

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Census and Statistics Act 1905

Census and Statistics (Statistical Information) Direction 2017

Paragraph 9(1)(b) of the *Census and Statistics Act 1905* (the Act) provides that the Minister may, by notice in writing, direct the Australian Statistician to collect statistical information in relation to a matter or matters prescribed in the regulations.

Part 3 of the *Census and Statistics Regulation 2016* (the Regulation) sets out the statistical information that may be collected for publication by the Australian Statistician, that is, the matters that have been prescribed and for which a direction may be issued. In particular, the Australian Statistician may collect for publication, statistical information on matters relating to births, deaths, marriages and divorces, law, and population and the social, economic and demographic characteristics of the population (items 5, 30 and 38 in the table in regulation 13 of the Regulation).

The purpose of the *Census and Statistics (Statistical Information) Direction 2017* (the Direction) is to direct the Australian Statistician to collect and publish the following statistical information on or before 15 November 2017:

- statistical information about the proportion of electors who wish to express a view about whether the law should be changed to allow same-sex couples to marry;
- statistical information about the proportion of those participating electors who are in favour of the law being changed to allow same-sex couples to marry; and
- statistical information about the proportion of those participating electors who are against the law being changed to allow same-sex couples to marry.

Under section 51 of the Constitution, the Commonwealth Parliament has the power to make laws in relation to census and statistics. The Commonwealth Parliament has made such laws, namely the Act and the *Australian Bureau of Statistics Act 1975*.

There are no conditions the Treasurer was required to satisfy prior to issuing the Direction.

The Direction commenced at the start of the day after it was registered on the Federal Register of Legislation. The Direction applied from its commencement.

Section 42 of the *Legislation Act 2003* (about disallowance of legislative instruments by a House of Parliament) does not apply to this Direction (see item 2 in the table in section 9 of the *Legislation (Exemptions and Other Matters) Regulation 2015*).

Consistent with Part 1 of Chapter 3 of the *Legislation Act 2003*, the Australian Statistician was consulted in the preparation of this Direction.

Detailed description of provisions in the Direction

1. Name of Direction

Section 1 sets out the name of the Direction.

2. Authority

Section 2 sets out the provision of the Act under which the Direction is made.

3. Collection of Statistics

Section 3 directs the Australian Statistician to collect and publish the following statistical information:

- statistical information about the proportion of electors who wish to express a view about whether the law should be changed to allow same-sex couples to marry;
- statistical information about the proportion of those participating electors who are in favour of the law being changed to allow same-sex couples to marry; and
- statistical information about the proportion of those participating electors who are against the law being changed to allow same-sex couples to marry.

The statistical information should be published at the national level, at the level of each State and Territory, and at the level of each electoral division.

Electors for the purpose of this Direction are persons enrolled on the Commonwealth electoral roll as at the end of 24 August 2017 or are persons who made a valid application for enrolment before that time.

The statistical information is to be published on or before 15 November 2017.

Statement of Compatibility with Human Rights

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

Census and Statistics (Statistical Information) Direction 2017

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

Overview of the Legislative Instrument

The *Census and Statistics (Statistical Information) Direction 2017* directs the Australian Statistician to collect and publish statistical information relating to electors' views about whether the law should be changed to allow same-sex couples to marry.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.