



Data Availability and Transparency (Consequential Amendments) Act 2022

No. 12, 2022

**An Act to deal with consequential matters in
connection with the *Data Availability and
Transparency Act 2022*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Data Availability and Transparency (Consequential Amendments) Act 2022

No. 12, 2022

**An Act to deal with consequential matters in
connection with the *Data Availability and
Transparency Act 2022*, and for related purposes**

[Assented to 31 March 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Data Availability and Transparency (Consequential Amendments) Act 2022*.

No. 12, 2022 Data Availability and Transparency (Consequential Amendments) Act 1
2022

2 Commencement

- (1) Each provision of this Act 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 this Act	At the same time as the <i>Data Availability and Transparency Act 2022</i> commences. However, the provisions do not commence at all if that Act does not commence.	1 April 2022

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Australian Security Intelligence Organisation Act 1979

2 Subsection 35(1) (at the end of paragraph (a) of the definition of *prescribed administrative action*)

Add “or”.

3 Subsection 35(1) (after paragraph (e) of the definition of *prescribed administrative action*)

Insert:

; or (f) the exercise of a power under Part 5.2 (accreditation framework) of the *Data Availability and Transparency Act 2022*.

Freedom of Information Act 1982

5 After subsection 7(2E)

Insert:

(2F) An agency that is a data scheme entity within the meaning of the *Data Availability and Transparency Act 2022* is exempt from the operation of this Act in relation to a document that contains scheme data within the meaning of that Act, to the extent the document contains such data.

Privacy Act 1988

5A After section 36

Insert:

36B Complaints relating to the data sharing scheme

(1) If a complaint relates to the data sharing scheme within the meaning of the *Data Availability and Transparency Act 2022*, the Commissioner may share information and documents about the complaint with the National Data Commissioner (the *NDC*), for the

purposes of the NDC exercising powers, or performing functions or duties, under that Act.

- (2) The Commissioner may share only information and documents under subsection (1) that were acquired by the Commissioner in the course of exercising powers, or performing functions or duties, under this Act.
- (3) To avoid doubt, the Commissioner may share information or documents with the NDC under this section whether or not the Commissioner is transferring the complaint or part of the complaint to the NDC.

Note: The Commissioner may transfer the complaint to the NDC under section 50, if the Commissioner is of the opinion that the complaint could have been made to the NDC.

6 Subsection 50(1) (after paragraph (a) of the definition of *alternative complaint body*)

Insert:

- (aa) the National Data Commissioner; or

7 After subparagraph 50(2)(a)(i)

Insert:

- (ia) to the National Data Commissioner under Part 5.3 of the *Data Availability and Transparency Act 2022*; or

8 After subparagraph 50(3)(a)(i)

Insert:

- (ia) to the National Data Commissioner under Part 5.3 of the *Data Availability and Transparency Act 2022*; or

Schedule 2—Application provisions

1 Applications for accreditation under the *Data Availability and Transparency Act 2022*

- (1) An entity may apply for accreditation as an accredited user or an ADSP under section 76 of the *Data Availability and Transparency Act 2022* on or after the day after the end of the period of 4 months beginning on the day this Act receives the Royal Assent.
- (2) However, an entity that is a Commonwealth body, a State body or a Territory body may apply for accreditation as an accredited user under section 76 of the *Data Availability and Transparency Act 2022* on or after the day after the end of the period of 2 months beginning on the day this Act receives the Royal Assent.
- (3) Applications for accreditation as an accredited user or an ADSP under section 76 of the *Data Availability and Transparency Act 2022* may not be made except in accordance with subitems (1) and (2).

Schedule 3—Transitional provisions

1 Definitions

- (1) In this Schedule:
- DAT Act* means the *Data Availability and Transparency Act 2022*.
- rules* means rules made by the Minister under item 4.
- transitional entity* means an Australian entity prescribed by the rules.
- transition period*, for a transitional entity, means the period prescribed for the entity by the rules.
- (2) Other expressions used in this Schedule that are also used in the DAT Act have the same meaning in this Schedule as they have in the DAT Act.

2 Transitional provisions

- (1) For the purposes of the data sharing scheme, a transitional entity is taken, during its transition period, to be accredited as an ADSP under the DAT Act.
- (2) The rules may prescribe conditions of accreditation applicable to a transitional entity. For the purposes of the data sharing scheme as it applies because of subitem (1), any such condition is taken to have been imposed by the Commissioner under section 78 of the DAT Act.

Note: Under section 78 of the DAT Act as it applies because of subitem (1), the Commissioner may vary or remove a condition prescribed by the rules, or impose other conditions.

- (3) The transition period for a transitional entity must end no later than the earlier of the following:
- (a) if the Commissioner cancels the entity's accreditation as an ADSP under section 81 of the DAT Act—the day the cancellation takes effect;
 - (b) the end of the period of 40 months beginning on the day this Act receives the Royal Assent.

3 This Schedule is part of the data sharing scheme

The data sharing scheme is taken to include this Schedule and the rules.

4 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Schedule to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.

- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

*[Minister's second reading speech made in—
House of Representatives on 9 December 2020
Senate on 30 March 2022]*

(175/20)
