

## EXPLANATORY STATEMENT

### **Social Security (Public Interest Certificate Guidelines) (DSS) Determination 2015**

#### **Summary**

The *Social Security (Public Interest Certificate Guidelines) (DSS) Determination 2015* (the Guidelines) are made under paragraph 209(a) of the *Social Security (Administration) Act 1999* (the Act).

The purpose of the Guidelines is to assist the Secretary (or the delegate) of the Department of Social Services (DSS) in the exercise of their power under paragraph 208(1)(a) to disclose protected information where it is necessary in the public interest.

The disclosure of relevant information to a person, under paragraph 208(1)(a) of the Act in accordance with the Guidelines, does not give that person the authority to disclose that information to further parties, unless this disclosure is for the purpose for which the information was disclosed to the person, as permitted by paragraph 202(2)(e) of the Act, or the disclosure is otherwise authorised under law.

The Guidelines are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

#### **Changes since the 2014 Guidelines**

The Guidelines largely replicate the *Social Security (Public Interest Certificate Guidelines) (DSS) Determination 2014* (the 2014 Guidelines), subject to the changes below.

The Guidelines revoke the 2014 Guidelines.

Despite this revocation, there is a savings provision (section 3A), to put beyond doubt that public interest certificates made under and in accordance with the 2014 Guidelines continue in force.

The Guidelines add section 9A. The purpose of this new section is to ensure that protected information can be disclosed to assist Commonwealth, State and Territory law enforcement agencies with:

- (a) the making, or proposed or possible making, of a proceeds of crime order; or
- (b) supporting or enforcing a proceeds of crime order.

Subsection 9A(2) defines 'proceeds of crime order' for the purposes of section 9A.

The Guidelines also insert paragraph 16(d). Paragraph 16(d) states that information may be disclosed for the purposes of investigating or taking enforcement action in relation to public housing or State or Territory managed housing including to assist with an investigation into either:

- (i) the misreporting of income by tenants of public housing or State or Territory managed housing; or
- (ii) the unauthorised occupation of public housing or State or Territory managed housing by any person.

The Guidelines also provide further clarity (in section 18) on what is meant by a 'matter of relevance' for the purposes of the Guidelines. Subsection 18(2) provides that a matter of relevance to a department includes a programme or activity that provides assistance or services to a class of people that includes at least some persons receiving payments or entitlements under the social security law or the family assistance law.

A detailed description of the Guidelines follows.

## Description of the provisions in the Guidelines

### Part 1 – Preliminary

Part 1 sets out preliminary information about the Guidelines, namely, the name of the Guidelines (**section 1**), commencement (**section 2**), revocation of the 2014 Guidelines (**section 3**), savings of the 2014 Guidelines with respect to certificates made under them (**section 3A**), purpose (**section 4**), definitions (**section 5**) and matters to which the Secretary of DSS (or delegate) must have regard (**section 6**).

**Section 6** provides that the Secretary must have regard to certain matters in giving a public interest certificate. The Secretary must have regard to any situation in which a person (to whom the information relates) is, or may be, subject to physical, psychological or emotional abuse. The Secretary must also have regard to whether the person in such a situation may be unable to give notice of his or her circumstances because of age, disability or social, cultural, family or other reasons. Section 6 is intended to ensure that these matters are taken into account in giving a public interest certificate, such as where relevant information may be disclosed in relation to situations involving individuals who may not be in a position to seek assistance themselves.

### Part 2 – Guidelines – public interest certificate (general)

Part 2 sets out how the disclosure of relevant information can generally occur under paragraph 208(1)(a) of the Act.

**Subsection 7(1)** provides that a public interest certificate may be given by the Secretary if:

- the information cannot reasonably be obtained from a source other than the Department or the Department of Human Services (DHS); and
- the disclosure will be to a person who has sufficient interest in the information; and
- the Secretary is satisfied that disclosure is for the purpose of sections 8, 9, 9A, 10, 11, 12, 13, 14, 15, 16, 16A, 17, 17A, 17B, 17C, 18, 18A or 18B.

**Subsection 7(2)** provides that a person has *sufficient interest* in the relevant information if either the Secretary is satisfied that the person has a genuine and legitimate interest in the information or the person is a Minister.

**Section 8** permits disclosure of relevant information where necessary to prevent, or lessen, a threat to the life, health or welfare of a person.

**Paragraph 9(1)(a)** permits disclosure of relevant information if the disclosure is necessary:

- for the enforcement of a criminal law that relates to an indictable offence punishable by imprisonment of 2 years or more;
- for the enforcement of a law imposing a pecuniary penalty equivalent to 40 penalty units or more; or
- to prevent an act that may have a significant adverse effect on the public revenue.

**Paragraph 9(1)(b)** permits disclosure of relevant information where the disclosure relates to an offence, or threatened offence, against a Commonwealth employee or Commonwealth property, or in premises of the DSS or DHS.

**Subsection 9(2)** defines the terms ‘criminal law’ and ‘penalty unit’.

A **note** at the end of **section 9** is just a signpost that quotes subsection 4AA(1) of the *Crimes Act 1914*.

**Section 9A(1)** is a new section that will allow for the disclosure of relevant information to a Commonwealth, State or Territory law enforcement agency where this is necessary for:

- the making, or proposed or possible making, of a proceeds of crime order; or
- supporting or enforcing a proceeds of crime order.

**Subsection 9A(2)** contains the definition of ‘proceeds of crime order’ for the purposes of section 9A.

Section 9A of these Guidelines is aimed at disrupting and combating serious and organised crime. The measure does this by assisting law enforcement agencies in their efforts to deprive individuals of the proceeds, instruments and benefits derived from unlawful activity.

Where a proceeds of crime order has been made or is being sought against an individual under a Commonwealth, State or Territory law, section 9A will ensure that law enforcement bodies and other relevant entities have access to the information they need to make, support or enforce the order.

Section 9A has been drafted based on section 355-70 in Schedule 1 to the *Taxation Administration Act 1953*. Section 9A has been drafted consistently with the provisions in that Act relating to the disclosure of protected tax information for proceeds of crime purposes.

**Section 10** permits disclosure of relevant information where necessary to correct a mistake of fact in relation to the administration of a program of the Department where either the integrity of the program is at risk if the mistake of

fact is not corrected or the mistake of fact relates to a matter that has been, or will be, published.

**Section 11** permits the disclosure of relevant information if the disclosure is necessary to brief a Minister (as defined in section 5):

- to enable the Minister to consider complaints or issues raised by, or on behalf of a person, and respond to that person accordingly;
- for a meeting or forum that the Minister is to attend;
- in relation to issues raised, or proposed to be raised by or on behalf of a person so that the Minister can respond by correcting a mistake of fact, a misleading perception or impression, or a misleading statement;
- about a DHS error or delay; or
- about an anomalous or unusual operation of the social security law.

**Section 12** permits disclosure of relevant information to a court, coronial inquiry, Royal Commission, department or any other authority of a State or Territory if the information is about a reported missing person and the disclosure is necessary either to assist such a body in relation to the whereabouts of the missing person or to locate a person (including the missing person). However, disclosure will only be possible if there is no reasonable ground to believe that the missing person would not want the information disclosed.

For the purposes of this section, a reported missing person would include a person who has had a missing person's report about them filed with the police.

**Subsection 13(1)** permits disclosure of relevant information about a deceased person where the disclosure is:

- necessary to assist a court, coronial inquiry, Royal Commission, department or any other authority of a State or Territory in relation to the death of the person;
- necessary to locate a relative or beneficiary of the deceased person;
- necessary to help an individual or authority responsible for the administration of the estate of the deceased person in relation to the administration of the estate of the deceased person; or
- is in relation to DHS transferring information to the relevant authority responsible for administering the social security system in another country regarding the deceased person who, prior to their death, was qualified for or in receipt of an Australian social security payment or held a Commonwealth Seniors Health Card.

However, disclosure will only be possible if there is no reasonable ground to believe that the deceased person would not have wanted the information disclosed.

**Subsection 13(2)** permits disclosure of relevant information where the information is to establish the death of a person or the place where the death of a person is registered.

**Section 14** permits disclosure of relevant information where it is necessary to ensure a child who should be enrolled in, or attending, school, is enrolled or attending.

In administering Part 3B of the Act, DHS may collect information from parents or schools regarding the enrolment or attendance of children at school. However, State and Territory education departments and schools may not necessarily have certain information on their own records. For example, they may not be aware of children who are not enrolled at school. Section 14 will facilitate the release of information to ensure children who should be enrolled and attending school, under State and Territory laws, are so enrolled and attending in accordance with those laws.

Attendance at school is one of the principal indicators for school achievement and students who are regularly absent from school are those at greatest risk of dropping out of school early, becoming long-term unemployed, dependent on welfare and being involved in the justice system. Section 14 is intended to ensure that relevant information held by the Commonwealth is provided to relevant State/Territory authorities and schools so that action can be taken to facilitate enrolment and improve attendance in accordance with State/Territory laws.

**Section 15** permits the disclosure of relevant information where it is necessary to plan for, meet or monitor infrastructure and resource needs in one or more schools.

**Section 16** deals with disclosures that are permitted in relation to the administration of public housing.

This provision authorises the disclosure of income details about people in public housing from DHS to bodies such as State Housing Authorities (SHAs) to allow for the accurate calculation of rents. The provision also ensures that relevant information can be disclosed to agents or contracted service providers of State/Territory departments or authorities to deal with different organisational arrangements in States and Territories for the administration of public housing. This provision authorises the disclosure of information from DHS to bodies such as SHAs in the context of the administration of an income confirmation service (such as the Automatic Income Confirmation Service). The disclosure of information under this provision provides administrative efficiency for government agencies and those in public housing who need to have their rents determined according to their household income.

Paragraph 16(d) has been added to the Guidelines. Paragraph 16(d) states that information may be disclosed for the purposes of investigating or taking

enforcement action in relation to public housing or State or Territory managed housing including to assist with an investigation into either:

- the misreporting of income by tenants of public housing or State or Territory managed housing; or
- the unauthorised occupation of public housing or State or Territory managed housing by any person.

The intention of this change is to further support existing income confirmation services and provide a clear basis for the Department to disclose information where it is necessary to investigate fraudulent activity and the misuse of public housing.

**Section 16A** is designed to ensure that protected information can be disclosed to State and Territory agencies that deal with public or community housing (such as State Housing Authorities or similar entities operating in various State or Territory jurisdictions), or contracted service providers of such agencies, to facilitate the administration of the Vulnerable Welfare Payment Recipient measure of income management. This section is designed to allow information to be disclosed about the social security status (including whether a person has an appointed nominee) of tenants (or applicants to be tenants) to assist a decision as to whether to refer a person to the Secretary for possible income management under the Vulnerable Welfare Payment Recipient measure dealt with under Part 3B of the Act. This section also ensures that, following a referral, information can be disclosed to confirm whether a person was actually made subject to income management and other details about a person's social security status (including nominee arrangements) and usual place of residence. This section aims to ensure that: the vulnerable welfare payment recipient measure is efficient and well targeted; referrals from State and Territory agencies that deal with public or community housing are effective; rental liabilities are effectively managed; and evictions due to unpaid rent are minimised.

**Subsection 17(1)** provides for relevant information to be disclosed where it is necessary for the establishment of the Queensland Family Responsibilities Commission (FRC) or to assist in the performance of its functions or the exercise of its powers. Among other things, relevant information can be disclosed under subsection 17(1) to support decision-making by the FRC. This would include enabling the FRC to correctly identify persons who are within its jurisdiction.

**Subsection 17(2)** provides that the Family Responsibilities Commission means the Commission established by section 9 of the *Family Responsibilities Commission Act 2008* (Qld).

**Section 17A** permits the disclosure of relevant information where the information will be used by a State, Territory or the Commonwealth government for the purpose of contacting someone in respect of their possible entitlement to compensation or other forms of recompense in a reparation process.

**Section 17B** allows for the disclosure of relevant information to a State or Territory Child Protection agency if the disclosure is necessary for the purpose of contacting a child's parent or relative. For example, section 17B may apply when a Child Protection agency is seeking to contact a parent to assist in a court case relating to the child.

**Subsection 17B(2)** provides that Child Protection agency means a government agency that carries out child protection functions.

**Section 17C** will permit the disclosure of relevant information about a person's social security concessions where responsibility for the provision of services to them has been transferred from one public utility to another. The purpose of the amendment is to facilitate improved customer service for Commonwealth concession card holders who receive a concessional rate on their utilities bill.

Section 17C will apply in relation to the disclosure of information about the customers of a public utility. The term "public utility" is defined in subsection 17C(2) to mean a legal entity that provides, or is related to a legal entity that provides, water, sewerage, gas, electricity or telecommunications services to the public.

Section 17C will apply where the customer of a public utility has provided consent to enable that public utility to confirm their entitlement to a social security related concession. This confirmation is provided through the Centrelink Confirmation eServices (CCeS), administered by DHS. Where responsibility for the provision of services to that customer has been transferred to another public utility and, where necessary, the second public utility advises the Commonwealth of the customer's contact details, relevant information may be disclosed to the second public utility to enable it to confirm the customer's entitlement to a social security related concession through the CCeS. This is intended to cover a range of situations where responsibility for the provision of services to customers has been transferred. This may arise through changes in the ownership of public utilities (eg as the result of merger or acquisition). It may also arise, for example, where a public utility enters into an arrangement for another public utility to take over responsibility for some or all of its customers.

**Subsection 18(1)** provides that relevant information can be disclosed to facilitate the progress or resolution of any matters of relevance within the portfolio responsibilities of a department administering any part of the social security or family assistance law. **Subsection 18(2)** provides that "a matter of relevance to a department" includes a programme or activity that provides assistance or services to a class of people that includes at least some persons receiving payments or entitlements under the social security law or the family assistance law.

DSS and other departments that administer the social security law or family assistance law also administer programs and schemes that deliver additional



support and assistance to people who may or may not be in receipt of social security or family assistance payments or entitlements. This additional support does not necessarily fall within the social security law or the family assistance law. Section 18 enables the disclosure of relevant information where it is necessary to facilitate or progress a departmental program or scheme that is designed to deliver services to support and assist a class of people wholly or partly comprised of social security or family assistance recipients, whether or not that program or scheme falls within the social security law or family assistance law.

This section enables a delegate to disclose information where the disclosure is not already authorised by section 202 of the Act, or by another section in these Guidelines.

**Section 18A** allows for the disclosure of information relevant to research and statistical analysis (where that research or analysis is relevant to a Department of State, such as DSS, that is administering any part of the family assistance law or the social security law).

**Section 18B** allows for the disclosure of information relevant to investigating and making decisions in relation to suspected breaches of the APS Code of Conduct. This section was included because, although disclosure of such information and subsequent use is for the purposes of the social security law, there is nothing in the Guidelines which would allow a public interest certificate to be issued for disclosure (and subsequent use) for the purposes of investigating and making decisions in relation to suspected breaches of the APS Code of Conduct.

This Guideline may assist investigation of circumstances where a person who has access to social security payment information, inappropriately uses that information for a financial benefit (for themselves or others) in breach of the *Public Service Act 1999*.

### **Part 3 – Guidelines – public interest certificate (homeless young person)**

Part 3 sets out how the release of relevant information can occur under paragraph 208(1)(a) of the Act in relation to homeless young people.

**Section 19** provides that this Part applies if relevant information relates to a homeless young person. It also provides definitions of the terms ‘homeless young person’ and ‘parent’ for the purposes of Part 3.

**Subsection 20(1)** provides that a public interest certificate may be given by the Secretary if:

- the information cannot be obtained from a source other than the Department;
- the Secretary is satisfied that no harm will result to the homeless young person if information is disclosed; and

- the Secretary is satisfied that the disclosure is for the purpose of section 21, 22, 23 or 24.

**Subsection 20(2)** provides that a public interest certificate may also be given by the Secretary if:

- the information cannot be obtained from another source other than the Department or DHS;
- the disclosure will be made to a welfare authority of a State or Territory;
- the homeless young person to whom the information relates is either in the care of a welfare authority of a State or Territory or is under 15 years of age; and
- the Secretary is satisfied that no harm will result to the homeless young person if the information is disclosed.

**Section 21** permits disclosure of relevant information to an appropriate authority if the information is about a family member of a homeless young person and the Secretary is satisfied that the homeless young person or a family member of the homeless young person has been subjected to abuse or violence.

**Section 22** permits disclosure of information where necessary to verify a circumstance by which a homeless young person under the age of 15 years may qualify for a social security payment on the ground of being a homeless person. Information may also be disclosed if, in order to verify the circumstance, a parent or the parents of a homeless young person must be asked whether the homeless young person is able to live at the home of his or her parent/s.

**Section 23** permits disclosure of information to facilitate reconciliation, or possible reconciliation, between a homeless young person and his or her parent/s.

**Section 24** permits disclosure of information where necessary to inform the parent or parents of a homeless young person whether that person has been in contact with DSS or DHS. This section will only apply where the parent or parents have sought such an assurance.

## **Consultation**

Previous versions of the Guidelines benefitted from consultation with the former departments which administered payments under the social security law, including the former Department of Education, Employment and Workplace Relations and the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education. DHS has also been involved in the development of these Guidelines over previous iterations.

DHS, the Department of Employment and the Attorney-General's Department were consulted in the development of these Guidelines.

## **Regulation Impact Statement**

These Guidelines are not regulatory in nature and will have no regulatory impact on individuals, business, activity or competition.

## **Statement of Compatibility with Human Rights**

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

### ***Social Security (Public Interest Certificate Guidelines) (DSS) Determination 2015***

The *Social Security (Public Interest Certificate Guidelines) (DSS) Determination 2015* is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

The *Social Security (Public Interest Certificate Guidelines) (DSS) Determination 2015* (the Guidelines) are made under paragraph 209(a) of the *Social Security (Administration) Act 1999* (the Act). Their purpose is to assist the Secretary (or a delegate) of the Department of Social Services (DSS) in the exercise of their power under paragraph 208(1)(a) of the Act to disclose protected information where it is necessary in the public interest.

The social security system involves the collection, use, storage and disclosure of significant amounts of information about persons ('protected information'). Part 5 of the Act provides a legal framework to ensure that a high level of protection is accorded to such information. Personal information handled under the social security system is also protected by the *Privacy Act 1988*.

Part 5 of the Act contains comprehensive provisions relating to the management of personal information, including provisions relating to the disclosure of such information. Among these provisions, paragraph 208(1)(a) provides that the Secretary (or the delegate) can disclose information acquired by an officer under the social security law if he or she certifies that it is necessary in the public interest to do so in a particular case or class of cases. A certificate under this provision must specify the persons to whom, and the purposes for which, the information is provided. Under paragraph 209(a), the Minister has the power to make guidelines for the exercise of the Secretary's power in paragraph 208(1)(a).

The Guidelines replace the *Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2014* (the 2014 Guidelines).

The Guidelines retain much of the content of the 2014 Guidelines and include new public interest grounds for the disclosure of protected information.

The new public interest grounds are in section 9A and paragraph 16(d) of the Guidelines. These two grounds are discussed in turn.

Section 9A states that information may be disclosed to a Commonwealth, State or Territory law enforcement agency if the disclosure is necessary for

the making, or proposed or possible making, of a proceeds of crime order or supporting or enforcing a proceeds of crime order.

New paragraph 16(d) clarifies that protected information can be disclosed where the disclosure is necessary to investigate or take enforcement action in relation to public housing or State or Territory managed housing including to assist with an investigation into either:

- the misreporting of income by tenants of public housing or State or Territory managed housing; or
- the unauthorised occupation of public housing or State or Territory managed housing by any person.

Disclosure of protected information is subject to the condition that information can only be disclosed if it cannot reasonably be obtained from a source other than DSS or the Department of Human Services (DHS), and that the person to whom the information will be disclosed has a “sufficient interest” in the information (see section 7 of the Guidelines). The term “sufficient interest” is satisfied if the person has a genuine and legitimate interest in the information or the person is a Minister (see subsection 7(2) of the Guidelines).

## **Human rights implications**

### *Interference with privacy*

The Guidelines engage the prohibition on interference with privacy, which impacts on changes to Commonwealth secrecy provisions relating to personal information. Article 17 of the International Covenant on Civil and Political Rights (ICCPR) prohibits unlawful or arbitrary interferences with a person’s privacy. It also provides that persons have a right to the protection of the law against such interference.

The use of the term “arbitrary” in Article 17 means that any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in all the circumstances. It is recognised that limitations may be imposed on the general prohibition on interference with privacy, provided that such limitations are reasonable, necessary and proportionate.

## **Section 9A – proceeds of crime orders**

The new measure in section 9A of these Guidelines is reasonable, necessary and proportionate. The measure is reasonable in that it addresses a particular situation where a public benefit will flow from the disclosure of the information.

To the extent that the new measure affects the right to privacy, such limitation is aimed at disrupting and combating serious and organised crime. The measure does this by assisting law enforcement agencies in their efforts to deprive individuals of the proceeds, instruments and benefits derived from unlawful activity.

This new measure is necessary to achieve, and is reasonable in achieving, the aim of disrupting criminal activity and combating serious and organised crime.

The amendments are consistent with the right to privacy because the records or disclosures will be authorised by law and not arbitrary. The amendments provide a reasonable, necessary and proportionate means of achieving the legitimate objective of confiscating financial benefits gained through criminal activities.

Where a proceeds of crime order has been made or is being sought against an individual under a Commonwealth, State or Territory law, section 9A will ensure that law enforcement bodies and other relevant entities have access to the information they need to make, support or enforce the order.

Section 9A has been drafted based on section 355-70 in Schedule 1 to the *Taxation Administration Act 1953*. Section 9A has been drafted consistently with the provisions in that Act relating to the disclosure of protected tax information for proceeds of crime purposes.

#### **Paragraph 16(d) - public housing administration**

The new measure in paragraph 16(d) of these Guidelines is reasonable, necessary and proportionate to the right to privacy.

To the extent that this new measure affects the right to privacy, such limitation is aimed at assisting public housing authorities with undertaking investigations or enforcement action in relation to public housing, including the misreporting of income and the unauthorised occupation of public housing.

The disclosure of protected information under paragraph 16(d) will assist the relevant public housing authorities to achieve a fairer and more equitable public housing system where public resources are directed to those who are most in need of assistance.

As well as engaging the right to privacy, the new measure in paragraph 16(d) of the Guidelines engages the right to social security as recognised in Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to social security requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The new measure in paragraph 16(d) of the Guidelines promotes the right to social security. This measure promotes this right by enabling disclosures of

information to assist public housing authorities to fairly and equitably distribute public housing assistance.

### **Safeguards concerning the disclosure of protected information**

There are a number of safeguards in place in relation to the disclosure of information under the new measures, many of which apply (and have applied over time) in relation to public interest disclosures under other provisions in these Guidelines. These include the following:

- As noted above, while the *Privacy Act 1988* continues to apply in relation to the management of social security information, the social security law imposes a higher level of protection to such information than is imposed under the *Privacy Act 1988*. For example, criminal sanctions apply for the unauthorised use or disclosure of information under the social security law (see section 204 of the *Social Security (Administration) Act 1999*);
- Where protected information covered by these Guidelines is not 'personal information' under the *Privacy Act 1988* (because an individual's identity is unable to be determined from that information), the relevant individual's privacy would not be compromised;
- Public interest certificates made on the basis of these Guidelines are made by experienced Commonwealth officers (usually in DHS) at appropriate levels, and are subject to administrative arrangements which recognise the significance of such decisions;
- Public interest certificates can only be made when doing so is in the public interest;
- In appropriate circumstances, the disclosure of information under the Guidelines may be accompanied by additional measures to further protect the information (e.g. Deeds of confidentiality may be required for recipients of the information and Memoranda of Understanding may be entered into with research institutions); and
- The social security law provides that information provided to a person on the basis of a public interest certificate must be used for the purpose for which it was provided. It is not possible for that recipient to disclose the information to other parties unless the disclosure is for the same purpose or the disclosure is otherwise authorised by law.

In relation to new section 9A it should also be noted that the *Privacy Act 1988* currently provides Commonwealth agencies with the ability to use or disclose 'personal information' where the agency reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body (see Australian Privacy Principle 6.2(e) in Schedule 1 to the *Privacy Act 1988*).

While Australian Privacy Principle 6.2(e) does not authorise the disclosure of 'protected information', it demonstrates a general acceptance in the law that Commonwealth agencies should be able to provide information to law enforcement agencies to assist with their enforcement activities (including proceeds of crime and unexplained wealth investigations).

### **Concluding remarks**

These Guidelines are compatible with human rights. To the extent that the right to privacy is limited, those limitations are reasonable, necessary and proportionate, and appropriate safeguards are in place.

### **Conclusion**

These Guidelines are compatible with human rights.