

Appendix B

AIHW legislation

Below is an extract from the *Australian Institute of Health and Welfare Act 1987*.

PART IV – MISCELLANEOUS

Confidentiality

29. (1) Subject to this section, a person (in this subsection called “**informed person**”) who has:
- (a) any information concerning another person (which person is in this section called an “**information subject**”), being information acquired by the informed person because of:
 - (i) holding an office, engagement or appointment, or being employed, under this Act;
 - (ii) performing a duty or function, or exercising a power, under or in connection with this Act; or
 - (iii) doing any act or thing under an agreement or arrangement entered into by the Institute; or
 - (b) any document relating to another person (which person is in this section also called an “**information subject**”), being a document furnished for the purposes of this Act;

shall not, except for the purposes of this Act, either directly or indirectly:

- (c) make a record of any of that information or divulge or communicate any of that information to any person (including an information subject);
- (d) produce that document to any person (including an information subject); or
- (e) be required to divulge or communicate any of that information to a court or to produce that document in a court.

Penalty: \$2,000 or imprisonment for 12 months, or both.

- (2) Subject to subsections (2A) and (2B), nothing in this section prohibits:
- (a) a person from divulging or communicating information, or producing a document, to the Minister if it does not identify an information subject;
 - (b) a person from divulging or communicating information, or producing a document, to a person specified in writing by the person (in this subsection called the “**information provider**”) who divulged or communicated the information, or produced the document, directly to the Institute;
 - (c) a person from divulging or communicating information, or producing a document, to a person specified in writing by the Ethics Committee if to do so is not contrary to the written terms and conditions (if any) upon which the information provider divulged or communicated the information, or produced the document, directly to the Institute; or

- (d) the publication of conclusions based on statistics derived from, or of particulars of procedures used in, the work of the Institute, if:
 - (i) to do so is not contrary to the written terms and conditions (if any) upon which an information provider divulged or communicated information relevant to the publication, or produced a document relevant to the publication, directly to the Institute; and
 - (ii) the publication does not identify the information subject.
- (2A) Paragraph (2)(c) applies only to information that is health-related information and statistics.
- (2B) Paragraph (2)(c) applies to a document only to the extent to which the document contains health-related information and statistics.
- (3) A person to whom information is divulged or communicated, or a document is produced, under paragraph (2)(a), (b) or (c), and any person under the control of that person is, in respect of that information or document, subject to subsection (1) as if the person were a person exercising powers, or performing duties or functions, under this Act and had acquired the information or document in the exercise of those powers or the performance of those duties or functions.
- (4) In this section:
 - (a) **“court”** includes any tribunal, authority or person having power to require the production of documents or the answering of questions;
 - (b) **“person”** includes a body or association of persons, whether incorporated or not, and also includes:
 - (i) in the case of an information provider – a body politic; or
 - (ii) in the case of an information subject – a deceased person;
 - (c) **“produce”** includes permit access to;
 - (d) **“publication”**, in relation to conclusions, statistics or particulars, includes:
 - (i) the divulging or communication to a court of the conclusions, statistics or particulars; and
 - (ii) the production to a court of a document containing the conclusions, statistics or particulars; and
 - (e) a reference to information concerning a person includes:
 - (i) a reference to information as to the whereabouts, existence or non-existence of a document concerning a person; and
 - (ii) a reference to information identifying a person or body providing information concerning a person.