

EXPLANATORY STATEMENT

Issued by authority of the Parliamentary Secretary to the Treasurer

Census and Statistics Act 1905

Census and Statistics (Census) Regulation 2015

Section 27 of the *Census and Statistics Act 1905* (the Act) provides that the Governor-General may make regulations prescribing 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.

The purposes of the *Census and Statistics (Census) Regulation 2015* (the Regulation) are to remake the *Census and Statistics (Census) Regulations 2005* and to extend the operation of the Act to Norfolk Island.

Remaking the Census and Statistics (Census) Regulations 2005

The Act authorises the Australian Statistician to collect statistics and conduct the Census.

The Australian Statistician must take the Census every fifth year from 1981 under section 8 of the Act. In each Census, the Australian Statistician must collect statistical information in relation to the matters prescribed for the purposes of that section.

The Regulation prescribes these matters for Censuses that take place after it commences. Previously, these matters were prescribed by the *Census and Statistics Regulations 2005*, which would have been repealed on 1 April 2016 under section 50 of the *Legislative Instruments Act 2003* as part of the regular sunseting of legislative instruments.

There is no substantive change between the matters prescribed by the Regulation and the matters previously prescribed by the *Census and Statistics Regulations 2005*. Minor changes have been made to reflect current drafting practices and to improve readability.

Extending the operation of the Act to Norfolk Island

The Act extends to such external territories of Australia as are prescribed. The Regulation prescribes Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands as external territories to which the Act applies.

The amendments made by the Regulation are consequential to the amendments made by the *Norfolk Island Legislation Amendment Act 2015*. Those amendments extended many mainland laws to Norfolk Island, implementing the Government's election commitment made in September 2013. This is consistent with the general principle that, since Norfolk Island is part of Australia, Australians who live there should have the same obligations and receive the same access to benefits as other Australians.

Details of the Regulation are set out in the Attachment.

The Act does not specify any conditions that need to be met before the power to make the Regulation may be exercised.

The Regulation is an instrument for the purposes of the LIA.

The Regulation commences on the day after it is registered.

ATTACHMENT

Details of the *Census and Statistics (Census) Regulation 2015*

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Census and Statistics (Census) Regulation 2015*.

Section 2 – Commencement

This section provides that the Regulation will commence the day after it is registered.

Section 3 – Authority

This section provides that the Regulation is made under the *Census and Statistics (Census) Act 1905*.

Section 4 – Schedule

This section provides that 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.

Section 5 – Definitions

This section defines certain terms for the purposes of the Regulations.

Australia, when used in a geographical sense, is defined to include Norfolk Island, the Territory of Christmas Island; and the Territory of Cocos (Keeling) Islands. This definition overrides the application of the *Acts Interpretation Act 1901* where Australia is used in a geographical sense. Otherwise the definition of Australia under the *Acts Interpretation Act 1901*, which does not include Norfolk Island when Australia is used in a geographical sense, would apply.

This definition mirrors section 6, which prescribes that the Act extends to Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands.

Census night is defined as the night of the Census day for a Census. ***Census day*** is defined in the Act as the day appointed, under section 8(2) of the Act as the Census day for that Census. The Census day is the date on which the Census is taken.

The definition of Census night is included because the several of the matters prescribed for a Census relate to persons accommodated at a dwelling on Census night, or registered motor vehicles garaged or parked at a dwelling on Census night.

Census night had the same meaning in the *Census and Statistics Regulations 2005*.

Private dwelling is defined to include all dwellings except for certain, specified types of dwellings. Excluded dwellings include commercial premises (such as a hotel) and residential institutions (such as a nursing home).

Different matters are prescribed for a Census depending on whether a dwelling is a private dwelling or not (see section 8, 9 and 10 of the Regulation).

Private dwelling had the same meaning in the *Census and Statistics Regulations 2005*.

Section 6 – Extension of the Act to external Territories

The Act extends to such external territories of Australia as are prescribed (section 2 of the Act). The Regulation prescribes Norfolk Island, the Territory of Christmas Island

and the Territory of Cocos (Keeling) Islands as external territories to which the Act applies.

The Territory of Christmas Island and the Territory of Cocos (Keeling) Islands were also prescribed in the *Census and Statistics Regulations 2005*.

Norfolk Island has been prescribed as a consequence of the amendments made by the *Norfolk Island Legislation Amendment Act 2015*. Those amendments extended many mainland laws to Norfolk Island, implementing the Government's election commitment made in September 2013. This is consistent with the general principle that, since Norfolk Island is part of Australia, Australians who live there should have the same obligations and receive the same access to benefits as other Australians.

The change will extend the Australian Statistician's authority to collect statistics and conduct the Census to Norfolk Island.

Section 7 – Statistical information in relation to persons

This section prescribes matters in relation to which the Australian Statistician must collect statistical information in a Census. These matters relate to persons.

No substantive changes have been made to the matters that were prescribed in clause 1 of Schedule 1 to the *Census and Statistics Regulations 2005*. Minor changes have been made to reflect current drafting practices and improve readability.

Section 8 – Statistical information in relation to a household accommodated on the Census night in a private dwelling

This section prescribes matters in relation to which the Australian Statistician must collect statistical information in a Census. These matters relate to households accommodated on Census night in a private dwelling.

No substantive changes have been made to the matters that were prescribed in clause 2 of Schedule 1 to the *Census and Statistics Regulations 2005*. Minor changes have been made to reflect current drafting practices and improve readability.

Section 9 – Statistical information in relation to a private dwelling

This section prescribes matters in relation to which the Australian Statistician must collect statistical information in a Census. These matters relate to private dwellings.

No substantive changes have been made to the matters that were prescribed in clause 3 of Schedule 1 to the *Census and Statistics Regulations 2005*. Minor changes have been made to reflect current drafting practices and improve readability.

Section 10 – Statistical information in relation to a dwelling other than a private dwelling

This section prescribes matters in relation to which the Australian Statistician must collect statistical information in a Census. These matters relate to dwellings other than private dwellings.

No substantive changes have been made to the matters that were prescribed in clause 4 of Schedule 1 to the *Census and Statistics Regulations 2005*. Minor changes have been made to reflect current drafting practices and improve readability.