

## EXPLANATORY STATEMENT

### *Epidemiological Studies (Confidentiality) Act 1981*

### *Epidemiological Studies (Confidentiality) Regulations 2018*

#### Authority

The *Epidemiological Studies (Confidentiality) Act 1981* (the Act) provides for confidentiality in relation to certain epidemiological studies.

Section 13 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

#### Purpose

The purpose of these Regulations is to make regulations in substantively the same form as the *Epidemiological Studies (Confidentiality) Regulations 1982* (the 1982 Regulations) due to the fact that the 1982 Regulations are due to sunset on 1 April 2018, but the purpose for which the 1982 Regulations were made continues to apply.

#### Background

The epidemiological studies mentioned in the *Epidemiological Studies (Confidentiality) Regulations 2018* (the Principal Regulations) would include sensitive material about the individuals who participated in the studies. That information would continue to be sensitive for the foreseeable future and would require the protection of the Act.

#### Details

The Principal Regulations prescribe Commonwealth epidemiological studies that are declared to be a study to which the Act applies.

#### Consultation

Consultation was not undertaken because the Regulations are effectively being remade without policy change.

This Regulation commences on the day after it is registered.

This Regulation is a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the *Epidemiological Studies (Confidentiality) Regulations 2018***

**1 Name of Regulations**

Section 1 states that the name of the Regulations is the *Epidemiological Studies (Confidentiality) Regulations 2018*.

**2 Commencement**

Section 2 provides for the instrument to commence on the day after it is registered.

**3 Authority**

Section 3 provides that the *Epidemiological Studies (Confidentiality) Act 1981* provides the authority for the making of the instrument.

**4 Schedules**

Section 4 explains the legal effect of an instrument mentioned in a Schedule being referred to as being amended or repealed.

**5. Definitions**

Section 5 provides for a defined term that is used in the instrument.

**6. Prescribed Studies**

Section 6 provides a list of descriptions of the epidemiological studies that are to be protected under the Act.

**Schedule 1 Amendments**

Schedule 1 includes the title of the *Epidemiological Studies (Confidentiality) Regulations 1982* as the instrument that is being repealed.

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

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

*Epidemiological Studies (Confidentiality) Act 1981*

*Epidemiological Studies (Confidentiality) Regulations 2018*

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 purpose of the *Epidemiological Studies (Confidentiality) Regulations 2018* (the Legislative Instrument) is to repeal and remake the *Epidemiological Studies (Confidentiality) Regulations 1982* (the 1982 Regulations) which will sunset on 1 April 2018.

The purpose of the Regulations is to continue to specify twelve studies as a study to which the *Epidemiological Studies (Confidentiality) Act 1981* applies.

### **Human rights implications**

The Disallowable Legislative Instrument engages the following human rights:

- the right to the protection of the law against arbitrary or unlawful interference with a person's privacy, family, home or correspondence; and
- the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

This instrument promotes the right to the protection against arbitrary or unlawful interference with a person's privacy, as it creates confidentiality provisions relating to personal information, and regulates the disclosure of personal and statistical information. The privacy of persons participating in certain epidemiological studies is protected.

This instrument also promotes the right to health as it deals with Commonwealth epidemiological studies, which investigate matters relating to public health.

### **Conclusion**

The Legislative Instrument is compatible with human rights because it promotes protection of the right to the enjoyment of the highest attainable standard of physical and mental health; and protects privacy.

**Greg Hunt, Minister for Health**