Service NSW (One-stop Access to Government Services) Amendment (COVID-19 Information Privacy) Act 2021 No 35

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Service NSW (One-stop Access to Government Services) Amendment (COVID-19 Information Privacy) Act 2021 No 35

Act No 35, 2021

An Act to amend the Service NSW (One-stop Access to Government Services) Act 2013 to provide additional safeguards on certain information collected during the COVID-19 pandemic. [Assented to 29 November 2021]
The Legislature of New South Wales enacts—

1 Name of Act

This Act is the Service NSW (One-stop Access to Government Services) Amendment (COVID-19 Information Privacy) Act 2021.

2 Commencement

This Act commences on the date of assent to this Act.
Schedule 1  Amendment of Service NSW (One-stop Access to Government Services) Act 2013 No 39

[1] Clause 3 Definitions
Omit section 3(1), definition of information. Insert instead—

health information has the same meaning as in the Health Records and Information Privacy Act 2002.

information includes personal information and health information.

[2] Part 3A
Insert after Part 3—

Part 3A Information collected during COVID-19 pandemic—additional protections

17A Objective of Part
The objective of this Part is to recognise that—
(a) the collection of information about the location or movement of people during the COVID-19 pandemic plays a vital role in protecting people from serious illness and death, and
(b) people are generally compelled to provide the information under extraordinary powers that have been invoked because of the pandemic, and
(c) people expect the information provided will be used only for the purposes of protecting them from the pandemic, and
(d) inappropriate use or disclosure of the information may increase the circumstances in which information is not provided and consequently increase the risk of serious illness or death.

17B Information collected by CEO in relation to COVID-19
(1) This section applies to personal information or health information held by the CEO if the information was collected—
(a) in the exercise of a function under an order made under the Public Health Act 2010, section 7 in response to COVID-19 (a public health order), or
(b) under authority of a public health order, or
(c) for the purpose of COVID-19 contact tracing and because of a direction given by the Minister under section 4(c).

(2) The information held must not be used or disclosed except—
(a) for the purposes for which it was collected, or
(b) for the purposes of contact tracing, including in another Australian jurisdiction, or
(c) for information collected in relation to the issue of a permit—for the purposes of investigating or prosecuting a breach of a public health order related to the permit, or
(d) for information collected in relation to a declaration provided when entering or leaving New South Wales—for the purposes of
investigating or prosecuting a breach of a public health order related to
the declaration, or
(c) for information about an individual—to provide access to the
information for—
(i) the individual, or
(ii) if the individual is under 16 years of age—a person having
parental responsibility for the individual, or
(iii) if the individual lacks capacity to access the information—a
person having the care of the individual.

(3) Nothing in this section prevents the proper disposal of the information.

(4) This section extends to information collected by the CEO—
(a) before the commencement of this section, or
(b) that was not required to be provided to the CEO.

(5) This section has effect despite—
(a) another provision of this Act, or
(b) another Act or law, including a warrant or an order of a court.

(6) A failure to comply with this section is taken to be conduct to which the

17C Review of Part

(1) The Minister must review this Part to determine whether the policy objectives
of the Part remain valid and whether the terms of the Part remain appropriate
for securing the objectives.

(2) The review must be undertaken as soon as possible after the period of 1 year
from the commencement of this Part.

(3) A report on the outcome of the review must be tabled in each House of
Parliament within 6 months after the end of the period of 1 year.