

## **EXPLANATORY STATEMENT**

Issued by the Minister for Health and Ageing

*National Health Security Act 2007*

*National Health Security (SSBA Standards) Amendment Determination 2009 (No. 1)*

### **Background**

Subsection 35(1) of the *National Health Security Act 2007* (NHS Act), provides that the Minister may, by legislative instrument, determine standards (SSBA Standards) relating to security-sensitive biological agents (SSBAs).

The SSBA Standards may set out requirements relating to SSBAs including their storage, the security status of individuals who handle or dispose of SSBAs and the transport of SSBAs. Section 56 of the NHS Act requires entities that handle SSBAs to comply with the SSBA Standards.

The *National Health Security (SSBA Standards) Determination 2008* (the Principal Determination) was made by the Minister on 13 November 2008. Section 3 of the Principal Determination provides that SSBA Standards means the *Security-sensitive Biological Agent (SSBA) Standards* dated 30 September 2008, published by the Commonwealth. The SSBA Standards can be found on the Department's website at <http://www.health.gov.au/ssba>.

The Principal Determination provides that Parts 1 and 2 of the SSBA Standards came into effect immediately after the commencement of Part 3 of the NHS Act. Part 3 of the SSBA Standards commences on 1 July 2009. The objective of Part 3 of the SSBA Standards is to ensure that personnel management systems are in place to implement biosecurity for SSBAs and related sensitive information.

Clauses 3.3 (Authorised persons) and 3.4 (Recruitment) of the SSBA Standards require, among other things, that persons handling SSBAs undergo background checking consisting of a National Criminal History Check and a Politically Motivated Violence Check.

### **Purpose**

The *National Health Security (SSBA Standards) Amendment Determination 2009 (No. 1)* (the Determination) amends the Principal Determination by adding a new Schedule 1 to the Principal Determination. Schedule 1 modifies the SSBA Standards by substituting new clauses 3.3 and 3.4, including the commentaries. In effect, the modifications to clauses 3.3 and 3.4 remove the requirement for persons handling Tier 1 SSBAs or related sensitive information to undergo background checking.

A background checking process consistent with national security measures has been delayed because supporting legislation has not been enacted. Following passage of the required legislation, new SSBA Standards will be determined to require background checking of persons handling SSBAs or related sensitive information.

Details of the Determination are set out in Attachment A.

The Determination is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

### **Consultation**

It was unnecessary to consult with stakeholders on making the Determination as the Determination does not adversely impact anyone and is clearly of benefit to persons who would otherwise be subject to an obligation with which they were unable to comply, or who

were unsure of the need to comply. Stakeholders will be notified by the Department once the Determination is made.

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**ATTACHMENT A**

***DETAILS OF THE NATIONAL HEALTH SECURITY (SSBA STANDARDS)  
AMENDMENT DETERMINATION 2009 (No. 1)***

**1. Name of Determination**

This section provides that this Determination is the *National Health Security (SSBA Standards) Amendment Determination 2009 (No. 1)*.

**2. Commencement**

This section provides that this Determination commences on 1 July 2009.

**3. Amendment of *National Health Security (SSBA Standards) Determination 2008***

This section provides that Schedule 1 amends the *National Health Security (SSBA Standards) Determination 2008* (the Principal Determination).

**Schedule 1 Amendments**

**Item 1**

This item amends subsection 4(1) of the Principal Determination by omitting the words ‘SSBA Standards’ and substituting the words ‘SSBA Standards, as modified by Schedule 1’. The effect of this amendment is that the SSBA Standards are modified by the clauses in the new Schedule 1 of the Principal Determination that is inserted by item 2 of this Determination.

**Item 2**

This item inserts Schedule 1 into the Principal Determination which modifies the SSBA Standards.

Clause 1 of the Schedule substitutes a new clause 3.3 in the SSBA Standards, including the commentary. The new clause 3.3 omits the requirement for authorised persons handling SSBAs or sensitive information to undergo background checking consisting of a National Criminal History Check and a Politically Motivated Violence Check.

Clause 2 of the Schedule substitutes a new clause 3.4 in the SSBA Standards, including the commentary. The new clause 3.4 omits the requirement for persons recruited to handle Tier 1 SSBAs or sensitive information to undergo background checking consisting of a National Criminal History Check and a Politically Motivated Violence Check.