



## **Census and Statistics (Information Release and Access) Determination 2018**

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I, Michael Sukkar, Assistant Minister to the Treasurer, Parliamentary Secretary to the Treasurer, make the following Determination.

Dated: 9 August 2018

Michael Sukkar  
Assistant Minister to the Treasurer  
Parliamentary Secretary to the Treasurer

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## Part 1—Preliminaries

### 1 Name

This instrument is the *Census and Statistics (Information Release and Access) Determination 2018*.

### 2 Commencement

- (1) Each provision of instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of the instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under section 13 of the *Census and Statistics Act 1905*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

Note: The expression ‘Statistician’ is used throughout this instrument and is defined in section 3 of the Act.

In this instrument:

*Act* means the *Census and Statistics Act 1905*.

*enactment* means:

- (a) an Act of the Commonwealth, a State or Territory; or
- (b) a law (including rules, ordinances, regulations or by-laws) made under an enactment described in paragraph (a).

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***official body*** means:

- (a) an organisation that is a government entity within the meaning of section 41 of the *A New Tax System (Australian Business Number) Act 1999*; or
- (b) an organisation, or other body, established for a public purpose by, or under the provisions of, an enactment.

***responsible officer*** means, in relation to an organisation, an officer of the organisation acting within the scope of authority exercisable by the officer, in accordance with arrangements approved by the organisation.

***statistics*** means the results of compilation and analysis of information collected under the authority of the Act.

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## **Part 2—General requirements for disclosures**

### **6 Information may be disclosed under this Determination**

- (1) Pursuant to section 13 of the Act, information provided to the Statistician under the Act may be disclosed if:
  - (a) the general requirements contained in this Part are satisfied in respect of the disclosure; and
  - (b) the disclosure is permitted by a section of Part 3 of the Determination.
- (2) Information may be disclosed under any section of Part 3 where the conditions in that section are met. This is the case irrespective of whether the conditions for releasing the information under another section have been met.
- (3) Consistent with section 13 of the Act, the recipient of disclosed information may also be subject to obligations set out in a provision in this Determination or set out in another document made or issued under the authority of a provision in this Determination.

### **7 Disclosure of information of a personal or domestic nature**

Information that is of a personal or domestic nature relating to an individual can only be disclosed under this Determination if the disclosure is done in a manner that is not likely to enable the identification of that individual.

### **8 Statistician must approve disclosure of information**

Information can only be disclosed under this Determination if the Statistician has approved the disclosure of the information in writing.

### **9 Consent must be given to the Statistician in writing**

Consent that is given in accordance with a provision of this Determination is only valid if the consent has been given to the Statistician in writing.

### **10 Requirements for undertakings given to the Statistician**

If a section of this Determination requires that an undertaking be given to the Statistician for a disclosure to be made, information can only be disclosed under that section if an undertaking in relation to the information has been given, in writing, by:

- (a) if the information is to be disclosed to an individual — the individual; and
- (b) if the information is to be disclosed to an organisation:
  - (i) a responsible officer of the organisation; and
  - (ii) if the Statistician considers it necessary in a particular case — each individual in the organisation who will have access to the information.

Note: It is an offence to fail to comply with an undertaking that is given under a provision of this Determination (see subsection 19(3) of the Act).

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## Part 3—Disclosures

### 11 Disclosure of certain classes of statistics

- (1) Information in the form of statistics may be disclosed if it relates to any of the following:
  - (a) an official body;
  - (b) foreign trade, being statistics derived wholly or in part from customs or import documents;
  - (c) interstate trade, being statistics which are the result of compilation and analysis of information provided by the State of Tasmania;
  - (d) building and construction, not being the costs or net returns of individual builders or contractors;
  - (e) agricultural, apicultural, poultry, dairying and pastoral activities not being the costs or net returns of individual operators.
- (2) Despite subsection (1), information cannot be disclosed under this section if, prior to the disclosure of information under this section:
  - (a) if the information relates to an individual — the individual; or
  - (b) if the information relates to an organisation — a responsible officer of the organisation,has shown that the disclosure would be likely to enable the identification of that individual or organisation (whichever is applicable).

### 12 Disclosure of information already available to the public

Information relating to an organisation may be disclosed if the information has been published by, or is available to the public from, the organisation or any official body.

### 13 Disclosure with consent

- (1) Information relating to an individual or organisation may be:
  - (a) published or disseminated; or
  - (b) if the Statistician has been given an undertaking in relation to the information that complies with subsection (4) — disclosed on a confidential basis,if consent to the disclosure of the information has been given in accordance with subsection (2).
- (2) Consent is given in accordance with this subsection if the consent:
  - (a) has been given by:
    - (i) if the information relates to an individual — the individual; or
    - (ii) if the information relates to an organisation — a responsible officer of the organisation; and
  - (b) specifies each of the following:



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- (i) the type of information to be disclosed;
  - (ii) whether the information is to be published or disseminated or is to be disclosed on a confidential basis;
  - (iii) if the information is to be disclosed on a confidential basis — the name of the individual or organisation to which the information is to be disclosed and the purposes for which the information may be used;
  - (iv) if the information is to be disclosed on a continuing basis — the arrangements for renewal or cancellation of consent.
- (3) Despite consent being given in accordance with subsection (2), information to which that consent relates may not be disclosed if, in conjunction with other information released by the Statistician, the disclosure would be likely to enable the identification of a particular individual or organisation that has not also consented to the disclosure of information.
- (4) An undertaking complies with this subsection if the undertaking specifies that the individual or organisation covered by the undertaking:
- (a) will use the information only for specified purposes; and
  - (b) will not disclose the information in any form which, in conjunction with other information released by the recipient, or proposed to be released by the recipient, would be likely to enable the identification of the particular individual or organisation to which the information relates; and
  - (c) will comply with any other condition that the Statistician considers to be reasonably necessary in a particular case.

Note: It is an offence to fail to comply with an undertaking that is given under a provision of this Determination (see subsection 19(3) of the Act).

## 14 Disclosure of lists of business characteristics

- (1) Information relating to the business characteristics of an individual or organisation may be disclosed in the form of lists if the Statistician has been given an undertaking in relation to the information specifying that the individual or organisation covered by the undertaking:
- (a) will use the list only for purposes specified in the undertaking which do not involve enforcing any obligation or liability applicable under any enactment; and
  - (b) will comply with any other condition that, in the opinion of the Statistician, is reasonably necessary in a particular case; and
  - (c) will not, except for the purposes specified in the undertaking, release the list to:
    - (i) if the list is to be disclosed to an individual — another individual, or an organisation; or
    - (ii) if the list is to be disclosed to an organisation — an individual outside the organisation or another organisation.

Note: It is an offence to fail to comply with an undertaking that is given under a provision of this Determination (see subsection 19(3) of the Act).

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- (2) Where information is disclosed under subsection (1), the Statistician must make a description of the information publicly available within 28 days of the disclosure.

## **15 Disclosure of unidentified information**

- (1) Information in the form of individual statistical records may be disclosed if:
- (a) all direct identifiers, such as name and address, have been removed; and
  - (b) if the information relates to an individual — the information is disclosed in a manner that is not likely to enable the identification of the individual; and
  - (c) the Statistician has been given an undertaking in relation to the information that complies with subsection (2).
- (2) An undertaking complies with this subsection if the undertaking specifies that the individual or organisation covered by the undertaking:
- (a) will not attempt to use the information to identify particular individuals or organisations to which the information relates; and
  - (b) will only use the information for statistical or research purposes; and
  - (c) if the information is to be disclosed to an individual — will not disclose the information to another individual, or to an organisation, without the approval in writing of the Statistician; and
  - (d) if the information is to be disclosed to an organisation:
    - (i) will not disclose the information to an individual outside the organisation, or to another organisation, without the written approval of the Statistician; and
    - (ii) if the Statistician considers it reasonably necessary in a particular case — will only disclose the information to an individual in the organisation who has also given the Statistician an undertaking that complies with this subsection; and
  - (e) if the Statistician considers that it is reasonably necessary in a particular case — will comply with one or more of the following conditions:
    - (i) as soon as is practicable, the information, and any copies of it, will be destroyed or returned to the Statistician after the purposes for which the information is to be disclosed have been achieved;
    - (ii) officers (within the meaning of section 3 of the Act) will be given access to any information, documents or premises for the purpose of ensuring that an undertaking given under this subsection has been complied with;
    - (iii) any other condition.

Note: It is an offence to fail to comply with an undertaking that is given under a provision of this Determination (see subsection 19(3) of the Act).

## **16 Disclosure of information to enable the Statistician to perform relevant functions**

Information may be disclosed if the disclosure is to assist the Statistician to perform statistical functions and the Statistician has been given an undertaking in

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relation to the information that specifies that the individual or organisation covered by the undertaking:

- (a) will only use the information to assist the Statistician to perform the statistical functions as specified in the undertaking; and
- (b) if the information is to be disclosed to an organisation — will not disclose the information to another organisation or to an individual, other than to an individual in the organisation who has also given the Statistician an undertaking that complies with this section; and
- (c) will comply with any other condition that the Statistician considers to be reasonably necessary in a particular case.

Note: It is an offence to fail to comply with an undertaking that is given under a provision of this Determination (see subsection 19(3) of the Act).

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## Part 4—Transitional rules

### 17 Disclosures made under the Statistics Determination 1983

- (1) If a disclosure was made under the *Statistics Determination 1983* as in force immediately before that Determination was repealed;
  - (a) the disclosure; and
  - (b) anything relating to the disclosure that has been done, could be done, or is prohibited from being done under that Determination;continue to apply and have effect for the purposes of this instrument as if the disclosure and things referred to in paragraph (b) had been determined under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to:
  - (a) a thing being done includes a reference to a notice, application or other instrument being given or made; and
  - (b) a thing that could be done includes a reference to a thing that may be contingent on another event or thing occurring.

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## **Schedule 1—Repeals**

### *Statistics Determination 1983*

#### **1 The whole of the instrument**

Repeal the instrument