

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 283

Issued by the authority of the Attorney-General

Legislative Instruments Act 2003

Legislative Instruments Amendment Regulation 2012 (No. 2)

Section 62 of the *Legislative Instruments Act 2003* (Legislative Instruments Act) provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed, or necessary and convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the Regulation is to amend the *Legislative Instruments Regulations 2004* (Legislative Instruments Regulations) to remove legislative instrument exemptions specified in Part 2 Schedule 1 of the Regulations which relate to instruments made under the *Intelligence Services Act 2001* (IS Act). The legislative instrument exemptions specify that the provisions of the Legislative Instruments Act do not apply to Ministerial Directions made under sections 6 and 8 as well as rules and guidelines issued by the Minister under section 15 and clause 1 of schedule 2 of the IS Act.

Amendments made to the IS Act mean that these exemptions are now included in the IS Act, consistent with Government policy that the status of certain instruments should be specified in the enabling Act.

The Legislative Instruments Act specifies no conditions that need to be satisfied before the power to make a Regulation may be exercised.

Broad consultation was not required, as these are technical amendments that will not have any impact on business or result in any substantive change to the law. Prior to making the Regulation, consultations were undertaken with the relevant IS Act agencies, including the Australian Secret Intelligence Service, the Defence Signals Directorate, and the Defence Imagery and Geospatial Organisation.

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

The Regulation commences on the day after it is registered on the Federal Register of Legislative Instruments.

Statement of Compatibility with Human Rights

This Regulation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Objective

The object of the *Legislative Instruments Amendment Regulation 2012 (No. 2)* is to make a technical amendment to the Legislative Instruments Regulations to ensure they reflect amendments made to the IS Act in July 2011.

The Regulation repeals item 11 in Schedule 1, Part 2 of the Legislative Instruments Regulations. This item provides that instruments made under certain parts of the IS Act are not legislative instruments under the Legislative Instruments Act.

As these exemptions now appear in the IS Act, it is unnecessary that the Legislative Instruments Regulations also contain these provisions.

The Regulation makes a technical amendment to the Legislative Instruments Regulation which has no impact on the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Conclusion

The amendments to the Legislative Instruments Regulations are compatible with human rights as they do not raise any human rights issues.