



New South Wales

# Health Records and Information Privacy Amendment (Aboriginal Trust Funds Exemption) Regulation 2007

under the

Health Records and Information Privacy Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Records and Information Privacy Act 2002*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to amend the *Health Records and Information Privacy Regulation 2006* to exempt specified public sector agencies engaged in the implementation of the Aboriginal Trust Funds Repayment Scheme (**ATFRS agencies**) from provisions of the *Health Records and Information Privacy Act 2002* relating to the collection, holding, use and disclosure of health information for the purposes of that scheme. This Regulation will also permit other public sector agencies to disclose health information to an ATFRS agency for the purposes of that scheme.

This Regulation is made under the *Health Records and Information Privacy Act 2002*, including section 75 (the general regulation-making power).

**2007 No 228**

Clause 1 Health Records and Information Privacy Amendment (Aboriginal Trust Funds Exemption) Regulation 2007

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**Health Records and Information Privacy Amendment  
(Aboriginal Trust Funds Exemption) Regulation 2007**

under the

Health Records and Information Privacy Act 2002

**1 Name of Regulation**

This Regulation is the *Health Records and Information Privacy Amendment (Aboriginal Trust Funds Exemption) Regulation 2007*.

**2 Amendment of Health Records and Information Privacy Regulation 2006**

The *Health Records and Information Privacy Regulation 2006* is amended as set out in Schedule 1.

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## Schedule 1 Amendment

(Clause 2)

### Clause 4

Insert after clause 3:

#### 4 Aboriginal Trust Funds Repayment Scheme exemption

- (1) In this clause:
  - ATFRS agency* means the Department of Aboriginal Affairs, the State Records Authority or the Department of Premier and Cabinet.
  - ATFR Scheme* means the Aboriginal Trust Funds Repayment Scheme established by the NSW Government.
- (2) An ATFRS agency is exempt from clauses 1–4 and 8–11 of Schedule 1 to the Act in respect of the collection, holding, use and disclosure of health information in connection with the implementation and operation of the ATFR Scheme if:
  - (a) before collecting, using or disclosing any health information about a claimant or potential claimant under the ATFR Scheme, the ATFRS agency ensures that the claimant or potential claimant (or if the person is deceased, a relative of the person) is notified of the following:
    - (i) the fact that health information may be collected, held, used and disclosed,
    - (ii) the purposes for which that information may be collected, held, used and disclosed,
    - (iii) the persons or agencies to which that information may be disclosed,
    - (iv) any rights of the person under the Act relating to that collection, holding, use or disclosure, and
  - (b) the ATFRS agency takes reasonable steps to ensure that health information affected by the exemption is not unreasonably or unnecessarily disclosed.
- (3) A public sector agency is exempt from clauses 10 and 11 of Schedule 1 to the Act in respect of a disclosure of health information to an ATFRS agency in connection with the implementation and operation of the ATFR Scheme.