal the subsections.

30 **67 Subsection 6(10)**

31 Omit "*credit*", substitute "*consumer credit*".

32 **68 At the end of subsection 6D(4)**

33 Add:



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1                                   ; or (f) is a credit reporting body.

2       **69 After section 6F**

3                   Insert:

4       **Division 2—Key definitions relating to credit reporting**

5       **Subdivision A—Credit provider**

6       **6G Meaning of *credit provider***

7                   *General*

8           (1) Each of the following is a ***credit provider***:

- 9                   (a) a bank;
- 10                  (b) an organisation or small business operator if:
- 11                      (i) the organisation or operator carries on a business or
- 12                      undertaking; and
- 13                      (ii) a substantial part of the business or undertaking is the
- 14                      provision of credit;
- 15                  (c) an organisation or small business operator:
- 16                      (i) that carries on a retail business; and
- 17                      (ii) that, in the course of the business, issues credit cards to
- 18                      individuals in connection with the sale of goods, or the
- 19                      supply of services, by the organisation or operator (as
- 20                      the case may be);
- 21                  (d) an agency, organisation or small business operator:
- 22                      (i) that carries on a business or undertaking that involves
- 23                      providing credit; and
- 24                      (ii) that is prescribed by the regulations.

25                   *Other credit providers*

- 26           (2) If:
- 27                   (a) an organisation or small business operator (the ***supplier***)
- 28                      carries on a business or undertaking in the course of which
- 29                      the supplier provides credit in connection with the sale of
- 30                      goods, or the supply of services, by the supplier; and
- 31                   (b) the repayment, in full or in part, of the amount of credit is
- 32                      deferred for at least 7 days; and

1 (c) the supplier is not a credit provider under subsection (1);  
2 then the supplier is a *credit provider* but only in relation to the  
3 credit.

4 (3) If:

5 (a) an organisation or small business operator (the *lessor*) carries  
6 on a business or undertaking in the course of which the lessor  
7 provides credit in connection with the hiring, leasing or  
8 renting of goods; and

9 (b) the credit is in force for at least 7 days; and

10 (c) no amount, or an amount less than the value of the goods, is  
11 paid as a deposit for the return of the goods; and

12 (d) the lessor is not a credit provider under subsection (1);  
13 then the lessor is a *credit provider* but only in relation to the credit.

14 (4) An organisation or small business operator is a *credit provider* if  
15 subsection 6H(1), 6J(1) or 6K(1) provides that the organisation or  
16 operator is a credit provider.

17 *Exclusions*

18 (5) Despite subsections (1) to (4) of this section, an organisation or  
19 small business operator acting in the capacity of:

20 (a) a real estate agent; or

21 (b) a general insurer (within the meaning of the *Insurance Act*  
22 *1973*); or

23 (c) an employer of an individual;

24 is not a *credit provider* while acting in that capacity.

25 (6) Despite subsections (1) to (4) of this section, an organisation or  
26 small business operator is not a *credit provider* if it is included in a  
27 class of organisations or operators prescribed by the regulations.

28 **6H Agents of credit providers**

29 (1) If an organisation or small business operator (the *agent*) is acting  
30 as an agent of a credit provider (the *principal*) in performing, on  
31 behalf of the principal, a task that is reasonably necessary:

32 (a) in processing an application for credit made to the principal;  
33 or

34 (b) in managing credit provided by the principal;

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- 
- 1                   then, while the agent is so acting, the agent is a *credit provider*.
- 2                   (2) Subsection (1) does not apply if the principal is an organisation or  
3                   small business operator that is a credit provider because of a  
4                   previous application of that subsection.
- 5                   (3) If subsection (1) applies in relation to credit that has been provided  
6                   by the principal, the credit is taken, for the purposes of this Act, to  
7                   have been provided by both the principal and the agent.
- 8                   (4) If subsection (1) applies in relation to credit for which an  
9                   application has been made to the principal, the application is taken,  
10                  for the purposes of this Act, to have been made to both the  
11                  principal and the agent.

## 12 **6J Securitisation arrangements etc.**

- 13                   (1) If:
- 14                   (a) an organisation or small business operator (the *securitisation*  
15                   *entity*) carries on a business that is involved in either or both  
16                   of the following:  
17                   (i) a securitisation arrangement;  
18                   (ii) managing credit that is the subject of a securitisation  
19                   arrangement; and  
20                   (b) the securitisation entity performs a task that is reasonably  
21                   necessary for:  
22                   (i) purchasing, funding or managing, or processing an  
23                   application for, credit by means of a securitisation  
24                   arrangement; or  
25                   (ii) undertaking credit enhancement in relation to credit; and  
26                   (c) the credit has been provided by, or is credit for which an  
27                   application has been made to, a credit provider (the *original*  
28                   *credit provider*);  
29                   then, while the securitisation entity performs such a task, the  
30                   securitisation entity is a *credit provider*.
- 31                   (2) Subsection (1) does not apply if the original credit provider is an  
32                   organisation or small business operator that is a credit provider  
33                   because of a previous application of that subsection.
- 34                   (3) If subsection (1) applies in relation to credit that has been provided  
35                   by the original credit provider, the credit is taken, for the purposes

1 of this Act, to have been provided by both the original credit  
2 provider and the securitisation entity.

3 (4) If subsection (1) applies in relation to credit for which an  
4 application has been made to the original credit provider, the  
5 application is taken, for the purposes of this Act, to have been  
6 made to both the original credit provider and the securitisation  
7 entity.

## 8 **6K Acquisition of the rights of a credit provider**

9 (1) If:  
10 (a) an organisation or small business operator (the *acquirer*)  
11 acquires, whether by assignment, subrogation or any other  
12 means, the rights of a credit provider (the *original credit*  
13 *provider*) in relation to the repayment of an amount of credit;  
14 and  
15 (b) the acquirer is not a credit provider under subsection 6G(1);  
16 then the acquirer is a *credit provider* but only in relation to the  
17 credit.

18 (2) If subsection (1) of this section applies in relation to credit that has  
19 been provided by the original credit provider, the credit is taken,  
20 for the purposes of this Act, to have been provided by the acquirer.

21 (3) If subsection (1) of this section applies in relation to credit for  
22 which an application has been made to the original credit provider,  
23 the application is taken, for the purposes of this Act, to have been  
24 made to the acquirer.

## 25 **Subdivision B—Other definitions**

### 26 **6L Meaning of *access seeker***

27 (1) An *access seeker* in relation to credit reporting information, or  
28 credit eligibility information, about an individual is:  
29 (a) the individual; or  
30 (b) a person:  
31 (i) who is assisting the individual to deal with a credit  
32 reporting body or credit provider; and

- 
- 1 (ii) who is authorised, in writing, by the individual to make  
2 a request in relation to the information under subsection  
3 20R(1) or 21T(1).
- 4 (2) An individual must not authorise a person under  
5 subparagraph (1)(b)(ii) if the person is:  
6 (a) a credit provider; or  
7 (b) a mortgage insurer; or  
8 (c) a trade insurer; or  
9 (d) a person who is prevented from being a credit provider by  
10 subsection 6G(5) or (6).
- 11 (3) Subparagraph (1)(b)(ii) does not apply to a person who provides  
12 the National Relay Service.

### 13 **6M Meaning of *credit* and *amount of credit***

- 14 (1) ***Credit*** is a contract, arrangement or understanding under which:  
15 (a) payment of a debt owed by one person to another person is  
16 deferred; or  
17 (b) one person incurs a debt to another person and defers the  
18 payment of the debt.
- 19 (2) The ***amount of credit*** is the amount of the debt that is actually  
20 deferred, or that may be deferred, but does not include any fees or  
21 charges payable in connection with the deferral of the debt.
- 22 (3) Without limiting subsection (1), ***credit*** includes:  
23 (a) a hire-purchase agreement; and  
24 (b) a contract, arrangement or understanding of a kind referred to  
25 in that subsection that is for the hire, lease or rental of goods,  
26 or for the supply of services, other than a contract,  
27 arrangement or understanding under which:  
28 (i) full payment is made before, or at the same time as, the  
29 goods or services are provided; and  
30 (ii) in the case of goods—an amount greater than, or equal  
31 to, the value of the goods is paid as a deposit for the  
32 return of the goods.

1 **6N Meaning of *credit information***

- 2 ***Credit information*** about an individual is personal information  
3 (other than sensitive information) that is:
- 4 (a) identification information about the individual; or
  - 5 (b) consumer credit liability information about the individual; or
  - 6 (c) repayment history information about the individual; or
  - 7 (d) a statement that an information request has been made in  
8 relation to the individual by a credit provider, mortgage  
9 insurer or trade insurer; or
  - 10 (e) the type of consumer credit or commercial credit, and the  
11 amount of credit, sought in an application:
    - 12 (i) that has been made by the individual to a credit  
13 provider; and
    - 14 (ii) in connection with which the provider has made an  
15 information request in relation to the individual; or
  - 16 (f) default information about the individual; or
  - 17 (g) payment information about the individual; or
  - 18 (h) new arrangement information about the individual; or
  - 19 (i) court proceedings information about the individual; or
  - 20 (j) personal insolvency information about the individual; or
  - 21 (k) publicly available information about the individual:
    - 22 (i) that relates to the individual's activities in Australia or  
23 the external Territories and the individual's credit  
24 worthiness; and
    - 25 (ii) that is not court proceedings information about the  
26 individual or information about the individual that is  
27 entered or recorded on the National Personal Insolvency  
28 Index; or
  - 29 (l) the opinion of a credit provider that the individual has  
30 committed, in circumstances specified by the provider, a  
31 serious credit infringement in relation to consumer credit  
32 provided by the provider to the individual.

33 **6P Meaning of *credit reporting business***

- 34 (1) A ***credit reporting business*** is a business or undertaking that  
35 involves collecting, holding, using or disclosing personal  
36 information about individuals for the purpose of, or for purposes

- 
- 1 including the purpose of, providing an entity with information  
2 about the credit worthiness of an individual.
- 3 (2) Subsection (1) applies whether or not the information about the  
4 credit worthiness of an individual is:
- 5 (a) provided for profit or reward; or  
6 (b) provided, or intended to be provided, for the purposes of  
7 assessing an application for consumer credit.
- 8 (3) In determining whether a business or undertaking carried on by a  
9 credit provider is a credit reporting business, disregard the  
10 provision of information about the credit worthiness of an  
11 individual to a related body corporate by the provider.
- 12 (4) Despite subsection (1), a business or undertaking is not a *credit*  
13 *reporting business* if the business or undertaking is included in a  
14 class of businesses or undertakings prescribed by the regulations.

## 15 **6Q Meaning of *default information***

### 16 *Consumer credit defaults*

- 17 (1) ***Default information*** about an individual is information about a  
18 payment (including a payment that is wholly or partly a payment of  
19 interest) that the individual is overdue in making in relation to  
20 consumer credit that has been provided by a credit provider to the  
21 individual if:
- 22 (a) the individual is at least 60 days overdue in making the  
23 payment; and
- 24 (b) the provider has given a written notice to the individual  
25 informing the individual of the overdue payment and  
26 requesting that the individual pay the amount of the overdue  
27 payment; and
- 28 (c) the provider is not prevented by a statute of limitations from  
29 recovering the amount of the overdue payment; and
- 30 (d) the amount of the overdue payment is equal to or more than:
- 31 (i) \$100; or  
32 (ii) such higher amount as is prescribed by the regulations.





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- 1 (a) the insurer has sought information about the individual from  
 2 a credit reporting body; and  
 3 (b) the information was sought in connection with the provision  
 4 of insurance to a credit provider in relation to mortgage credit  
 5 provided by the provider to:  
 6 (i) the individual; or  
 7 (ii) a person for whom the individual is, or is proposing to  
 8 be, a guarantor.

9 *Trade insurer*

- 10 (3) A trade insurer has made an *information request* in relation to an  
 11 individual if:  
 12 (a) the insurer has sought information about the individual from  
 13 a credit reporting body; and  
 14 (b) the information was sought in connection with the provision  
 15 of insurance to a credit provider in relation to commercial  
 16 credit provided by the provider to the individual or another  
 17 person.

18 **6S Meaning of *new arrangement information***

19 *Consumer credit defaults*

- 20 (1) If:  
 21 (a) a credit provider has disclosed default information about an  
 22 individual to a credit reporting body; and  
 23 (b) the default information relates to a payment that the  
 24 individual is overdue in making in relation to consumer credit  
 25 (the *original consumer credit*) that has been provided by the  
 26 provider to the individual; and  
 27 (c) because of the individual being so overdue:  
 28 (i) the terms or conditions of the original consumer credit  
 29 that relate to the repayment of the amount of credit are  
 30 varied; or  
 31 (ii) the individual is provided with other consumer credit  
 32 (the *new consumer credit*) by a credit provider that  
 33 relates, wholly or in part, to that amount of credit;  
 34 then *new arrangement information* about the individual is a  
 35 statement that those terms or conditions of the original consumer

1 credit have been varied, or that the individual has been provided  
2 with the new consumer credit.

3 *Serious credit infringements*

4 (2) If:

5 (a) a credit provider is of the opinion that an individual has  
6 committed a serious credit infringement in relation to  
7 consumer credit (the *original consumer credit*) provided by  
8 the provider to the individual; and

9 (b) the provider has disclosed the opinion to a credit reporting  
10 body; and

11 (c) because of the provider having that opinion:

12 (i) the terms or conditions of the original consumer credit  
13 that relate to the repayment of the amount of credit are  
14 varied; or

15 (ii) the individual is provided with other consumer credit  
16 (the *new consumer credit*) by a credit provider that  
17 relates, wholly or in part, to that amount of credit;

18 then *new arrangement information* about the individual is a  
19 statement that those terms or conditions of the original consumer  
20 credit have been varied, or that the individual has been provided  
21 with the new consumer credit.

22 **6T Meaning of *payment information***

23 If:

24 (a) a credit provider has disclosed default information about an  
25 individual to a credit reporting body; and

26 (b) on a day after the default information was disclosed, the  
27 amount of the overdue payment to which the information  
28 relates is paid;

29 then *payment information* about the individual is a statement that  
30 the amount of the overdue payment has been paid on that day.

31 **6U Meaning of *personal insolvency information***

32 (1) *Personal insolvency information* about an individual is  
33 information:

34 (a) that is entered or recorded in the National Personal  
35 Insolvency Index; and

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- 
- 1 (b) that relates to:
- 2 (i) a bankruptcy of the individual; or
- 3 (ii) a debt agreement proposal given by the individual; or
- 4 (iii) a debt agreement made by the individual; or
- 5 (iv) a personal insolvency agreement executed by the
- 6 individual; or
- 7 (v) a direction given, or an order made, under section 50 of
- 8 the Bankruptcy Act that relates to the property of the
- 9 individual; or
- 10 (vi) an authority signed under section 188 of that Act that
- 11 relates to the property of the individual.
- 12 (2) Despite subparagraph (1)(b)(i), personal insolvency information
- 13 about an individual must not relate to:
- 14 (a) the presentation of a creditor's petition against the individual;
- 15 or
- 16 (b) an administration under Part XI of the Bankruptcy Act of the
- 17 individual's estate.
- 18 (3) An expression used in paragraph (1)(b) or (2)(a) that is also used in
- 19 the Bankruptcy Act has the same meaning in that paragraph as it
- 20 has in that Act.

21 **6V Meaning of *repayment history information***

- 22 (1) If a credit provider provides consumer credit to an individual, the
- 23 following information about the consumer credit is ***repayment***
- 24 ***history information*** about the individual:
- 25 (a) whether or not the individual has met an obligation to make a
- 26 monthly payment that is due and payable in relation to the
- 27 consumer credit;
- 28 (b) the day on which the monthly payment is due and payable;
- 29 (c) if the individual makes the monthly payment after the day on
- 30 which the payment is due and payable—the day on which the
- 31 individual makes that payment.
- 32 (2) The regulations may make provision in relation to:
- 33 (a) whether or not an individual has met an obligation to make a
- 34 monthly payment that is due and payable in relation to
- 35 consumer credit; and
- 36 (b) whether or not a payment is a monthly payment.

1 **Division 3—Other matters**

2 **70 Paragraphs 7(1)(a) and 8(1)(a)**

3 Omit “credit reporting agency” (wherever occurring), substitute “credit  
4 reporting body”.

5 **71 Sections 11A and 11B**

6 Repeal the sections.

7 **72 Part IIIA**

8 Repeal the Part, substitute:

9 **Part IIIA—Credit reporting**

10 **Division 1—Introduction**

11 **19 Guide to this Part**

12 In general, this Part deals with the privacy of information relating  
13 to credit reporting.

14 Divisions 2 and 3 contain rules that apply to credit reporting bodies  
15 and credit providers in relation to their handling of information  
16 relating to credit reporting.

17 Division 4 contains rules that apply to affected information  
18 recipients in relation to their handling of their regulated  
19 information.

20 Division 5 deals with complaints to credit reporting bodies or  
21 credit providers about acts or practices that may be a breach of  
22 certain provisions of this Part or the registered CR code.

23 Division 6 deals with entities that obtain credit reporting  
24 information or credit eligibility information by false pretence, or  
25 when they are not authorised to do so under this Part.

26 Division 7 provides for compensation orders, and other orders, to  
27 be made by the Federal Court or Federal Magistrates Court.

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**Division 2—Credit reporting bodies****Subdivision A—Introduction and application of this Division  
etc.****20 Guide to this Division**

This Division sets out rules that apply to credit reporting bodies in relation to their handling of the following:

- (a) credit reporting information;
- (b) CP derived information;
- (c) credit reporting information that is de-identified;
- (d) a pre-screening assessment.

The rules apply in relation to that kind of information or assessment instead of the Australian Privacy Principles.

**20A Application of this Division and the Australian Privacy Principles to credit reporting bodies**

(1) This Division applies to a credit reporting body in relation to the following:

- (a) credit reporting information;
- (b) CP derived information;
- (c) credit reporting information that is de-identified;
- (d) a pre-screening assessment.

(2) The Australian Privacy Principles do not apply to a credit reporting body in relation to personal information that is:

- (a) credit reporting information; or
- (b) CP derived information; or
- (c) a pre-screening assessment.

Note: The Australian Privacy Principles apply to the credit reporting body in relation to other kinds of personal information.

1 **Subdivision B—Consideration of information privacy**

2 **20B Open and transparent management of credit reporting**  
3 **information**

4 (1) The object of this section is to ensure that credit reporting bodies  
5 manage credit reporting information in an open and transparent  
6 way.

7 *Compliance with this Division etc.*

8 (2) A credit reporting body must take such steps as are reasonable in  
9 the circumstances to implement practices, procedures and systems  
10 relating to the credit reporting business of the body that:

11 (a) will ensure that the body complies with this Division and the  
12 registered CR code; and

13 (b) will enable the body to deal with inquiries or complaints  
14 from individuals about the body's compliance with this  
15 Division or the registered CR code.

16 *Policy about the management of credit reporting information*

17 (3) A credit reporting body must have a clearly expressed and  
18 up-to-date policy about the management of credit reporting  
19 information by the body.

20 (4) Without limiting subsection (3), the policy of the credit reporting  
21 body must contain the following information:

22 (a) the kinds of credit information that the body collects and how  
23 the body collects that information;

24 (b) the kinds of credit reporting information that the body holds  
25 and how the body holds that information;

26 (c) the kinds of personal information that the body usually  
27 derives from credit information that the body holds;

28 (d) the purposes for which the body collects, holds, uses and  
29 discloses credit reporting information;

30 (e) information about the effect of section 20G (which deals with  
31 direct marketing) and how the individual may make a request  
32 under subsection (5) of that section;

- 
- 1 (f) how an individual may access credit reporting information  
 2 about the individual that is held by the body and seek the  
 3 correction of such information;  
 4 (g) information about the effect of section 20T (which deals with  
 5 individuals requesting the correction of credit information  
 6 etc.);  
 7 (h) how an individual may complain about a failure of the body  
 8 to comply with this Division or the registered CR code and  
 9 how the body will deal with such a complaint.

10 *Availability of policy etc.*

- 11 (5) A credit reporting body must take such steps as are reasonable in  
 12 the circumstances to make the policy available:  
 13 (a) free of charge; and  
 14 (b) in such form as is appropriate.

15 Note: A credit reporting body will usually make the policy available on the  
 16 body's website.

- 17 (6) If a person or body requests a copy, in a particular form, of the  
 18 policy of a credit reporting body, the credit reporting body must  
 19 take such steps as are reasonable in the circumstances to give the  
 20 person or body a copy in that form.

## 21 **Subdivision C—Collection of credit information**

### 22 **20C Collection of solicited credit information**

#### 23 *Prohibition on collection*

- 24 (1) A credit reporting body must not collect credit information about  
 25 an individual.

26 Civil penalty: 2,000 penalty units.

#### 27 *Exceptions*

- 28 (2) Subsection (1) does not apply if the collection of the credit  
 29 information is required or authorised by or under an Australian law  
 30 or a court/tribunal order.  
 31 (3) Subsection (1) does not apply if:

- 1 (a) the credit reporting body collects the credit information about  
2 the individual from a credit provider who is permitted under  
3 section 21D to disclose the information to the body; and  
4 (b) the body collects the information in the course of carrying on  
5 a credit reporting business; and  
6 (c) if the information is identification information about the  
7 individual—the body also collects from the provider, or  
8 already holds, credit information of another kind about the  
9 individual.
- 10 (4) Subsection (1) does not apply if:  
11 (a) the credit reporting body:  
12 (i) collects the credit information about the individual from  
13 an entity (other than a credit provider) in the course of  
14 carrying on a credit reporting business; and  
15 (ii) knows, or believes on reasonable grounds, that the  
16 individual is at least 18 years old; and  
17 (b) the information does not relate to an act, omission, matter or  
18 thing that occurred or existed before the individual turned 18;  
19 and  
20 (c) if the information relates to consumer credit or commercial  
21 credit—the credit is or has been provided, or applied for, in  
22 Australia; and  
23 (d) if the information is identification information about the  
24 individual—the body also collects from the entity, or already  
25 holds, credit information of another kind about the  
26 individual; and  
27 (e) if the information is repayment history information about the  
28 individual—the body collects the information from another  
29 credit reporting body that has an Australian link.
- 30 (5) Paragraph (4)(b) does not apply to identification information about  
31 the individual.
- 32 (6) Despite paragraph (4)(b), consumer credit liability information  
33 about the individual may relate to consumer credit that was entered  
34 into on a day before the individual turned 18, so long as the  
35 consumer credit was not terminated, or did not otherwise cease to  
36 be in force, on a day before the individual turned 18.



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1                    *Means of collection*

- 2                    (7) A credit reporting body must collect credit information only by  
3                    lawful and fair means.

4                    *Solicited credit information*

- 5                    (8) This section applies to the collection of credit information that is  
6                    solicited by a credit reporting body.

7                    **20D Dealing with unsolicited credit information**

- 8                    (1) If:  
9                           (a) a credit reporting body receives credit information about an  
10                           individual; and  
11                           (b) the body did not solicit the information;  
12                    the body must, within a reasonable period after receiving the  
13                    information, determine whether or not the body could have  
14                    collected the information under section  
15                    20C if the body had solicited the information.
- 16                    (2) The credit reporting body may use or disclose the credit  
17                    information for the purposes of making the determination under  
18                    subsection (1).
- 19                    (3) If the credit reporting body determines that it could have collected  
20                    the credit information, sections 20E to 20ZA apply in relation to  
21                    the information as if the body had collected the information under  
22                    section  
23                    20C.
- 24                    (4) If the credit reporting body determines that it could not have  
25                    collected the credit information, the body must, as soon as  
26                    practicable, destroy the information.
- 27                    Civil penalty:        1,000 penalty units.
- 28                    (5) Subsection (4) does not apply if the credit reporting body is  
29                    required by or under an Australian law, or a court/tribunal order, to  
30                    retain the credit information.

1 **Subdivision D—Dealing with credit reporting information etc.**

2 **20E Use or disclosure of credit reporting information**

3 *Prohibition on use or disclosure*

- 4 (1) If a credit reporting body holds credit reporting information about  
5 an individual, the body must not use or disclose the information.

6 Civil penalty: 2,000 penalty units.

7 *Permitted uses*

- 8 (2) Subsection (1) does not apply to the use of credit reporting  
9 information about the individual if:  
10 (a) the credit reporting body uses the information in the course  
11 of carrying on the body's credit reporting business; or  
12 (b) the use is required or authorised by or under an Australian  
13 law or a court/tribunal order; or  
14 (c) the use is a use prescribed by the regulations.

15 *Permitted disclosures*

- 16 (3) Subsection (1) does not apply to the disclosure of credit reporting  
17 information about the individual if:  
18 (a) the disclosure is a permitted CRB disclosure in relation to the  
19 individual; or  
20 (b) the disclosure is to another credit reporting body that has an  
21 Australian link; or  
22 (c) both of the following apply:  
23 (i) the disclosure is for the purposes of a recognised  
24 external dispute resolution scheme;  
25 (ii) a credit reporting body or credit provider is a member of  
26 the scheme; or  
27 (d) both of the following apply:  
28 (i) the disclosure is to an enforcement body;  
29 (ii) the credit reporting body is satisfied that the body, or  
30 another enforcement body, believes on reasonable  
31 grounds that the individual has committed a serious  
32 credit infringement; or

- 1 (e) the disclosure is required or authorised by or under an  
 2 Australian law or a court/tribunal order; or  
 3 (f) the disclosure is a disclosure prescribed by the regulations.

- 4 (4) However, if the credit reporting information is, or was derived  
 5 from, repayment history information about the individual, the  
 6 credit reporting body must not disclose the information under  
 7 paragraph (3)(a) or (f) unless the recipient of the information is a  
 8 credit provider who is a licensee.

9 Civil penalty: 2,000 penalty units.

- 10 (5) If a credit reporting body discloses credit reporting information  
 11 under this section, the body must make a written note of that  
 12 disclosure.

13 Civil penalty: 500 penalty units.

14 Note: Other Acts may provide that the note must not be made (see for  
 15 example the *Australian Crime Commission Act 2002* and the *Law*  
 16 *Enforcement Integrity Commissioner Act 2006*).

17 *No use or disclosure for the purposes of direct marketing*

- 18 (6) This section does not apply to the use or disclosure of credit  
 19 reporting information for the purposes of direct marketing.

20 Note: Section 20G deals with the use or disclosure of credit reporting  
 21 information for the purposes of direct marketing.

## 22 **20F Permitted CRB disclosures in relation to individuals**

- 23 (1) A disclosure by a credit reporting body of credit reporting  
 24 information about an individual is a *permitted CRB disclosure* in  
 25 relation to the individual if:  
 26 (a) the disclosure is to an entity that is specified in an item of the  
 27 table and that has an Australian link; and  
 28 (b) such conditions as are specified for the item are satisfied.

29

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### **Permitted CRB disclosures**

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<b>Item</b>	<b>If the disclosure is to ...</b>	<b>the condition or conditions are ...</b>
1	a credit provider	the provider requests the information for a consumer credit related purpose of the provider in relation to the individual.

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## Schedule 2 Credit reporting

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<b>Permitted CRB disclosures</b>		
<b>Item</b>	<b>If the disclosure is to ...</b>	<b>the condition or conditions are ...</b>
2	a credit provider	(a) the provider requests the information for a commercial credit related purpose of the provider in relation to a person; and (b) the individual expressly consents to the disclosure of the information to the provider for that purpose.
3	a credit provider	(a) the provider requests the information for a credit guarantee purpose of the provider in relation to the individual; and (b) the individual expressly consents, in writing, to the disclosure of the information to the provider for that purpose.
4	a credit provider	the credit reporting body is satisfied that the provider, or another credit provider, believes on reasonable grounds that the individual has committed a serious credit infringement.
5	a credit provider	(a) the credit reporting body holds consumer credit liability information that relates to consumer credit provided by the provider to the individual; and (b) the consumer credit has not been terminated, or has not otherwise ceased to be in force.
6	a credit provider under subsection 6J(1)	the provider requests the information for a securitisation related purpose of the provider in relation to the individual.
7	a mortgage insurer	the insurer requests the information for a mortgage insurance purpose of the insurer in relation to the individual.
8	a trade insurer	(a) the insurer requests the information for a trade insurance purpose of the insurer in relation to the individual; and (b) the individual expressly consents, in writing, to the disclosure of the information to the insurer for that purpose.

1

2

3

(2) The consent of the individual under paragraph (b) of item 2 of the table in subsection (1) must be given in writing unless:

- 
- 1 (a) the credit provider referred to in that item requests the  
2 information for the purpose of assessing an application for  
3 commercial credit made by a person to the provider; and  
4 (b) the application has not been made in writing.

5 **20G Use or disclosure of credit reporting information for the**  
6 **purposes of direct marketing**

7 *Prohibition on direct marketing*

- 8 (1) If a credit reporting body holds credit reporting information about  
9 an individual, the body must not use or disclose the information for  
10 the purposes of direct marketing.

11 Civil penalty: 2,000 penalty units.

12 *Permitted use for pre-screening*

- 13 (2) Subsection (1) does not apply to the use by the credit reporting  
14 body of credit information about the individual for the purposes of  
15 direct marketing by, or on behalf of, a credit provider if:

- 16 (a) the provider has an Australian link and is a licensee; and  
17 (b) the direct marketing is about consumer credit that the  
18 provider provides in Australia; and  
19 (c) the information is not consumer credit liability information,  
20 or repayment history information, about the individual; and  
21 (d) the body uses the information to assess whether or not the  
22 individual is eligible to receive the direct marketing  
23 communications of the credit provider; and  
24 (e) the individual has not made a request under subsection (5);  
25 and  
26 (f) the body complies with any requirements that are set out in  
27 the registered CR code.

- 28 (3) In assessing under paragraph (2)(d) whether or not the individual is  
29 eligible to receive the direct marketing communications of the  
30 credit provider, the credit reporting body must have regard to the  
31 eligibility requirements nominated by the provider.

- 32 (4) An assessment under paragraph (2)(d) is not credit reporting  
33 information about the individual.

1                                    *Request not to use information for pre-screening*

2                                    (5) An individual may request a credit reporting body that holds credit  
3                                    information about the individual not to use the information under  
4                                    subsection (2).

5                                    (6) If the individual makes a request under subsection (5), the credit  
6                                    reporting body must not charge the individual for the making of the  
7                                    request or to give effect to the request.

8                                    *Written note of use*

9                                    (7) If a credit reporting body uses credit information under  
10                                    subsection (2), the body must make a written note of that use.

11                                    Civil penalty:            500 penalty units.

12                                    **20H Use or disclosure of pre-screening assessments**

13                                    *Use or disclosure by credit reporting bodies*

14                                    (1) If a credit reporting body makes a pre-screening assessment in  
15                                    relation to direct marketing by, or on behalf of, a credit provider,  
16                                    the body must not use or disclose the assessment.

17                                    Civil penalty:            2,000 penalty units.

18                                    (2) Subsection (1) does not apply if:  
19                                    (a) the credit reporting body discloses the pre-screening  
20                                    assessment for the purposes of the direct marketing by, or on  
21                                    behalf of, the credit provider; and  
22                                    (b) the recipient of the assessment is an entity (other than the  
23                                    provider) that has an Australian link.

24                                    (3) If the credit reporting body discloses the pre-screening assessment  
25                                    under subsection (2), the body must make a written note of that  
26                                    disclosure.

27                                    Civil penalty:            500 penalty units.

---

*Use or disclosure by recipients*

- 1  
2 (4) If the credit reporting body discloses the pre-screening assessment  
3 under subsection (2), the recipient must not use or disclose the  
4 assessment.

5 Civil penalty: 1,000 penalty units.

- 6 (5) Subsection (4) does not apply if the recipient uses the  
7 pre-screening assessment for the purposes of the direct marketing  
8 by, or on behalf of, the credit provider.

- 9 (6) If the recipient uses the pre-screening assessment under  
10 subsection (5), the recipient must make a written note of that use.

11 Civil penalty: 500 penalty units.

*Interaction with the Australian Privacy Principles*

- 12  
13 (7) If the recipient is an APP entity, Australian Privacy Principles 6, 7  
14 and 8 do not apply to the recipient in relation to a pre-screening  
15 assessment.

**20J Destruction of pre-screening assessment**

- 16  
17 (1) If an entity has possession or control of a pre-screening  
18 assessment, the entity must destroy the assessment if:  
19 (a) the entity no longer needs the assessment for any purpose for  
20 which it may be used or disclosed under section 20H; and  
21 (b) the entity is not required by or under an Australian law, or a  
22 court/tribunal order, to retain the assessment.

23 Civil penalty: 1,000 penalty units.

- 24 (2) If the entity is an APP entity but not a credit reporting body,  
25 Australian Privacy Principle 11.2 does not apply to the entity in  
26 relation to the pre-screening assessment.

**20K No use or disclosure of credit reporting information during a ban period**

- 27  
28  
29 (1) If:  
30 (a) a credit reporting body holds credit reporting information  
31 about an individual; and

- 1 (b) the individual believes on reasonable grounds that the  
2 individual has been, or is likely to be, a victim of fraud  
3 (including identity fraud); and  
4 (c) the individual requests the body not to use or disclose the  
5 information under this Division;  
6 then, despite any other provision of this Division, the body must  
7 not use or disclose the information during the ban period for the  
8 information.

9 Civil penalty: 2,000 penalty units.

- 10 (2) Subsection (1) does not apply if:  
11 (a) the individual expressly consents, in writing, to the use or  
12 disclosure of the credit reporting information under this  
13 Division; or  
14 (b) the use or disclosure of the credit reporting information is  
15 required by or under an Australian law or a court/tribunal  
16 order.

17 *Ban period*

- 18 (3) The ***ban period*** for credit reporting information about an individual  
19 is the period that:  
20 (a) starts when the individual makes a request under  
21 paragraph (1)(c); and  
22 (b) ends:  
23 (i) 21 days after the day on which the request is made; or  
24 (ii) if the period is extended under subsection (4)—on the  
25 day after the extended period ends.
- 26 (4) If:  
27 (a) there is a ban period for credit reporting information about an  
28 individual that is held by a credit reporting body; and  
29 (b) before the ban period ends, the individual requests the body  
30 to extend that period; and  
31 (c) the body believes on reasonable grounds that the individual  
32 has been, or is likely to be, a victim of fraud (including  
33 identity fraud);  
34 the body must:  
35 (d) extend the ban period by such period as the body considers is  
36 reasonable in the circumstances; and
-



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1 (e) give the individual written notification of the extension.

2 Civil penalty: 1,000 penalty units.

3 (5) A ban period for credit reporting information may be extended  
4 more than once under subsection (4).

5 *No charge for request etc.*

6 (6) If an individual makes a request under paragraph (1)(c) or (4)(b), a  
7 credit reporting body must not charge the individual for the making  
8 of the request or to give effect to the request.

9 **20L Adoption of government related identifiers**

10 (1) If:

11 (a) a credit reporting body holds credit reporting information  
12 about an individual; and

13 (b) the information is a government related identifier of the  
14 individual;

15 the body must not adopt the government related identifier as its  
16 own identifier of the individual.

17 Civil penalty: 2,000 penalty units.

18 (2) Subsection (1) does not apply if the adoption of the government  
19 related identifier is required or authorised by or under an  
20 Australian law or a court/tribunal order.

21 **20M Use or disclosure of credit reporting information that is**  
22 **de-identified**

23 *Use or disclosure*

24 (1) If:

25 (a) a credit reporting body holds credit reporting information;  
26 and

27 (b) the information (the *de-identified information*) is  
28 de-identified;

29 the body must not use or disclose the de-identified information.

30 (2) Subsection (1) does not apply to the use or disclosure of the  
31 de-identified information if:

- 1 (a) the use or disclosure is for the purposes of conducting  
2 research in relation to the assessment of the credit worthiness  
3 of individuals; and  
4 (b) the credit reporting body complies with the rules made under  
5 subsection (3).

6 *Commissioner may make rules*

- 7 (3) The Commissioner may, by legislative instrument, make rules  
8 relating to the use or disclosure by a credit reporting body of  
9 de-identified information for the purposes of conducting research  
10 in relation to the assessment of the credit worthiness of individuals.
- 11 (4) Without limiting subsection (3), the rules may relate to the  
12 following matters:
- 13 (a) the kinds of de-identified information that may or may not be  
14 used or disclosed for the purposes of conducting the research;  
15 (b) whether or not the research is research in relation to the  
16 assessment of the credit worthiness of individuals;  
17 (c) the purposes of conducting the research;  
18 (d) consultation about the research;  
19 (e) how the research is conducted.

20 **Subdivision E—Integrity of credit reporting information**

21 **20N Quality of credit reporting information**

- 22 (1) A credit reporting body must take such steps as are reasonable in  
23 the circumstances to ensure that the credit information the body  
24 collects is accurate, up-to-date and complete.
- 25 (2) A credit reporting body must take such steps as are reasonable in  
26 the circumstances to ensure that the credit reporting information  
27 the body uses or discloses is, having regard to the purpose of the  
28 use or disclosure, accurate, up-to-date, complete and relevant.
- 29 (3) Without limiting subsections (1) and (2), a credit reporting body  
30 must:
- 31 (a) enter into agreements with credit providers that require the  
32 providers to ensure that credit information that they disclose  
33 to the body under section 21D is accurate, up-to-date and  
34 complete; and

- 
- 1 (b) ensure that regular audits are conducted by an independent  
2 person to determine whether those agreements are being  
3 complied with; and  
4 (c) identify and deal with suspected breaches of those  
5 agreements.

## 6 **20P False or misleading credit reporting information**

### 7 *Offence*

- 8 (1) A credit reporting body commits an offence if:  
9 (a) the body uses or discloses credit reporting information under  
10 this Division (other than subsections 20D(2) and 20T(4));  
11 and  
12 (b) the information is false or misleading in a material particular.

13 Penalty: 200 penalty units.

### 14 *Civil penalty*

- 15 (2) A credit reporting body must not use or disclose credit reporting  
16 information under this Division (other than subsections 20D(2) and  
17 20T(4)) if the information is false or misleading in a material  
18 particular.

19 Civil penalty: 2,000 penalty units.

## 20 **20Q Security of credit reporting information**

- 21 (1) If a credit reporting body holds credit reporting information, the  
22 body must take such steps as are reasonable in the circumstances to  
23 protect the information:  
24 (a) from misuse, interference and loss; and  
25 (b) from unauthorised access, modification or disclosure.
- 26 (2) Without limiting subsection (1), a credit reporting body must:  
27 (a) enter into agreements with credit providers that require the  
28 providers to protect credit reporting information that is  
29 disclosed to them under this Division:  
30 (i) from misuse, interference and loss; and  
31 (ii) from unauthorised access, modification or disclosure;  
32 and

- 1 (b) ensure that regular audits are conducted by an independent  
2 person to determine whether those agreements are being  
3 complied with; and  
4 (c) identify and deal with suspected breaches of those  
5 agreements.

6 **Subdivision F—Access to, and correction of, information**

7 **20R Access to credit reporting information**

8 *Access*

- 9 (1) If a credit reporting body holds credit reporting information about  
10 an individual, the body must, on request by an access seeker in  
11 relation to the information, give the access seeker access to the  
12 information.

13 *Exceptions to access*

- 14 (2) Despite subsection (1), the credit reporting body is not required to  
15 give the access seeker access to the credit reporting information to  
16 the extent that:  
17 (a) giving access would be unlawful; or  
18 (b) denying access is required or authorised by or under an  
19 Australian law or a court/tribunal order; or  
20 (c) giving access would be likely to prejudice one or more  
21 enforcement related activities conducted by, or on behalf of,  
22 an enforcement body.

23 *Dealing with requests for access*

- 24 (3) The credit reporting body must respond to the request within a  
25 reasonable period, but not longer than 10 days, after the request is  
26 made.

27 *Means of access*

- 28 (4) If the credit reporting body gives access to the credit reporting  
29 information, the access must be given in the manner set out in the  
30 registered CR code.

---

*Access charges*

- 1
- 2 (5) If a request under subsection (1) in relation to the individual has  
3 not been made to the credit reporting body in the previous 12  
4 months, the body must not charge the access seeker for the making  
5 of the request or for giving access to the information.
- 6 (6) If subsection (5) does not apply, any charge by the credit reporting  
7 body for giving access to the information must not be excessive  
8 and must not apply to the making of the request.

*Refusal to give access*

- 9
- 10 (7) If the credit reporting body refuses to give access to the  
11 information because of subsection (2), the body must give the  
12 access seeker a written notice that:
- 13 (a) sets out the reasons for the refusal except to the extent that,  
14 having regard to the grounds for the refusal, it would be  
15 unreasonable to do so; and
- 16 (b) states that, if the access seeker is not satisfied with the  
17 response to the request, the access seeker may:
- 18 (i) access a recognised external dispute resolution scheme  
19 of which the body is a member; or  
20 (ii) make a complaint to the Commissioner under Part V.

**20S Correction of credit reporting information**

- 21
- 22 (1) If:
- 23 (a) a credit reporting body holds credit reporting information  
24 about an individual; and
- 25 (b) the body is satisfied that, having regard to a purpose for  
26 which the information is held by the body, the information is  
27 inaccurate, out-of-date, incomplete, irrelevant or misleading;  
28 the body must take such steps (if any) as are reasonable in the  
29 circumstances to correct the information to ensure that, having  
30 regard to the purpose for which it is held, the information is  
31 accurate, up-to-date, complete, relevant and not misleading.
- 32 (2) If:
- 33 (a) the credit reporting body corrects credit reporting information  
34 under subsection (1); and

1 (b) the body has previously disclosed the information under this  
2 Division (other than subsections 20D(2) and 20T(4));  
3 the body must, within a reasonable period, give each recipient of  
4 the information written notice of the correction.

- 5 (3) Subsection (2) does not apply if:  
6 (a) it is impracticable for the credit reporting body to give the  
7 notice under that subsection; or  
8 (b) the credit reporting body is required by or under an  
9 Australian law, or a court/tribunal order, not to give the  
10 notice under that subsection.

11 **20T Individual may request the correction of credit information etc.**

12 *Request*

- 13 (1) An individual may request a credit reporting body to correct  
14 personal information about the individual if:  
15 (a) the personal information is:  
16 (i) credit information about the individual; or  
17 (ii) CRB derived information about the individual; or  
18 (iii) CP derived information about the individual; and  
19 (b) the body holds at least one kind of the personal information  
20 referred to in paragraph (a).

21 *Correction*

- 22 (2) If the credit reporting body is satisfied that the personal  
23 information is inaccurate, out-of-date, incomplete, irrelevant or  
24 misleading, the body must take such steps (if any) as are  
25 reasonable in the circumstances to correct the information within:  
26 (a) the period of 30 days that starts on the day on which the  
27 request is made; or  
28 (b) such longer period as the individual has agreed to in writing.

29 *Consultation*

- 30 (3) If the credit reporting body considers that the body cannot be  
31 satisfied of the matter referred to in subsection (2) in relation to the  
32 personal information without consulting either or both of the  
33 following (the *interested party*):

- 
- 1 (a) another credit reporting body that holds or held the  
2 information and that has an Australian link;  
3 (b) a credit provider that holds or held the information and that  
4 has an Australian link;  
5 the body must consult that interested party, or those interested  
6 parties, about the individual's request.
- 7 (4) The use or disclosure of personal information about the individual  
8 for the purposes of the consultation is taken, for the purposes of  
9 this Act, to be a use or disclosure that is authorised by this  
10 subsection.
- 11 *No charge*
- 12 (5) The credit reporting body must not charge the individual for the  
13 making of the request or for correcting the information.

#### 14 **20U Notice of correction etc. must be given**

- 15 (1) This section applies if an individual requests a credit reporting  
16 body to correct personal information under subsection 20T(1).
- 17 *Notice of correction etc.*
- 18 (2) If the credit reporting body corrects the personal information under  
19 subsection 20T(2), the body must, within a reasonable period:  
20 (a) give the individual written notice of the correction; and  
21 (b) if the body consulted an interested party under subsection  
22 20T(3) about the individual's request—give the party written  
23 notice of the correction; and  
24 (c) if the correction relates to information that the body has  
25 previously disclosed under this Division (other than  
26 subsections 20D(2) and 20T(4))—give each recipient of the  
27 information written notice of the correction.
- 28 (3) If the credit reporting body does not correct the personal  
29 information under subsection 20T(2), the body must, within a  
30 reasonable period, give the individual written notice that:  
31 (a) states that the correction has not been made; and  
32 (b) sets out the body's reasons for not correcting the information  
33 (including evidence substantiating the correctness of the  
34 information); and

- 1 (c) states that, if the individual is not satisfied with the response  
2 to the request, the individual may:  
3 (i) access a recognised external dispute resolution scheme  
4 of which the body is a member; or  
5 (ii) make a complaint to the Commissioner under Part V.

6 *Exceptions*

- 7 (4) Paragraph (2)(c) does not apply if it is impracticable for the credit  
8 reporting body to give the notice under that paragraph.  
9 (5) Subsection (2) or (3) does not apply if the credit reporting body is  
10 required by or under an Australian law, or a court/tribunal order,  
11 not to give the notice under that subsection.

12 **Subdivision G—Dealing with credit reporting information after**  
13 **the retention period ends etc.**

14 **20V Destruction etc. of credit reporting information after the**  
15 **retention period ends**

- 16 (1) This section applies if:  
17 (a) a credit reporting body holds credit information about an  
18 individual; and  
19 (b) the retention period for the information ends.

20 Note: There is no retention period for identification information or credit  
21 information of a kind referred to in paragraph 6N(k).

22 *Destruction etc. of credit information*

- 23 (2) The credit reporting body must destroy the credit information, or  
24 ensure that the information is de-identified, within 1 month after  
25 the retention period for the information ends.

26 Civil penalty: 1,000 penalty units.

- 27 (3) Despite subsection (2), the credit reporting body must neither  
28 destroy the credit information nor ensure that the information is  
29 de-identified, if immediately before the retention period ends:  
30 (a) there is a pending correction request in relation to the  
31 information; or  
32 (b) there is a pending dispute in relation to the information.



---

1                    Civil penalty:        500 penalty units.

2                    (4) Subsection (2) does not apply if the credit reporting body is  
3                    required by or under an Australian law, or a court/tribunal order, to  
4                    retain the credit information.

5                    *Destruction etc. of CRB derived information*

6                    (5) The credit reporting body must destroy any CRB derived  
7                    information about the individual that was derived from the credit  
8                    information, or ensure that the CRB derived information is  
9                    de-identified:

10                    (a) if:

11                    (i) the CRB derived information was derived from 2 or  
12                    more kinds of credit information; and

13                    (ii) the body is required to do a thing referred to in  
14                    subsection (2) to one of those kinds of credit  
15                    information;

16                    at the same time that the body does that thing to that credit  
17                    information; or

18                    (b) otherwise—at the same time that the body is required to do a  
19                    thing referred to in subsection (2) to the credit information  
20                    from which the CRB derived information was derived.

21                    Civil penalty:        1,000 penalty units.

22                    (6) Despite subsection (5), the credit reporting body must neither  
23                    destroy the CRB derived information nor ensure that the  
24                    information is de-identified, if immediately before the retention  
25                    period ends:

26                    (a) there is a pending correction request in relation to the  
27                    information; or

28                    (b) there is a pending dispute in relation to the information.

29                    Civil penalty:        500 penalty units.

30                    (7) Subsection (5) does not apply if the credit reporting body is  
31                    required by or under an Australian law, or a court/tribunal order, to  
32                    retain the CRB derived information.

1 **20W Retention period for credit information—general**

2 The following table sets out the *retention period* for credit  
3 information:

- 4 (a) that is information of a kind referred to in an item of the  
5 table; and  
6 (b) that is held by a credit reporting body.  
7

<b>Retention period</b>		
<b>Item</b>	<b>If the credit information is ...</b>	<b>the <i>retention period</i> for the information is ...</b>
1	consumer credit liability information	the period of 2 years that starts on the day on which the consumer credit to which the information relates is terminated or otherwise ceases to be in force.
2	repayment history information	the period of 2 years that starts on the day on which the monthly payment to which the information relates is due and payable.
3	information of a kind referred to in paragraph 6N(d) or (e)	the period of 5 years that starts on the day on which the information request to which the information relates is made.
4	default information	the period of 5 years that starts on the day on which the credit reporting body collects the information.
5	payment information	the period of 5 years that starts on the day on which the credit reporting body collects the default information to which the payment information relates.
6	new arrangement information within the meaning of subsection 6S(1)	the period of 2 years that starts on the day on which the credit reporting body collects the default information referred to in that subsection.
7	new arrangement information within the meaning of subsection 6S(2)	the period of 2 years that starts on the day on which the credit reporting body collects the information about the opinion referred to in that subsection.
8	court proceedings information	the period of 5 years that starts on the day on which the judgement to which the

**Retention period**

<b>Item</b>	<b>If the credit information is ...</b>	<b>the retention period for the information is ...</b>
		information relates is made or given.
9	information of a kind referred to in paragraph 6N(1)	the period of 7 years that starts on the day on which the credit reporting body collects the information.

1

**20X Retention period for credit information—personal insolvency information**

3

(1) The following table has effect:

5

<b>Item</b>	<b>If personal insolvency information relates to ...</b>	<b>the retention period for the information is whichever of the following periods ends later ...</b>
1	a bankruptcy of an individual	(a) the period of 5 years that starts on the day on which the individual becomes a bankrupt; (b) the period of 2 years that starts on the day the bankruptcy ends.
2	a personal insolvency agreement to which item 3 of this table does not apply	(a) the period of 5 years that starts on the day on which the agreement is executed; (b) the period of 2 years that starts on the day the agreement is terminated or set aside under the Bankruptcy Act.
3	a personal insolvency agreement in relation to which a certificate has been signed under section 232 of the Bankruptcy Act	(a) the period of 5 years that starts on the day on which the agreement is executed; (b) the period that ends on the day on which the certificate is signed.
4	a debt agreement to which item 5 of this table does not apply	(a) the period of 5 years that starts on the day on which the agreement is made; (b) the period of 2 years that starts on the day: (i) the agreement is terminated under the Bankruptcy Act; or (ii) an order declaring that all the

Item	If personal insolvency information relates to ...	the <i>retention period</i> for the information is whichever of the following periods ends later ...
		agreement is void is made under that Act.
5	a debt agreement that ends under section 185N of the Bankruptcy Act	(a) the period of 5 years that starts on the day on which the agreement is made; (b) the period that ends on the day on which the agreement ends.

1

2

*Debt agreement proposals*

3

(2) If personal insolvency information relates to a debt agreement proposal, the ***retention period*** for the information is the period that ends on the day on which:

4

5

6

(a) the proposal is withdrawn; or

7

8

(b) the proposal is not accepted under section 185EC of the Bankruptcy Act; or

9

10

(c) the acceptance of the proposal for processing is cancelled under section 185ED of that Act; or

11

(d) the proposal lapses under section 185G of that Act.

12

*Control of property*

13

(3) If personal insolvency information relates to a direction given, or an order made, under section 50 of the Bankruptcy Act, the ***retention period*** for the information is the period that ends on the day on which the control of the property to which the direction or order relates ends.

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Note: See subsection 50(1B) of the Bankruptcy Act for when the control of the property ends.

20

21

22

23

24

(4) If the personal insolvency information relates to an authority signed under section 188 of the Bankruptcy Act, the ***retention period*** for the information is the period that ends on the day on which the property to which the authority relates is no longer subject to control under Division 2 of Part X of that Act.

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*Interpretation*

- 1  
2 (5) An expression used in this section that is also used in the  
3 Bankruptcy Act has the same meaning in this section as it has in  
4 that Act.

**20Y Destruction of credit reporting information in cases of fraud**

- 5  
6 (1) This section applies if:  
7 (a) a credit reporting body holds credit reporting information  
8 about an individual; and  
9 (b) the information relates to consumer credit that has been  
10 provided by a credit provider to the individual, or a person  
11 purporting to be the individual; and  
12 (c) the body is satisfied that:  
13 (i) the individual has been a victim of fraud (including  
14 identity fraud); and  
15 (ii) the consumer credit was provided as a result of that  
16 fraud.

*Destruction of credit reporting information*

- 17  
18 (2) The credit reporting body must:  
19 (a) destroy the credit reporting information; and  
20 (b) within a reasonable period after the information is destroyed:  
21 (i) give the individual a written notice that states that the  
22 information has been destroyed and sets out the effect of  
23 subsection (4); and  
24 (ii) give the credit provider a written notice that states that  
25 the information has been destroyed.

26 Civil penalty: 1,000 penalty units.

- 27 (3) Subsection (2) does not apply if the credit reporting body is  
28 required by or under an Australian law, or a court/tribunal order, to  
29 retain the credit reporting information.

*Notification of destruction to third parties*

- 30  
31 (4) If:  
32 (a) a credit reporting body destroys credit reporting information  
33 about an individual under subsection (2); and

1 (b) the body has previously disclosed the information to one or  
2 more recipients under Subdivision D of this Division;  
3 the body must, within a reasonable period after the destruction,  
4 notify those recipients of the destruction and the matters referred to  
5 in paragraph (1)(c).

6 Civil penalty: 500 penalty units.

7 (5) Subsection (4) does not apply if the credit reporting body is  
8 required by or under an Australian law, or a court/tribunal order,  
9 not to give the notification.

10 **20Z Dealing with information if there is a pending correction**  
11 **request etc.**

12 (1) This section applies if a credit reporting body holds credit reporting  
13 information about an individual and either:

- 14 (a) subsection 20V(3) applies in relation to the information; or  
15 (b) subsection 20V(6) applies in relation to the information.

16 *Notification of Commissioner*

17 (2) The credit reporting body must, as soon as practicable, notify in  
18 writing the Commissioner of the matter referred to in  
19 paragraph (1)(a) or (b) of this section.

20 Civil penalty: 1,000 penalty units.

21 *Use or disclosure*

22 (3) The credit reporting body must not use or disclose the information  
23 under Subdivision D of this Division.

24 Civil penalty: 2,000 penalty units.

25 (4) However, the credit reporting body may use or disclose the  
26 information under this subsection if:

- 27 (a) the use or disclosure is for the purposes of the pending  
28 correction request, or pending dispute, in relation to the  
29 information; or  
30 (b) the use or disclosure of the information is required by or  
31 under an Australian law or a court/tribunal order.

---

1 (5) If the credit reporting body uses or discloses the information under  
2 subsection (4), the body must make a written note of the use or  
3 disclosure.

4 Civil penalty: 500 penalty units.

5 *Direction to destroy information etc.*

6 (6) The Commissioner may, by legislative instrument, direct the credit  
7 reporting body to destroy the information, or ensure that the  
8 information is de-identified, by a specified day.

9 (7) If the Commissioner gives a direction under subsection (6) to the  
10 credit reporting body, the body must comply with the direction.

11 Civil penalty: 1,000 penalty units.

12 (8) To avoid doubt, section 20M applies in relation to credit reporting  
13 information that is de-identified as a result of the credit reporting  
14 body complying with the direction.

15 **20ZA Dealing with information if an Australian law etc. requires it**  
16 **to be retained**

17 (1) This section applies if a credit reporting body is not required:

18 (a) to do a thing referred to in subsection 20V(2) to credit  
19 information because of subsection 20V(4); or

20 (b) to do a thing referred to in subsection 20V(5) to CRB derived  
21 information because of subsection 20V(7); or

22 (c) to destroy credit reporting information under subsection  
23 20Y(2) because of subsection 20Y(3).

24 *Use or disclosure*

25 (2) The credit reporting body must not use or disclose the information  
26 under Subdivision D of this Division.

27 Civil penalty: 2,000 penalty units.

28 (3) However, the credit reporting body may use or disclose the  
29 information under this subsection if the use or disclosure of the  
30 information is required by or under an Australian law or a  
31 court/tribunal order.

1 (4) If the credit reporting body uses or discloses the information under  
2 subsection (3), the body must make a written note of the use or  
3 disclosure.

4 Civil penalty: 500 penalty units.

5 *Other requirements*

6 (5) Subdivision E of this Division (other than section 20Q) does not  
7 apply in relation to the use or disclosure of the information.

8 Note: Section 20Q deals with the security of credit reporting information.

9 (6) Subdivision F of this Division does not apply in relation to the  
10 information.

## 11 **Division 3—Credit providers**

### 12 **Subdivision A—Introduction and application of this Division**

#### 13 **21 Guide to this Division**

14 This Division sets out rules that apply to credit providers in  
15 relation to their handling of the following:

- 16 (a) credit information;
- 17 (b) credit eligibility information;
- 18 (c) CRB derived information.

19 If a credit provider is an APP entity, the rules apply in relation to  
20 that information in addition to, or instead of, any relevant  
21 Australian Privacy Principles.

#### 22 **21A Application of this Division to credit providers**

23 (1) This Division applies to a credit provider in relation to the  
24 following:

- 25 (a) credit information;
- 26 (b) credit eligibility information;
- 27 (c) CRB derived information.



- 
- 1 (2) If the credit provider is an APP entity, this Division may apply to  
2 the provider in relation to information referred to in subsection (1)  
3 in addition to, or instead of, the Australian Privacy Principles.

#### 4 **Subdivision B—Consideration of information privacy**

##### 5 **21B Open and transparent management of credit information etc.**

- 6 (1) The object of this section is to ensure that credit providers manage  
7 credit information and credit eligibility information in an open and  
8 transparent way.

9 *Compliance with this Division etc.*

- 10 (2) A credit provider must take such steps as are reasonable in the  
11 circumstances to implement practices, procedures and systems  
12 relating to the provider's functions or activities as a credit provider  
13 that:
- 14 (a) will ensure that the provider complies with this Division and  
15 the registered CR code if it binds the provider; and
  - 16 (b) will enable the provider to deal with inquiries or complaints  
17 from individuals about the provider's compliance with this  
18 Division or the registered CR code if it binds the provider.

19 *Policy about the management of credit information etc.*

- 20 (3) A credit provider must have a clearly expressed and up-to-date  
21 policy about the management of credit information and credit  
22 eligibility information by the provider.
- 23 (4) Without limiting subsection (3), the policy of the credit provider  
24 must contain the following information:
- 25 (a) the kinds of credit information that the provider collects and  
26 holds, and how the provider collects and holds that  
27 information;
  - 28 (b) the kinds of credit eligibility information that the provider  
29 holds and how the provider holds that information;
  - 30 (c) the kinds of CP derived information that the provider usually  
31 derives from credit reporting information disclosed to the  
32 provider by a credit reporting body under Division 2 of this  
33 Part;

- 1 (d) the purposes for which the provider collects, holds, uses and  
2 discloses credit information and credit eligibility information;  
3 (e) how an individual may access credit eligibility information  
4 about the individual that is held by the provider;  
5 (f) how an individual may seek the correction of credit  
6 information or credit eligibility information about the  
7 individual that is held by the provider;  
8 (g) how an individual may complain about a failure of the  
9 provider to comply with this Division or the registered CR  
10 code if it binds the provider;  
11 (h) how the provider will deal with such a complaint.

12 *Availability of policy etc.*

- 13 (5) A credit provider must take such steps as are reasonable in the  
14 circumstances to make the policy available:  
15 (a) free of charge; and  
16 (b) in such form as is appropriate.

17 Note: A credit provider will usually make the policy available on the  
18 provider's website.

- 19 (6) If a person or body requests a copy, in a particular form, of the  
20 policy of a credit provider, the provider must take such steps as are  
21 reasonable in the circumstances to give the person or body a copy  
22 in that form.

23 *Interaction with the Australian Privacy Principles*

- 24 (7) If a credit provider is an APP entity, Australian Privacy Principles  
25 1.3 and 1.4 do not apply to the provider in relation to credit  
26 information or credit eligibility information.

27 **Subdivision C—Dealing with credit information**

28 **21C Additional notification requirements for the collection of**  
29 **personal information etc.**

- 30 (1) At or before the time a credit provider collects personal  
31 information about an individual that the provider is likely to  
32 disclose to a credit reporting body, the provider must:  
33 (a) notify the individual of the following matters:

- 
- 1 (i) the name and contact details of the body;  
2 (ii) any other matter specified in the registered CR code; or  
3 (b) otherwise ensure that the individual is aware of those matters.
- 4 (2) If a credit provider is an APP entity, subsection (1) applies to the  
5 provider in relation to personal information in addition to  
6 Australian Privacy Principle 5.
- 7 (3) If a credit provider is an APP entity, then the matters for the  
8 purposes of Australian Privacy Principle 5.1 include the following  
9 matters to the extent that the personal information referred to in  
10 that principle is credit information or credit eligibility information:
- 11 (a) that the policy (the *credit reporting policy*) of the provider  
12 that is referred to in subsection 21B(3) contains information  
13 about how an individual may access the credit eligibility  
14 information about the individual that is held by the provider;
- 15 (b) that the credit reporting policy of the provider contains  
16 information about how an individual may seek the correction  
17 of credit information or credit eligibility information about  
18 the individual that is held by the provider;
- 19 (c) that the credit reporting policy of the provider contains  
20 information about how an individual may complain about a  
21 failure of the provider to comply with this Division or the  
22 registered CR code if it binds the provider;
- 23 (d) that the credit reporting policy of the provider contains  
24 information about how the provider will deal with such a  
25 complaint.

## 26 **21D Disclosure of credit information to a credit reporting body**

### 27 *Prohibition on disclosure*

- 28 (1) A credit provider must not disclose credit information about an  
29 individual to a credit reporting body (whether or not the body's  
30 credit reporting business is carried on in Australia).

31 Civil penalty: 2,000 penalty units.

### 32 *Permitted disclosure*

- 33 (2) Subsection (1) does not apply to the disclosure of credit  
34 information about the individual if:

- 1 (a) the credit provider:  
2 (i) is a member of a recognised external dispute resolution  
3 scheme; and  
4 (ii) knows, or believes on reasonable grounds, that the  
5 individual is at least 18 years old; and  
6 (b) the credit reporting body is:  
7 (i) an agency; or  
8 (ii) an organisation that has an Australian link; and  
9 (c) the information meets the requirements of subsection (3).
- 10 Note: Section 21F limits the disclosure of credit information if there is a ban  
11 period for the information.
- 12 (3) Credit information about an individual meets the requirements of  
13 this subsection if:  
14 (a) the information does not relate to an act, omission, matter or  
15 thing that occurred or existed before the individual turned 18;  
16 and  
17 (b) if the information relates to consumer credit or commercial  
18 credit—the credit is or has been provided, or applied for, in  
19 Australia; and  
20 (c) if the information is repayment history information about the  
21 individual:  
22 (i) the credit provider is a licensee; and  
23 (ii) the consumer credit to which the information relates is  
24 consumer credit in relation to which the provider also  
25 discloses, or a credit provider has previously disclosed,  
26 consumer credit liability information about the  
27 individual to the credit reporting body; and  
28 (iii) the provider complies with any requirements relating to  
29 the disclosure of the information that are prescribed by  
30 the regulations; and  
31 (d) if the information is default information about the individual:  
32 (i) the credit provider has given the individual a notice in  
33 writing stating that the provider intends to disclose the  
34 information to the credit reporting body; and  
35 (ii) a reasonable period has passed since the giving of the  
36 notice.
- 37 (4) Paragraph (3)(a) does not apply to identification information about  
38 the individual.
-

- 
- 1 (5) Despite paragraph (3)(a), consumer credit liability information  
2 about the individual may relate to consumer credit that was entered  
3 into on a day before the individual turned 18, so long as the  
4 consumer credit was not terminated, or did not otherwise cease to  
5 be in force, on a day before the individual turned 18.

6 *Written note of disclosure*

- 7 (6) If a credit provider discloses credit information under this section,  
8 the provider must make a written note of that disclosure.

9 Civil penalty: 500 penalty units.

10 *Interaction with the Australian Privacy Principles*

- 11 (7) If a credit provider is an APP entity, Australian Privacy Principles  
12 6 and 8 do not apply to the disclosure by the provider of credit  
13 information to a credit reporting body.

14 **21E Payment information must be disclosed to a credit reporting**  
15 **body**

16 If:

- 17 (a) a credit provider has disclosed default information about an  
18 individual to a credit reporting body under section 21D; and  
19 (b) after the default information was disclosed, the amount of the  
20 overdue payment to which the information relates is paid;  
21 the provider must, within a reasonable period after the amount is  
22 paid, disclose payment information about the amount to the body  
23 under that section.

24 Civil penalty: 500 penalty units.

25 **21F Limitation on the disclosure of credit information during a ban**  
26 **period**

- 27 (1) This section applies if:  
28 (a) a credit reporting body holds credit reporting information  
29 about an individual; and  
30 (b) a credit provider requests the body to disclose the  
31 information to the provider for the purpose of assessing an

1 application for consumer credit made to the provider by the  
2 individual, or a person purporting to be the individual; and  
3 (c) the body is not permitted to disclose the information because  
4 there is a ban period for the information; and  
5 (d) during the ban period, the provider provides the consumer  
6 credit to which the application relates to the individual, or the  
7 person purporting to be the individual.

8 (2) If the credit provider holds credit information about the individual  
9 that relates to the consumer credit, the provider must not, despite  
10 sections 21D and 21E, disclose the information to a credit  
11 reporting body.

12 Civil penalty: 2,000 penalty units.

13 (3) Subsection (2) does not apply if the credit provider has taken such  
14 steps as are reasonable in the circumstances to verify the identity of  
15 the individual.

## 16 **Subdivision D—Dealing with credit eligibility information etc.**

### 17 **21G Use or disclosure of credit eligibility information**

#### 18 *Prohibition on use or disclosure*

19 (1) If a credit provider holds credit eligibility information about an  
20 individual, the provider must not use or disclose the information.

21 Civil penalty: 2,000 penalty units.

#### 22 *Permitted uses*

23 (2) Subsection (1) does not apply to the use of credit eligibility  
24 information about the individual if:

25 (a) the use is for a consumer credit related purpose of the credit  
26 provider in relation to the individual; or

27 (b) the use is a permitted CP use in relation to the individual; or

28 (c) both of the following apply:

29 (i) the credit provider believes on reasonable grounds that  
30 the individual has committed a serious credit  
31 infringement;

- 
- 1 (ii) the provider uses the information in connection with the  
2 infringement; or  
3 (d) the use is required or authorised by or under an Australian  
4 law or a court/tribunal order; or  
5 (e) the use is a use prescribed by the regulations.

6 *Permitted disclosures*

- 7 (3) Subsection (1) does not apply to the disclosure of credit eligibility  
8 information about the individual if:  
9 (a) the disclosure is a permitted CP disclosure in relation to the  
10 individual; or  
11 (b) the disclosure is to a related body corporate of the credit  
12 provider and the body corporate has an Australian link; or  
13 (c) the disclosure is to a person who manages credit provided by  
14 the credit provider for use in managing that credit and the  
15 person:  
16 (i) is not acting as an agent of the provider; and  
17 (ii) has an Australian link; or  
18 (d) both of the following apply:  
19 (i) the credit provider believes on reasonable grounds that  
20 the individual has committed a serious credit  
21 infringement;  
22 (ii) the provider discloses the information to another credit  
23 provider that has an Australian link, or to an  
24 enforcement body; or  
25 (e) both of the following apply:  
26 (i) the disclosure is for the purposes of a recognised  
27 external dispute resolution scheme;  
28 (ii) a credit provider or credit reporting body is a member of  
29 the scheme; or  
30 (f) the disclosure is required or authorised by or under an  
31 Australian law or a court/tribunal order; or  
32 (g) the disclosure is a disclosure prescribed by the regulations.
- 33 (4) However, if the credit eligibility information about the individual  
34 is, or was derived from, repayment history information about the  
35 individual, the credit provider must not disclose the information  
36 under subsection (3).

1 Civil penalty: 2,000 penalty units.

2 (5) Subsection (4) does not apply if:

- 3 (a) the recipient of the credit eligibility information is another  
4 credit provider who is a licensee; or  
5 (b) the disclosure is a permitted CP disclosure within the  
6 meaning of section 21L; or  
7 (c) the credit provider discloses the credit eligibility information  
8 under paragraph (3)(d) to an enforcement body; or  
9 (d) the credit provider discloses the credit eligibility information  
10 under paragraph (3)(e) or (f).

11 *Written note of use or disclosure*

12 (6) If a credit provider uses or discloses credit eligibility information  
13 under this section, the provider must make a written note of that  
14 use or disclosure.

15 Civil penalty: 500 penalty units.

16 *Interaction with the Australian Privacy Principles*

17 (7) If a credit provider is an APP entity, Australian Privacy Principles  
18 6, 7 and 8 do not apply to the provider in relation to credit  
19 eligibility information.

20 (8) If:

- 21 (a) a credit provider is an APP entity; and  
22 (b) the credit eligibility information is a government related  
23 identifier of the individual;

24 Australian Privacy Principle 9.2 does not apply to the provider in  
25 relation to the information.

## 26 **21H Permitted CP uses in relation to individuals**

27 A use by a credit provider of credit eligibility information about an  
28 individual is a *permitted CP use* in relation to the individual if:

- 29 (a) the relevant credit reporting information was disclosed to the  
30 provider under a provision specified in column 1 of the table  
31 for the purpose (if any) specified in that column; and  
32 (b) the provider uses the credit eligibility information for the  
33 purpose specified in column 2 of the table.



1

<b>Permitted CP uses</b>		
	<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>The relevant credit reporting information was disclosed to the credit provider under ...</b>	<b>The credit provider uses the credit eligibility information for ...</b>
1	item 1 of the table in subsection 20F(1) for the purpose of assessing an application for consumer credit made by the individual to the provider.	(a) a securitisation related purpose of the provider in relation to the individual; or (b) the internal management purposes of the provider that are directly related to the provision or management of consumer credit by the provider.
2	item 2 of the table in subsection 20F(1) for a particular commercial credit related purpose of the provider in relation to the individual.	that particular commercial credit related purpose.
3	item 2 of the table in subsection 20F(1) for the purpose of assessing an application for commercial credit made by a person to the provider.	the internal management purposes of the provider that are directly related to the provision or management of commercial credit by the provider.
4	item 3 of the table in subsection 20F(1) for a credit guarantee purpose of the provider in relation to the individual.	(a) the credit guarantee purpose; or (b) the internal management purposes of the provider that are directly related to the provision or management of any credit by the provider.
5	item 5 of the table in subsection 20F(1).	the purpose of assisting the individual to avoid defaulting on his or her obligations in relation to consumer credit provided by the provider to the individual.
6	item 6 of the table in subsection 20F(1) for a particular securitisation related purpose of the provider in relation to the individual.	that particular securitisation related purpose.

2

1       **21J Permitted CP disclosures between credit providers**

2                       *Consent*

- 3               (1) A disclosure by a credit provider of credit eligibility information  
4               about an individual is a ***permitted CP disclosure*** in relation to the  
5               individual if:  
6               (a) the disclosure is to another credit provider (the ***recipient***) for  
7               a particular purpose; and  
8               (b) the recipient has an Australian link; and  
9               (c) the individual expressly consents to the disclosure of the  
10              information to the recipient for that purpose.
- 11              (2) The consent of the individual under paragraph (1)(c):  
12              (a) must be given in writing unless:  
13                  (i) the disclosure of the information to the recipient is for  
14                  the purpose of assessing an application for consumer  
15                  credit or commercial credit made to the recipient; and  
16                  (ii) the application has not been made in writing; and  
17              (b) must be given to the credit provider or recipient.

18                       *Agents of credit providers*

- 19              (3) A disclosure by a credit provider of credit eligibility information  
20              about an individual is a ***permitted CP disclosure*** in relation to the  
21              individual if:  
22              (a) the provider is acting as an agent of another credit provider  
23              that has an Australian link; and  
24              (b) while the provider is so acting, the provider is a credit  
25              provider under subsection 6H(1); and  
26              (c) the provider discloses the information to the other credit  
27              provider in the provider's capacity as such an agent.

28                       *Securitisation arrangements etc.*

- 29              (4) A disclosure by a credit provider of credit eligibility information  
30              about an individual is a ***permitted CP disclosure*** in relation to the  
31              individual if:  
32              (a) the provider is a credit provider under subsection 6J(1) in  
33              relation to credit; and

- 
- 1 (b) the credit has been provided by, or is credit for which an  
2 application has been made to, another credit provider (the  
3 **original credit provider**) that has an Australian link; and  
4 (c) the original credit provider is not a credit provider under that  
5 subsection; and  
6 (d) the information is disclosed to:  
7 (i) the original credit provider; or  
8 (ii) another credit provider that is a credit provider under  
9 that subsection in relation to the credit and that has an  
10 Australian link; and  
11 (e) the disclosure of the information is reasonably necessary for:  
12 (i) purchasing, funding or managing, or processing an  
13 application for, the credit by means of a securitisation  
14 arrangement; or  
15 (ii) undertaking credit enhancement in relation to the credit.

16 *Mortgage credit secured by the same real property*

- 17 (5) A disclosure by a credit provider of credit eligibility information  
18 about an individual is a **permitted CP disclosure** in relation to the  
19 individual if:  
20 (a) the disclosure is to another credit provider that has an  
21 Australian link; and  
22 (b) both credit providers have provided mortgage credit to the  
23 individual in relation to which the same real property forms  
24 all or part of the security; and  
25 (c) the individual is at least 60 days overdue in making a  
26 payment in relation to the mortgage credit provided by either  
27 provider; and  
28 (d) the information is disclosed for the purpose of either provider  
29 deciding what action to take in relation to the overdue  
30 payment.

31 **21K Permitted CP disclosures relating to guarantees etc.**

32 *Offer to act as a guarantor etc.*

- 33 (1) A disclosure by a credit provider of credit eligibility information  
34 about an individual is a **permitted CP disclosure** in relation to the  
35 individual if:

- 1 (a) either:  
2 (i) the provider has provided credit to the individual; or  
3 (ii) the individual has applied to the provider for credit; and  
4 (b) the disclosure is to a person for the purpose of that person  
5 considering whether:  
6 (i) to offer to act as a guarantor in relation to the credit; or  
7 (ii) to offer property as security for the credit; and  
8 (c) the person has an Australian link; and  
9 (d) the individual expressly consents to the disclosure of the  
10 information to the person for that purpose.
- 11 (2) The consent of the individual under paragraph (1)(d) must be given  
12 in writing unless:  
13 (a) if subparagraph (1)(a)(i) applies—the application for the  
14 credit was not made in writing; or  
15 (b) if subparagraph (1)(a)(ii) applies—the application for the  
16 credit has not been made in writing.
- 17 *Guarantors etc.*
- 18 (3) A disclosure by a credit provider of credit eligibility information  
19 about an individual is a *permitted CP disclosure* in relation to the  
20 individual if:  
21 (a) the disclosure is to a person who:  
22 (i) is a guarantor in relation to credit provided by the  
23 provider to the individual; or  
24 (ii) has provided property as security for such credit; and  
25 (b) the person has an Australian link; and  
26 (c) either:  
27 (i) the individual expressly consents to the disclosure of the  
28 information to the person; or  
29 (ii) if subparagraph (a)(i) applies—the information is  
30 disclosed to the person for a purpose related to the  
31 enforcement, or proposed enforcement, of the guarantee.
- 32 (4) The consent of the individual under subparagraph (3)(c)(i) must be  
33 given in writing unless the application for the credit was not made  
34 in writing.

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**21L Permitted CP disclosures to mortgage insurers**

A disclosure by a credit provider of credit eligibility information about an individual is a *permitted CP disclosure* in relation to the individual if the disclosure is to a mortgage insurer that has an Australian link for:

- (a) a mortgage insurance purpose of the insurer in relation to the individual; or
- (b) any purpose arising under a contract for mortgage insurance that has been entered into between the provider and the insurer.

**21M Permitted CP disclosures to debt collectors**

(1) A disclosure by a credit provider of credit eligibility information about an individual is a *permitted CP disclosure* in relation to the individual if:

- (a) the disclosure is to a person or body that carries on a business or undertaking that involves the collection of debts on behalf of others; and
- (b) the person or body has an Australian link; and
- (c) the information is disclosed for the purpose of the collection of payments that are overdue in relation to:
  - (i) consumer credit provided by the provider to the individual; or
  - (ii) commercial credit provided by the provider to a person; and
- (d) the information is information of a kind referred to in subsection (2).

(2) The information for the purposes of paragraph (1)(d) is:

- (a) identification information about the individual; or
- (b) court proceedings information about the individual; or
- (c) personal insolvency information about the individual; or
- (d) if subparagraph (1)(c)(i) applies—default information about the individual if:
  - (i) the information relates to a payment that the individual is overdue in making in relation to consumer credit that has been provided by the credit provider to the individual; and

- 1 (ii) the provider does not hold, or has not held, payment  
2 information about the individual that relates to that  
3 overdue payment.

4 **21N Permitted CP disclosures to other recipients**

5 *Mortgage credit assistance schemes*

- 6 (1) A disclosure by a credit provider of credit eligibility information  
7 about an individual is a **permitted CP disclosure** in relation to the  
8 individual if:  
9 (a) the disclosure is to a State or Territory authority; and  
10 (b) the functions or responsibilities of the authority include:  
11 (i) giving assistance (directly or indirectly) that facilitates  
12 the provision of mortgage credit to individuals; or  
13 (ii) the management or supervision of schemes or  
14 arrangements under which such assistance is given; and  
15 (c) the information is disclosed for the purpose of enabling the  
16 authority:  
17 (i) to determine the extent of the assistance (if any) to give  
18 in relation to the provision of mortgage credit to the  
19 individual; or  
20 (ii) to manage or supervise such a scheme or arrangement.

21 *Assignment of debts owed to credit providers etc.*

- 22 (2) A disclosure by a credit provider of credit eligibility information  
23 about an individual is a **permitted CP disclosure** in relation to the  
24 individual if:  
25 (a) the disclosure is to one or more of the following (the  
26 **recipient**):  
27 (i) an entity;  
28 (ii) a professional legal adviser of the entity;  
29 (iii) a professional financial adviser of the entity; and  
30 (b) the recipient has an Australian link; and  
31 (c) subsection (3) applies to the information.  
32 (3) This subsection applies to the credit eligibility information if the  
33 recipient proposes to use the information:  
34 (a) in the process of the entity considering whether to:

- 
- 1 (i) accept an assignment of a debt owed to the credit  
2 provider; or  
3 (ii) accept a debt owed to the provider as security for credit  
4 provided to the provider; or  
5 (iii) purchase an interest in the provider or a related body  
6 corporate of the provider; or  
7 (b) in connection with exercising rights arising from the  
8 acceptance of such an assignment or debt, or the purchase of  
9 such an interest.

## 10 **21P Notification of a refusal of an application for consumer credit**

- 11 (1) This section applies if:
- 12 (a) a credit provider refuses an application for consumer credit  
13 made in Australia:
- 14 (i) by an individual; or  
15 (ii) jointly by an individual and one or more other persons  
16 (the *other applicants*); and
- 17 (b) the refusal is based wholly or partly on credit eligibility  
18 information about one or more of the following:
- 19 (i) the individual;  
20 (ii) a person who is proposing to act as a guarantor in  
21 relation to the consumer credit;  
22 (iii) if the application is an application of a kind referred to  
23 in subparagraph (a)(ii)—one of the other applicants; and
- 24 (c) a credit reporting body disclosed the relevant credit reporting  
25 information to the provider for the purposes of assessing the  
26 application.
- 27 (2) The credit provider must, within a reasonable period after refusing  
28 the application, give the individual a written notice that:
- 29 (a) states that the application has been refused; and  
30 (b) states that the refusal is based wholly or partly on credit  
31 eligibility information about one or more of the persons  
32 referred to in paragraph (1)(b); and  
33 (c) if that information is about the individual—sets out:
- 34 (i) the name and contact details of the credit reporting body  
35 that disclosed the relevant credit reporting information  
36 to the provider; and  
37 (ii) any other matter specified in the registered CR code.

1 **Subdivision E—Integrity of credit information and credit**  
2 **eligibility information**

3 **21Q Quality of credit eligibility information**

- 4 (1) A credit provider must take such steps (if any) as are reasonable in  
5 the circumstances to ensure that the credit eligibility information  
6 the provider collects is accurate, up-to-date and complete.
- 7 (2) A credit provider must take such steps (if any) as are reasonable in  
8 the circumstances to ensure that the credit eligibility information  
9 the provider uses or discloses is, having regard to the purpose of  
10 the use or disclosure, accurate, up-to-date, complete and relevant.
- 11 (3) If a credit provider is an APP entity, Australian Privacy Principle  
12 10 does not apply to the provider in relation to credit eligibility  
13 information.

14 **21R False or misleading credit information or credit eligibility**  
15 **information**

16 *Offences*

- 17 (1) A credit provider commits an offence if:  
18 (a) the provider discloses credit information under section 21D;  
19 and  
20 (b) the information is false or misleading in a material particular.

21 Penalty: 200 penalty units.

- 22 (2) A credit provider commits an offence if:  
23 (a) the provider uses or discloses credit eligibility information  
24 under this Division; and  
25 (b) the information is false or misleading in a material particular.

26 Penalty: 200 penalty units.

27 *Civil penalties*

- 28 (3) A credit provider must not disclose credit information under  
29 section 21D if the information is false or misleading in a material  
30 particular.



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1                    Civil penalty:            2,000 penalty units.

2                    (4) A credit provider must not use or disclose credit eligibility  
3                    information under this Division if the information is false or  
4                    misleading in a material particular.

5                    Civil penalty:            2,000 penalty units.

6                    **21S Security of credit eligibility information**

7                    (1) If a credit provider holds credit eligibility information, the provider  
8                    must take such steps as are reasonable in the circumstances to  
9                    protect the information:

10                               (a) from misuse, interference and loss; and

11                               (b) from unauthorised access, modification or disclosure.

12                    (2) If:

13                               (a) a credit provider holds credit eligibility information about an  
14                    individual; and

15                               (b) the provider no longer needs the information for any purpose  
16                    for which the information may be used or disclosed by the  
17                    provider under this Division; and

18                               (c) the provider is not required by or under an Australian law, or  
19                    a court/tribunal order, to retain the information;

20                    the provider must take such steps as are reasonable in the  
21                    circumstances to destroy the information or to ensure that the  
22                    information is de-identified.

23                    Civil penalty:            1,000 penalty units.

24                    (3) If a credit provider is an APP entity, Australian Privacy Principle  
25                    11 does not apply to the provider in relation to credit eligibility  
26                    information.

27                    **Subdivision F—Access to, and correction of, information**

28                    **21T Access to credit eligibility information**

29                               *Access*

30                    (1) If a credit provider holds credit eligibility information about an  
31                    individual, the provider must, on request by an access seeker in

1 relation to the information, give the access seeker access to the  
2 information.

3 *Exceptions to access*

- 4 (2) Despite subsection (1), the credit provider is not required to give  
5 the access seeker access to the credit eligibility information to the  
6 extent that:
- 7 (a) giving access would be unlawful; or
  - 8 (b) denying access is required or authorised by or under an  
9 Australian law or a court/tribunal order; or
  - 10 (c) giving access would be likely to prejudice one or more  
11 enforcement related activities conducted by, or on behalf of,  
12 an enforcement body.

13 *Dealing with requests for access*

- 14 (3) The credit provider must respond to the request within a reasonable  
15 period after the request is made.

16 *Means of access*

- 17 (4) If the credit provider gives access to the credit eligibility  
18 information, the access must be given in the manner set out in the  
19 registered CR code.

20 *Access charges*

- 21 (5) If the credit provider is an agency, the provider must not charge the  
22 access seeker for the making of the request or for giving access to  
23 the information.
- 24 (6) If a credit provider is an organisation or small business operator,  
25 any charge by the provider for giving access to the information  
26 must not be excessive and must not apply to the making of the  
27 request.

28 *Refusal to give access*

- 29 (7) If the provider refuses to give access to the information because of  
30 subsection (2), the provider must give the access seeker a written  
31 notice that:

- 
- 1 (a) sets out the reasons for the refusal except to the extent that,  
2 having regard to the grounds for the refusal, it would be  
3 unreasonable to do so; and  
4 (b) states that, if the access seeker is not satisfied with the  
5 response to the request, the access seeker may:  
6 (i) access a recognised external dispute resolution scheme  
7 of which the provider is a member; or  
8 (ii) make a complaint to the Commissioner under Part V.

9 *Interaction with the Australian Privacy Principles*

- 10 (8) If a credit provider is an APP entity, Australian Privacy Principle  
11 12 does not apply to the provider in relation to credit eligibility  
12 information.

13 **21U Correction of credit information or credit eligibility**  
14 **information**

- 15 (1) If:  
16 (a) a credit provider holds credit information or credit eligibility  
17 information about an individual; and  
18 (b) the provider is satisfied that, having regard to a purpose for  
19 which the information is held by the provider, the  
20 information is inaccurate, out-of-date, incomplete, irrelevant  
21 or misleading;  
22 the provider must take such steps (if any) as are reasonable in the  
23 circumstances to correct the information to ensure that, having  
24 regard to the purpose for which it is held, the information is  
25 accurate, up-to-date, complete, relevant and not misleading.

26 *Notice of correction*

- 27 (2) If:  
28 (a) the credit provider corrects credit information or credit  
29 eligibility information under subsection (1); and  
30 (b) the provider has previously disclosed the information under:  
31 (i) this Division (other than subsection 21V(4)); or  
32 (ii) the Australian Privacy Principles (other than Australian  
33 Privacy Principle 4.2);  
34 the provider must, within a reasonable period, give each recipient  
35 of the information written notice of the correction.

- 1 (3) Subsection (2) does not apply if:  
2 (a) it is impracticable for the credit provider to give the notice  
3 under that subsection; or  
4 (b) the credit provider is required by or under an Australian law,  
5 or a court/tribunal order, not to give the notice under that  
6 subsection.

7 *Interaction with the Australian Privacy Principles*

- 8 (4) If a credit provider is an APP entity, Australian Privacy Principle  
9 13:  
10 (a) applies to the provider in relation to credit information or  
11 credit eligibility information that is identification  
12 information; but  
13 (b) does not apply to the provider in relation to any other kind of  
14 credit information or credit eligibility information.

15 Note: Identification information may be corrected under this section or  
16 Australian Privacy Principle 13.

17 **21V Individual may request the correction of credit information etc.**

18 *Request*

- 19 (1) An individual may request a credit provider to correct personal  
20 information about the individual if:  
21 (a) the personal information is:  
22 (i) credit information about the individual; or  
23 (ii) CRB derived information about the individual; or  
24 (iii) CP derived information about the individual; and  
25 (b) the provider holds at least one kind of the personal  
26 information referred to in paragraph (a).

27 *Correction*

- 28 (2) If the credit provider is satisfied that the personal information is  
29 inaccurate, out-of-date, incomplete, irrelevant or misleading, the  
30 provider must take such steps (if any) as are reasonable in the  
31 circumstances to correct the information within:  
32 (a) the period of 30 days that starts on the day on which the  
33 request is made; or  
34 (b) such longer period as the individual has agreed to in writing.

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*Consultation*

- 1
- 2 (3) If the credit provider considers that the provider cannot be satisfied  
3 of the matter referred to in subsection (2) in relation to the personal  
4 information without consulting either or both of the following (the  
5 *interested party*):
- 6 (a) a credit reporting body that holds or held the information and  
7 that has an Australian link;
- 8 (b) another credit provider that holds or held the information and  
9 that has an Australian link;
- 10 the provider must consult that interested party, or those interested  
11 parties, about the individual's request.
- 12 (4) The use or disclosure of personal information about the individual  
13 for the purposes of the consultation is taken, for the purposes of  
14 this Act, to be a use or disclosure that is authorised by this  
15 subsection.

*No charge*

- 16
- 17 (5) The credit provider must not charge the individual for the making  
18 of the request or for correcting the information.

*Interaction with the Australian Privacy Principles*

- 19
- 20 (6) If a credit provider is an APP entity, Australian Privacy Principle  
21 13:
- 22 (a) applies to the provider in relation to personal information  
23 referred to in paragraph (1)(a) that is identification  
24 information; but
- 25 (b) does not apply to the provider in relation to any other kind of  
26 personal information referred to in that paragraph.

27 Note: Identification information may be corrected under this section or  
28 Australian Privacy Principle 13.

**21W Notice of correction etc. must be given**

- 29
- 30 (1) This section applies if an individual requests a credit provider to  
31 correct personal information under subsection 21V(1).

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*Notice of correction etc.*

- (2) If the credit provider corrects personal information about the individual under subsection 21V(2), the provider must, within a reasonable period:
  - (a) give the individual written notice of the correction; and
  - (b) if the provider consulted an interested party under subsection 21V(3) about the individual's request—give the party written notice of the correction; and
  - (c) if the correction relates to information that the provider has previously disclosed under:
    - (i) this Division (other than subsection 21V(4)); or
    - (ii) the Australian Privacy Principles (other than Australian Privacy Principle 4.2);give each recipient of the information written notice of the correction.
  
- (3) If the credit provider does not correct the personal information under subsection 21V(2), the provider must, within a reasonable period, give the individual written notice that:
  - (a) states that the correction has not been made; and
  - (b) sets out the provider's reasons for not correcting the information (including evidence substantiating the correctness of the information); and
  - (c) states that, if the individual is not satisfied with the response to the request, the individual may:
    - (i) access a recognised external dispute resolution scheme of which the provider is a member; or
    - (ii) make a complaint to the Commissioner under Part V.

*Exceptions*

- (4) Paragraph (2)(c) does not apply if it is impracticable for the credit provider to give the notice under that paragraph.
  
- (5) Subsection (2) or (3) does not apply if the credit provider is required by or under an Australian law, or a court/tribunal order, not to give the notice under that subsection.

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**Division 4—Affected information recipients****22 Guide to this Division**

This Division sets out rules that apply to affected information recipients in relation to their handling of their regulated information.

If an affected information recipient is an APP entity, the rules apply in relation to the regulated information of the recipient in addition to, or instead of, any relevant Australian Privacy Principles.

**Subdivision A—Consideration of information privacy****22A Open and transparent management of regulated information**

- (1) The object of this section is to ensure that an affected information recipient manages the regulated information of the recipient in an open and transparent way.

*Compliance with this Division etc.*

- (2) An affected information recipient must take such steps as are reasonable in the circumstances to implement practices, procedures and systems relating to the recipient's functions or activities that:
- (a) will ensure that the recipient complies with this Division and the registered CR code if it binds the recipient; and
  - (b) will enable the recipient to deal with inquiries or complaints from individuals about the recipient's compliance with this Division or the registered CR code if it binds the recipient.

*Policy about the management of regulated information*

- (3) An affected information recipient must have a clearly expressed and up-to-date policy about the recipient's management of the regulated information of the recipient.
- (4) Without limiting subsection (3), the policy of the affected information recipient must contain the following information:

- 1 (a) the kinds of regulated information that the recipient collects  
2 and holds, and how the recipient collects and holds that  
3 information;  
4 (b) the purposes for which the recipient collects, holds, uses and  
5 discloses regulated information;  
6 (c) how an individual may access regulated information about  
7 the individual that is held by the recipient and seek the  
8 correction of such information;  
9 (d) how an individual may complain about a failure of the  
10 recipient to comply with this Division or the registered CR  
11 code if it binds the recipient;  
12 (e) how the recipient will deal with such a complaint.

13 *Availability of policy etc.*

- 14 (5) An affected information recipient must take such steps as are  
15 reasonable in the circumstances to make the policy available:  
16 (a) free of charge; and  
17 (b) in such form as is appropriate.

18 Note: An affected information recipient will usually make the policy  
19 available on the recipient's website.

- 20 (6) If a person or body requests a copy, in a particular form, of the  
21 policy of an affected information recipient, the recipient must take  
22 such steps as are reasonable in the circumstances to give the person  
23 or body a copy in that form.

24 *Interaction with the Australian Privacy Principles*

- 25 (7) If an affected information recipient is an APP entity, Australian  
26 Privacy Principles 1.3 and 1.4 do not apply to the recipient in  
27 relation to the regulated information of the recipient.

28 **Subdivision B—Dealing with regulated information**

29 **22B Additional notification requirements for affected information**  
30 **recipients**

31 If an affected information recipient is an APP entity, then the  
32 matters for the purposes of Australian Privacy Principle 5.1 include  
33 the following matters to the extent that the personal information



referred to in that principle is regulated information of the recipient:

- (a) that the policy (the *credit reporting policy*) of the recipient that is referred to in subsection 22A(3) contains information about how an individual may access the regulated information about the individual that is held by the recipient, and seek the correction of such information;
- (b) that the credit reporting policy of the recipient contains information about how an individual may complain about a failure of the recipient to comply with this Division or the registered CR code if it binds the recipient; and
- (c) that the credit reporting policy of the recipient contains information about how the recipient will deal with such a complaint.

## **22C Use or disclosure of information by mortgage insurers or trade insurers**

### *Prohibition on use or disclosure*

(1) If:

- (a) a mortgage insurer or trade insurer holds or held personal information about an individual; and
- (b) the information was disclosed to the insurer by a credit reporting body or credit provider under Division 2 or 3 of this Part;

the insurer must not use or disclose the information, or any personal information about the individual derived from that information.

Civil penalty: 2,000 penalty units.

### *Permitted uses*

(2) Subsection (1) does not apply to the use of the information if:

- (a) for a mortgage insurer—the use is for:
  - (i) a mortgage insurance purpose of the insurer in relation to the individual; or
  - (ii) any purpose arising under a contract for mortgage insurance that has been entered into between the credit provider and the insurer; or

- 1 (b) for a trade insurer—the use is for a trade insurance purpose  
2 of the insurer in relation to the individual; or  
3 (c) the use is required or authorised by or under an Australian  
4 law or a court/tribunal order.

5 *Permitted disclosure*

- 6 (3) Subsection (1) does not apply to the disclosure of the information  
7 if the disclosure is required or authorised by or under an Australian  
8 law or a court/tribunal order.

9 *Interaction with the Australian Privacy Principles*

- 10 (4) If the mortgage insurer or trade insurer is an APP entity, Australian  
11 Privacy Principles 6, 7 and 8 do not apply to the insurer in relation  
12 to the information.

- 13 (5) If:

- 14 (a) the mortgage insurer or trade insurer is an APP entity; and  
15 (b) the information is a government related identifier of the  
16 individual;

17 Australian Privacy Principle 9.2 does not apply to the insurer in  
18 relation to the information.

19 **22D Use or disclosure of information by a related body corporate**

20 *Prohibition on use or disclosure*

- 21 (1) If:

- 22 (a) a body corporate holds or held credit eligibility information  
23 about an individual; and  
24 (b) the information was disclosed to the body by a credit  
25 provider under paragraph 21G(3)(b);

26 the body must not use or disclose the information, or any personal  
27 information about the individual derived from that information.

28 Civil penalty: 1,000 penalty units.

29 *Permitted use or disclosure*

- 30 (2) Subsection (1) does not apply to the use or disclosure of the  
31 information by the body corporate if the body would be permitted

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1 to use or disclose the information under section 21G if the body  
2 were the credit provider.

- 3 (3) In determining whether the body corporate would be permitted to  
4 use or disclose the information under section 21G, assume that the  
5 body is whichever of the following is applicable:  
6 (a) the credit provider that has provided the relevant credit to the  
7 individual;  
8 (b) the credit provider to which the relevant application for credit  
9 was made by the individual.

10 *Interaction with the Australian Privacy Principles*

11 (4) If the body corporate is an APP entity, Australian Privacy  
12 Principles 6, 7 and 8 do not apply to the body in relation to the  
13 information.

- 14 (5) If:  
15 (a) the body corporate is an APP entity; and  
16 (b) the information is a government related identifier of the  
17 individual;  
18 Australian Privacy Principle 9.2 does not apply to the body in  
19 relation to the information.

20 **22E Use or disclosure of information by credit managers**

21 *Prohibition on use or disclosure*

- 22 (1) If:  
23 (a) a person holds or held credit eligibility information about an  
24 individual; and  
25 (b) the information was disclosed to the person by a credit  
26 provider under paragraph 21G(3)(c) for use in managing  
27 credit provided by the provider;  
28 the person must not use or disclose the information, or any  
29 personal information about the individual derived from that  
30 information.

31 Civil penalty: 1,000 penalty units.

1 *Permitted uses*

- 2 (2) Subsection (1) does not apply to the use of the information if:  
3 (a) the person uses the information in managing credit provided  
4 by the credit provider; or  
5 (b) the use is required or authorised by or under an Australian  
6 law or a court/tribunal order.

7 *Permitted disclosure*

- 8 (3) Subsection (1) does not apply to the disclosure of the information  
9 if the disclosure is required or authorised by or under an Australian  
10 law or a court/tribunal order.

11 *Interaction with the Australian Privacy Principles*

- 12 (4) If the person is an APP entity, Australian Privacy Principles 6, 7  
13 and 8 do not apply to the person in relation to the information.
- 14 (5) If:  
15 (a) the person is an APP entity; and  
16 (b) the information is a government related identifier of the  
17 individual;  
18 Australian Privacy Principle 9.2 does not apply to the person in  
19 relation to the information.

20 **22F Use or disclosure of information by advisers etc.**

21 *Prohibition on use or disclosure*

- 22 (1) If:  
23 (a) any of the following (the *recipient*) holds or held credit  
24 eligibility information about an individual:  
25 (i) an entity;  
26 (ii) a professional legal adviser of the entity;  
27 (iii) a professional financial adviser of the entity; and  
28 (b) the information was disclosed to the recipient by a credit  
29 provider under subsection 21N(2);  
30 the recipient must not use or disclose the information, or any  
31 personal information about the individual derived from that  
32 information.

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1 Civil penalty: 1,000 penalty units.

2 *Permitted uses*

- 3 (2) Subsection (1) does not apply to the use of the information if:
- 4 (a) for a recipient that is the entity—the information is used for a
- 5 matter referred to in subsection 21N(3); or
- 6 (b) for a recipient that is the professional legal adviser, or
- 7 professional financial adviser, of the entity—the information
- 8 is used:
- 9 (i) in the adviser’s capacity as an adviser of the entity; and
- 10 (ii) in connection with advising the entity about a matter
- 11 referred to in subsection 21N(3); or
- 12 (c) the use is required or authorised by or under an Australian
- 13 law or a court/tribunal order.

14 *Permitted disclosure*

- 15 (3) Subsection (1) does not apply to the disclosure of the information
- 16 if the disclosure is required or authorised by or under an Australian
- 17 law or a court/tribunal order.

18 *Interaction with the Australian Privacy Principles*

- 19 (4) If the recipient is an APP entity, Australian Privacy Principles 6, 7
- 20 and 8 do not apply to the recipient in relation to the information.
- 21 (5) If:
- 22 (a) the recipient is an APP entity; and
- 23 (b) the information is a government related identifier of the
- 24 individual;
- 25 Australian Privacy Principle 9.2 does not apply to the recipient in
- 26 relation to the information.

27 **Division 5—Complaints**

28 **23 Guide to this Division**

29 

This Division deals with complaints about credit reporting bodies
or credit providers.

30

1 Individuals may complain to credit reporting bodies or credit  
2 providers about acts or practices that may be a breach of certain  
3 provisions of this Part or the registered CR code.

4 If a complaint is made, the respondent for the complaint must  
5 investigate the complaint and make a decision about the complaint.

6 **23A Individual may complain about a breach of a provision of this**  
7 **Part etc.**

8 *Complaint*

9 (1) An individual may complain to a credit reporting body about an act  
10 or practice engaged in by the body that may be a breach of either of  
11 the following provisions in relation to the individual:

12 (a) a provision of this Part (other than section 20R or 20T);

13 (b) a provision of the registered CR code (other than a provision  
14 that relates to that section).

15 Note: A complaint about a breach of section 20R or 20T, or a provision of  
16 the registered CR code that relates to that section, may be made to the  
17 Commissioner under Part V.

18 (2) An individual may complain to a credit provider about an act or  
19 practice engaged in by the provider that may be a breach of either  
20 of the following provisions in relation to the individual:

21 (a) a provision of this Part (other than section 21T or 21V);

22 (b) a provision of the registered CR code (other than a provision  
23 that relates to that section) if it binds the credit provider.

24 Note: A complaint about a breach of section 21T or 21V, or a provision of  
25 the registered CR code that relates to that section, may be made to the  
26 Commissioner under Part V.

27 *Nature of complaint*

28 (3) If an individual makes a complaint, the individual must specify the  
29 nature of the complaint.

30 (4) The complaint may relate to personal information that has been  
31 destroyed or de-identified.

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1                    *No charge*

- 2                    (5) The credit reporting body or credit provider must not charge the  
3                    individual for the making of the complaint or for dealing with the  
4                    complaint.

5                    **23B Dealing with complaints**

- 6                    (1) If an individual makes a complaint under section 23A, the  
7                    respondent for the complaint:  
8                        (a) must, within 7 days after the complaint is made, give the  
9                        individual a written notice that:  
10                          (i) acknowledges the making of the complaint; and  
11                          (ii) sets out how the respondent will deal with the  
12                          complaint; and  
13                        (b) must investigate the complaint.

14                    *Consultation about the complaint*

- 15                    (2) If the respondent for the complaint considers that it is necessary to  
16                    consult a credit reporting body or credit provider about the  
17                    complaint, the respondent must consult the body or provider.
- 18                    (3) The use or disclosure of personal information about the individual  
19                    for the purposes of the consultation is taken, for the purposes of  
20                    this Act, to be a use or disclosure that is authorised by this  
21                    subsection.

22                    *Decision about the complaint*

- 23                    (4) After investigating the complaint, the respondent must, within the  
24                    period referred to in subsection (5), make a decision about the  
25                    complaint and give the individual a written notice that:  
26                        (a) sets out the decision; and  
27                        (b) states that, if the individual is not satisfied with the decision,  
28                        the individual may:  
29                          (i) access a recognised external dispute resolution scheme  
30                          of which the respondent is a member; or  
31                          (ii) make a complaint to the Commissioner under Part V.
- 32                    (5) The period for the purposes of subsection (4) is:

- 1 (a) the period of 30 days that starts on the day on which the  
2 complaint is made; or  
3 (b) such longer period as the individual has agreed to in writing.

4 **23C Notification requirements relating to correction complaints**

- 5 (1) This section applies if an individual makes a complaint under  
6 section 23A about an act or practice that may breach section 20S or  
7 21U (which deal with the correction of personal information by  
8 credit reporting bodies and credit providers).

9 *Notification of complaint etc.*

- 10 (2) If:  
11 (a) the respondent for the complaint is a credit reporting body;  
12 and  
13 (b) the complaint relates to credit information or credit eligibility  
14 information that a credit provider holds;  
15 the respondent must, in writing:  
16 (c) notify the provider of the making of the complaint as soon as  
17 practicable after it is made; and  
18 (d) notify the provider of the making of a decision about the  
19 complaint under subsection 23B(4) as soon as practicable  
20 after it is made.
- 21 (3) If:  
22 (a) the respondent for the complaint is a credit provider; and  
23 (b) the complaint relates to:  
24 (i) credit reporting information that a credit reporting body  
25 holds; or  
26 (ii) credit information or credit eligibility information that  
27 another credit provider holds;  
28 the respondent must, in writing:  
29 (c) notify the body or other provider (as the case may be) of the  
30 making of the complaint as soon as practicable after it is  
31 made; and  
32 (d) notify the body or other provider (as the case may be) of the  
33 making of a decision about the complaint under subsection  
34 23B(4) as soon as practicable after it is made.



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*Notification of recipients of disclosed information*

## (4) If:

(a) a credit reporting body discloses credit reporting information to which the complaint relates under Division 2 of this Part; and

(b) at the time of the disclosure, a decision about the complaint under subsection 23B(4) has not been made;

the body must, at that time, notify in writing the recipient of the information of the complaint.

## (5) If:

(a) a credit provider discloses personal information to which the complaint relates under Division 3 of this Part or under the Australian Privacy Principles; and

(b) at the time of the disclosure, a decision about the complaint under subsection 23B(4) has not been made;

the provider must, at that time, notify in writing the recipient of the information of the complaint.

*Exceptions*

## (6) Subsection (2), (3), (4) or (5) does not apply if:

(a) it is impracticable for the credit reporting body or credit provider to give the notification under that subsection; or

(b) the credit reporting body or credit provider is required by or under an Australian law, or a court/tribunal order, not to give the notification under that subsection.

**Division 6—Unauthorised obtaining of credit reporting information etc.****24 Obtaining credit reporting information from a credit reporting body***Offences*

## (1) An entity commits an offence if:

(a) the entity obtains credit reporting information; and

(b) the information is obtained from a credit reporting body; and

(c) the entity is not:

- 1 (i) an entity to which the body is permitted to disclose the  
2 information under Division 2 of this Part; or  
3 (ii) an access seeker for the information.

4 Penalty: 200 penalty units.

- 5 (2) An entity commits an offence if:  
6 (a) the entity obtains credit reporting information; and  
7 (b) the information is obtained from a credit reporting body; and  
8 (c) the information is obtained by false pretence.

9 Penalty: 200 penalty units.

10 *Civil penalties*

- 11 (3) An entity must not obtain credit reporting information from a credit  
12 reporting body if the entity is not:  
13 (a) an entity to which the body is permitted to disclose the  
14 information under Division 2 of this Part; or  
15 (b) an access seeker for the information.

16 Civil penalty: 2,000 penalty units.

- 17 (4) An entity must not obtain, by false pretence, credit reporting  
18 information from a credit reporting body.

19 Civil penalty: 2,000 penalty units.

20 **24A Obtaining credit eligibility information from a credit provider**

21 *Offences*

- 22 (1) An entity commits an offence if:  
23 (a) the entity obtains credit eligibility information; and  
24 (b) the information is obtained from a credit provider; and  
25 (c) the entity is not:  
26 (i) an entity to which the provider is permitted to disclose  
27 the information under Division 3 of this Part; or  
28 (ii) an access seeker for the information.

29 Penalty: 200 penalty units.

- 30 (2) An entity commits an offence if:
-

- 
- 1 (a) the entity obtains credit eligibility information; and  
2 (b) the information is obtained from a credit provider; and  
3 (c) the information is obtained by false pretence.

4 Penalty: 200 penalty units.

5 *Civil penalties*

- 6 (3) An entity must not obtain credit eligibility information from a  
7 credit provider if the entity is not:  
8 (a) an entity to which the provider is permitted to disclose the  
9 information under Division 3 of this Part; or  
10 (b) an access seeker for the information.

11 Civil penalty: 2,000 penalty units.

- 12 (4) An entity must not obtain, by false pretence, credit eligibility  
13 information from a credit provider.

14 Civil penalty: 2,000 penalty units.

15 **Division 7—Court orders**

16 **25 Compensation orders**

- 17 (1) The Federal Court or the Federal Magistrates Court may order an  
18 entity to compensate a person for loss or damage (including injury  
19 to the person's feelings or humiliation) suffered by the person if:  
20 (a) either:  
21 (i) a civil penalty order has been made against the entity for  
22 a contravention of a civil penalty provision (other than  
23 section 13G); or  
24 (ii) the entity is found guilty of an offence against this Part;  
25 and  
26 (b) that loss or damage resulted from the contravention or  
27 commission of the offence.

28 The order must specify the amount of compensation.

- 29 (2) The court may make the order only if:  
30 (a) the person applies for an order under this section; and

1 (b) the application is made within 6 years of the day the cause of  
2 action that relates to the contravention or commission of the  
3 offence accrued.

4 (3) If the court makes the order, the amount of compensation specified  
5 in the order that is to be paid to the person may be recovered as a  
6 debt due to the person.

7 **25A Other orders to compensate loss or damage**

8 (1) This section applies if:

9 (a) either:

10 (i) a civil penalty order has been made against an entity for  
11 a contravention of a civil penalty provision (other than  
12 section 13G); or

13 (ii) an entity is found guilty of an offence against this Part;  
14 and

15 (b) a person has suffered, or is likely to suffer, loss or damage  
16 (including injury to the person's feelings or humiliation) as a  
17 result of the contravention or commission of the offence.

18 (2) The Federal Court or the Federal Magistrates Court may make such  
19 order as the Court considers appropriate against the entity to:

20 (a) compensate the person, in whole or in part, for that loss or  
21 damage; or

22 (b) prevent or reduce that loss or damage suffered, or likely to be  
23 suffered, by the person.

24 (3) Without limiting subsection (2), examples of orders the court may  
25 make include:

26 (a) an order directing the entity to perform any reasonable act, or  
27 carry out any reasonable course of conduct, to redress the  
28 loss or damage suffered by the person; and

29 (b) an order directing the entity to pay the person a specified  
30 amount to reimburse the person for expenses reasonably  
31 incurred by the person in connection with the contravention  
32 or commission of the offence; and

33 (c) an order directing the defendant to pay to the person the  
34 amount of loss or damage the plaintiff suffered.

35 (4) The court may make the order only if:

36 (a) the person applies for an order under this section; and

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1 (b) the application is made within 6 years of the day the cause of  
2 action that relates to the contravention or commission of the  
3 offence accrued.

4 (5) If the court makes an order that the entity pay an amount to the  
5 person, the person may recover the amount as a debt due to the  
6 person.

7 **73 Subsections 30(3) and (4)**

8 Omit “credit reporting agency” (wherever occurring), substitute “credit  
9 reporting body”.

10 **74 Subsection 49(4) (paragraph (a) of the definition of *credit***  
11 ***reporting offence*)**

12 Omit “18C(4), 18D(4), 18K(4), 18L(2), 18N(2), 18R(2) or 18S(3) or  
13 section 18T”, substitute “20P(1), 21R(1) or (2), 24(1) or (2) or 24A(1)  
14 or (2)”.

15 **75 Subsection 68(1)**

16 Omit “credit reporting agency”, substitute “credit reporting body”.  
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## Schedule 3—Privacy codes

### *Privacy Act 1988*

#### **1 Subsection 6(1)**

Insert:

*APP code* has the meaning given by section 26C.

#### **2 Subsection 6(1)**

Insert:

*APP code developer* means:

- (a) an APP entity; or
- (b) a group of APP entities; or
- (c) a body or association representing one or more APP entities.

#### **3 Subsection 6(1) (definition of *approved privacy code*)**

Repeal the definition.

#### **4 Subsection 6(1) (definition of *code complaint*)**

Omit “an approved privacy code”, substitute “a registered APP code”.

#### **5 Subsection 6(1) (definition of *Code of Conduct*)**

Repeal the definition.

#### **6 Subsection 6(1)**

Insert:

*Codes Register* has the meaning given by subsection 26U(1).

#### **7 Subsection 6(1)**

Insert:

*CR code* has the meaning given by section 26N.

#### **8 Subsection 6(1)**

Insert:

- 
- 1                    **CR code developer** means:
- 2                    (a) an entity that is subject to Part IIIA; or
- 3                    (b) a group of entities that are subject to Part IIIA; or
- 4                    (c) a body or association representing one or more entities that
- 5                    are subject to Part IIIA.
- 6                    **9 Subsection 6(1) (definition of *credit provider*)**
- 7                    After “III,”, insert “IIIB,”.
- 8                    **10 Subsection 6(1) (paragraph (a) of the definition of *credit***
- 9                    ***reporting complaint*)**
- 10                    Omit “the Code of Conduct”, substitute “the registered CR code”.
- 11                    **11 Subsection 6(1) (definition of *credit reporting***
- 12                    ***infringement*)**
- 13                    Repeal the definition.
- 14                    **12 Subsection 6(1) (definition of *privacy code*)**
- 15                    Repeal the definition.
- 16                    **13 Subsection 6(1)**
- 17                    Insert:
- 18                    *registered APP code* has the meaning given by section 26B.
- 19                    **14 Subsection 6(1)**
- 20                    Insert:
- 21                    *registered CR code* has the meaning given by section 26M.
- 22                    **15 Subsection 6(3A)**
- 23                    Repeal the subsection.
- 24                    **16 At the end of subsection 6(7)**
- 25                    Add:
- 26                    ; or (g) being both an APP complaint and a code complaint.
- 27                    **17 Section 6B (heading)**
- 28                    Repeal the heading, substitute:
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1 **6B Breach of a registered APP code**

2 **18 Subsections 6B(1), (2), (3) and (4)**

3 Omit “an approved privacy code”, substitute “a registered APP code”.

4 **19 After section 6B**

5 Insert:

6 **6BA Breach of the registered CR code**

7 For the purposes of this Act, an act or practice breaches the  
8 registered CR code if, and only if, it is contrary to, or inconsistent  
9 with, the code.

10 **20 Subsection 7(2)**

11 Omit “an approved privacy code”, substitute “a registered APP code”.

12 **21 Subsection 7B(2) (note)**

13 Omit “or a binding approved privacy code”, substitute “, or a registered  
14 APP code that binds the organisation,”.

15 **22 Subsection 13B(1) (note)**

16 Omit “or a binding approved privacy code”, substitute “and a registered  
17 APP code that binds them”.

18 **23 Subsection 13B(1) (paragraph (b) of the note)**

19 Omit “or a corresponding provision in a binding approved privacy  
20 code”.

21 **24 Subsection 13B(1A) (note)**

22 Omit “a binding approved privacy code”, substitute “a registered APP  
23 code that binds the body”.

24 **25 Subsection 13C(1) (note)**

25 Omit “or a binding approved privacy code”, substitute “and a registered  
26 APP code that binds them”.

27 **26 Subsection 13C(1) (note)**



1 Omit “or a corresponding provision in a binding approved privacy  
2 code”.

3 **27 Division 5 of Part III**

4 Repeal the Division.

5 **28 Part IIIAA**

6 Repeal the Part.

7 **29 Before Part IV**

8 Insert:

9 **Part IIIB—Privacy codes**

10 **Division 1—Introduction**

11 **26 Guide to this Part**

12 This Part deals with privacy codes.

13 Division 2 deals with codes of practice about information privacy,  
14 called APP codes. APP code developers or the Commissioner may  
15 develop APP codes, which:

- 16 (a) must set out how one or more of the Australian  
17 Privacy Principles are to be applied or complied  
18 with; and
- 19 (b) may impose additional requirements to those  
20 imposed by the Australian Privacy Principles; and
- 21 (c) may deal with other specified matters.

22 If the Commissioner includes an APP code on the Codes Register,  
23 an APP entity bound by the code must not breach it. A breach of a  
24 registered APP code is an interference with the privacy of an  
25 individual.

1 Division 3 deals with a code of practice about credit reporting,  
2 called a CR code. CR code developers or the Commissioner may  
3 develop a CR code, which:

- 4 (a) must set out how one or more of the provisions of  
5 Part IIIA are to be applied or complied with; and
- 6 (b) must deal with matters required or permitted by  
7 Part IIIA to be provided for by the registered CR  
8 code; and
- 9 (c) may deal with other specified matters.

10 If the Commissioner includes a CR code on the Codes Register, an  
11 entity bound by the code must not breach it. A breach of the  
12 registered CR code is an interference with the privacy of an  
13 individual.

14 Division 4 deals with the Codes Register, guidelines relating to  
15 codes and the review of the operation of registered codes.

## 16 **Division 2—Registered APP codes**

### 17 **Subdivision A—Compliance with registered APP codes etc.**

#### 18 **26A APP entities to comply with binding registered APP codes**

19 An APP entity must not do an act, or engage in a practice, that  
20 breaches a registered APP code that binds the entity.

#### 21 **26B What is a *registered APP code***

- 22 (1) A *registered APP code* is an APP code:  
23 (a) that is included on the Codes Register; and  
24 (b) that is in force.
- 25 (2) A registered APP code is a legislative instrument.
- 26 (3) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a  
27 registered APP code may be expressed to take effect before the  
28 date it is registered under that Act.



1 **26D Extension of Act to exempt acts or practices covered by**  
2 **registered APP codes**

3 If a registered APP code covers an act or practice that is exempt  
4 within the meaning of subsection 7B(1), (2) or (3), this Act applies  
5 in relation to the code as if that act or practice were not exempt.

6 **Subdivision B—Development and registration of APP codes**

7 **26E Development of APP codes by APP code developers**

8 *Own initiative*

9 (1) An APP code developer may develop an APP code.

10 *At the Commissioner's request*

11 (2) The Commissioner may, in writing, request an APP code developer  
12 to develop an APP code, and apply to the Commissioner for the  
13 code to be registered, if the Commissioner is satisfied it is in the  
14 public interest for the code to be developed.

15 (3) The request must:

- 16 (a) specify the period within which the request must be complied  
17 with; and  
18 (b) set out the effect of section 26A.

19 (4) The period:

- 20 (a) must run for at least 120 days from the date the request is  
21 made; and  
22 (b) may be extended by the Commissioner.

23 (5) The request may:

- 24 (a) specify one or more matters that the APP code must deal  
25 with; and  
26 (b) specify the APP entities, or a class of APP entities, that  
27 should be bound by the code.

28 (6) Despite paragraph (5)(a), the Commissioner must not require an  
29 APP code to cover an act or practice that is exempt within the  
30 meaning of subsection 7B(1), (2) or (3). However, the APP code  
31 that is developed by the APP code developer may cover such an act  
32 or practice.

- 
- 1 (7) The Commissioner must make a copy of the request publicly  
2 available as soon as practicable after the request is made.

3 **26F Application for registration of APP codes**

- 4 (1) If an APP code developer develops an APP code, the developer  
5 may apply to the Commissioner for registration of the code.
- 6 (2) Before making the application, the APP code developer must:  
7 (a) make a draft of the APP code publicly available; and  
8 (b) invite the public to make submissions to the developer about  
9 the draft within a specified period (which must run for at  
10 least 28 days); and  
11 (c) give consideration to any submissions made within the  
12 specified period.
- 13 (3) The application must:  
14 (a) be made in the form and manner specified by the  
15 Commissioner; and  
16 (b) be accompanied by such information as is specified by the  
17 Commissioner.
- 18 (4) The APP code developer may vary the APP code at any time  
19 before the Commissioner registers the code, but only with the  
20 consent of the Commissioner.

21 **26G Development of APP codes by the Commissioner**

- 22 (1) This section applies if the Commissioner made a request under  
23 subsection 26E(2) and either:  
24 (a) the request has not been complied with; or  
25 (b) the request has been complied with but the Commissioner has  
26 decided not to register, under section 26H, the APP code that  
27 was developed as requested.
- 28 (2) The Commissioner may develop an APP code if the Commissioner  
29 is satisfied that it is in public interest to develop the code.  
30 However, despite subsection 26C(3)(b), the APP code must not  
31 cover an act or practice that is exempt within the meaning of  
32 subsection 7B(1), (2) or (3).

- 1 (3) Before registering the APP code under section 26H, the  
2 Commissioner must:  
3 (a) make a draft of the code publicly available; and  
4 (b) invite the public to make submissions to the Commissioner  
5 about the draft within a specified period (which must run for  
6 at least 28 days); and  
7 (c) give consideration to any submissions made within the  
8 specified period.

9 **26H Commissioner may register APP codes**

- 10 (1) If:  
11 (a) an application for registration of an APP code is made under  
12 section 26F; or  
13 (b) the Commissioner develops an APP code under section 26G;  
14 the Commissioner may register the code by including it on the  
15 Codes Register.
- 16 (2) In deciding whether to register the APP code, the Commissioner  
17 may:  
18 (a) consult any person the Commissioner considers appropriate;  
19 and  
20 (b) consider the matters specified in any relevant guidelines  
21 made under section 26V.
- 22 (3) If the Commissioner decides not to register an APP code developed  
23 by an APP code developer, the Commissioner must give written  
24 notice of the decision to the developer, including reasons for the  
25 decision.

26 **Subdivision C—Variation and removal of registered APP codes**

27 **26J Variation of registered APP codes**

- 28 (1) The Commissioner may, in writing, approve a variation of a  
29 registered APP code:  
30 (a) on his or her own initiative; or  
31 (b) on application by an APP entity that is bound by the code; or  
32 (c) on application by a body or association representing one or  
33 more APP entities that are bound by the code.

- 
- 1 (2) An application under paragraph (1)(b) or (c) must:  
2 (a) be made in the form and manner specified by the  
3 Commissioner; and  
4 (b) be accompanied by such information as is specified by the  
5 Commissioner.
- 6 (3) If the Commissioner varies a registered APP code on his or her  
7 own initiative, then, despite subsection 26C(3)(b), the variation  
8 must not deal with an act or practice that is exempt within the  
9 meaning of subsection 7B(1), (2) or (3).
- 10 (4) Before deciding whether to approve a variation, the Commissioner  
11 must:  
12 (a) make a draft of the variation publicly available; and  
13 (b) consult any person the Commissioner considers appropriate  
14 about the variation; and  
15 (c) consider the extent to which members of the public have  
16 been given an opportunity to comment on the variation.
- 17 (5) In deciding whether to approve a variation, the Commissioner may  
18 consider the matters specified in any relevant guidelines made  
19 under section 26V.
- 20 (6) If the Commissioner approves a variation of a registered APP code  
21 (the *original code*), the Commissioner must:  
22 (a) remove the original code from the Codes Register; and  
23 (b) register the APP code, as varied, by including it on the  
24 Register.
- 25 (7) If the Commissioner approves a variation, the variation comes into  
26 effect on the day specified in the approval, which must not be  
27 before the day on which the APP code, as varied, is included on the  
28 Codes Register.
- 29 (8) An approval is not a legislative instrument.
- 30 Note: The APP code, as varied, is a legislative instrument once it is included  
31 on the Codes Register: see section 26B.

## 32 **26K Removal of registered APP codes**

- 33 (1) The Commissioner may remove a registered APP code from the  
34 Codes Register:
-

- 1 (a) on his or her own initiative; or  
2 (b) on application by an APP entity that is bound by the code; or  
3 (c) on application by a body or association representing one or  
4 more APP entities that are bound by the code.
- 5 (2) An application under paragraph (1)(b) or (c) must:  
6 (a) be made in the form and manner specified by the  
7 Commissioner; and  
8 (b) be accompanied by such information as is specified by the  
9 Commissioner.
- 10 (3) Before deciding whether to remove the registered APP code, the  
11 Commissioner must:  
12 (a) consult any person the Commissioner considers appropriate  
13 about the proposed removal; and  
14 (b) consider the extent to which members of the public have  
15 been given an opportunity to comment on the proposed  
16 removal.
- 17 (4) In deciding whether to remove the registered APP code, the  
18 Commissioner may consider the matters specified in any relevant  
19 guidelines made under section 26V.

## 20 Division 3—Registered CR code

### 21 Subdivision A—Compliance with the registered CR code

#### 22 26L Entities to comply with the registered CR code if bound by the 23 code

24 If an entity is bound by the registered CR code, the entity must not  
25 do an act, or engage in a practice, that breaches the code.

26 Note: There must always be one, and only one, registered CR code at all  
27 times after this Part commences: see subsection 26S(4).

#### 28 26M What is the *registered CR code*

- 29 (1) The *registered CR code* is the CR code that is included on the  
30 Codes Register.
- 31 (2) The registered CR code is a legislative instrument.



- 
- 1 (3) Despite subsection 12(2) of the *Legislative Instruments Act 2003*,  
2 the registered CR code may be expressed to take effect before the  
3 date it is registered under that Act.

4 **26N What is a CR code**

- 5 (1) A **CR code** is a written code of practice about credit reporting.
- 6 (2) A CR code must:
- 7 (a) set out how one or more of the provisions of Part IIIA are to  
8 be applied or complied with; and
- 9 (b) make provision for, or in relation to, matters required or  
10 permitted by Part IIIA to be provided for by the registered  
11 CR code; and
- 12 (c) bind all credit reporting bodies; and
- 13 (d) specify the credit providers that are bound by the code, or a  
14 way of determining which credit providers are bound; and
- 15 (e) specify any other entities subject to Part IIIA that are bound  
16 by the code, or a way of determining which of those entities  
17 are bound.
- 18 (3) A CR code may do one or more of the following:
- 19 (a) impose additional requirements to those imposed by  
20 Part IIIA, so long as the additional requirements are not  
21 contrary to, or inconsistent with, that Part;
- 22 (b) deal with the internal handling of complaints;
- 23 (c) provide for the reporting to the Commissioner about  
24 complaints;
- 25 (d) deal with any other relevant matters.
- 26 (4) A CR code may be expressed to apply differently in relation to:
- 27 (a) classes of entities that are subject to Part IIIA; and
- 28 (b) specified classes of credit information, credit reporting  
29 information or credit eligibility information; and
- 30 (c) specified classes of activities of entities that are subject to  
31 Part IIIA.
- 32 (5) A CR code is not a legislative instrument.

1 **Subdivision B—Development and registration of CR code**

2 **26P Development of CR code by CR code developers**

- 3 (1) The Commissioner may, in writing, request a CR code developer to  
4 develop a CR code and apply to the Commissioner for the code to  
5 be registered.
- 6 (2) The request must:  
7 (a) specify the period within which the request must be complied  
8 with; and  
9 (b) set out the effect of section 26L.
- 10 (3) The period:  
11 (a) must run for at least 120 days from the date the request is  
12 made; and  
13 (b) may be extended by the Commissioner.
- 14 (4) The request may:  
15 (a) specify one or more matters that the CR code must deal with;  
16 and  
17 (b) specify the credit providers, or a class of credit providers,  
18 that should be bound by the code; and  
19 (c) specify the other entities, or a class of other entities, subject  
20 to Part IIIA that should be bound by the code.
- 21 (5) The Commissioner must make a copy of the request publicly  
22 available as soon as practicable after the request is made.

23 **26Q Application for registration of CR code**

- 24 (1) If a CR code developer develops a CR code, the developer may  
25 apply to the Commissioner for registration of the code.
- 26 (2) Before making the application, the CR code developer must:  
27 (a) make a draft of the CR code publicly available; and  
28 (b) invite the public to make submissions to the developer about  
29 the draft within a specified period (which must run for at  
30 least 28 days); and  
31 (c) give consideration to any submissions made within the  
32 specified period.

- 
- 1 (3) The application must:  
2 (a) be made in the form and manner specified by the  
3 Commissioner; and  
4 (b) be accompanied by such information as is specified by the  
5 Commissioner.
- 6 (4) The CR code developer may vary the CR code at any time before  
7 the Commissioner registers the code, but only with the consent of  
8 the Commissioner.

9 **26R Development of CR code by the Commissioner**

- 10 (1) The Commissioner may develop a CR code if the Commissioner  
11 made a request under section 26P and either:  
12 (a) the request has not been complied with; or  
13 (b) the request has been complied with but the Commissioner has  
14 decided not to register, under section 26S, the CR code that  
15 was developed as requested.
- 16 (2) Before registering the CR code under section 26S, the  
17 Commissioner must:  
18 (a) make a draft of the code publicly available; and  
19 (b) invite the public to make submissions to the Commissioner  
20 about the draft within a specified period (which must run for  
21 at least 28 days); and  
22 (c) give consideration to any submissions made within the  
23 specified period.

24 **26S Commissioner may register CR code**

- 25 (1) If:  
26 (a) an application for registration of a CR code is made under  
27 section 26Q; or  
28 (b) the Commissioner develops a CR code under section 26R;  
29 the Commissioner may register the code by including it on the  
30 Codes Register.
- 31 (2) In deciding whether to register the CR code, the Commissioner  
32 may:  
33 (a) consult any person the Commissioner considers appropriate;  
34 and

- 1 (b) consider the matters specified in any guidelines made under  
2 section 26V.
- 3 (3) If the Commissioner decides not to register a CR code developed  
4 by a CR code developer, the Commissioner must give written  
5 notice of the decision to the developer, including reasons for the  
6 decision.
- 7 (4) The Commissioner must ensure that there is one, and only one,  
8 registered CR code at all times after this Part commences.

9 **Subdivision C—Variation of the registered CR code**

10 **26T Variation of the registered CR code**

- 11 (1) The Commissioner may, in writing, approve a variation of the  
12 registered CR code:
- 13 (a) on his or her own initiative; or  
14 (b) on application by an entity that is bound by the code; or  
15 (c) on application by a body or association representing one or  
16 more of the entities that are bound by the code.
- 17 (2) An application under paragraph (1)(b) or (c) must:
- 18 (a) be made in the form and manner specified by the  
19 Commissioner; and  
20 (b) be accompanied by such information as is specified by the  
21 Commissioner.
- 22 (3) Before deciding whether to approve a variation, the Commissioner  
23 must:
- 24 (a) make a draft of the variation publicly available; and  
25 (b) consult any person the Commissioner considers appropriate  
26 about the variation; and  
27 (c) consider the extent to which members of the public have  
28 been given an opportunity to comment on the variation.
- 29 (4) In deciding whether to approve a variation, the Commissioner may  
30 consider the matters specified in any relevant guidelines made  
31 under section 26V.
- 32 (5) If the Commissioner approves a variation of the registered CR code  
33 (the *original code*), the Commissioner must:

- 
- 1 (a) remove the original code from the Codes Register; and  
2 (b) register the CR code, as varied, by including it on the  
3 Register.
- 4 (6) If the Commissioner approves a variation, the variation comes into  
5 effect on the day specified in the approval, which must not be  
6 before the day on which the CR code, as varied, is included on the  
7 Codes Register.
- 8 (7) An approval is not a legislative instrument.
- 9 Note: The CR code, as varied, is a legislative instrument once it is included  
10 on the Codes Register: see section 26M.

## 11 **Division 4—General matters**

### 12 **26U Codes Register**

- 13 (1) The Commissioner must keep a register (the *Codes Register*)  
14 which includes:  
15 (a) the APP codes the Commissioner has decided to register  
16 under section 26H; and  
17 (b) the APP codes the Commissioner must register under  
18 section 26J; and  
19 (c) the CR code the Commissioner has decided to register under  
20 section 26S; and  
21 (d) the CR code the Commissioner must register under  
22 section 26T.
- 23 (2) Despite subsection (1), the Commissioner is not required to include  
24 on the Codes Register:  
25 (a) an APP code removed from the Register under section 26J or  
26 26K; or  
27 (b) the CR code removed from the Register under section 26T.
- 28 (3) The Commissioner must make the Codes Register available on the  
29 Commissioner's website.
- 30 (4) The Commissioner may charge fees for providing copies of, or  
31 extracts from, the Codes Register.

1 **26V Guidelines relating to codes**

- 2 (1) The Commissioner may make written guidelines:  
3 (a) to assist APP code developers to develop APP codes; or  
4 (b) to assist APP entities bound by registered APP codes to apply  
5 or comply with the codes; or  
6 (c) to assist CR code developers to develop a CR code; or  
7 (d) to assist entities bound by the registered CR code to apply or  
8 comply with the code.
- 9 (2) The Commissioner may make written guidelines about matters the  
10 Commissioner may consider in deciding whether:  
11 (a) to register an APP code or a CR code; or  
12 (b) to approve a variation of a registered APP code or the  
13 registered CR code; or  
14 (c) to remove a registered APP code from the Codes Register.
- 15 (3) The Commissioner may publish any such guidelines on the  
16 Commissioner's website.
- 17 (4) Guidelines are not a legislative instrument.

18 **26W Review of operation of registered codes**

- 19 (1) The Commissioner may review the operation of a registered APP  
20 code.  
21 Note: The review may inform a decision by the Commissioner to approve a  
22 variation of a registered APP code or to remove a registered APP code  
23 from the Codes Register.
- 24 (2) The Commissioner may review the operation of the registered CR  
25 code.  
26 Note: The review may inform a decision by the Commissioner to approve a  
27 variation of the registered CR code.

28 **30 Subsection 36(1)**

29 Omit "Subject to subsection (1A), an", substitute "An".

30 **31 Subsections 36(1A), (1B) and (1C)**

31 Repeal the subsections.

32 **32 Subsections 54(1A), 55A(7) and 55B(2)**

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1 Repeal the subsections.

2 **33 Subsection 55B(3)**

3 Omit “or (2)”.

4 **34 Subsection 55B(3)**

5 Omit “or adjudicator”.

6 **35 Subsection 55B(4)**

7 Omit “or (2)”.

8 **36 Subsection 64(1)**

9 Omit “(1)”.

10 **37 Subsection 64(2)**

11 Repeal the subsection.

12 **38 Section 95C**

13 Omit “an approved privacy code”, substitute “a registered APP code”.

14

1 **Schedule 4—Other amendments of the**  
2 **Privacy Act 1988**  
3

4 **1 After section 2**

5 Insert:

6 **2A Objects of this Act**

7 The objects of this Act are:

- 8 (a) to promote the protection of the privacy of individuals; and  
9 (b) to recognise that the protection of the privacy of individuals  
10 is balanced with the interests of entities in carrying out their  
11 functions or activities; and  
12 (c) to provide the basis for nationally consistent regulation of  
13 privacy and the handling of personal information; and  
14 (d) to promote responsible and transparent handling of personal  
15 information by entities; and  
16 (e) to facilitate an efficient credit reporting system while  
17 ensuring that the privacy of individuals is respected; and  
18 (f) to facilitate the free flow of information across national  
19 borders while ensuring that the privacy of individuals is  
20 respected; and  
21 (g) to provide a means for individuals to complain about an  
22 alleged interference with their privacy; and  
23 (h) to implement Australia's international obligation in relation  
24 to privacy.

25 **2 Subsections 5B(1) and (1A)**

26 Repeal the subsections, substitute:

27 *Agencies*

- 28 (1) This Act, a registered APP code and the registered CR code extend  
29 to an act done, or practice engaged in, outside Australia and the  
30 external Territories by an agency.

31 Note: The act or practice overseas will not breach an Australian Privacy  
32 Principle or a registered APP code if the act or practice is required by  
33 an applicable foreign law (see sections 6A and 6B).



1 *Organisations and small business operators*

2 (1A) This Act, a registered APP code and the registered CR code extend  
3 to an act done, or practice engaged in, outside Australia and the  
4 external Territories by an organisation, or small business operator,  
5 that has an Australian link.

6 Note: The act or practice overseas will not breach an Australian Privacy  
7 Principle or a registered APP code if the act or practice is required by  
8 an applicable foreign law (see sections 6A and 6B).

9 **3 Subsection 5B(2) (heading)**

10 Repeal the heading, substitute:

11 *Australian link*

12 **4 Subsection 5B(2)**

13 Omit “The organisation must be”, substitute “An organisation or small  
14 business operator has an *Australian link* if the organisation or operator  
15 is”.

16 **5 Subsection 5B(3) (heading)**

17 Repeal the heading.

18 **6 Subsection 5B(3)**

19 Omit “All of the following conditions must be met”, substitute “An  
20 organisation or small business operator also has an *Australian link* if all  
21 of the following apply”.

22 **7 Paragraphs 5B(3)(a), (b) and (c)**

23 After “organisation”, insert “or operator”.

24 **8 Subsection 5B(4)**

25 After “subsection (1)”, insert “or (1A)”.

26 **9 Subsection 6(1)**

27 Insert:

28 *advice related functions* has the meaning given by subsection  
29 28B(1).

30 **10 Subsection 6(1)**

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1           Insert:

2                    *Australian link* has the meaning given by subsections 5B(2) and  
3                    (3).

4       **11 Subsection 6(1) (all the definitions of *breach*)**

5           Repeal the definitions, substitute:

6                    ***breach*:**

- 7                    (a) in relation to an Australian Privacy Principle, has the  
8                    meaning given by section 6A; and  
9                    (b) in relation to a registered APP code, has the meaning given  
10                   by section 6B; and  
11                   (c) in relation to the registered CR code, has the meaning given  
12                   by section 6BA.

13       **12 Subsection 6(1)**

14           Insert:

15                    *civil penalty order* has the meaning given by subsection 80W(4).

16       **13 Subsection 6(1)**

17           Insert:

18                    *civil penalty provision* has the meaning given by section 80U.

19       **14 Subsection 6(1) (definition of *code complaint*)**

20           Omit “the complainant”, substitute “an individual”.

21       **15 Subsection 6(1)**

22           Insert:

23                    *committee of management* of an unincorporated association means  
24                   a body (however described) that governs, manages or conducts the  
25                   affairs of the association.

26       **16 Subsection 6(1) (definition of *credit reporting complaint*)**

27           Omit “the complainant”, substitute “an individual”.

28       **17 Subsection 6(1)**

29           Insert:

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1                    ***Defence Department*** means the Department of State that deals  
2                    with defence and that is administered by the Minister administering  
3                    section 1 of the *Defence Act 1903*.

4                    **18 Subsection 6(1) (definition of *file number complaint*)**

5                    Omit “the complainant”, substitute “an individual”.

6                    **19 Subsection 6(1) (paragraph (a) of the definition of *file***  
7                    ***number complaint*)**

8                    Omit “guideline”, substitute “rule”.

9                    **20 Subsection 6(1)**

10                    Insert:

11                    ***guidance related functions*** has the meaning given by subsection  
12                    28(1).

13                    **21 Subsection 6(1) (definition of *individual concerned*)**

14                    Repeal the definition.

15                    **22 Subsection 6(1)**

16                    Insert:

17                    ***interference with the privacy of an individual*** has the meaning  
18                    given by sections 13 to 13F.

19                    **23 Subsection 6(1)**

20                    Insert:

21                    ***monitoring related functions*** has the meaning given by  
22                    subsections 28A(1) and (2).

23                    **24 Subsection 6(1)**

24                    Insert:

25                    ***offence against this Act*** includes an offence against section 6 of  
26                    the *Crimes Act 1914*, or section 11.1, 11.2, 11.2A, 11.4 or 11.5 of  
27                    the *Criminal Code*, that relates to an offence against this Act.

28                    **25 Subsection 6(1)**

29                    Insert:

1                    *recognised external dispute resolution scheme* means an external  
2                    dispute resolution scheme recognised under section 35A.

3                    **26 Subsection 6(1) (definition of *tax file number information*)**

4                    Omit “(including information forming part of a database)”.

5                    **27 Subsection 6(3)**

6                    Omit “guideline” (wherever occurring), substitute “rule”.

7                    **28 Subsection 6(6)**

8                    Omit “Department of Defence”, substitute “Defence Department”.

9                    **29 Paragraphs 7(1)(ca) and (g) and (1A)(c)**

10                    Omit “Department of Defence”, substitute “Defence Department”.

11                    **30 Subsection 7(2)**

12                    Omit “under section 27”, substitute “in relation to the principles and  
13                    such a code”.

14                    **31 Paragraph 7(2)(b)**

15                    Omit “Department of Defence”, substitute “Defence Department”.

16                    **32 Subsection 7(3A)**

17                    Repeal the subsection.

18                    **33 Subsection 7(4)**

19                    Omit “paragraphs 27(1)(b), (c), (d), (e), (g), (k) and (m)”, substitute  
20                    “section 28, of paragraphs 28A(2)(a) to (e)”.

21                    **34 Section 12B (heading)**

22                    Repeal the heading, substitute:

23                    **12B Severability—additional effect of this Act**

24                    **35 Subsections 12B(1) and (2)**

25                    Repeal the subsections, substitute:

1 (1) Without limiting its effect apart from this section, this Act has  
2 effect in relation to the following (the *regulated entities*) as  
3 provided by this section:

- 4 (a) an agency;  
5 (b) an organisation;  
6 (c) a small business operator;  
7 (d) a body politic.

8 Note: Subsection 27(4) applies in relation to an investigation of an act or  
9 practice referred to in subsection 29(1) of the *Healthcare Identifiers*  
10 *Act 2010*.

11 (2) This Act also has the effect it would have if its operation in relation  
12 to regulated entities were expressly confined to an operation to  
13 give effect to the following:

- 14 (a) the International Covenant on Civil and Political Rights done  
15 at New York on 16 December 1966 ([1980] ATS 23), and in  
16 particular Articles 17 and 24(1) of the Covenant;  
17 (b) Article 16 of the Convention on the Rights of the Child done  
18 at New York on 20 November 1989 ([1991] ATS 4).

19 Note: In 2012, the text of the Covenant and Convention in the Australian  
20 Treaty Series was accessible through the Australian Treaties Library  
21 on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

22 **36 Subsection 12B(3)**

23 Omit “to organisations”, substitute “to regulated entities”.

24 **37 Subsection 12B(3)**

25 Omit “subsection 5B(1)”, substitute “section 5B”.

26 **38 Subsection 12B(3)**

27 Omit “by organisations”.

28 **39 Subsections 12B(4) and (5)**

29 Omit “organisations” (wherever occurring), substitute “regulated  
30 entities”.

31 **40 After subsection 12B(5)**

32 Insert:

1 (5A) This Act also has the effect it would have if its operation in relation  
2 to regulated entities were expressly confined to acts or practices  
3 engaged in by regulated entities in the course of:

4 (a) banking (other than State banking not extending beyond the  
5 limits of the State concerned); or

6 (b) insurance (other than State insurance not extending beyond  
7 the limits of the State concerned).

#### 8 **41 Subsections 12B(6) to (8)**

9 Omit “organisations” (wherever occurring), substitute “regulated  
10 entities”.

#### 11 **42 Sections 13 and 13A**

12 Repeal the sections, substitute:

### 13 **13 Interferences with privacy**

#### 14 *APP entities*

15 (1) An act or practice of an APP entity is an ***interference with the***  
16 ***privacy of an individual*** if:

17 (a) the act or practice breaches an Australian Privacy Principle in  
18 relation to personal information about the individual; or

19 (b) the act or practice breaches a registered APP code that binds  
20 the entity in relation to personal information about the  
21 individual.

#### 22 *Credit reporting*

23 (2) An act or practice of an entity is an ***interference with the privacy***  
24 ***of an individual*** if:

25 (a) the act or practice breaches a provision of Part IIIA in  
26 relation to personal information about the individual; or

27 (b) the act or practice breaches the registered CR code in relation  
28 to personal information about the individual and the code  
29 binds the entity.

#### 30 *Contracted service providers*

31 (3) An act or practice of an organisation is an ***interference with the***  
32 ***privacy of an individual*** if:

---

- 1 (a) the act or practice relates to personal information about the  
 2 individual; and  
 3 (b) the organisation is a contracted service provider for a  
 4 Commonwealth contract (whether or not the organisation is a  
 5 party to the contract); and  
 6 (c) the act or practice does not breach:  
 7 (i) an Australian Privacy Principle; or  
 8 (ii) a registered APP code that binds the organisation;  
 9 in relation to the personal information because of a provision  
 10 of the contract that is inconsistent with the principle or code;  
 11 and  
 12 (d) the act is done, or the practice is engaged in, in a manner  
 13 contrary to, or inconsistent with, that provision.

14 Note: See subsections 6A(2) and 6B(2) for when an act or practice does not  
 15 breach an Australian Privacy Principle or a registered APP code.

16 *Tax file numbers*

- 17 (4) An act or practice is an ***interference with the privacy of an***  
 18 ***individual*** if:  
 19 (a) it is an act or practice of a file number recipient and the act or  
 20 practice breaches a rule issued under section 17 in relation to  
 21 tax file number information that relates to the individual; or  
 22 (b) the act or practice involves an unauthorised requirement or  
 23 request for disclosure of the tax file number of the individual.

24 *Other interferences with privacy*

- 25 (5) An act or practice is an ***interference with the privacy of an***  
 26 ***individual*** if the act or practice:  
 27 (a) constitutes a breach of Part 2 of the *Data-matching Program*  
 28 *(Assistance and Tax) Act 1990* or the rules issued under  
 29 section 12 of that Act; or  
 30 (b) constitutes a breach of the rules issued under section 135AA  
 31 of the *National Health Act 1953*.

32 Note: Other Acts may provide that an act or practice is an interference with  
 33 the privacy of an individual. For example, see the *Healthcare*  
 34 *Identifiers Act 2010*, the *Anti-Money Laundering and*  
 35 *Counter-Terrorism Financing Act 2006* and the *Personal Property*  
 36 *Securities Act 2009*.

37 **43 Subsection 13B(1)**

1 Omit “paragraphs 13A(1)(a) and (b)”, substitute “subsection 13(1)”.

2 **44 Subsection 13B(1)**

3 Omit “of an individual”, substitute “*of an individual*”.

4 **45 Subsection 13B(2)**

5 Repeal the subsection, substitute:

6 *Relationship with subsection 13(3)*

7 (2) Subsection (1) does not prevent an act or practice of an  
8 organisation from being an *interference with the privacy of an*  
9 *individual* under subsection 13(3).

10 **46 Subsection 13C(1)**

11 Omit “of the individual”, substitute “*of the individual*”.

12 **47 Subsection 13C(2)**

13 Repeal the subsection, substitute:

14 *Effect of subsection (1)*

15 (2) Subsection (1) has effect despite subsections 13(1) and (3).

16 **48 Subsection 13D(1)**

17 Omit “of an individual”, substitute “*of an individual*”.

18 **49 Subsection 13D(2)**

19 Repeal the subsection, substitute:

20 *Effect of subsection (1)*

21 (2) Subsection (1) has effect despite subsections 13(1) and (3).

22 **50 Sections 13E and 13F**

23 Repeal the sections, substitute:



1 **13E Effect of sections 13B, 13C and 13D**

2 Sections 13B, 13C and 13D do not prevent an act or practice of an  
3 organisation from being an *interference with the privacy of an*  
4 *individual* under subsection 13(2), (4) or (5).

5 **13F Act or practice not covered by section 13 is not an interference**  
6 **with privacy**

7 An act or practice that is not covered by section 13 is not an  
8 *interference with the privacy of an individual*.

9 **13G Serious and repeated interferences with privacy**

10 An entity contravenes this subsection if:

- 11 (a) the entity does an act, or engages in a practice, that is a  
12 serious interference with the privacy of an individual; or  
13 (b) the entity repeatedly does an act, or engages in a practice,  
14 that is an interference with the privacy of one or more  
15 individuals.

16 Civil penalty: 2,000 penalty units.

17 **51 Section 17**

18 Repeal the section, substitute:

19 **17 Rules relating to tax file number information**

20 The Commissioner must, by legislative instrument, issue rules  
21 concerning the collection, storage, use and security of tax file  
22 number information.

23 **52 Section 18 (heading)**

24 Repeal the heading, substitute:

25 **18 File number recipients to comply with rules**

26 **53 Section 18**

27 Omit “guideline”, substitute “rule”.

28 **54 Sections 27 to 29**

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1 Repeal the sections, substitute:

2 **27 Functions of the Commissioner**

- 3 (1) The Commissioner has the following functions:  
4 (a) the functions that are conferred on the Commissioner by or  
5 under:  
6 (i) this Act; or  
7 (ii) any other law of the Commonwealth;  
8 (b) the guidance related functions;  
9 (c) the monitoring related functions;  
10 (d) the advice related functions;  
11 (e) to do anything incidental or conducive to the performance of  
12 any of the above functions.
- 13 (2) The Commissioner has power to do all things necessary or  
14 convenient to be done for, or in connection with, the performance  
15 of the Commissioner's functions.
- 16 (3) Without limiting subsection (2), the Commissioner may establish a  
17 panel of persons with expertise in relation to a particular matter to  
18 assist the Commissioner in performing any of the Commissioner's  
19 functions.
- 20 (4) Section 38 of the *Healthcare Identifiers Act 2010*, rather than  
21 section 12B of this Act, applies in relation to an investigation of an  
22 act or practice referred to in subsection 29(1) of that Act in the  
23 same way as it applies to Parts 3 and 4 of that Act.

24 Note: Section 38 of the *Healthcare Identifiers Act 2010* deals with the  
25 additional effect of Parts 3 and 4 of that Act.

26 **28 Guidance related functions of the Commissioner**

- 27 (1) The following are the *guidance related functions* of the  
28 Commissioner:  
29 (a) making guidelines for the avoidance of acts or practices that  
30 may or might be interferences with the privacy of  
31 individuals, or which may otherwise have any adverse effects  
32 on the privacy of individuals;  
33 (b) making, by legislative instrument, guidelines for the purposes  
34 of paragraph (d) of Australian Privacy Principle 6.3;

- 1 (c) promoting an understanding and acceptance of:  
2 (i) the Australian Privacy Principles and the objects of  
3 those principles; and  
4 (ii) a registered APP code; and  
5 (iii) the provisions of Part IIIA and the objects of those  
6 provisions; and  
7 (iv) the registered CR code;  
8 (d) undertaking educational programs for the purposes of  
9 promoting the protection of individual privacy.
- 10 (2) The Commissioner may publish the guidelines referred to in  
11 paragraphs (1)(a) and (b) in such manner as the Commissioner  
12 considers appropriate.
- 13 (3) The educational programs referred to in paragraph (1)(d) may be  
14 undertaken by:  
15 (a) the Commissioner; or  
16 (b) a person or authority acting on behalf of the Commissioner.
- 17 (4) Guidelines made under paragraph (1)(a) are not a legislative  
18 instrument.

19 **28A *Monitoring related functions of the Commissioner***

20 *Credit reporting and tax file number information*

- 21 (1) The following are the ***monitoring related functions*** of the  
22 Commissioner:  
23 (a) monitoring the security and accuracy of information held by  
24 an entity that is information to which Part IIIA applies;  
25 (b) examining the records of entities to ensure that the entities:  
26 (i) are not using information to which Part IIIA applies for  
27 unauthorised purposes; and  
28 (ii) are taking adequate measures to prevent the unlawful  
29 disclosure of such information;  
30 (c) examining the records of the Commissioner of Taxation to  
31 ensure that the Commissioner:  
32 (i) is not using tax file number information for purposes  
33 beyond his or her powers; and

- 1 (ii) is taking adequate measures to prevent the unlawful  
2 disclosure of the tax file number information that he or  
3 she holds;  
4 (d) evaluating compliance with the rules issued under section 17;  
5 (e) monitoring the security and accuracy of tax file number  
6 information kept by file number recipients.

7 *Other matters*

- 8 (2) The following are also the *monitoring related functions* of the  
9 Commissioner:  
10 (a) examining a proposed enactment that would require or  
11 authorise acts or practices of an entity that might otherwise  
12 be interferences with the privacy of individuals, or which  
13 may otherwise have any adverse effects on the privacy of  
14 individuals;  
15 (b) examining a proposal for data matching or linkage that may  
16 involve an interference with the privacy of individuals, or  
17 which may otherwise have any adverse effects on the privacy  
18 of individuals;  
19 (c) ensuring that any adverse effects of the proposed enactment  
20 or the proposal on the privacy of individuals are minimised;  
21 (d) undertaking research into, and monitoring developments in,  
22 data processing and technology (including data matching and  
23 linkage) to ensure that any adverse effects of such  
24 developments on the privacy of individuals are minimised;  
25 (e) reporting to the Minister the results of that research and  
26 monitoring;  
27 (f) monitoring and reporting on the adequacy of equipment and  
28 user safeguards.
- 29 (3) The functions referred to in paragraphs (2)(a) and (b) may be  
30 performed by the Commissioner:  
31 (a) on request by a Minister or Norfolk Island Minister; or  
32 (b) on the Commissioner's own initiative.
- 33 (4) If the reporting referred to in paragraph (2)(e) or (f) is done in  
34 writing, the instrument is not a legislative instrument.

1 **28B *Advice related functions of the Commissioner***

- 2 (1) The following are the *advice related functions* of the  
3 Commissioner:
- 4 (a) providing advice to a Minister, Norfolk Island Minister or  
5 entity about any matter relevant to the operation of this Act;
- 6 (b) informing the Minister of action that needs to be taken by an  
7 agency in order to comply with the Australian Privacy  
8 Principles;
- 9 (c) providing reports and recommendations to the Minister in  
10 relation to any matter concerning the need for, or the  
11 desirability of, legislative or administrative action in the  
12 interests of the privacy of individuals;
- 13 (d) providing advice to file number recipients about:
- 14 (i) their obligations under the *Taxation Administration Act*  
15 *1953* in relation to the confidentiality of tax file number  
16 information; or  
17 (ii) any matter relevant to the operation of this Act.
- 18 (2) The functions referred to in paragraphs (1)(a), (c) and (d) may be  
19 performed by the Commissioner on request or on the  
20 Commissioner's own initiative.
- 21 (3) The Commissioner may perform the function referred to in  
22 paragraph (1)(b) whenever the Commissioners think it is necessary  
23 to do so.
- 24 (4) If the Minister is informed under paragraph (1)(b) in writing, or the  
25 report referred to in paragraph (1)(c) is provided in writing, the  
26 instrument is not a legislative instrument.

27 **29 Commissioner must have due regard to the objects of the Act**

28 The Commissioner must have due regard to the objects of this Act  
29 in performing the Commissioner's functions, and exercising the  
30 Commissioner's powers, conferred by this Act.

31 Note: The objects of this Act are set out in section 2A.

32 **55 Subparagraph 30(1)(b)(ii)**

33 Repeal the subparagraph, substitute:

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- 1 (ii) does not consider that it is reasonably possible that the  
2 matter that gave rise to the investigation can be  
3 conciliated successfully or has attempted to conciliate  
4 the matter without success.

5 **56 Subsection 30(3)**

6 Omit “under paragraph 27(1)(a), 28(1)(b) or (c) or 28A(1)(b)”.

7 **57 Subsection 30(3)**

8 After “credit provider” (first occurring), insert “that is an interference  
9 with the privacy of an individual under subsection 13(1), (2) or (4)”.

10 **58 Subsection 30(6)**

11 Repeal the subsection.

12 **59 Subsection 31(1)**

13 Omit “paragraph 27(1)(b)”, substitute “paragraph 28A(2)(a)”.

14 **60 Subsection 31(2)**

15 Omit “agency or organisation”, substitute “entity”.

16 **61 Section 32 (heading)**

17 Repeal the heading, substitute:

18 **32 Commissioner may report to the Minister if the Commissioner**  
19 **has monitored certain activities etc.**

20 **62 Subsection 32(1)**

21 Repeal the subsection, substitute:

- 22 (1) If the Commissioner has:  
23 (a) monitored an activity in the performance of a function under  
24 paragraph 28(1)(d), 28A(1)(a), (b), (d) or (e) or (2)(b), (c) or  
25 (d) or 28B(1)(b) or (c); or  
26 (b) conducted an assessment under section 33C;  
27 the Commissioner may report to the Minister about the activity or  
28 assessment, and must do so if so directed by the Minister.

29 **63 Subsection 32(2)**

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1 After “activity”, insert “or assessment”.

2 **64 After section 33B**

3 Insert:

4 **Division 3A—Assessments by, or at the direction of, the**  
5 **Commissioner**

6 **33C Commissioner may conduct an assessment relating to the**  
7 **Australian Privacy Principles etc.**

- 8 (1) The Commissioner may conduct an assessment of the following  
9 matters:
- 10 (a) whether personal information held by an APP entity is being  
11 maintained and handled in accordance with the following:
    - 12 (i) the Australian Privacy Principles;
    - 13 (ii) a registered APP code that binds the entity;
  - 14 (b) whether information held by an entity is being maintained  
15 and handled in accordance with the following to the extent  
16 that they apply to the information:
    - 17 (i) the provisions of Part IIIA;
    - 18 (ii) the registered CR code if it binds the entity;
  - 19 (c) whether tax file number information held by a file number  
20 recipient is being maintained and handled in accordance with  
21 any relevant rules issued under section 17;
  - 22 (d) whether the data matching program (within the meaning of  
23 the *Data-matching Program (Assistance and Tax) Act 1990*)  
24 of an agency complies with Part 2 of that Act and the rules  
25 issued under section 12 of that Act;
  - 26 (e) whether information to which section 135AA of the *National*  
27 *Health Act 1953* applies is being maintained and handled in  
28 accordance with the rules issued under that section.
- 29 (2) The Commissioner may conduct the assessment in such manner as  
30 the Commissioner considers fit.

31 **33D Commissioner may direct an agency to give a privacy impact**  
32 **assessment**

- 33 (1) If:

- 1 (a) an agency proposes to engage in an activity or function  
2 involving the handling of personal information about  
3 individuals; and  
4 (b) the Commissioner considers that the activity or function  
5 might have a significant impact on the privacy of individuals;  
6 the Commissioner may, in writing, direct the agency to give the  
7 Commissioner, within a specified period, a privacy impact  
8 assessment about the activity or function.

9 (2) A direction under subsection (1) is not a legislative instrument.

10 *Privacy impact assessment*

- 11 (3) A **privacy impact assessment** is a written assessment of an activity  
12 or function that:  
13 (a) identifies the impact that the activity or function might have  
14 on the privacy of individuals; and  
15 (b) sets out recommendations for managing, minimising or  
16 eliminating that impact.

17 (4) Subsection (3) does not limit the matters that the privacy impact  
18 assessment may deal with.

19 (5) A privacy impact assessment is not a legislative instrument.

20 *Failure to comply with a direction*

- 21 (6) If an agency does not comply with a direction under subsection (1),  
22 the Commissioner must advise both of the following of the failure:  
23 (a) the Minister;  
24 (b) if another Minister is responsible for the agency—that other  
25 Minister.

26 *Review*

- 27 (7) Before the fifth anniversary of the commencement of this section,  
28 the Minister must cause a review to be undertaken of whether this  
29 section should apply in relation to organisations.



1 **Division 3B—Enforceable undertakings**

2 **33E Commissioner may accept undertakings**

- 3 (1) The Commissioner may accept any of the following undertakings:
- 4 (a) a written undertaking given by an entity that the entity will,  
5 in order to comply with this Act, take specified action;
- 6 (b) a written undertaking given by an entity that the entity will,  
7 in order to comply with this Act, refrain from taking  
8 specified action;
- 9 (c) a written undertaking given by an entity that the entity will  
10 take specified action directed towards ensuring that the entity  
11 does not do an act, or engage in a practice, in the future that  
12 interferes with the privacy of an individual.
- 13 (2) The undertaking must be expressed to be an undertaking under this  
14 section.
- 15 (3) The entity may withdraw or vary the undertaking at any time, but  
16 only with the consent of the Commissioner.
- 17 (4) The Commissioner may, by written notice given to the entity,  
18 cancel the undertaking.
- 19 (5) The Commissioner may publish the undertaking on the  
20 Commissioner's website.

21 **33F Enforcement of undertakings**

- 22 (1) If:
- 23 (a) an entity gives an undertaking under section 33E; and  
24 (b) the undertaking has not been withdrawn or cancelled; and  
25 (c) the Commissioner considers that the entity has breached the  
26 undertaking;
- 27 the Commissioner may apply to the Federal Court or Federal  
28 Magistrates Court for an order under subsection (2).
- 29 (2) If the court is satisfied that the entity has breached the undertaking,  
30 the court may make any or all of the following orders:
- 31 (a) an order directing the entity to comply with the undertaking;

- 1 (b) any order that the court considers appropriate directing the  
2 person to compensate any other person who has suffered loss  
3 or damage as a result of the breach;  
4 (c) any other order that the court considers appropriate.

5 **65 Subsections 34(1) and (2)**

6 Omit “functions referred to in section 27”, substitute “Commissioner’s  
7 functions”.

8 **66 At the end of Part IV**

9 Add:

10 **35A Commissioner may recognise external dispute resolution**  
11 **schemes**

- 12 (1) The Commissioner may, by written notice, recognise an external  
13 dispute resolution scheme:  
14 (a) for an entity or a class of entities; or  
15 (b) for a specified purpose.
- 16 (2) In considering whether to recognise an external dispute resolution  
17 scheme, the Commissioner must take the following matters into  
18 account:  
19 (a) the accessibility of the scheme;  
20 (b) the independence of the scheme;  
21 (c) the fairness of the scheme;  
22 (d) the accountability of the scheme;  
23 (e) the efficiency of the scheme;  
24 (f) the effectiveness of the scheme;  
25 (g) any other matter the Commissioner considers relevant.
- 26 (3) The Commissioner may:  
27 (a) specify a period for which the recognition of an external  
28 dispute resolution scheme is in force; and  
29 (b) make the recognition of an external dispute resolution  
30 scheme subject to specified conditions, including conditions  
31 relating to the conduct of an independent review of the  
32 operation of the scheme; and  
33 (c) vary or revoke:

- 1 (i) the recognition of an external dispute resolution  
2 scheme; or  
3 (ii) the period for which the recognition is in force; or  
4 (iii) a condition to which the recognition is subject.
- 5 (4) A notice under subsection (1) is not a legislative instrument.

6 **67 Part V (heading)**

7 Repeal the heading, substitute:

8 **Part V—Investigations etc.**

9 **68 Before Division 1 of Part V**

10 Insert:

11 **Division 1A—Introduction**

12 **36A Guide to this Part**

13 In general, this Part deals with complaints and investigations about  
14 acts or practices that may be an interference with the privacy of an  
15 individual.

16 An individual may complain to the Commissioner about an act or  
17 practice that may be an interference with the privacy of the  
18 individual. If a complaint is made, the Commissioner is required to  
19 investigate the act or practice except in certain circumstances.

20 The Commissioner may also, on his or her own initiative,  
21 investigate an act or practice that may be an interference with the  
22 privacy of an individual or a breach of Australian Privacy Principle  
23 1.

24 The Commissioner has a range powers relating to the conduct of  
25 investigations including powers:

- 26 (a) to conciliate complaints; and  
27 (b) to make preliminary inquiries of any person; and

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(c) to require a person to give information or documents, or to attend a compulsory conference; and

(d) to transfer matters to an alternative complaint body in certain circumstances.

After an investigation, the Commissioner may make a determination in relation to the investigation. An entity to which a determination relates must comply with certain declarations included in the determination. Court proceedings may be commenced to enforce a determination.

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**69 Subsection 36(7) (note)**

Omit “Section 70A contains”, substitute “Sections 98A to 98C contain”.

**70 Subsection 36(8)**

Omit “one of paragraphs 13(b) to (d) (inclusive)”, substitute “subsection 13(2), (4) or (5)”.

**71 Subsection 36(8)**

After “person”, insert “or entity”.

**72 Subsection 38(1)**

Omit “or accepted under subsection 40(1B)”.

**73 Paragraph 38(1)(a)**

After “person”, insert “or entity”.

**74 Subsection 38(2)**

Omit “or accepted under subsection 40(1B)”.

**75 Subsection 38B(2)**

Omit all the words after “representative”, substitute:

complaint:

- (a) if the complaint was lodged without the consent of the member—at any time; or

1 (b) otherwise—at any time before the Commissioner begins to  
2 hold an inquiry into the complaint.

3 **76 Add at the end of subsection 38B(2)**

4 Add:

5 Note: If a class member withdraws from a representative complaint that  
6 relates to a matter, the former member may make a complaint under  
7 section 36 that relates to the matter.

8 **77 Subsections 40(1B) and (1C)**

9 Repeal the subsections, substitute:

10 (1B) Subsection (1A) does not apply if the complaint is about an act or  
11 practice that may breach:

12 (a) section 20R, 20T, 21T or 21V (which are about access to,  
13 and correction of, credit reporting information etc.); or

14 (b) a provision of the registered CR code that relates to that  
15 section.

16 **78 Subsection 40(2)**

17 After “Commissioner may”, insert “, on the Commissioner’s own  
18 initiative,”.

19 **79 Paragraph 40(2)(a)**

20 After “individual”, insert “or a breach of Australian Privacy Principle  
21 1”.

22 **80 Section 40A**

23 Repeal the section, substitute:

24 **40A Conciliation of complaints**

25 (1) If:

26 (a) a complaint about an act or practice is made under section 36;  
27 and

28 (b) the Commissioner considers it is reasonably possible that the  
29 complaint may be conciliated successfully;

30 the Commissioner must make a reasonable attempt to conciliate the  
31 complaint.

- 1 (2) Subsection (1) does not apply if the Commissioner has decided  
2 under section 41 or 50 not to investigate, or not to investigate  
3 further, the act or practice.
- 4 (3) If the Commissioner is satisfied that there is no reasonable  
5 likelihood that the complaint will be resolved by conciliation, the  
6 Commissioner must, in writing, notify the complainant and  
7 respondent of that matter.
- 8 (4) If a notification is given under subsection (3), the Commissioner  
9 may decide not to investigate, or not to investigate further, the act  
10 or practice.
- 11 (5) Evidence of anything said or done in the course of the conciliation  
12 is not admissible in any hearing before the Commissioner, or in  
13 any legal proceedings, relating to complaint or the act or practice  
14 unless:  
15 (a) the complainant and respondent otherwise agree; or  
16 (b) the thing was said or done in furtherance of the commission  
17 of a fraud or an offence, or the commission of an act that  
18 renders a person liable to a civil penalty.

19 **81 Section 41 (heading)**

20 Repeal the heading, substitute:

21 **41 Commissioner may or must decide not to investigate etc. in**  
22 **certain circumstances**

23 **82 Subsection 41(1)**

24 Omit “, or which the Commissioner has accepted under subsection  
25 40(1B),”.

26 **83 At the end of paragraphs 41(1)(a) and (c)**

27 Add “or”.

28 **84 Paragraph 41(1)(d)**

29 Omit “or lacking in substance;”, substitute “, lacking in substance or not  
30 made in good faith; or”.

31 **85 After paragraph 41(1)(d)**

32 Insert:

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- 1 (da) an investigation, or further investigation, of the act or  
2 practice is not warranted having regard to all the  
3 circumstances; or  
4 (db) the complainant has not responded, within the period  
5 specified by the Commissioner, to a request for information  
6 in relation to the complaint; or  
7 (dc) the act or practice is being dealt with by a recognised external  
8 dispute resolution scheme; or  
9 (dd) the act or practice would be more effectively or appropriately  
10 dealt with by a recognised external dispute resolution  
11 scheme; or

12 **86 After subsection 41(1)**

13 Insert:

- 14 (1A) The Commissioner must not investigate, or investigate further, an  
15 act or practice about which a complaint has been made under  
16 section 36 if the Commissioner is satisfied that the complainant has  
17 withdrawn the complaint.

18 **87 Subsections 41(2) and (3)**

19 Omit “, or accepted by the Commissioner under subsection 40(1B),”.

20 **88 Section 42**

21 Before “Where”, insert “(1)”.

22 **89 Section 42**

23 Omit “or the Commissioner accepts a complaint under subsection  
24 40(1B),”.

25 **90 Section 42**

26 Omit “respondent”, substitute “respondent or any other person”.

27 **91 At the end of section 42**

28 Add:

- 29 (2) The Commissioner may make inquiries of any person for the  
30 purpose of determining whether to investigate an act or practice  
31 under subsection 40(2).

1 **92 After subsection 43(1)**

2 Insert:

3 (1AA) Before commencing an investigation of an act or practice of a  
4 person or entity under subsection 40(2), the Commissioner must  
5 inform the person or entity that the act or practice is to be  
6 investigated.

7 **93 Subsection 43(2)**

8 Omit “in private but otherwise”.

9 **94 Subsections 43(4), (5) and (6)**

10 Repeal the subsections, substitute:

- 11 (4) The Commissioner may make a determination under section 52 in  
12 relation to an investigation under this Division without holding a  
13 hearing, if:
- 14 (a) it appears to the Commissioner that the matter to which the  
15 investigation relates can be adequately determined in the  
16 absence of:
    - 17 (i) in the case of an investigation under subsection 40(1)—  
18 the complainant and respondent; or
    - 19 (ii) otherwise—the person or entity that engaged in the act  
20 or practice that is being investigated; and
  - 21 (b) the Commissioner is satisfied that there are no unusual  
22 circumstances that would warrant the Commissioner holding  
23 a hearing; and
  - 24 (c) an application for a hearing has not been made under  
25 section 43A.

26 **95 Subsection 43(7)**

27 Omit “afford the complainant or respondent an opportunity to appear  
28 before the Commissioner and to make submissions under  
29 subsection (5)”, substitute “hold a hearing”.

30 **96 Subsection 43(8A)**

31 Omit “an approved privacy code or the National Privacy Principles”,  
32 substitute “the Australian Privacy Principles or a registered APP code”.

33 **97 After section 43**

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1           Insert:

2           **43A Interested party may request a hearing**

- 3           (1) An interested party in relation to an investigation under this  
4           Division may, in writing, request that the Commissioner hold a  
5           hearing before the Commissioner makes a determination under  
6           section 52 in relation to the investigation.
- 7           (2) If an interested party makes request under subsection (1), the  
8           Commissioner must:
- 9           (a) notify any other interested party of the request; and
  - 10          (b) give all interested parties a reasonable opportunity to make a  
11          submission about the request; and
  - 12          (c) decide whether or not to hold a hearing.
- 13          (3) In this section:
- 14                *interested party* in relation to an investigation means:
- 15           (a) in the case of an investigation under subsection 40(1)—the  
16           complainant or respondent; or
  - 17           (b) otherwise—the person or entity that engaged in the act or  
18           practice that is being investigated.

19           **98 Subsection 44(4)**

20           Omit “sections 69 and”, substitute “section”.

21           **99 Subsection 46(1)**

22           Omit “(except an NPP complaint or a code complaint accepted under  
23           subsection 40(1B))”.

24           **100 Subsection 50(1)**

25           Insert:

- 26                *alternative complaint body* means:
- 27           (a) the Australian Human Rights Commission; or
  - 28           (b) the Ombudsman; or
  - 29           (c) the Postal Industry Ombudsman; or
  - 30           (d) the Overseas Students Ombudsman; or
  - 31           (e) the Public Service Commissioner; or
  - 32           (f) the Norfolk Island Public Service Board; or

1 (g) a recognised external dispute resolution scheme.

2 **101 At the end of paragraph 50(2)(a)**

3 Add:

4 (v) to a recognised external dispute resolution scheme; or

5 **102 Subsection 50(2)**

6 Omit “Australian Human Rights Commission, the Ombudsman, the  
7 Postal Industry Ombudsman, the Overseas Students Ombudsman or the  
8 Public Service Commissioner, as the case may be”, substitute  
9 “alternative complaint body”.

10 **103 Paragraphs 50(2)(c) and (e)**

11 Omit “Australian Human Rights Commission, the Ombudsman, the  
12 Postal Industry Ombudsman, the Overseas Students Ombudsman or the  
13 Public Service Commissioner”, substitute “alternative complaint body”.

14 **104 At the end of paragraph 50(3)(a)**

15 Add:

16 (v) to the recognised external dispute resolution scheme; or

17 **105 Subsection 50A(2) (note 2)**

18 Repeal the note, substitute:

19 Note 2: The Commissioner may determine under section 53B that the  
20 determination applies in relation to an agency if the organisation has  
21 not complied with the determination.

22 **106 Subparagraph 52(1)(b)(i)**

23 Omit “should” (wherever occurring), substitute “must”.

24 **107 After subparagraph 52(1)(b)(i)**

25 Insert:

26 (ia) a declaration that the respondent must take specified  
27 steps within a specified period to ensure that such  
28 conduct is not repeated or continued;

29 **108 Subparagraph 52(1)(b)(ii)**

30 Omit “should”, substitute “must”.

1 **109 Subsection 52(1A)**

2 Repeal the subsection, substitute:

3 (1A) After investigating an act or practice of a person or entity under  
4 subsection 40(2), the Commissioner may make a determination  
5 that includes one or more of the following:

6 (a) a declaration that:

7 (i) the act or practice is an interference with the privacy of  
8 one or more individuals; and

9 (ii) the person or entity must not repeat or continue the act  
10 or practice;

11 (b) a declaration that the person or entity must take specified  
12 steps within a specified period to ensure that the act or  
13 practice is not repeated or continued;

14 (c) a declaration that the person or entity must perform any  
15 reasonable act or course of conduct to redress any loss or  
16 damage suffered by one or more of those individuals;

17 (d) a declaration that one or more of those individuals are  
18 entitled to a specified amount by way of compensation for  
19 any loss or damage suffered by reason of the act or practice;

20 (e) a declaration that it would be inappropriate for any further  
21 action to be taken in the matter.

22 (1AA) The steps specified by the Commissioner under  
23 subparagraph (1)(b)(ia) or paragraph (1A)(b) must be reasonable  
24 and appropriate.

25 (1AB) The loss or damage referred to in paragraph (1)(b) or  
26 subsection (1A) includes:

27 (a) injury to the feelings of the complainant or individual; and

28 (b) humiliation suffered by the complainant or individual.

29 **110 Subsection 52(1B)**

30 After “subsection (1)”, insert “or (1A)”.

31 **111 Subsections 52(3A) and (3B)**

32 Repeal the subsections, substitute:

33 (3A) A determination under paragraph (1)(b) or subsection (1A) may  
34 include any order that the Commissioner considers necessary or  
35 appropriate.

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1 **112 Subsection 53A(1)**

2 Omit “to which a contracted service provider for a Commonwealth  
3 contract is the respondent”, substitute “that applies in relation to a  
4 contracted service provider for a Commonwealth contract”.

5 **113 Section 53B (heading)**

6 Repeal the heading, substitute:

7 **53B Substituting an agency for a contracted service provider**

8 **114 Paragraph 53B(1)(a)**

9 Repeal the paragraph, substitute:

- 10 (a) a determination under section 52 applies in relation to a  
11 contracted service provider for a Commonwealth contract;  
12 and

13 **115 After subparagraph 53B(1)(b)(i)**

14 Insert:

- 15 (ia) a declaration under paragraph 52(1A)(d) that one or  
16 more individuals are entitled to a specified amount by  
17 way of the compensation; or

18 **116 Paragraph 53B(1)(c)**

19 Omit “respondent”, substitute “provider”.

20 **117 Paragraph 53B(1)(d)**

21 After “complainant”, insert “or individuals”.

22 **118 Paragraph 53B(1)(d)**

23 Omit “subparagraph (b)(i) or (b)(ii)”, substitute “paragraph (b)”.

24 **119 Subsection 53B(2)**

25 After “writing that”, insert “the determination under section 52 instead  
26 applies in relation to”.

27 **120 Subsection 53B(2)**

28 Omit “is the respondent to the determination under section 52”.

29 **121 Subsection 53B(2) (at the end of the note)**

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1 Add “or individuals”.

2 **122 Subsection 54(1)**

3 Omit “respondent to the determination is”, substitute “determination  
4 applies in relation to”.

5 **123 Section 55**

6 Repeal the section, substitute:

7 **55 Obligations of organisations and small business operators**

8 If the determination applies in relation to an organisation or small  
9 business operator, the organisation or operator:

- 10 (a) must not repeat or continue conduct that is covered by a  
11 declaration included in the determination under  
12 sub-subparagraph 52(1)(b)(i)(B) or paragraph 52(1A)(a); and  
13 (b) must take the steps that are specified in a declaration  
14 included in the determination under subparagraph  
15 52(1)(b)(ia) or paragraph 52(1A)(b) within the specified  
16 period; and  
17 (c) must perform the act or course of conduct that is covered by  
18 a declaration included in the determination under  
19 subparagraph 52(1)(b)(ii) or paragraph 52(1A)(c).

20 **124 Subsection 55A(1)**

21 Omit “Any of the”, substitute “The”.

22 **125 Paragraphs 55A(1)(a) to (c)**

23 Repeal the paragraphs, substitute:

- 24 (a) if the determination was made under subsection 52(1)—the  
25 complainant;  
26 (b) the Commissioner.

27 **126 Subsection 55A(2)**

28 Omit “respondent”, substitute “person or entity in relation to which the  
29 determination applies”.

30 **127 Subsection 55A(2)**

31 Omit “the complainant”, substitute “an individual”.

1 **128 Subsection 55A(5)**

2 Omit “respondent”, substitute “person or entity in relation to which the  
3 determination applies”.

4 **129 Subsection 55A(5)**

5 Omit “the complainant”, substitute “an individual”.

6 **130 Paragraph 55A(6)(c)**

7 Omit “appearance”, substitute “hearing”.

8 **131 Paragraph 55A(6)(c)**

9 Omit “under subsection 43(5)”.

10 **132 Subsection 55A(7A)**

11 Omit “matters that paragraph 29(a) requires the Commissioner to have  
12 due regard to”, substitute “objects of this Act”.

13 **133 Paragraphs 55B(1)(a) and (b) and (3)(a) and (b)**

14 Repeal the paragraphs, substitute:

15 (a) a specified APP entity had breached an Australian Privacy  
16 Principle; or

17 (b) a specified APP entity had breached a registered APP code  
18 that binds the entity.

19 **134 Subsection 57(1)**

20 Omit “has an agency, or the principal executive of an agency, as the  
21 respondent”, substitute “that applies in relation to an agency or the  
22 principal executive of an agency”.

23 **135 Section 58**

24 Repeal the section, substitute:

25 **58 Obligations of agencies**

26 If this Division applies to a determination and the determination  
27 applies in relation to an agency, the agency:

28 (a) must not repeat or continue conduct that is covered by a  
29 declaration included in the determination under subparagraph  
30 52(1)(b)(i) or paragraph 52(1A)(a); and

- 1 (b) must take the steps that are specified in a declaration  
2 included in the determination under subparagraph  
3 52(1)(b)(ia) or paragraph 52(1A)(b) within the specified  
4 period; and  
5 (c) must perform the act or course of conduct that is covered by  
6 a declaration included in the determination under  
7 subparagraph 52(1)(b)(ii) or paragraph 52(1A)(c).

8 **136 Section 59**

9 Omit “the principal executive of an agency is the respondent to a  
10 determination to which this Division applies”, substitute “this Division  
11 applies to a determination and the determination applies in relation to  
12 the principal executive of an agency”.

13 **137 Paragraph 59(b)**

14 After “subparagraph 52(1)(b)(i)”, insert “or paragraph 52(1A)(a)”.

15 **138 After paragraph 59(b)**

16 Insert:

- 17 (ba) that the steps specified in a declaration included in the  
18 determination under subparagraph 52(1)(b)(ia) or paragraph  
19 52(1A)(b) are taken within the specified period; and

20 **139 At the end of paragraph 59(c)**

21 Add “or paragraph 52(1A)(c)”.

22 **140 Subsection 60(1)**

23 After “subparagraph 52(1)(b)(iii)”, insert “, paragraph 52(1A)(d)”.

24 **141 Subsection 60(1)**

25 After “complainant”, insert “or individual”.

26 **142 Subsection 60(2)**

27 Omit “respondent is”, substitute “determination applies in relation to”.

28 **143 Subsection 60(2)**

29 After “complainant” (wherever occurring), insert “or individual”.

30 **144 Section 61**

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1 Repeal the section.

2 **145 Subsection 62(3)**

3 Repeal the subsection, substitute:

4 (3) The application may be made by:

5 (a) if the determination was made under subsection 52(1)—the  
6 complainant; or

7 (b) the Commissioner.

8 **146 Subsection 62(4)**

9 Omit “respondent”, substitute “agency or principal executive”.

10 **147 Paragraph 62(5)(a)**

11 Omit “section 61”, substitute “section 96”.

12 **148 At the end of section 62**

13 Add:

14 (6) In this section:

15 *complainant*, in relation to a representative complaint, means a  
16 class member.

17 **149 Subsection 63(2A)**

18 Omit “NPP”, substitute “APP”.

19 **150 Paragraphs 67(aa) and (ab)**

20 Repeal the paragraphs.

21 **151 Sections 69 and 70A**

22 Repeal the sections.

23 **152 Subsection 72(1)**

24 Repeal the subsection.

25 **153 Subsection 72(2) (heading)**

26 Repeal the heading, substitute:



*Determinations about an APP entity's acts and practices*

1  
2 **154 Paragraph 72(2)(a)**

3 Repeal the paragraph, substitute:

4 (a) an act or practice of an APP entity breaches, or may breach:

5 (i) an Australian Privacy Principle; or

6 (ii) a registered APP code that binds the entity; but

7 **155 Paragraph 72(2)(b)**

8 Omit "organisation", substitute "entity".

9 **156 Paragraph 72(2)(b)**

10 Omit "Principle", substitute "principle".

11 **157 Subsection 72(2)**

12 Omit "make a written", substitute ", by legislative instrument, make a".

13 **158 Subsection 72(3)**

14 Omit "organisation is taken not to contravene section 16A if the  
15 organisation", substitute "APP entity is taken not to contravene  
16 section 15 or 26A if the entity".

17 **159 Subsection 72(4)**

18 Omit "make a written", substitute ", by legislative instrument, make a".

19 **160 Subsection 72(4)**

20 Omit "organisation is taken to contravene section 16A", substitute  
21 "APP entity is taken to contravene section 15 or 26A".

22 **161 Subsection 72(4)**

23 Omit "organisation does", substitute "APP entity does".

24 **162 Subsection 72(4)**

25 Omit "organisation or any other organisation", substitute "entity or any  
26 other APP entity".

27 **163 Section 73 (heading)**

28 Repeal the heading, substitute:

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1 **73 Application by APP entity**

2 **164 Subsection 73(1)**

3 Omit “An agency or organisation”, substitute “An APP entity”.

4 **165 Subsection 73(1)**

5 Omit “the agency or organisation”, substitute “the entity”.

6 **166 After subsection 73(1)**

7 Insert:

8 (1A) If:

- 9 (a) an application is made under subsection (1); and  
10 (b) the Commissioner is satisfied that the application is frivolous,  
11 vexatious, misconceived, lacking in substance or not made in  
12 good faith;  
13 the Commissioner may, in writing, dismiss the application.

14 **167 Section 74 (heading)**

15 Repeal the heading, substitute:

16 **74 Publication of application etc.**

17 **168 Subsection 74(1)**

18 Omit all the words after “notice”, substitute:

19 of:

- 20 (a) the receipt by the Commissioner of an application; and  
21 (b) if the Commissioner dismisses an application under  
22 subsection 73(1A)—the dismissal of the application.

23 **169 At the end of subsection 75(1)**

24 Add “unless the Commissioner dismisses the application under  
25 subsection 73(1A)”.

26 **170 Subsection 79(3)**

27 Repeal the subsection.

28 **171 Section 80**

1 Repeal the section.

2 **172 Paragraph 80A(1)(a)**

3 Omit “agency or organisation”, substitute “APP entity”.

4 **173 Subparagraphs 80A(1)(a)(i) and (ii)**

5 Repeal the subparagraphs, substitute:

- 6 (i) an Australian Privacy Principle; or  
7 (ii) a registered APP code that binds the entity; and

8 **174 Paragraph 80A(1)(b)**

9 Omit “agency or organisation”, substitute “entity”.

10 **175 Paragraph 80A(1)(b)**

11 Omit “Principle”, substitute “principle”.

12 **176 Subsection 80A(2)**

13 Omit “make a written temporary public interest”, substitute “, by  
14 legislative instrument, make a”.

15 **177 Paragraph 80A(2)(a)**

16 Omit “agency or organisation”, substitute “APP entity”.

17 **178 Subsection 80A(3)**

18 Repeal the subsection, substitute:

- 19 (3) The Commissioner must specify in the determination a period of  
20 up to 12 months during which the determination is in force (subject  
21 to subsection 80D(2)).

22 **179 Subsections 80B(1) and (2)**

23 Repeal the subsections, substitute:

24 *APP entity covered by a determination*

- 25 (1) If an act or practice of an APP entity is the subject of a temporary  
26 public interest determination, the entity is taken not to breach  
27 section 15 or 26A if the entity does the act, or engages in the  
28 practice, while the determination is in force.

1 **180 Subsection 80B(3)**

2 Omit “make a written”, substitute “, by legislative instrument, make a”.

3 **181 Subsection 80B(3)**

4 Omit “organisation is taken to contravene section 16A”, substitute  
5 “APP entity is taken to contravene section 15 or 26A”.

6 **182 Subsection 80B(3)**

7 Omit “organisation does”, substitute “APP entity does”.

8 **183 Subsection 80B(3)**

9 Omit “organisation or another organisation”, substitute “entity or  
10 another APP entity”.

11 **184 Section 80C**

12 Repeal the section.

13 **185 Paragraph 80D(2)(a)**

14 Omit “subsection 72(1) or (2) (as appropriate)”, substitute “subsection  
15 72(2)”.

16 **186 Paragraph 80P(1)(a)**

17 Omit “concerned”.

18 **187 Subsections 80P(4) and (5)**

19 Repeal the subsections, substitute:

20 (4) An entity does not breach an Australian Privacy Principle, or a  
21 registered APP code that binds the entity, in respect of a collection,  
22 use or disclosure of personal information authorised by  
23 subsection (1).

24 **188 Paragraphs 80Q(2)(a) and (b)**

25 Repeal the paragraphs, substitute:

26 (a) if the first person is an APP entity—a disclosure permitted  
27 under an Australian Privacy Principle or a registered APP  
28 code that binds the person;

29 **189 After Part VIA**

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1           Insert:

2           **Part VIB—Civil penalty orders**

3           **Division 1—Civil penalty provisions**

4           **80U Civil penalty provisions**

5                     A subsection of this Act (or a section of this Act that is not divided  
6                     into subsections) is a ***civil penalty provision*** if the words “civil  
7                     penalty” and one or more amounts in penalty units are set out at the  
8                     foot of the subsection (or section).

9           **80V Ancillary contravention of civil penalty provisions**

- 10                   (1) An entity must not:
- 11                         (a) attempt to contravene a civil penalty provision; or
- 12                         (b) aid, abet, counsel or procure a contravention of a civil  
13                         penalty provision; or
- 14                         (c) induce (by threats, promises or otherwise) a contravention of  
15                         a civil penalty provision; or
- 16                         (d) be in any way, directly or indirectly, knowingly concerned in,  
17                         or party to, a contravention of a civil penalty provision; or
- 18                         (e) conspire with others to effect a contravention of a civil  
19                         penalty provision.
- 20                   (2) An entity that contravenes subsection (1) in relation to a civil  
21                         penalty provision is taken to have contravened the provision.

22           **Division 2—Obtaining a civil penalty order**

23           **80W Civil penalty orders**

24                     *Application for order*

- 25                   (1) The Commissioner may apply to the Federal Court or Federal  
26                         Magistrates Court for an order that an entity, that is alleged to have  
27                         contravened a civil penalty provision, pay the Commonwealth a  
28                         pecuniary penalty.

1 (2) The Commissioner must make the application within 6 years of the  
2 alleged contravention.

3 *Court may order entity to pay pecuniary penalty*

4 (3) If the court is satisfied that the entity has contravened the civil  
5 penalty provision, the court may order the entity to pay to the  
6 Commonwealth such pecuniary penalty for the contravention as the  
7 court determines to be appropriate.

8 Note: Subsection (5) sets out the maximum penalty that the court may order  
9 the entity to pay.

10 (4) An order under subsection (3) is a *civil penalty order*.

11 *Determining pecuniary penalty*

12 (5) The pecuniary penalty must not be more than:

- 13 (a) if the entity is a body corporate—5 times the amount of the  
14 pecuniary penalty specified for the civil penalty provision; or  
15 (b) otherwise—the amount of the pecuniary penalty specified for  
16 the civil penalty provision.

17 (6) In determining the pecuniary penalty, the court must take into  
18 account all relevant matters, including:

- 19 (a) the nature and extent of the contravention; and  
20 (b) the nature and extent of any loss or damage suffered because  
21 of the contravention; and  
22 (c) the circumstances in which the contravention took place; and  
23 (d) whether the entity has previously been found by a court in  
24 proceedings under this Act to have engaged in any similar  
25 conduct.

26 **80X Civil enforcement of penalty**

27 (1) A pecuniary penalty is a debt payable to the Commonwealth.

28 (2) The Commonwealth may enforce a civil penalty order as if it were  
29 an order made in civil proceedings against the entity to recover a  
30 debt due by the entity. The debt arising from the order is taken to  
31 be a judgement debt.

1 **80Y Conduct contravening more than one civil penalty provision**

- 2 (1) If conduct constitutes a contravention of 2 or more civil penalty  
3 provisions, proceedings may be instituted under this Division  
4 against an entity in relation to the contravention of any one or more  
5 of those provisions.
- 6 (2) However, the entity is not liable to more than one pecuniary  
7 penalty under this Division in relation to the same conduct.

8 **80Z Multiple contraventions**

- 9 (1) The Federal Court or Federal Magistrates Court may make a single  
10 civil penalty order against an entity for multiple contraventions of a  
11 civil penalty provision if:  
12 (a) proceedings for the contraventions are founded on the same  
13 facts; or  
14 (b) the contraventions form, or are part of, a series of  
15 contraventions of the same or a similar character.
- 16 (2) However, the pecuniary penalty must not exceed the sum of the  
17 maximum pecuniary penalties that could be ordered if a separate  
18 civil penalty order were made for each of the contraventions.

19 **80ZA Proceedings may be heard together**

20 The Federal Court or Federal Magistrates Court may direct that 2  
21 or more proceedings for civil penalty orders are to be heard  
22 together.

23 **80ZB Civil evidence and procedure rules for civil penalty orders**

24 The Federal Court or Federal Magistrates Court must apply the  
25 rules of evidence and procedure for civil matters when hearing  
26 proceedings for a civil penalty order.

27 **80ZC Contravening a civil penalty provision is not an offence**

28 A contravention of a civil penalty provision is not an offence.

1 **Division 3—Civil proceedings and criminal proceedings**

2 **80ZD Civil proceedings after criminal proceedings**

3 The Federal Court or Federal Magistrates Court must not make a  
4 civil penalty order against an entity for a contravention of a civil  
5 penalty provision if the entity has been convicted of an offence  
6 constituted by conduct that is the same, or substantially the same,  
7 as the conduct constituting the contravention.

8 **80ZE Criminal proceedings during civil proceedings**

- 9 (1) Proceedings for a civil penalty order against an entity for a  
10 contravention of a civil penalty provision are stayed if:
- 11 (a) criminal proceedings are commenced or have already been  
12 commenced against the entity for an offence; and  
13 (b) the offence is constituted by conduct that is the same, or  
14 substantially the same, as the conduct alleged to constitute  
15 the contravention.
- 16 (2) The proceedings for the civil penalty order may be resumed if the  
17 entity is not convicted of the offence. Otherwise:
- 18 (a) the proceedings are dismissed; and  
19 (b) costs must not be awarded in relation to the proceedings.

20 **80ZF Criminal proceedings after civil proceedings**

21 Criminal proceedings may be commenced against an entity for  
22 conduct that is the same, or substantially the same, as conduct that  
23 would constitute a contravention of a civil penalty provision  
24 regardless of whether a civil penalty order has been made against  
25 the entity in relation to the contravention.

26 **80ZG Evidence given in proceedings for civil penalty order not**  
27 **admissible in criminal proceedings**

- 28 (1) Evidence of information given, or evidence of production of  
29 documents, by an individual is not admissible in criminal  
30 proceedings against the individual if:
- 31 (a) the individual previously gave the evidence or produced the  
32 documents in proceedings for a civil penalty order against the



1 individual for an alleged contravention of a civil penalty  
2 provision (whether or not the order was made); and  
3 (b) the conduct alleged to constitute the offence is the same, or  
4 substantially the same, as the conduct alleged to constitute  
5 the contravention.

6 (2) However, subsection (1) does not apply to criminal proceedings in  
7 relation to the falsity of the evidence given by the individual in the  
8 proceedings for the civil penalty order.

9 **190 After paragraph 82(2)(a)**

10 Insert:

11 (aa) the Privacy Commissioner (within the meaning of the  
12 *Australian Information Commissioner Act 2010*); and

13 **191 Paragraph 82(2)(b)**

14 Omit “6 other”, substitute “8 other”.

15 **192 Subsection 82(3)**

16 After “Commissioner”, insert “and Privacy Commissioner (within the  
17 meaning of that Act)”.

18 **193 Paragraph 82(7)(a)**

19 Repeal the paragraph, substitute:

- 20 (a) at least one must be a person who has had at least 5 years’  
21 experience at a high level in industry or commerce; and  
22 (aa) at least one must be a person who has had at least 5 years’  
23 experience at a high level in public administration, or the  
24 service of a government or an authority of a government; and  
25 (ab) at least one must be a person who has had extensive  
26 experience in health privacy; and

27 **194 Paragraph 82(7)(b)**

28 Omit “shall”, substitute “must”.

29 **195 At the end of paragraph 82(7)(b)**

30 Add “and”.

31 **196 Paragraph 82(7)(c)**

- 1 Repeal the paragraph, substitute:  
2 (c) at least one must be a person who has had extensive  
3 experience in information and communication technologies;  
4 and

5 **197 Paragraphs 82(7)(d) and (e)**

6 Omit “shall”, substitute “must”.

7 **198 Paragraph 83(b)**

8 Omit “guidelines”, substitute “rules or guidelines”.

9 **199 Subsections 95(5), 95A(7) and 95AA(3)**

10 Repeal the subsections.

11 **200 After section 95C**

12 Insert:

13 **96 Review by the Administrative Appeals Tribunal**

- 14 (1) An application may be made to the Administrative Appeals  
15 Tribunal for review of the following decisions of the  
16 Commissioner:  
17 (a) a decision under subsection 26H(1) not to register an APP  
18 code developed by an APP code developer;  
19 (b) a decision under subsection 26S(1) not to register a CR code  
20 developed by a CR code developer;  
21 (c) a decision under subsection 52(1) or (1A) to make a  
22 determination;  
23 (d) a decision under subsection 73(1A) to dismiss an application;  
24 (e) a decision under section 95 to refuse to approve the issue of  
25 guidelines;  
26 (f) a decision under subsection 95A(2) or (4) or 95AA(2) to  
27 refuse to approve guidelines;  
28 (g) a decision under subsection 95A(6) to revoke an approval of  
29 guidelines.  
30 (2) An application under paragraph (1)(a) may only be made by the  
31 APP code developer that developed the APP code.

- 1 (3) An application under paragraph (1)(b) may only be made by the  
2 CR code developer that developed the CR code.

3 **201 After section 98**

4 Insert:

5 **98A Treatment of partnerships**

- 6 (1) If, apart from this subsection, this Act would impose an obligation  
7 on a partnership, the obligation is imposed instead on each partner  
8 but may be discharged by any of the partners.
- 9 (2) If, apart from this subsection, an offence against this Act would be  
10 committed by a partnership, the offence is taken to have been  
11 committed by each partner.
- 12 (3) If, apart from this subsection, a partnership would contravene a  
13 civil penalty provision, the contravention is taken to have been  
14 committed by each partner.
- 15 (4) A partner does not commit an offence against this Act because of  
16 subsection (2), or contravene a civil penalty provision because of  
17 subsection (3), if the partner:
- 18 (a) does not know of the circumstances that constitute the  
19 contravention of the provision concerned; or
- 20 (b) knows of those circumstances but takes all reasonable steps  
21 to correct the contravention as soon as possible after the  
22 partner becomes aware of those circumstances.

23 Note: In criminal proceedings, a defendant bears an evidential burden in  
24 relation to the matters in subsection (4) (see subsection 13.3(3) of the  
25 *Criminal Code*).

26 **98B Treatment of unincorporated associations**

- 27 (1) If, apart from this subsection, this Act would impose an obligation  
28 on an unincorporated association, the obligation is imposed instead  
29 on each member of the association's committee of management but  
30 may be discharged by any of the members.
- 31 (2) If, apart from this subsection, an offence against this Act would be  
32 committed by an unincorporated association, the offence is taken to  
33 have been committed by each member of the association's  
34 committee of management.

1 (3) If, apart from this subsection, an unincorporated association would  
2 contravene a civil penalty provision, the contravention is taken to  
3 have been committed by each member of the association's  
4 committee of management.

5 (4) A member of an unincorporated association's committee of  
6 management does not commit an offence against this Act because  
7 of subsection (2), or contravene a civil penalty provision because  
8 of subsection (3), if the member:

9 (a) does not know of the circumstances that constitute the  
10 contravention of the provision concerned; or

11 (b) knows of those circumstances but takes all reasonable steps  
12 to correct the contravention as soon as possible after the  
13 member becomes aware of those circumstances.

14 Note: In criminal proceedings, a defendant bears an evidential burden in  
15 relation to the matters in subsection (4) (see subsection 13.3(3) of the  
16 *Criminal Code*).

### 17 **98C Treatment of trusts**

18 (1) If, apart from this subsection, this Act would impose an obligation  
19 on a trust, the obligation is imposed instead on each trustee of the  
20 trust but may be discharged by any of the trustees.

21 (2) If, apart from this subsection, an offence against this Act would be  
22 committed by a trust, the offence is taken to have been committed  
23 by each trustee of the trust.

24 (3) If, apart from this subsection, a trust would contravene a civil  
25 penalty provision, the contravention is taken to have been  
26 committed by each trustee of the trust.

27 (4) A trustee of a trust does not commit an offence against this Act  
28 because of subsection (2), or contravene a civil penalty provision  
29 because of subsection (3), if the trustee:

30 (a) does not know of the circumstances that constitute the  
31 contravention of the provision concerned; or

32 (b) knows of those circumstances but takes all reasonable steps  
33 to correct the contravention as soon as possible after the  
34 trustee becomes aware of those circumstances.

35 Note: In criminal proceedings, a defendant bears an evidential burden in  
36 relation to the matters in subsection (4) (see subsection 13.3(3) of the  
37 *Criminal Code*).

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1 **202 Subsection 99A(1)**

2 After “this Act”, insert “or for a civil penalty order”.

3 **203 Subsection 99A(2)**

4 After “this Act”, insert “or proceedings for a civil penalty order”.

5 **204 Subsection 99A(3)**

6 After “this Act”, insert “or for a civil penalty order”.

7 **205 Subsection 99A(4)**

8 After “this Act”, insert “or proceedings for a civil penalty order”.

9 **206 Subsection 99A(9)**

10 Repeal the subsection.

11

1 **Schedule 5—Amendment of other Acts**

2 **Part 1—Amendments relating to the Australian**  
3 **Privacy Principles**

4 *Acts Interpretation Act 1901*

5 **1 Section 2B**

6 Insert:

7 *Australian Privacy Principle* has the same meaning as in the  
8 *Privacy Act 1988*.

9 *Aged Care Act 1997*

10 **2 Subsection 91-2(3)**

11 Omit “Information Privacy Principles 1, 2 and 3 of the *Privacy Act*  
12 *1988*”, substitute “Australian Privacy Principles 3 and 5”.

13 **3 Subsection 92-7(4)**

14 Omit “Information Privacy Principles 1, 2 and 3 of the *Privacy Act*  
15 *1988*”, substitute “Australian Privacy Principles 3 and 5”.

16 **4 Subsection 93-1(5)**

17 Omit “Information Privacy Principles 1, 2 and 3 of the *Privacy Act*  
18 *1988*”, substitute “Australian Privacy Principles 3 and 5”.

19 **5 Clause 1 of Schedule 1 (definition of *personal information*)**

20 Repeal the definition, substitute:

21 *personal information* has the same meaning as in the *Privacy Act*  
22 *1988*.

23 *A New Tax System (Family Assistance) (Administration) Act*  
24 *1999*

25 **6 Paragraphs 219GA(7)(a) and (b)**

26 Repeal the paragraphs, substitute:

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1 (a) paragraph 6.2(b) of Australian Privacy Principle 6; and

2 **7 Subsection 219GA(7)**

3 Omit “that is authorised by law”, substitute “that is authorised by this  
4 Act”.

5 **8 Section 219PA**

6 Omit “law”, substitute “this Act”.

7 ***Anti-Money Laundering and Counter-Terrorism Financing***  
8 ***Act 2006***

9 **9 Subsection 35A(3)**

10 Omit “law for the purposes of paragraph 2.1(g) of National Privacy  
11 Principle 2 in Schedule 3 to the *Privacy Act 1988*”, substitute “this Act  
12 for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6”.

13 **10 Subsection 126(3)**

14 Omit “Information Privacy Principles set out in section 14 of the  
15 *Privacy Act 1988*”, substitute “Australian Privacy Principles”.

16 ***AusCheck Act 2007***

17 **11 Subsections 13(1) and (2)**

18 Omit “law”, substitute “this Act”.

19 **12 Subsection 16(2)**

20 Omit “law”, substitute “this Act”.

21 ***Australian Citizenship Act 2007***

22 **13 Subsection 43(1A) (note 2)**

23 Omit “Paragraph 3 of Information Privacy Principle 11 in section 14 of  
24 the *Privacy Act 1988*”, substitute “Australian Privacy Principle 6”.

1 ***Australian Curriculum, Assessment and Reporting Authority***  
2 ***Act 2008***

3 **14 Subsection 40(2)**

4 Omit “law for the purposes of Information Privacy Principle 10 in  
5 section 14 of the *Privacy Act 1988*”, substitute “this Act for the  
6 purposes of Australian Privacy Principle 6”.

7 **15 Subsection 40(3)**

8 Omit “law for the purposes of Information Privacy Principle 11 in  
9 section 14 of the *Privacy Act 1988*”, substitute “this Act for the  
10 purposes of Australian Privacy Principle 6”.

11 **16 Subsection 40(3) (note)**

12 Omit “Paragraph 3 of Information Privacy Principle 11 in section 14 of  
13 the *Privacy Act 1988*”, substitute “Australian Privacy Principle 6”.

14 ***Australian Passports Act 2005***

15 **17 Paragraphs 42(3)(a) and (b)**

16 Repeal the paragraphs, substitute:

17 (a) paragraph 6.2(b) of Australian Privacy Principle 6; and

18 **18 Subsection 42(3)**

19 Omit “or authorised by law”, substitute “or authorised by this Act”.

20 **19 Section 46 (note)**

21 Omit “section 14 of the *Privacy Act 1988* (including Information  
22 Privacy Principles 4(b) and 11.3)”, substitute “the Australian Privacy  
23 Principles”.

24 **20 Subsection 47(1) (note)**

25 Omit “section 14 of the *Privacy Act 1988* (including Information  
26 Privacy Principles 1 and 4)”, substitute “the Australian Privacy  
27 Principles”.



1 ***Australian Prudential Regulation Authority Act 1998***

2 **21 Subsection 56(12)**

3 Omit “law for the purposes of paragraph (1)(d) of Information Privacy  
4 Principle 11 in section 14 of the *Privacy Act 1988*”, substitute “this Act  
5 for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6”.

6 ***Commonwealth Electoral Act 1918***

7 **22 Subsection 7A(1C)**

8 Omit “law”, substitute “this Act”.

9 **23 Subsection 7A(1C) (note)**

10 Omit “paragraph (1)(c) of Information Privacy Principle 10 in  
11 section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
12 Australian Privacy Principle 6”.

13 **24 Paragraph 7A(1D)(a)**

14 Omit “law”, substitute “this Act”.

15 **25 Subsection 7A(1D) (note)**

16 Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
17 section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
18 Australian Privacy Principle 6”.

19 ***Crimes Act 1914***

20 **26 Paragraph 85ZZ(2)(e)**

21 Omit “Information Privacy Principles set out in section 14 of the  
22 Privacy Act”, substitute “Australian Privacy Principles”.

23 ***Dairy Produce Act 1986***

24 **27 Subsection 37ZB(1)**

25 Omit “A record keeper who has possession or control of”, substitute  
26 “An APP entity that holds”.

1 ***Defence Act 1903***

2 **28 Subsection 72Q(3)**

3 Omit “law for the purposes of Information Privacy Principle 11 in  
4 section 14 of the *Privacy Act 1988*”, substitute “this Act for the  
5 purposes of Australian Privacy Principle 6”.

6 **29 Subsection 72Q(3) (note)**

7 Omit “Paragraph 3 of Information Privacy Principle 11 in section 14 of  
8 the *Privacy Act 1988*”, substitute “Australian Privacy Principle 6”.

9 ***Defence Force (Home Loans Assistance) Act 1990***

10 **30 Subsection 36A(4)**

11 Omit “to be authorised by law”, substitute “to be authorised by this  
12 Act”.

13 ***Defence Home Ownership Assistance Scheme Act 2008***

14 **31 Subsection 79(4)**

15 Omit “to be authorised by law”, substitute “to be authorised by this  
16 Act”.

17 ***Defence Service Homes Act 1918***

18 **32 Subsection 45C(4)**

19 Omit “to be authorised by law”, substitute “to be authorised by this  
20 Act”.

21 ***Education Services for Overseas Students Act 2000***

22 **33 Subsection 50D(1) (note 1)**

23 Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
24 section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
25 Australian Privacy Principle 6”.

1 ***Extradition Act 1988***

2 **34 Subsection 54A(1)**

3 Omit “law”, substitute “this Act”.

4 ***Fair Work (Building Industry) Act 2012***

5 **35 Subsection 65(7)**

6 Omit “law for the purposes of paragraph (1)(d) of Information Privacy  
7 Principle 11 in section 14 of the *Privacy Act 1988*”, substitute “this Act  
8 for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6”.

9 ***Freedom of Information Act 1982***

10 **36 Subsection 4(1) (definition of *personal information*)**

11 Repeal the definition, substitute:

12 *personal information* has the same meaning as in the *Privacy Act*  
13 *1988*.

14 ***Healthcare Identifiers Act 2010***

15 **37 Section 5 (definition of *National Privacy Principle*)**

16 Repeal the definition.

17 **38 Subsection 9(6)**

18 Repeal the subsection, substitute:

19 (6) A healthcare identifier is a government related identifier for the  
20 purposes of the *Privacy Act 1988*.

21 **39 Section 18**

22 Omit “a person who is responsible (within the meaning of subclause 2.5  
23 of National Privacy Principle 2)”, substitute “a responsible person  
24 (within the meaning of the *Privacy Act 1988*)”.

25 **40 Paragraph 23(b)**

1 Omit “a person who is responsible (within the meaning of subclause 2.5  
2 of National Privacy Principle 2)”, substitute “a responsible person  
3 (within the meaning of the *Privacy Act 1988*)”.

4 **41 Paragraph 26(2)(c)**

5 Omit “section 16E”, substitute “section 16”.

6 ***Higher Education Support Act 2003***

7 **42 Subsection 19-60(1)**

8 Omit “information privacy principles set out in section 14 of the  
9 *Privacy Act 1988*”, substitute “Australian Privacy Principles”.

10 **43 Section 179-5 (paragraph (a) of the definition of *personal***  
11 ***information*)**

12 Repeal the paragraph, substitute:

13 (a) information or an opinion about an identified individual, or  
14 an individual who is reasonably identifiable:

- 15 (i) whether the information or opinion is true or not; and  
16 (ii) whether the information or opinion is recorded in a  
17 material form or not; and

18 **44 Subclause 23(1) of Schedule 1A**

19 Omit “information privacy principles set out in section 14 of the  
20 *Privacy Act 1988*”, substitute “Australian Privacy Principles”.

21 **45 Clause 72 of Schedule 1A (paragraph (a) of the definition**  
22 **of *VET personal information*)**

23 Repeal the paragraph, substitute:

24 (a) information or an opinion about an identified individual, or  
25 an individual who is reasonably identifiable:

- 26 (i) whether the information or opinion is true or not; and  
27 (ii) whether the information or opinion is recorded in a  
28 material form or not; and

29 ***Horse Disease Response Levy Collection Act 2011***

30 **46 Subsection 36(2) (note 2)**

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1 Omit “paragraph 3 of Information Privacy Principle 11 in section 14 of  
2 that Act”, substitute “Australian Privacy Principle 6”.

3 ***Inspector of Transport Security Act 2006***

4 **47 Subsection 35(4) (note)**

5 Omit “paragraph 2.1(g) of National Privacy Principle 2 in Schedule 3 to  
6 the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of Australian  
7 Privacy Principle 6”.

8 **48 Subsection 36(3) (note)**

9 Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
10 section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
11 Australian Privacy Principle 6”.

12 **49 Subsection 37(5) (note)**

13 Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
14 section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
15 Australian Privacy Principle 6”.

16 **50 Subsection 71(2) (note)**

17 Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
18 section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
19 Australian Privacy Principle 6”.

20 **51 Subsection 76(2) (note)**

21 Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
22 section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
23 Australian Privacy Principle 6”.

24 ***Migration Act 1958***

25 **52 Paragraphs 140ZI(2)(a) and (b)**

26 Repeal the paragraphs, substitute:  
27 (a) paragraph 6.2(b) of Australian Privacy Principle 6; and

28 **53 Subsection 140ZI(2)**

29 Omit “that is authorised by law”, substitute “that is authorised by this  
30 Act”.

1 **54 Subsection 336FD(1)**

2 Repeal the subsection, substitute:

3 (1) For the purposes of paragraph 6.2(b) of Australian Privacy  
4 Principle 6, the disclosure by a person of personal information  
5 about another person (the *subject*) is taken to be a disclosure that is  
6 authorised by this Act if:

7 (a) the person is disclosing a personal identifier of the subject  
8 and the disclosure is authorised by section 336FC; and

9 (b) the personal information is disclosed together with the  
10 personal identifier; and

11 (c) the disclosure of the personal information is for the purpose  
12 mentioned in paragraph 336FC(1)(b).

13 **55 Subsection 503A(7)**

14 Omit “Information Privacy Principles set out in section 14 of the  
15 *Privacy Act 1988*, to be authorised by law”, substitute “Australian  
16 Privacy Principles, to be authorised by this Act”.

17 ***Military Rehabilitation and Compensation Act 2004***

18 **56 Subsection 409(4)**

19 Omit “Information Privacy Principles set out in section 14 of the  
20 *Privacy Act 1988*, to be authorised by law”, substitute “Australian  
21 Privacy Principles, to be authorised by this Act”.

22 ***Mutual Assistance in Criminal Matters Act 1987***

23 **57 Subsection 43D(1)**

24 Omit “law”, substitute “this Act”.

25 ***National Health Act 1953***

26 **58 Subsection 9BA(5)**

27 Omit “law for the purposes of paragraph (1)(c) of Information Privacy  
28 Principle 10 in section 14 of the *Privacy Act 1988*”, substitute “this Act  
29 for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6”.

30 **59 Subsection 9BA(6)**

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1 Omit “law for the purposes of paragraph (1)(d) of Information Privacy  
2 Principle 11 in section 14 of the *Privacy Act 1988*”, substitute “this Act  
3 for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6”.

4 **60 Subsection 9BA(7) (definition of *personal information*)**

5 Repeal the definition, substitute:

6 *personal information* has the same meaning as in the *Privacy Act*  
7 *1988*.

8 **61 Subsection 135AB(3)**

9 Omit “IPP”, substitute “APP”.

10 **62 Subsection 135AC(1)**

11 Omit “law for the purposes of subparagraph 10.2(b)(i) of National  
12 Privacy Principle 10 in Schedule 3 to”, substitute “this Act for the  
13 purposes of subparagraph 16B(1)(b)(i) of”.

14 ***National Health Reform Act 2011***

15 **63 Subsection 127(3)**

16 Omit “law”, substitute “this Act”.

17 ***National Health Security Act 2007***

18 **64 Sections 19, 20, 47, 52, 85, 86, 87, 88 and 89 (notes)**

19 Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
20 section 14 of the *Privacy Act 1988*” (wherever occurring), substitute  
21 “paragraph 6.2(b) of Australian Privacy Principle 6”.

22 ***National Vocational Education and Training Regulator Act***  
23 ***2011***

24 **65 Paragraphs 210(2)(a) and (b)**

25 Repeal the paragraphs, substitute:

26 (a) paragraph 6.2(b) of Australian Privacy Principle 6; and

27 **66 Subsection 210(2)**

1 Omit “that is authorised by law”, substitute “that is authorised by this  
2 Act”.

3 ***Olympic Insignia Protection Act 1987***

4 **67 Subsection 57(3) (note)**

5 Omit “Principles 1, 2 and 3 in section 14 of the *Privacy Act 1988*”,  
6 substitute “Australian Privacy Principles 3 and 5”.

7 ***Ombudsman Act 1976***

8 **68 Subsections 7A(1D) and 8(2D)**

9 Omit “law”, substitute “this Act”.

10 ***Paid Parental Leave Act 2010***

11 **69 Subsection 128(1) (note)**

12 Omit “section 14 of the *Privacy Act 1988*”, substitute “the Australian  
13 Privacy Principles”.

14 **70 Subsection 207(7)**

15 Omit “to be authorised by law”, substitute “to be authorised by this  
16 Act”.

17 ***Personally Controlled Electronic Health Records Act 2012***

18 **71 Paragraph 73(b)**

19 Omit “or 13A”.

20 ***Private Health Insurance Act 2007***

21 **72 Subsection 250-10(2)**

22 Omit “to be authorised by law”, substitute “to be authorised by this  
23 Act”.

24 **73 Clause 1 of Schedule 1 (definition of *personal information*)**

25 Repeal the definition, substitute:



1                    *personal information* has the same meaning as in the *Privacy Act*  
2                    *1988*.

3                    ***Product Stewardship Act 2011***

4                    **74 Subsection 60(1) (note 1)**

5                    Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
6                    section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
7                    Australian Privacy Principle 6”.

8                    ***Quarantine Act 1908***

9                    **75 Section 66AZD**

10                    Omit “law”, substitute “this Act”.

11                    **76 Section 66AZD (note)**

12                    Omit “paragraph (1)(d) of Information Privacy Principle 11 in  
13                    section 14 of the *Privacy Act 1988*”, substitute “paragraph 6.2(b) of  
14                    Australian Privacy Principle 6”.

15                    ***Retirement Savings Accounts Act 1997***

16                    **77 Subsection 137A(3)**

17                    Omit “subclauses 7.1 and 7.1A of National Privacy Principle 7 in  
18                    Schedule 3 to the *Privacy Act 1988*”, substitute “Australian Privacy  
19                    Principle 9”.

20                    **78 Subsection 137A(3) (note 1)**

21                    Omit “Subclause 7.1”, substitute “Australian Privacy Principle 9”.

22                    ***Social Security (Administration) Act 1999***

23                    **79 Subsection 202(8) (note)**

24                    Omit “section 14 of the *Privacy Act 1988*”, substitute “the Australian  
25                    Privacy Principles”.

1 ***Stronger Futures in the Northern Territory Act 2012***

2 **80 Subsection 105(2)**

3 Omit “law”, substitute “this Act”.

4 ***Superannuation Industry (Supervision) Act 1993***

5 **81 Subsection 299LA(3)**

6 Omit “subclauses 7.1 and 7.1A of National Privacy Principle 7 in  
7 Schedule 3 to the *Privacy Act 1988*”, substitute “Australian Privacy  
8 Principle 9”.

9 **82 Subsection 299LA(3) (note 1)**

10 Omit “Subclause 7.1”, substitute “Australian Privacy Principle 9”.

11 ***Supported Accommodation Assistance Act 1994***

12 **83 Paragraph 12(3)(b)**

13 Omit “principles set out in that Act”, substitute “Australian Privacy  
14 Principles”.

15 ***Telecommunications Act 1997***

16 **84 Subparagraph 117(1)(k)(i)**

17 Omit “National Privacy Principles (as defined in the *Privacy Act*  
18 *1988*)”, substitute “Australian Privacy Principles”.

19 **85 Subparagraph 117(1)(k)(ii)**

20 Omit “that Act that relate to those Principles”, substitute “the *Privacy*  
21 *Act 1988* that relate to those principles”.

22 **86 Subsection 118(1) (note)**

23 Omit “National”, substitute “Australian”.

24 **87 Paragraph 118(4A)(a)**

25 Omit “National Privacy Principles (as defined in the *Privacy Act*  
26 *1988*)”, substitute “Australian Privacy Principles”.

1 **88 Paragraph 118(4A)(b)**

2 Omit “that Act relating to those Principles”, substitute “the *Privacy Act*  
3 *1988* relating to those principles”.

4 **89 Subsection 121(1A)**

5 Omit “National Privacy Principles (as defined in the *Privacy Act*  
6 *1988*)”, substitute “Australian Privacy Principles”.

7 **90 Subsection 122(3)**

8 Omit “National Privacy Principles (as defined in the *Privacy Act*  
9 *1988*)”, substitute “Australian Privacy Principles”.

10 **91 Subsection 130(1) (note)**

11 Omit “National”, substitute “Australian”.

12 **92 Paragraph 134(1)(a)**

13 Omit “National Privacy Principles (as defined in the *Privacy Act*  
14 *1988*)”, substitute “Australian Privacy Principles”.

15 **93 Paragraph 134(1)(b)**

16 Omit “that Act relating to those Principles”, substitute “the *Privacy Act*  
17 *1988* relating to those principles”.

18 **94 Section 303B (heading)**

19 Repeal the heading, substitute:

20 **303B Acts taken to be authorised by this Act for purposes of Privacy**  
21 **Act**

22 **95 Subsections 303B(1) and (2)**

23 Omit “law”, substitute “this Act”.

24 **96 Subclause 15(2) of Schedule 2**

25 Omit “Information Privacy Principles set out in section 14 of the  
26 *Privacy Act 1988* and the National Privacy Principles (as defined in that  
27 Act)”, substitute “Australian Privacy Principles”.

1 ***Telecommunications (Consumer Protection and Service***  
2 ***Standards) Act 1999***

3 **97 Subparagraphs 147(2)(l)(i) and (ia)**

4 Repeal the subparagraphs, substitute:

5 (i) Australian Privacy Principle 6;

6 ***Therapeutic Goods Act 1989***

7 **98 Subsections 61(4B) and (5B)**

8 Omit “paragraph 1(d) of Information Privacy Principle 11 in section 14  
9 of the *Privacy Act 1988*, to be authorised by law”, substitute “paragraph  
10 6.2(b) of Australian Privacy Principle 6, to be authorised by this Act”.

11 ***Trade Marks Act 1995***

12 **99 Subsection 143(1) (note 2)**

13 Omit “Principles 1, 2 and 3 in section 14 of the *Privacy Act 1988*”,  
14 substitute “Australian Privacy Principles 3 and 5”.

15 ***Veterans’ Entitlements Act 1986***

16 **100 Subsection 38AA(1)**

17 Omit “A record keeper who has possession or control of”, substitute  
18 “An APP entity that holds”.

19 **101 Subsection 38AA(2)**

20 Omit “Information Privacy Principles set out in section 14 of the  
21 *Privacy Act 1988*, to be authorised by law”, substitute “Australian  
22 Privacy Principles, to be authorised by this Act”.  
23

1 **Part 2—Amendments relating to credit reporting**

2 ***Anti-Money Laundering and Counter-Terrorism Financing***  
3 ***Act 2006***

4 **102 Section 5 (definition of assessment)**

5 Omit “agency”, substitute “body”.

6 **103 Section 5 (definition of *credit information file*)**

7 Repeal the definition.

8 **104 Section 5 (definition of *credit reporting agency*)**

9 Repeal the definition.

10 **105 Section 5**

11 Insert:

12 *credit reporting body* has the same meaning as in the *Privacy Act*  
13 *1988*.

14 **106 Section 35A (heading)**

15 Repeal the heading, substitute:

16 **35A Reporting entities may disclose certain personal information to**  
17 **credit reporting bodies for identity verification purposes**

18 **107 Paragraph 35A(1)(a)**

19 Omit “agency”, substitute “body”.

20 **108 Paragraph 35A(1)(b)**

21 Omit “agency” (first occurring), substitute “body”.

22 **109 Paragraph 35A(1)(b)**

23 Omit “contained in a credit information file in the possession or control  
24 of the credit reporting agency”, substitute “held by the credit reporting  
25 body”.

26 **110 Subparagraph 35A(2)(a)(ii)**

1 Omit “agency”, substitute “body”.

2 **111 Subparagraph 35A(2)(a)(iii)**

3 Omit “agency” (first occurring), substitute “body”.

4 **112 Subparagraph 35A(2)(a)(iii)**

5 Omit “contained in a credit information file in the possession or control  
6 of the credit reporting agency”, substitute “held by the credit reporting  
7 body”.

8 **113 Subparagraph 35A(2)(a)(iv)**

9 Omit “agency”, substitute “body”.

10 **114 Subparagraph 35A(2)(a)(v)**

11 Omit “agency”, substitute “body”.

12 **115 Subparagraph 35A(2)(a)(v)**

13 Omit “the names, residential addresses and dates of birth contained in  
14 credit information files of other individuals”, substitute “personal  
15 information held by the body that is the names, residential addresses  
16 and dates of birth of other individuals”.

17 **116 Section 35B (heading)**

18 Repeal the heading, substitute:

19 **35B Credit reporting bodies may use and disclose certain personal**  
20 **information for identity verification purposes**

21 **117 Subsection 35B(1)**

22 Omit “agency” (first occurring), substitute “body”.

23 **118 Paragraph 35B(1)(a)**

24 Omit “contained in a credit information file in the possession or control  
25 of the credit reporting agency”, substitute “held by the credit reporting  
26 body”.

27 **119 Paragraph 35B(1)(b)**

1 Omit “the names, residential addresses and dates of birth contained in  
2 credit information files of other individuals”, substitute “personal  
3 information held by the credit reporting body that is the names,  
4 residential addresses and dates of birth of other individuals”.

5 **120 Paragraph 35B(2)(a)**

6 Omit “contained in a credit information file in the possession or control  
7 of the credit reporting agency”, substitute “held by the credit reporting  
8 body”.

9 **121 Subsection 35B(3)**

10 Omit “contained in an individual’s credit information file”, substitute  
11 “held by the credit reporting body”.

12 **122 Subsection 35B(3)**

13 Omit “law for the purposes of paragraph 18K(1)(m)”, substitute “this  
14 Act for the purposes of paragraph 20E(3)(e)”.

15 **123 Paragraph 35C(2)(b)**

16 Omit “agency”, substitute “body”.

17 **124 Section 35D**

18 Repeal the section, substitute:

19 **35D Verification information not to be collected or held by a credit**  
20 **reporting body**

21 Subject to section 35E, a credit reporting body must not collect or  
22 hold personal information about an individual that relates to a  
23 verification request or an assessment in relation to the individual.

24 **125 Section 35E (heading)**

25 Repeal the heading, substitute:

26 **35E Retention of verification information—credit reporting bodies**

27 **126 Sections 35E, 35F and 35G**

28 Omit “agency” (wherever occurring), substitute “body”.

29 **127 Section 35L**

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1 Repeal the section, substitute:

2 **35L Breach of requirement is an interference with privacy**

3 A breach of a requirement of this Division in relation to an  
4 individual constitutes an act or practice involving an interference  
5 with the privacy of the individual for the purposes of section 13 of  
6 the *Privacy Act 1988*.

7 Note: The act or practice may be the subject of a complaint under section 36  
8 of that Act.

9 ***Australian Crime Commission Act 2002***

10 **128 Paragraph 29A(7)(b)**

11 Omit “agency (within the meaning of section 11A of the *Privacy Act*  
12 *1988*) would be required, under subsection 18K(5)”, substitute “body  
13 (within the meaning of the *Privacy Act 1988*) would be required, under  
14 subsection 20E(5)”.

15 ***Law Enforcement Integrity Commissioner Act 2006***

16 **129 Paragraph 77A(9)(c)**

17 Omit “agency (within the meaning of section 11A of the *Privacy Act*  
18 *1988*) would be required, under subsection 18K(5)”, substitute “body  
19 (within the meaning of the *Privacy Act 1988*) would be required, under  
20 subsection 20E(5)”.

21 **130 Paragraph 91(9)(c)**

22 Omit “agency (within the meaning of section 11A of the *Privacy Act*  
23 *1988*) would be required, under subsection 18K(5)”, substitute “body  
24 (within the meaning of the *Privacy Act 1988*) would be required, under  
25 subsection 20E(5)”.

26 ***National Consumer Credit Protection Act 2009***

27 **131 Paragraph 88(3)(i) of the *National Credit Code***

28 Repeal the paragraph, substitute:

29 (i) that, under the *Privacy Act 1988*, a credit reporting body  
30 (within the meaning of that Act) may collect and hold default



1 information (within the meaning of that Act) in relation to the  
2 default; and

3 **132 Paragraph 179D(2)(h) of the *National Credit Code***

4 Repeal the paragraph, substitute:

5 (h) that, under the *Privacy Act 1988*, a credit reporting body  
6 (within the meaning of that Act) may collect and hold default  
7 information (within the meaning of that Act) in relation to the  
8 default; and

9 ***Taxation Administration Act 1953***

10 **133 Section 355-200 in Schedule 1 (example)**

11 Omit “agency” (wherever occurring), substitute “body”.

12 **134 Section 355-200 in Schedule 1 (example)**

13 Omit “record of the disclosure in the entity’s credit information file, as  
14 required by subsection 18K(5)”, substitute “written note of the  
15 disclosure as required by subsection 20E(5)”.

16

1 **Part 3—Amendments relating to codes**

2 ***Australian Information Commissioner Act 2010***

3 **135 Paragraph 32(1)(b)**

4 Repeal the paragraph, substitute:

- 5 (b) a statement about the operation of registered APP codes  
6 under the *Privacy Act 1988* that contain procedures covered  
7 by subsection (2), including details about the number of  
8 complaints made under codes, their nature and outcome.

9 ***Telecommunications Act 1997***

10 **136 Section 116A**

11 Omit “an approved privacy code”, substitute “a registered APP code”.

12 **137 Subparagraph 117(1)(k)(iii)**

13 Omit “an approved privacy code”, substitute “a registered APP code”.

14 **138 Subparagraph 117(1)(k)(iv)**

15 Omit “the approved privacy code”, substitute “the registered APP  
16 code”.

17 **139 Subsection 118(1) (note)**

18 Omit “approved privacy code”, substitute “registered APP code”.

19 **140 Paragraph 118(4A)(c)**

20 Omit “an approved privacy code”, substitute “a registered APP code”.

21 **141 Paragraph 118(4A)(d)**

22 Omit “the approved privacy code”, substitute “the registered APP  
23 code”.

24 **142 Subsections 121(1A) and 122(3)**

25 Omit “an approved privacy code (as defined in that Act)”, substitute “a  
26 registered APP code (within the meaning of the *Privacy Act 1988*)”.

27 **143 Subsection 130(1) (note)**

1 Omit “an approved privacy code”, substitute “a registered APP code”.

2 **144 Paragraphs 134(1)(c) and (d)**

3 Omit “an approved privacy code”, substitute “a registered APP code”.

4 **145 Subsections 303B(1), 303B(2) and 303C(1)**

5 Omit “an approved privacy code”, substitute “a registered APP code”.

6 ***Telecommunications (Consumer Protection and Service***  
7 ***Standards) Act 1999***

8 **146 Subparagraph 147(2)(l)(ib)**

9 Omit “approved privacy code”, substitute “registered APP code”.  
10

1 **Part 4—Other amendments**

2 ***Australian Human Rights Commission Act 1986***

3 **147 Paragraph 20(4A)(b)**

4 Omit “in the performance of the functions referred to in paragraph  
5 27(1)(a) or 28(1)(b) or (c) of the *Privacy Act 1988*”, substitute “under  
6 the *Privacy Act 1988* as an interference with the privacy of an  
7 individual under subsection 13(1) or (4) of that Act”.

8 ***Australian Information Commissioner Act 2010***

9 **148 Subsection 9(2) (table item 3, column headed**  
10 **“Provision”)**

11 Omit “, and the Schedule”.

12 **149 Paragraphs 12(4)(a) and (b)**

13 Repeal the paragraphs, substitute:

14 (a) performing the functions, and exercising the powers,  
15 conferred on the Commissioner by Part IIIB of the *Privacy*  
16 *Act 1988*;

17 **150 Paragraph 12(4)(c)**

18 Repeal the paragraph, substitute:

19 (c) the making of guidelines under paragraph 28(1)(a) or (b) of  
20 the *Privacy Act 1988*, or the variation or revocation of those  
21 guidelines;

22 **151 Paragraph 12(4)(d)**

23 Repeal the paragraph, substitute:

24 (d) the issue, variation or revocation of rules under:  
25 (i) section 17 of the *Privacy Act 1988*; or  
26 (ii) section 12 of the *Data-matching Program (Assistance*  
27 *and Tax) Act 1990*; or  
28 (iii) section 135AA of the *National Health Act 1953*;

29 **152 Paragraph 12(4)(e)**

30 Omit “paragraph 27(1)(r)”, substitute “paragraph 28B(1)(c)”.

1 **153 Paragraph 12(4)(f)**

2 Repeal the paragraph.

3 **154 Paragraph 25(k)**

4 Omit “guidelines”, substitute “rules”.

5 **155 Paragraph 32(1)(a)**

6 Omit “paragraphs 28(1)(a) and (f)”, substitute “section 17 and  
7 paragraph 28A(1)(d)”.

8 ***Crimes Act 1914***

9 **156 Subsection 85ZZG(1)**

10 Omit “, 96”.

11 ***Data-matching Program (Assistance and Tax) Act 1990***

12 **157 Subsection 5(2)**

13 Omit “Guidelines”, substitute “Rules”.

14 **158 Section 12 (heading)**

15 Repeal the heading, substitute:

16 **12 Rules relating to privacy**

17 **159 Section 12**

18 Omit “guidelines” (wherever occurring), substitute “rules”.

19 **160 Subsection 13(2)**

20 Omit “guidelines in the Schedule”, substitute “rules issued under  
21 section 12”.

22 **161 Subsections 13(3) and (4)**

23 Omit “guidelines”, substitute “rules”.

24 **162 Subsection 13(7)**

25 Omit “Part 5 and section 99”, substitute “Part V”.

1 **163 Subsection 14(1)**

2 Omit “guidelines”, substitute “rules”.

3 ***Healthcare Identifiers Act 2010***

4 **164 Subsection 29(3)**

5 Repeal the subsection, substitute:

6 *Assessment by Information Commissioner*

7 (3) For the purpose of paragraph 33C(1)(a) of the *Privacy Act 1988*, a  
8 healthcare identifier is taken to be personal information.

9 ***National Health Act 1953***

10 **165 Section 135AA (heading)**

11 Repeal the heading, substitute:

12 **135AA Privacy rules**

13 **166 Subsection 135AA(3) (heading)**

14 Repeal the heading, substitute:

15 *Issuing rules*

16 **167 Subsections 135AA(3) and (3A)**

17 Omit “guidelines”, substitute “rules”.

18 **168 Subsection 135AA(4) (heading)**

19 Repeal the heading, substitute:

20 *Replacing or varying rules*

21 **169 Subsection 135AA(4)**

22 Omit “guidelines” (wherever occurring), substitute “rules”.

23 **170 Subsection 135AA(5) (heading)**

24 Repeal the heading, substitute:

1 *Content of rules*

2 **171 Subsections 135AA(5) and (5A)**

3 Omit “guidelines” (wherever occurring), substitute “rules”.

4 **172 Subsection 135AA(5AA)**

5 Omit “guidelines”, substitute “rules”.

6 **173 Subsections 135AA(5B) and (6)**

7 Omit “guidelines” (wherever occurring), substitute “rules”.

8 **174 Subsection 135AA(8) (heading)**

9 Repeal the heading, substitute:

10 *When rules take effect*

11 **175 Subsection 135AA(8)**

12 Omit “guidelines” (wherever occurring), substitute “rules”.

13 **176 Section 135AB (heading)**

14 Repeal the heading, substitute:

15 **135AB Breaches of the privacy rules**

16 **177 Subsections 135AB(1) and (2)**

17 Omit “guidelines”, substitute “rules”.

18 *Retirement Savings Accounts Act 1997*

19 **178 Subsection 137A(3) (note 2)**

20 Omit “guidelines”, substitute “rules”.

21 **179 Section 147**

22 Omit “guidelines”, substitute “rules”.

23 *Superannuation Industry (Supervision) Act 1993*

24 **180 Subsection 299LA(3) (note 2)**

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**Schedule 5** Amendment of other Acts  
**Part 4** Other amendments

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1 Omit “guidelines”, substitute “rules”.  
2



1 **Schedule 6—Application, transitional and**  
2 **savings provisions**

3 **Part 1—Definitions**

4 **1 Definitions**

5 In this Schedule:

6 ***commencement time*** means the time Schedule 1 to this Act  
7 commences.

8 ***Privacy Act*** means the *Privacy Act 1988*.

9 ***transition period*** means the period:

- 10 (a) starting on the day this Act receives the Royal Assent; and  
11 (b) ending immediately before the commencement time.  
12

1 **Part 2—Provisions relating to Schedule 1 to this Act**

2 **2 Application—court/tribunal orders**

3 The definition of *court/tribunal order* in subsection 6(1) of the Privacy  
4 Act, as inserted by Schedule 1 to this Act, applies in relation to an  
5 order, direction or other instrument made before or after the  
6 commencement time.

7 **3 Saving—guidelines relating to medical research etc.**

- 8 (1) This item applies to guidelines if:  
9 (a) the guidelines were issued or approved under subsection  
10 95(1), 95A(2), 95A(4) or 95AA(2) of the Privacy Act; and  
11 (b) the guidelines were in force immediately before the  
12 commencement time.
- 13 (2) The guidelines have effect, after that time, as if they had been issued or  
14 approved under that subsection, as amended by Schedule 1 to this Act.  
15

1 **Part 3—Provisions relating to Schedule 2 to this Act**

2 **4 Application—credit reporting**

- 3 (1) To the extent that the amendments of the Privacy Act made by  
4 Schedule 2 to this Act apply in relation to credit, they apply in relation  
5 to credit applied for, or provided, before or after the commencement  
6 time.
- 7 (2) The definition of *court proceedings information* in subsection 6(1) of  
8 the Privacy Act, as inserted by Schedule 2 to this Act, applies in relation  
9 to a judgement of an Australian court made or given before or after the  
10 commencement time.
- 11 (3) The definition of *serious credit infringement* in subsection 6(1) of the  
12 Privacy Act, as inserted by Schedule 2 to this Act, applies in relation to  
13 an act done before or after the commencement time.
- 14 (4) Paragraph 6N(k) of the Privacy Act, as inserted by Schedule 2 to this  
15 Act, applies in relation to activities done before or after the  
16 commencement time.
- 17 (5) Section 6R of the Privacy Act, as inserted by Schedule 2 to this Act,  
18 applies in relation to an information request made before or after the  
19 commencement time.
- 20 (6) Section 6V of the Privacy Act, as inserted by Schedule 2 to this Act,  
21 applies in relation to a monthly payment that is due and payable on or  
22 after the day this Act receives the Royal Assent.  
23

1 **Part 4—Provisions relating to Schedule 3 to this Act**

2 **5 Privacy codes may be developed etc. during the transition**  
3 **period**

- 4 (1) A function or power conferred on the Commissioner or an entity by  
5 Part IIIB of the Privacy Act, as inserted by Schedule 3 to this Act, may  
6 be performed or exercised during the transition period as if the Privacy  
7 Act, as amended by this Act, was in force during that period.
- 8 (2) The performance of such a function, or the exercise of such a power,  
9 during the transition period has effect, after the commencement time, as  
10 if it had been performed or exercised under Part IIIB of the Privacy Act  
11 as inserted by Schedule 3 to this Act.  
12

1 **Part 5—Provisions relating to Schedule 4 to this Act**

2 **6 Application—section 13G of the Privacy Act**

3 Section 13G of the Privacy Act, as inserted by Schedule 4 to this Act,  
4 applies in relation to an act done, or a practice engaged in, after the  
5 commencement time.

6 **7 Saving—guidelines relating to tax file number information**

- 7 (1) This item applies to guidelines if:  
8 (a) the guidelines were issued under subsection 17(1) of the  
9 Privacy Act; and  
10 (b) the guidelines were in force immediately before the  
11 commencement time.
- 12 (2) The guidelines have effect, after that time, as if they had been rules  
13 issued under section 17 of that Act, as inserted by Schedule 4 to this  
14 Act.

15 **8 Saving—guidelines prepared and published under the**  
16 **Privacy Act**

- 17 (1) This item applies to guidelines if:  
18 (a) the guidelines were prepared and published under paragraph  
19 27(1)(e) or 28A(1)(e) of the Privacy Act; and  
20 (b) the guidelines were in force immediately before the  
21 commencement time.
- 22 (2) The guidelines have effect, after that time, as if they had been made  
23 under paragraph 28(1)(a) of that Act, as inserted by Schedule 4 to this  
24 Act.

25 **9 Audits by the Commissioner**

- 26 (1) This item applies if:  
27 (a) before the commencement time, the Commissioner was  
28 conducting an audit under paragraph 27(1)(h) or (ha),  
29 28(1)(e) or 28A(1)(g) of the Privacy Act; and  
30 (b) immediately before that time, the audit has not been  
31 completed.

- 1 (2) Despite the amendments of the Privacy Act made by this Act, the  
2 Commissioner may continue, after the commencement time, to conduct  
3 the audit as if those amendments had not been made.

4 **10 Application—amendment made by item 75 of Schedule 4**

5 The amendment made by item 75 of Schedule 4 to this Act applies in  
6 relation to a representative complaint lodged after the commencement  
7 time.

8 **11 Application—paragraph 41(1)(db) of the Privacy Act**

9 Paragraph 41(1)(db) of the Privacy Act, as inserted by Schedule 4 to  
10 this Act, applies in relation to a request made after the commencement  
11 time.

12 **12 Saving—public interest determinations**

- 13 (1) This item applies to a determination if:  
14 (a) the determination was made under section 72 of the Privacy  
15 Act; and  
16 (b) the determination was in force immediately before the  
17 commencement time.
- 18 (2) The determination has effect, after the commencement time, as if it had  
19 been made under that section, as amended by Schedule 4 to this Act.
- 20 (3) The Commissioner may, by legislative instrument, vary the  
21 determination after the commencement time to take account of the  
22 amendments of the Privacy Act made by this Act.
- 23 (4) In deciding whether to vary the determination, the Commissioner may:  
24 (a) consult any person or entity; and  
25 (b) take into account any matter that the Commissioner considers  
26 relevant.

27 **13 Application—subsection 73(1A) of the Privacy Act**

28 Subsection 73(1A) of the Privacy Act, as inserted by Schedule 4 to this  
29 Act, applies in relation to an application made under subsection 73(1) of  
30 the Privacy Act after the commencement time.

31 **14 Application—review by the Administrative Appeals  
32 Tribunal**

1 Paragraphs 96(1)(c), (e), (f) and (g) of the Privacy Act, as inserted by  
2 Schedule 4 to this Act, apply in relation to a decision made after the  
3 commencement time.  
4

1 **Part 6—Provisions relating to Schedule 5 to this Act**

2 **15 Saving—guidelines issued under other Acts**

- 3 (1) This item applies to guidelines if:
- 4 (a) the guidelines were issued under section 135AA of the  
5 *National Health Act 1953* or section 12 of the *Data-matching*  
6 *Program (Assistance and Tax) Act 1990*; and
- 7 (b) the guidelines were in force immediately before the  
8 commencement time.
- 9 (2) The guidelines have effect, after that time, as if they had been rules  
10 issued under that section, as amended by Schedule 5 to this Act.  
11



1 **Part 7—Provisions relating to other matters**

2 **16 Pre-commencement complaints**

- 3 (1) This item applies if:
- 4 (a) before the commencement time, a complaint about an act or  
5 practice was made to the Commissioner under section 36 of  
6 the Privacy Act; and
- 7 (b) immediately before that time, the Commissioner has not:
- 8 (i) decided under Part V of that Act not to investigate, or  
9 not to investigate further, the act or practice; or
- 10 (ii) made a determination under section 52 of that Act in  
11 relation to the complaint.
- 12 (2) Despite the amendments of the Privacy Act made by this Act, the  
13 complaint may be dealt with under the Privacy Act after the  
14 commencement time as if those amendments had not been made.

15 **17 Pre-commencement own initiative investigations**

- 16 (1) This item applies if:
- 17 (a) before the commencement time, the Commissioner  
18 commenced an investigation under subsection 40(2) of the  
19 Privacy Act; and
- 20 (b) immediately before that time, the Commissioner has not  
21 finished conducting the investigation.
- 22 (2) Despite the amendments of the Privacy Act made by this Act, the  
23 Commissioner may continue to conduct the investigation under the  
24 Privacy Act after the commencement time as if those amendments had  
25 not been made.

26 **18 Pre-commencement acts and practices**

- 27 (1) This item applies if:
- 28 (a) before the commencement time, an act was done, or a  
29 practice was engaged in, by an agency or organisation; and
- 30 (b) the act or practice may be an interference with the privacy of  
31 an individual under section 13 or 13A of the Privacy Act (as  
32 in force immediately before that time); and
- 33 (c) immediately before that time:

**Schedule 6** Application, transitional and savings provisions

**Part 7** Provisions relating to other matters

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- 1 (i) the individual has not made a complaint about the act or  
2 practice to the Commissioner under section 36 of that  
3 Act; and  
4 (ii) the Commissioner has not decided to investigate the act  
5 or practice under subsection 40(2) of that Act.
- 6 (2) Despite the amendments of the Privacy Act made by this Act, the  
7 individual may, after the commencement time, complain to the  
8 Commissioner about the act or practice, and the complaint may be dealt  
9 with, under the Privacy Act as if those amendments had not been made.
- 10 (3) Despite the amendments of the Privacy Act made by this Act, the  
11 Commissioner may, after the commencement time, investigate the act  
12 or practice under subsection 40(2) of the Privacy Act as if those  
13 amendments had not been made.

14 **19 Regulations may deal with transitional etc. matters**

15 The Governor-General may make regulations dealing with matters of a  
16 transitional, application or saving nature relating to the amendments  
17 made by this Act.