

Privacy Code of Practice (General) 2003

[2003-273]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
Gazette No 63 of 26.3.2004, p 1527, Sch 1 [5] (not commenced — to commence on the commencement of cl 21 of Sch 1 to the [Podiatrists Act 2003](#))

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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Privacy Code of Practice (General) 2003



New South Wales

Part 1 Preliminary

1 Name of Code

This Code is the *Privacy Code of Practice (General) 2003*.

2 Operation of Code

This Code modifies the application of the information protection principles and public register provisions of the Act.

3 Limitations

Nothing in this Code:

- (a) (Repealed)
- (b) affects a disclosure that is otherwise permitted by law (including, but not limited to, a disclosure made pursuant to the *State Records Act 1998* or the *Freedom of Information Act 1989*), or
- (c) prevents an agency from disclosing personal information with the consent of the individual to whom the information relates.

4 Definitions

(1) In this Code:

agency means a public sector agency.

information protection principles means the principles set out in Division 1 of Part 2 of the Act.

public register provisions means the provisions of Part 6 of the Act.

the Act means the *Privacy and Personal Information Protection Act 1998*.

(2) Notes included in this Code do not form part of this Code.

Part 2 Inter-agency transfers of personal information

5 Application of Part

This Part applies to the exchange of personal information between the agencies specified in Schedule 1.

6 Permitted transfers of personal information

The information protection principles are modified to the extent necessary to permit the transfer between the agencies, of the personal information, and for the purposes, described in Schedule 1.

Part 3 Public registers

7 Application of Part

This Part applies to the disclosure of personal information contained in public registers.

8 Modification of Part 6 of the Act

- (1) Part 6 of the Act is modified to the extent necessary to permit a disclosure referred to in subclause (2).
- (2) An agency specified in Column 2 of Schedule 2 that is responsible for keeping a public register (or that part of a register) described in Column 1 may, subject to any conditions set out in Column 1, disclose personal information kept in the register (or part of the register) without being satisfied that the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

Part 4 Human services

9 Definition

In this Part:

human services agency means a public sector agency that provides any one or more of the following types of services to the public:

- (a) welfare services,
- (b) health services,
- (c) mental health services,
- (d) disability services,
- (e) drug and alcohol treatment services,

- (f) housing and support services,
- (g) education services.

10 Collection, use and disclosure of personal information by human services agencies

- (1) In this clause:

allied agency means an agency (other than a public sector agency) that is wholly or partly funded by a human services agency and that is approved in writing by the head of that human services agency as an allied agency for the purposes of this clause.

senior officer means a senior member of staff of a human services agency who has been nominated in writing for the purposes of this clause by the head of that agency.

substantial adverse impact includes, but is not limited to, serious physical or mental harm, significant loss of benefits or other income, imprisonment, loss of housing or the loss of a carer.

- (2) Despite the information protection principles, a human services agency may collect and use personal information about an individual, and may disclose personal information about the individual to another human services agency or an allied agency, if the collection, use or disclosure is in accordance with a written authorisation given by a senior officer of the agency.
- (3) An authorisation under subclause (2) must specify:
- (a) the period (maximum 12 months) for which the authorisation has effect, and
 - (b) the classes of personal information to which the authorisation is to apply (**the specified information**), and
 - (c) the human services agencies or allied agencies (if any) to whom the specified information may be disclosed (**the specified agencies**).
- (4) A senior officer may give an authorisation under subclause (2) only if the officer is satisfied that:
- (a) the individual to whom the specified information relates is a person to whom services are provided or proposed to be provided by a human services agency or an allied agency, and
 - (b) the individual (or a person authorised by or under the Act or any other law to give consent on the individual's behalf) has failed to consent to the agency collecting or using the specified information, or disclosing the specified information to the specified agencies, and
 - (c) there are reasonable grounds to believe that there is a risk of substantial adverse impact on the individual or some other person if collection or use of the specified

information, or disclosure of the specified information to the specified agencies, does not occur, and

- (d) the collection or use of the specified information, or disclosure of the specified information to the specified agencies, is likely to assist in developing or giving effect to a case management plan or service delivery plan that relates to the individual, and
- (e) reasonable steps have been taken to ensure that the individual has been notified by the agency of each of the following:
 - (i) the specified information,
 - (ii) the specified agencies,
 - (iii) the period for which the authorisation is proposed to be sought to have effect.

Note—

Notification under this paragraph would normally be in writing. However, other notification methods may be more appropriate in the case of certain clients. For example, if the client is illiterate.

11 Collection of personal information from third parties

A human services agency is not required to comply with section 9 of the Act if it is unreasonable or impracticable in the circumstances to do so.

Schedule 1 Permitted transfers of personal information

(Clause 6)

1 Verification of vehicle ownership details by Sheriff

- (1) **Agencies exchanging personal information** Roads and Traffic Authority, Attorney General's Department.
- (2) **Type of personal information** Vehicle registered operator details.
- (3) **Purpose for which information is exchanged** To permit the Sheriff to verify vehicle registered operator details in connection with the proposed or actual seizure of a vehicle.

2 Environmental offences involving vehicles

- (1) **Agencies exchanging personal information** Roads and Traffic Authority, Environment Protection Authority.
- (2) **Type of personal information** Vehicle registered operator details.
- (3) **Purpose for which information is exchanged** To permit the Environment Protection

Authority to contact the operator of a vehicle when it has received a report about an environmental offence concerning the vehicle.

Schedule 2 Modification of Part 6 of the Act

(Clause 8)

Column 1	Column 2
Public register	Agency responsible for keeping the register
<p>1 The record maintained under section 58 of the Contaminated Land Management Act 1997, however, this exception does not extend to the name of an individual who is the occupier, owner or polluter of a contaminated site or the address of such an individual if the individual does not reside at a contaminated site.</p>	Environment Protection Authority
<p>2 The registers listed in regulation 15.1 of the Road Transport Reform (Dangerous Goods) Regulations 1997 of the Commonwealth that apply in New South Wales as the Road Transport Reform (Dangerous Goods) (New South Wales) Regulations under the Road and Rail Transport (Dangerous Goods) Act 1997, however, this exception does not extend to information relating to the medical condition or the driving history of an individual.</p>	Environment Protection Authority
<p>3 The Credit Register for the tradeable emission scheme known as the Hunter River Salinity Trading Scheme, made publicly available by the EPA through the Internet, comprising the name and contact details of a member of the Scheme or an employee or agent of that member and the member's business facilities, credit holdings and trading history.</p>	Environment Protection Authority
<p>4 The information made publicly available by the EPA through the Internet concerning the Waste Reduction Grants Program paid from the Waste Fund set up under section 19 of the Waste Avoidance and Resource Recovery Act 2001 comprising the name and contact details of the person awarded the grant, or an employee or agent of that person, the amount of the grant, the grant number and the details of the project for which the grant was given.</p>	Environment Protection Authority

5	The information made publicly available by the EPA through the Internet concerning grants made under the Stormwater Trust Grants Scheme administered by the EPA comprising the name and contact details of the person offered the grant, or an employee or agent of that person, the amount of the grant, the grant number and the details of the project for which the grant was offered.	Environment Protection Authority
6	The public register kept under Part 9.5 of the Protection of the Environment Operations Act 1997 .	Environment Protection Authority
7	The Register of Chiropractors for New South Wales kept under clause 21 of Schedule 1 to the Chiropractors Act 2001 .	Chiropractors Registration Board
8	The Register of Dental Technicians of New South Wales kept under section 14 of the Dental Technicians Registration Act 1975 .	Dental Technicians Registration Board
9	The Register of Dentists for New South Wales kept under clause 21 of Schedule 1 to the Dental Practice Act 2001 .	Dental Board
9A	The Register of Dental Auxiliaries for New South Wales kept under clause 21 of Schedule 1 to the Dental Practice Act 2001 .	Dental Board
10	The Register of Medical Practitioners for New South Wales kept under clause 21 of Schedule 1 to the Medical Practice Act 1992 .	New South Wales Medical Board
11	The Register of Nurses kept under section 16 of the Nurses and Midwives Act 1991 .	Nurses and Midwives Board
11A	The Register of Midwives kept under section 16 of the Nurses and Midwives Act 1991 .	Nurses and Midwives Board
11B	The Roll of Nurses kept under section 26 of the Nurses and Midwives Act 1991 .	Nurses and Midwives Board
12	The Register of Optical Dispensers for New South Wales kept under section 21 of the Optical Dispensers Act 1963 .	Optical Dispensers Licensing Board
13	The Register of Optometrists for New South Wales kept under clause 21 of Schedule 1 to the Optometrists Act 2002 .	Optometrists Registration Board
14	The Register of Osteopaths for New South Wales kept under clause 21 of Schedule 1 to the Osteopaths Act 2001 .	Osteopaths Registration Board
15	The Register of Pharmacists kept under section 12 of the Pharmacy Act 1964 .	Pharmacy Board of New South Wales

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| 16 | The Register of Physiotherapists for New South Wales kept under clause 21 of Schedule 1 to the Physiotherapists Act 2001 . | Physiotherapists Registration Board |
| 17 | The register kept under section 9 of the Podiatrists Act 1989 . | Podiatrists Registration Board |
| 18 | The Register of Psychologists for New South Wales kept under clause 21 of Schedule 1 to the Psychologists Act 2001 . | Psychologists Registration Board |