



Australian Government

**Australian Government submission
to the Senate Inquiry
on the Human Services (Enhanced
Service Delivery) Bill 2007**

February 2007

Busting myths

Will there be a mega database of health, veterans' and social services information? **NO** See page 19

Will the access card system record all my transactions? **NO** See page 19

Will the access card be linked to closed circuit television systems? **NO** See page 19

Will the access card carry my tax records? **NO** See page 19

Will the access card contain photos of my children? **NO** See page 19

Will the access card show more detail on the surface of the card than my driver's licence? **NO** See page 20

Am I required to carry the access card? **NO** See page 17

Will the access card reduce entitlements, including for under-18s? **NO** See page 1

Will I have to provide my fingerprints to register? **NO** See page 16

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Foreword

This Australian Government submission has been prepared by the Department of Human Services in consultation with the following departments and agencies:

- the Department of the Prime Minister and Cabinet
- the Treasury
- the Department of Finance and Administration
- the Department of Foreign Affairs and Trade
- the Department of Health and Ageing
- the Attorney-General's Department
- the Department of Veterans' Affairs
- the Department of Immigration and Citizenship
- the Department of Families, Community Services and Indigenous Affairs
- the Department of Education, Science and Training
- the Department of Employment and Workplace Relations
- Centrelink
- Medicare Australia
- the Child Support Agency
- the Australian Security Intelligence Organisation
- the Australian Federal Police.

The Department of Veterans' Affairs will be making its own, complementary submission to the Senate Inquiry.

This Australian Government submission provides a background briefing on the access card project to assist the Senate Committee to collect and consider evidence provided in the public hearings.

The sections of this submission that specifically relate to the Terms of Reference of the Senate Inquiry are located at:

- Part 3—the intended scope and purposes of the card
- Part 4—the information to be included in the card Register and card's chip and on the card's surface
- Part 5—the range of offences aimed at prohibiting persons requiring an access card for identification purposes and prohibiting other improper uses.

To the extent that the Terms of Reference indicate that the Senate Inquiry will examine these above-mentioned issues 'among other things', this Australian Government submission includes additional sections to provide a compendium of information considered likely to be of relevance to the Senate Committee.

The access card: appearance and application

Card front and back (example)

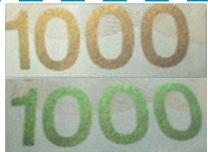
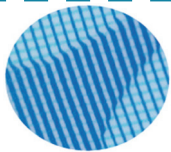
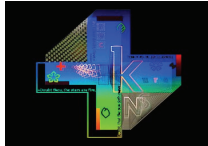
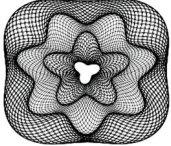

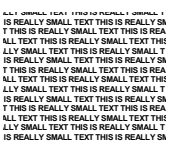

Front



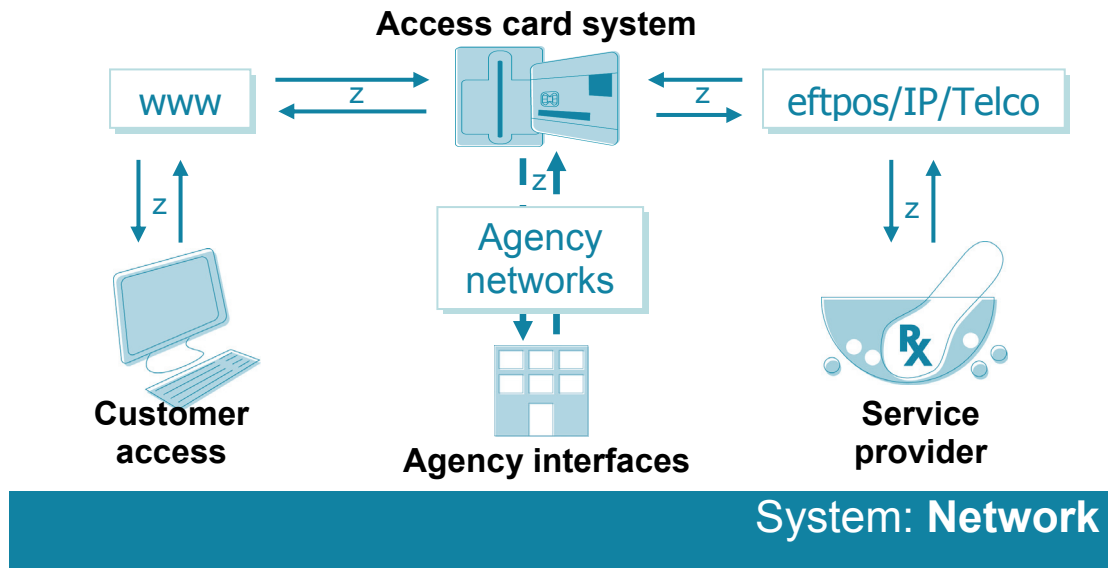
Back



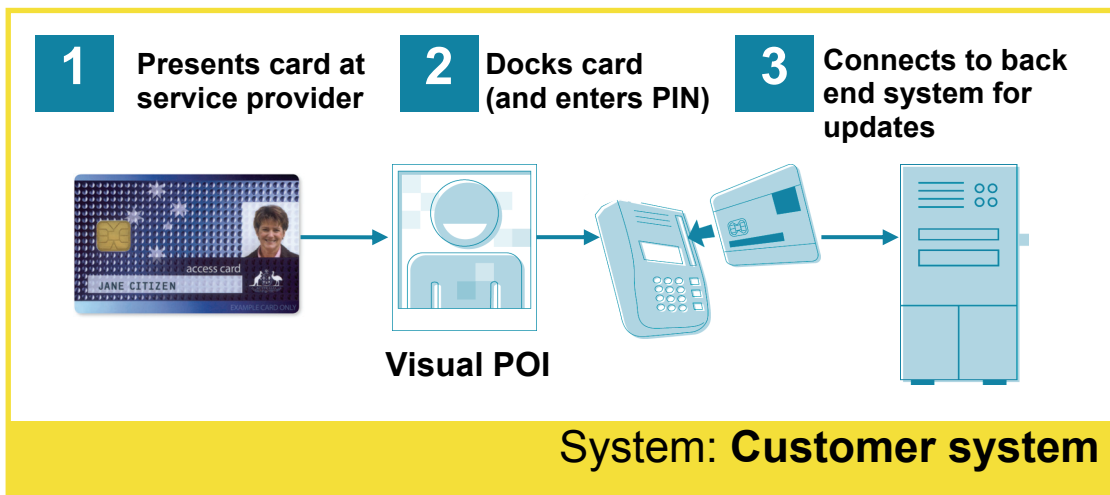
Security features on the surface of the card

| | | | |
|---|---|---|-----------------------|
|  | Optical variable Ink |  | Relief |
|  | Multiple laser images |  | Guilloche |
|  | UV light response |  | Micro-printing |
|  | Optical variable device to protect photo | | |

Secure network communications



Using the card at service and benefit providers



Examples of how the card will be used

Changing address with multiple agencies

1 Present card to staff



2 Cardholder docks the card (for those with a PIN they will need to key in their PIN number)



3 Centrelink staff member immediately has access to details about current address.



4 Customer provides new address details



5 Customer service officer enters new details in the register.



6 New details automatically updated on the chip and with other relevant agencies such as Medicare.



Claiming a baby bonus

1 Parents each have an access card and want to add their newborn baby



2 At the hospital the parents are given a form which has been signed by the doctor. This proves the baby's birth.



3 The parents apply for the baby bonus and family tax benefit. At the same time they register their baby on each of their access cards.



4 As part of this process they provide the completed form the doctor has also signed to the Medicare staff member.



5 Medicare docks both parents' cards and updates them with information about their baby.

Records at Centrelink and Medicare are now up to date with just one visit.



Registration



Having a photo taken if you wear a headscarf

- 1** Customer goes to one of the registration points e.g. Medicare Office.
- 2** Proof of identity documents presented and verified with a customer service officer.
- 3** Photo taken to be used for biometric identification.



- 4** Headscarf will have to be pushed back so that forehead, cheeks and chin are clearly visible.



Part 1 Introduction

1.1 Background

On 26 April 2006 the Australian Government announced the introduction of a health benefits, veterans' and social services access card to replace up to 17 existing Australian Government benefits cards and vouchers.

The new access card system will utilise smart card technology to streamline and modernise the delivery of Australian Government health benefits and veterans' and social services. It will enable people to obtain Australian Government benefits in a straightforward, convenient and reliable way without having to re-register and repeat the same information each time they visit an Australian Government office.

The Australian Government each year provides over \$100 billion in health benefits, veterans' and social service payments. The access card system will also assist in minimising fraud and misuse.

The access card system will be implemented from April 2008. From 2010, customers of Centrelink, Medicare Australia, Australian Hearing Services, Health Services Australia Limited, the Department of Veterans' Affairs (DVA) and the Department of Human Services (including the Child Support Agency and CRS Australia) will need to register for the access card in order to receive health benefits and veterans' and social services from these agencies or providers of these services. It will otherwise not be compulsory to carry or produce the access card, although card holders that claim concessions may be asked to provide their card to show their concessional status.

The implementation of the access card will not impact on eligibility for health benefits, veterans' and social services, unless people are identified as being engaged in fraud.

1.2 Why we need an access card

The access card will deliver greater customer convenience, improved efficiencies within government administration and reduced fraud and misuse of taxpayer money.

The decision of the Australian Government to proceed with an access card was based on an initial business case prepared by the consulting firm KPMG, which found that existing access arrangements for health benefits, veterans' and social services are unnecessarily inefficient, complex, fragmented and inconvenient for consumers and that the service systems provide significant opportunities for fraud.

This business case was presented to the Australian Government in early 2006. Principal arguments for the card presented by KPMG are available on the access card website at <http://www.accesscard.gov.au>.

Detail on the expected benefits in terms of customer convenience, combating fraud and reducing red tape and errors is provided below.

Customer convenience

For customers, the access card will generally mean less time spent proving who you are, filling out forms and waiting in queues as well as a range of other conveniences.

Better authentication

The access card will also improve authentication processes at health, veterans' and social services outlets. The access card system will provide a single point of registration for a person holding an access card to obtain Australian Government health benefits and veterans' and social services. Customers will have to register only once to receive an access card.

Less time in queues

More than 40 million face-to-face transactions take place in Centrelink offices each year. Currently customers spend between 90 seconds and three and a half minutes proving who they are, even after having established their proof of identity at the time of proving their claim. This manual process will be replaced with the docking of the card into a card reader.

Also, in dealing with Government, customers currently have to separately notify each agency with which they have dealings if details such as their addresses change. With the access card, the customer will need to notify only one agency and information will flow through to DVA or any Human Services agency they have already indicated they have dealings with.

Faster emergency and disaster relief payments

The access card system will also provide faster and easier access to one-off emergency and disaster relief payments through the inclusion of an emergency payment number. This emergency payment number will provide the Australian Government with a means of quickly providing emergency payments to individuals in the event of a disaster. It does not include an individual's personal banking details.

The emergency payment number will enable individuals to access payments from an Australian Government account specifically set up to provide emergency payments to affected individuals in appropriate circumstances.

The emergency payment number, as for the access card number, will change every time a card is reissued.

Fewer cards

The access card will also offer the simple benefit of allowing customers one card rather than several to receive Australian Government health benefits and veterans' and social services, providing fewer for the customer to carry and produce when accessing these services. Many customers find the large number of cards confusing and are unsure of which card to produce for a particular service—particularly when claiming concessions. Around 1.9 million age pension customers currently have three or four cards each.

Customising aspects of your card

The access card will also include a customer-controlled section within the microchip, to give customers the option of customising their card with the addition of personal information such as emergency contact details, and details of next of kin, allergies, organ donor status and health alerts. The inclusion of such voluntary information is the subject of consultation with the Consumer and Privacy Taskforce, the health services sector, and consumer health and privacy organisations. A discussion paper on voluntary and medical emergency information, released by the Consumer and Privacy Taskforce on 21 February 2007, will enable input and recommendations to be put to Government.

Increased security for customers

The inclusion of a photo on the surface of the access card and the security features provided on the card, within the chip, and protecting the access card system will also increase security for customers. It will be much harder to access someone else's entitlements.

Improved privacy

Features of the card offer improved privacy for customers compared with existing cards. Currently, some concession cards such as the Pensioner Concession Card include the customer's address and details of their dependants on the card—which they are required to produce when claiming concessions from a bus driver. The access card will store these details securely on the card chip—there will be less detail on the surface of the access card than on a driver's licence.

On 7 February 2007 the Minister for Human Services, Senator the Hon Ian Campbell, asked the Chairman of the Consumer and Privacy Taskforce, Professor Allan Fels, AO, to undertake a Privacy Impact Assessment before issues around privacy are resolved in subsequent legislation.

Combating fraud

Advanced and proven smart card technology will be used in the access card. The current technology, including cardboard cards and simple plastic cards, is outdated and has proven highly vulnerable to improper copying in a way which exposes the system to fraud. Better and more advanced technologies, which can replace and improve the 23-year-old technology that the Medicare card is built on, are now available.

Over the next 10 years, the Australian Government will be distributing almost \$1 trillion in health benefits and veterans' and social services. That significant sum of money provides enormous risks. KPMG has estimated that the Government will save \$3 billion dollars over the next 10 years by introducing the access card.

The Medicare card is cheap and easy to fraudulently copy. Recently, the Australian Federal Police estimated that Medicare cards are involved in some way in more than 50 per cent of identity fraud cases. In a recent speech at a counter-terrorism summit, the Australian Federal Police Commissioner, Mick Keelty, estimated that identity fraud costs Australians between \$1 billion and \$4 billion annually.

There is also no uniform system available to check current concessional status, and Pharmaceutical Benefits Scheme concessions in particular are open to significant abuse as a result.

An ANAO Audit of the Administration of the Health Care Card (HCC) conducted in 2004–05 stated:

Some 25 per cent of all HCCs are cancelled by Centrelink before they expire. A large proportion of these cancellations occur because a person ceases to be eligible for the primary Centrelink benefit that provided their entitlement to an automatically issued HCC.

The access card will allow the regular updating of concession status information whenever a card is docked into an online reader.

The inclusion of a photo, other security features on the face of the card and more reliable entitlement information stored on the chip, will afford non-Commonwealth concession providers greater certainty that the person presenting the card is the card holder and that the card holder is entitled to Commonwealth concessions.

Less red tape and fewer errors

Service delivery using smart card technology is being used to improve services in other countries. International experience has shown that there will be significant administrative efficiencies associated with the replacement of up to 17 existing cards and vouchers with a single card.

Improving customer authentication processes at health, veterans' and social services outlets (by replacing the current manual process with the docking of the card into a card reader) will reduce red tape. The benefits to customers of needing to update their details only at one agency will also result in less keying and reduced paper flows in participating agency offices. This in turn will eliminate errors that result from incorrectly transcribing customer details. Information from the access card can also be used to pre-populate new applications.

Greater confidence in the integrity of customer information will also improve payment correctness. The card will substantially assist with ensuring the right people get the right payments.

1.3 Consultation on the access card

A highly consultative approach has been adopted in developing and implementing the access card and associated legislation. This includes consultation by the Office of the Access Card that was set up within the Department of Human Services to develop and implement the access card system. In addition, the Consumer and Privacy Taskforce, which reports to the Minister, is undertaking extensive consultation.

Consumer and Privacy Taskforce

On 24 May 2006 the then Minister for Human Services, the Hon Joe Hockey MP, announced the formation of the access card Consumer and Privacy Taskforce to be headed by Professor Allan Fels, AO, to ensure that consumer and privacy issues were identified and addressed. The Taskforce released its first discussion paper in July 2006.

The development of access card legislation was a principal recommendation of the first report to Government of the Consumer and Privacy Taskforce, released on 8 November 2006.

In its response to this first report of the Taskforce, also released on 8 November 2006, the Australian Government supported the Taskforce's recommendation and announced that it would introduce legislation to:

- provide for the introduction of the new card to access Australian Government benefits and services
- set out the purpose (functions) of the card and Register
- define the information to be collected and stored
- clearly set out prohibitions and protections unique to the access card
- vest ownership of the card in the consumer
- address other matters to do with effective implementation of the card system not specified in existing laws due to the card's unique nature.

Most importantly, the Australian Government committed to legislation that will ensure that the access card is:

- not a national identity card
- not required to be carried at all times
- not able to be demanded outside health and social service and benefit purposes.

Consultation by the Office of the Access card

Following the National Press Club address on 8 November 2006 by the then Minister for Human Services, the Hon Joe Hockey MP, an initial information campaign was carried out in the press for two weeks. The campaign included an information telephone line, a website, release of brochures through Medicare and Centrelink, and newspaper and radio advertisements. Some sixteen hundred newspaper advertisements were placed in 559 publications, and 251 radio stations aired the information ads. The ads were translated into 22 languages and broadcast on 44 non-English speaking radio stations and published in 125 non-English publications. Ads aired on one Indigenous radio station and appeared in five Indigenous publications. Twenty-one radio stations for the print handicapped broadcast the ads. As a result, the information line received around 2,000 calls, and the website received 76,000 hits and 438 specific comments.

Already the Office of Access Card has consulted with more than 600 groups and individuals. Briefings held for the information technology (IT) industry on 13 December 2006 were attended by 400 industry representatives. A briefing of privacy and consumer groups that had made submissions to the Consumer and Privacy Taskforce, also held on 13 December 2006, was attended by 60 people (individuals and representatives of organisations).

The Office of the Access Card is also consulting with peak bodies representing health care providers, the banking and retail sector, consumer, privacy and community groups, as well as the Commonwealth Ombudsman, and states and territories. These consultations have assisted stakeholders develop a better understanding of the access card system, the first

package of legislation and its potential impacts. The Office of the Access Card has met with all major health sector peak bodies, including the Australian General Practice Network, the Australian Medical Association and the Pharmacy Guild of Australia. Site visits to pharmacies and private hospitals, arranged by the various peak bodies, were held in February 2007.

Meetings with the financial services sector have included the Australian Bankers Association, the Smart Card Users Forum and the Australian Payments Clearing Association.

Within the Australian Government, the Secretary of the Department of Human Services chairs a Secretaries' Group on the Access card. All relevant agencies within the Australian Government have been engaged, including the Department of Foreign Affairs and Trade, the Department of Finance and Administration, the Department of Health and Ageing, the Attorney-General's Department, the Department of Immigration and Citizenship, the Department of Families, Community Services and Indigenous Affairs, DVA, the Department of Employment and Workplace Relations, the Department of Education, Science and Training and the Department of the Prime Minister and Cabinet.

In May 2006, seeking their engagement on the access card, the then Minister for Human Services wrote to all Premiers and Chief Ministers. Information sessions for government officials in all states and territories, held between 11 to 22 December 2006, emphasised privacy, concessions validation, public transport smart card interoperability, and access to births deaths and marriages data for identity verification.

The exposure draft of the Bill

As part of the consultative process, an exposure draft of the Bill was released for public comment on 13 December 2006. While there has been criticism that the public only had four weeks, including public holidays, in which to comment, there had been six months of consultation prior to the release of the exposure draft. The parliamentary timetable precluded longer consultation.

More than 120 submissions were received from non-government organisations and individuals, as well as from state, territory and federal government departments and agencies in response to the exposure draft. Of these, around 80 submissions were from individual members of the public and the remainder were from organisations or agencies. Each of these submissions has been reviewed and analysed. Appropriate suggestions from these submissions and those of the Consumer and Privacy Taskforce have now been included in the Bill. Following an examination of the submissions received on the exposure draft, information on the key issues raised and a response to each have been prepared and are provided on the website at <http://accesscard.gov.au>.

The Department sought permission from those who provided a submission to the exposure draft to put a copy of their comments on the website. As an aid to understanding the proposed legislation, the Department also provided a commentary and response to the key issues raised in the submissions.

Many of the comments received on the exposure draft related to matters that are proposed for subsequent legislation. Consultations continue today on a range of these issues, such as

the use of the card in dealing with dependants. The outcome of these discussions will inform subsequent packages of legislation.

Subsequent parts of the legislation will also be released in exposure draft form and we are planning to provide as much time as possible for public comment on the second exposure draft.

Part 2 The first Access Card Bill

2.1 Why the first instalment of the legislation is needed now

The Australian Government has also publicly announced that the initial registration process for the card will begin in early 2008. The early introduction and passage of the Bill are required to ensure that a legal framework is available to support the implementation of the proposed access card system and to enable initial registration to begin in early 2008.

This timing is also essential to ensure that there is sufficient time to provide adequate information to the community about the new system. The first report of the Consumer and Privacy Taskforce had recommended early introduction of the legislation to provide certainty to the Australian public.

A tender process is currently underway for the procurement of necessary technology to support the new access card and the associated registration system. It is proposed that the selection of tenderers will occur in mid-2007. While procurement processes have allowed for some flexibility in the architecture to accommodate some changes to the processes that might need to occur, and there will be a design validation phase, the early passage of the legislation is required to provide certainty for contract negotiations for the procurement of critical elements of the access card system.

The early implementation of the legal framework will ensure that the infrastructure and administrative arrangements that are required for the effective implementation of the access card system are in place in sufficient time to allow a smooth transition to the new system.

If passage of the Bill were to be significantly delayed this would reduce the time available to put in place the necessary infrastructure, administrative arrangements and public information to properly implement the new system. This could jeopardise contract negotiations and would not allow adequate time to fully and adequately inform the Australian community of these important changes. Nor would there be sufficient time to put in place the necessary infrastructure and administrative arrangement—given that these are dependent on the legal framework being in place.

There are also advantages in releasing the legislation in a series of packages, to make it easier for people to understand the issues involved. A phased legislation strategy avoids the difficulties of a more complex and detailed Bill dealing with every conceivable issue. The strategy adopted allows the public to focus on specific issues and allows for more informed consideration of the details in the legislation.

The first instalment of the legislation sets out those issues over which there has been most community interest, for example, what is on the card, what is in the Register and chip, who can demand the card, how to prevent function creep, and protections against the access card becoming a national identity card. The Australian Government wanted to address these issues earlier rather than later and give the community some certainty on these fundamental overarching principles in the Bill.

2.2 The Consumer and Privacy Taskforce recommendation for legislation

The first report to Government of the Consumer and Privacy Taskforce stated:

There is almost complete unanimity among Submissions and in Consultation meetings that the access card scheme must be founded upon specific legislation debated in and passed by the Federal Parliament.

This is a view in which the Taskforce concurs fully and the need for such legislation is one of the principal points of advice which it offers to the Minister.

...

Legislation itself should, in the opinion of the Taskforce, clearly address at least three broad issues:

- the card itself: with special emphasis on defining prescribed and proscribed governmental purposes and either limiting function creep and/or providing the transparent mechanism for adding new functionality to the card, distinguishing governmental and customer-driven initiatives
- the information to be collected
- the operation and control of the database.

The first report of the Consumer and Privacy Taskforce also included a recommendation (Recommendation 6) that:

... a comprehensive legislative framework be developed for the Access Card Scheme.

In its 8 November 2006 response to the Consumer and Privacy Taskforce, the Australian Government supported Recommendation 6, stating that there will be a legislative framework that will:

- provide for the introduction of the new card to access Australian Government benefits and services
- set out the purpose (functions) of the card and Register
- define information to be collected and stored
- clearly set out prohibitions and protections unique to the access card
- vest ownership of the card in the consumer
- address other matters to do with effective implementation of the card system not specified in existing laws due to the card's unique nature.

The Australian Government also committed to legislation to ensure that the access card is:

- not a national identity card
- not required to be carried at all times
- not able to be demanded outside health and social service purposes.

The Australian Government further committed that the access card legislation will be consistent with existing laws that protect privacy and information disclosure.

In its 8 November 2006 response, the Australian Government also flagged that the access card legislation would be introduced in instalments, as some legislation would need to be informed by further development on the planned operations of the access card system.

2.3 What is in the first Bill?

The provisions within the Bill are intended to give effect to the Government Response to the Consumer and Privacy Taskforce Report.

The Bill, which was introduced into the House of Representatives on 7 February 2007:

- defines the purposes of the legislation and the card
- sets out the information to be on the surface and chip of the card and the secure information database known as the Register
- confirms that customers will own their card
- introduces prohibitions on inappropriate demands for, and use of, the card.

The Bill is the first part of a legislative package to establish the framework to support the access card and to give some certainty as to some of the issues that are of most interest to the community. It does not contain all the legislative elements that may apply to the access card. Subsequent legislation is proposed to cover remaining aspects of the access card system.

Later legislation will deal with the review and appeal processes for administrative decisions, further elements of information protection and legislative issues relating to the use of the card, including in relation to dependants.

The Bill will limit the purposes for which the card can be used and will ensure that the new card will be required to be produced only for the purpose of accessing Commonwealth benefits and confirming concessional status.

What is being proposed in this Bill keeps Australia aligned with developments in the rest of world, where service delivery, using smart card technology, is being used to improve the convenient, secure and efficient delivery of services to citizens and to reduce fraud.

The Bill clearly sets out the objects of the Bill and the purposes for the access card legislation. These purposes will constrain the way the card can be used and the way government officials deal with the card and card owners.

While the Bill clearly prohibits inappropriate demands for card owners to present the card, the Bill still allows customers to use the card for lawful purposes that they choose.

Any proposal to extend the operation of the card beyond the stated purposes will require an appropriate amendment of the legislation and will require debate in Parliament.

2.4 Matters not in the first Bill

There are a number of other matters that are not dealt with in the first Bill. These include:

- reviews and appeals
- privacy protections
- effective oversight and governance of the access card system
- dependants, carers and other linked persons

- suspensions and cancellations of registration and the card
- the need for, and use of, the card by persons overseas
- replacement of lost and stolen cards
- the interaction of the access card and existing cards during the transitional period between 2008 and 2010
- protection of information
- issues relating to an individual's area of the chip
- computer hacking and other offences and inter-relationship with the Criminal Code
- requirements to present the card to obtain Commonwealth benefits from 2010.

Some of these matters (such as appeals) are being considered by the Taskforce, and the Government's position on these issues will not be determined until after the Taskforce presents its further reports to the Australian Government.

The requirement for retention of proof of identity documents will need to be considered in the context of the *Archives Act 1983*, which determines the retention requirements for a range of Commonwealth documents.

Decisions about whether to include additional offences in the Bill or to amend the Criminal Code (if necessary) will be considered by the Government after appropriate consultation.

Other matters may be subject to developments arising from the procurement process currently underway in relation to software and hardware requirements that will be necessary for the effective implementation of the access card system as a whole.

Accordingly, these issues are not dealt with in the Bill and will be dealt with in subsequent legislation. Future legislation will also deal with the eligibility requirements for Commonwealth benefits that are specified in the separate pieces of legislation establishing the benefits.

The next Bill is also expected to give effect to the Government's announcement on 26 April 2006 that from 2010 people will only be able to obtain Government health and social service benefits if they have an access card.

Part 3 The scope and purposes of the card

3.1 The objects and purpose of the Bill

Within Part 1 of the Human Services (Enhanced Service Delivery) Bill 2007, clause 6 highlights the Australian Government's rationale for the access card; that is, to improve the delivery of Commonwealth benefits to the community and to reduce fraud on the Australian taxpayer.

The access card is intended to streamline the provision of Commonwealth benefits by:

- reducing the number of cards and vouchers that many people have to hold to access various benefits. This will result in many people having to carry fewer cards
- requiring individuals to register only once for an access card, thereby eliminating the need to repeatedly provide details to different health benefits, veterans' and social services agencies
- eliminating the need to contact multiple agencies to update information—if individuals change their address they will need to let only one agency know
- providing quicker and easier access to one-off disaster relief and emergency funds, resulting in faster access to payments
- providing an option to voluntarily include information such as emergency contact details, allergies, health alerts, chronic illnesses, childhood immunisation or organ donor status.

It is clearly an object of the Bill to reduce fraud in relation to Commonwealth benefits. A detailed analysis of the financial benefits of the access card by KPMG indicated that identification of fraud could generate savings of up to \$3 billion over ten years.

The Bill permits card owners to use their cards for such other lawful purposes that they choose.

Clause 7 outlines the purposes of this Bill and makes it clear that the purposes of the Bill are to facilitate the provision of benefits, services, programs or facilities to some or all members of the public. The provision of those benefits, services, programs or facilities to which the access card relates is limited in this clause to the participating agencies of Centrelink, Medicare Australia, Australian Hearing Services, Health Services Australia Limited, the Department of Veterans' Affairs and the Department of Human Services (including the Child Support Agency and CRS Australia).

3.2 Protecting against function creep

The Bill contains clear protections against function creep. Clause 7 states that the purposes of the Bill are to facilitate the provision of benefits, services, programs or facilities to some or all members of the public where that provision involves a participating agency. Any change in purposes in clause 7 will require the government of the day to propose an amendment to the legislation and have it debated in, and passed through, Parliament.

Clause 41 specifies that Commonwealth officers in participating agencies are limited to using the access card to facilitate the provision of relevant benefits, services, programs and facilities. Together with clause 7, clause 41 is intended to constrain the use of the access card and to address concerns about function creep.

The constraints on the purposes of the Bill are also incorporated in the mechanisms under which additional information can be added to the Register and the chip. Personal information can only be added to the Register or the chip of the card by the Minister for the purposes of the Bill. Even then, personal information can only be added by legislative instrument, so that will also be the subject of parliamentary scrutiny and able to be disallowed by Parliament.

The Secretary can only add technical or administrative information to the Register or chip that is necessary for the administration of the Register or access card (for example, audit logs). Personal information cannot be added by the Secretary.

Clauses 20 and 36 expressly provide that only the information referred to in clauses 17 and 34 can be included in the access card Register or the Commonwealth's area of the chip, respectively.

3.3 Why the access card is not a national ID card

The access card will not be a national identity card.

The Bill expressly provides that one of the objects of the legislation is that access cards are not to be used as, and do not become, national identity cards.

This is a strong statement of parliamentary intention that has been included to assure the public that not only is the access card not a national identity card, it is also not to *become* a national identity card.

This statutory objective is strengthened by the limited purposes of the legislation set out in clause 7. These purposes are restricted to facilitating the provision of benefits and services involving participating agencies; that is, the Department of Human Services, the Department of Veterans' Affairs, Medicare Australia, Centrelink, Australian Hearing Services and Health Services Australia Limited.

These objects and purposes are intended to legally constrain the immediate and future use of the access card and Register. The courts will need to interpret the legislation in light of these statutory objects and purposes. Section 15AA of the *Acts Interpretation Act 1901* provides that:

In the interpretation of a provision of an Act, a construction that would promote the purpose or object underlying the Act (whether the purpose or object is expressly stated in the Act or not) shall be preferred to a construction that would not promote that purpose or object.

The provisions of the Human Services (Enhanced Service Delivery) Bill 2007 should be contrasted with existing (and proposed) legislation that clearly established national identity cards. This legislation includes the United Kingdom Identity Cards Act 2006 and the Australia Card Bill 1986.

An essential feature of a national identity card is that there should be some form of compulsion by the state for individuals to produce the card for identification purposes when transacting normal business.

This was the approach taken in the Australia Card Bill 1986. For example, the Australia Card Bill provided for 15 types of compulsory production:

- deposits and accounts with financial institutions (cl. 40)
- investments (cl. 41)
- income from certain trusts (cl. 42)
- primary production income and rental income (cl. 43)
- foreign remittances (cl. 44)
- land transactions (cl. 45)
- safety deposit box services and similar services (cl. 46)
- shares in public companies (cl. 47)
- dealings in futures contracts (cl. 48)
- employment (cl. 49)
- prescribed payments system (cl. 50)
- production to the Commissioner of Taxation (cl. 51)
- claims for Health Insurance Commission benefits (cl. 52)
- hospital patients (cl. 53)
- social security benefits (cl. 54).

Under that Bill, an individual:

- could not open a bank account without producing their Australia Card
- could not withdraw money from an account unless they produced their Australia Card to the bank. Nor could a bank pay the customer interest on their deposits unless they produced their Australia Card
- could not invest money unless they produced their Australia Card (when companies paid credit interest to investors, they had to provide details of that payment to the Tax Office together with the investors' Australia Card numbers)
- could not purchase an interest in land unless they produced their Australia Card
- could not purchase shares in a public company unless they produced their Australia Card
- had to produce their Australia Card when starting a job and the employer had to record their Australia Card number on their group certificate.

In addition to the above, the Australia Card could be used by government officials for a variety of purposes. For example, the Tax Commissioner could require an individual to produce his or her Australia Card for tax purposes. The Tax Commissioner was also entitled to have access to the Australia Card Register for tax purposes.

The clear purpose of the Australia Card Bill 1986 was to set up the Australia Card as a national identity card. It did this by requiring the production of the card for normal everyday activities.

None of these aspects of the Australia Card are present in the access card legislation. The access card is very limited in comparison to the Australia Card. Its primary purpose is to facilitate the provision of health benefits and veterans' and social services. It cannot be required for identification purposes except in relation to Commonwealth benefits or concession purposes. These limited purposes are set out in the Bill. The legislation also records the Government's intention that the access card is not to be used as, or become, a national identity card. There are severe penalties for businesses and individuals who demand the card for identification purposes.

Under the Human Services (Enhanced Service Delivery) Bill 2007 a person can go about their normal daily business without having to produce their access card—unlike the Australia Card, which had to be produced for very many facets of everyday life in Australia.

A similar situation exists in relation to the Identity Cards Act 2006 of the United Kingdom. The purpose of that Act is to:

... make provision for a national scheme of registration of individuals and for the issue of cards capable of being used for identifying registered individuals.

The British Home Office has also set out details as to which organisations will be able to use the National Identification Scheme and ID card. It has stated:

Here is an example of the types of organisations and businesses we expect to use the scheme in order to check the identity of their customers:

- banks and building societies
- Royal Mail and other delivery and courier services
- libraries and video/DVD rental companies
- mobile and fixed line phone companies and service providers
- travel agencies and airlines
- universities and colleges of higher education
- retailers of all kinds, including internet-based companies
- property rental companies
- vehicle rental companies.

Many more companies and organisations will use the scheme to check the immigration status of potential employees and to ensure those applying for positions of trust are who they say they are.

Under the UK legislation, the UK identity card is also intended to be used to identify individuals for the purposes of:

- national security
- the prevention and detection of crime
- preventing unauthorised working or employment
- the effective and efficient provision of any public service.

The UK legislation contemplates that up to 13 biometrics (10 fingerprints, biometric photograph and iris scan) may be used in the administration of the identity card established under the legislation.

These features of the UK Act are not present in the Human Services (Enhanced Service Delivery) Bill 2007.

This is because the purpose of the Human Services (Enhanced Service Delivery) Bill 2007 is completely different to the UK legislation. The purpose of the Human Services (Enhanced Service Delivery) Bill 2007 is limited to streamlining and modernising Australia's delivery of health benefits and veterans' and social services and to reducing fraud in relation to such benefits and services.

Unlike the UK legislation and the Australia Card Bill 1986, the access card is not intended to be a national identity card and the Human Services (Enhanced Service Delivery) Bill 2007 has been drafted in a way to make this clear.

For example, you are not required to carry your access card on you at all times. Unlike the UK legislation, the Human Services (Enhanced Service Delivery) Bill 2007 makes it an offence for individuals and businesses to demand the access card for identification purposes.

The Bill expressly provides that an object of the legislation is that access cards are not to be used as, and do not become, national identity cards (clause 6(2)).

This object is given effect to by:

- the restricted purposes of the legislation (clause 7)
- the restricted uses to which Commonwealth officers in participating agencies can use the card (clause 41)
- the clear statement in clause 42 that card owners are not required to carry their cards at all times
- the offences prohibiting persons from demanding the card for identity purposes (clauses 45 and 46)
- the offences prohibiting persons from copying the card number, photograph and signature and using such information to connect it with the identity of the card owner (clause 57).

Part 4 Information to be included on the Register, card surface and chip

4.1 The function of the Register, card and chip

The card will be part of a secure and robust system known as the access card system. It will be issued to individuals who want to receive and who are eligible for health benefits or veterans' and social services provided by the Australian Government.

Information about the individual card holder will be stored either on the card itself, in the card's chip, or on the secure Register that is part of the access card system.

If you have children, their details will be included on your card's chip. The access card system will not require photos of dependent children to be taken or recorded.

Although issues relating to dependants and carers have not been dealt with in this Bill, clause 13 makes it clear that a person may apply for registration on behalf of another person.

The access card system—the Register

The access card will be part of a secure and robust system known as the access card system. Information provided by individuals when they register for an access card will be stored on a secure Register that is part of the access card system.

The access card system does not involve the creation of a mega database containing health, veterans' and social service records. Detailed customer records will continue to be held separately by Centrelink, Medicare Australia, the Department of Veterans' Affairs (DVA) and other participating agencies. It will be established separately from participating agency databases. Existing agency records will remain with the relevant agency—where they are now.

The Register only includes information necessary for the payment of health benefits, veterans' and social services delivered by or on behalf of Centrelink, Medicare Australia, Australian Hearing Services, Health Services Australia Limited, DVA and the Department of Human Services (including the Child Support Agency and CRS Australia).

The Register does not incorporate or link to information from any other government or private agency. There will also be no linking of information in the Register to taxation, health or medical records. It will not contain records of the personal or financial transactions of the card holder. The access card system will not be linked to any closed circuit television (CCTV) networks.

These arrangements are set out in the Human Services (Enhanced Service Delivery) Bill 2007. Any change to the scope and purpose of the access card system will require new legislation that would require debate and passage by Parliament.

The Register will:

- be a single authoritative source of basic registration data

- enable once-only registration and updating of details for services by all Human Services agencies and DVA services
- duplicate all information held on the card, which will ensure quick and convenient card replacement.

The card

The access card will be an advanced chip-based smart card, replacing the ageing Medicare card, which utilises 23-year-old technology. The access card will also amalgamate up to 16 other existing Commonwealth health benefits and veterans' and social services cards and, at the same time, streamline access to government services for millions of Australians.

Only a minimal amount of information will be visible on the surface of the card. The access card will contain less information on its surface than most drivers' licences.

The chip

The purpose of the chip is to securely store information and control access to that information through advanced proven smartcard security technologies. This will be a significant improvement on the outdated magnetic strip and cardboard cards in use today.

The purpose of the chip is to store information in two zones with different levels of access and security to ensure protection of customer information. The chip in each card will have a number of software applications on it. These applications will assist the secure storage and transfer of relevant information.

The chip is more secure than current magnetic strip cards and offers greater privacy than current paper-based or magnetic strip cards.

The chip will contain two separate areas:

- the card owner's area
- the Commonwealth's area.

There will be no linkage between the Commonwealth controlled area and the card owner's area of the access card.

4.2 Information on the Register

The data items included on the Register are described in clause 17 of the Bill. An explanation of why the data items have been included in the Bill is provided below.

Item 1: Name

Item 1(a)

A person's legal name is recorded on the Register as a primary indicator, in combination with other information on the Register, that a person is who they say they are. This is to assist in ensuring that a benefit is received only by the person entitled to that benefit. This also ensures that all participating agencies recognise that name as belonging to the person who is entitled to the relevant benefit.

This name will also appear on the surface of the card and in the chip of the card if the person has not asked for their preferred name to be included. This information will be available at the point of service, whether the card is read by a card reader or presented for visual inspection.

Items 1(b) and 1(c)

A person's preferred name is included in the chip of the card and on the surface of the card to facilitate a person using their commonly used name in their day-to-day affairs. A person's preferred name is also recorded on the Register to enable that person's card to reflect that person's choice if the card is replaced, without inconveniencing the card owner.

For example, a person may be born John Charles Smith, but be known as Charlie Smith. In this case Charlie Smith may appear on the front of the card, at Charlie's request.

Sometimes a person will not have, or be able to establish, a legal name; for example, a person who is in Australia as a humanitarian entrant may not have a passport or other documentation. In such circumstances, an exemption from providing a legal name may apply, and the person's name will appear as a 'preferred name'. Through further consultation and experience, it may become apparent that documents other than those listed may be used as evidence of a legal name. For this reason, the Bill includes a power to prescribe additional documents that can be used.

Item 1(d)

A person may have a number of names. For example, a woman who chooses to change her name on marriage may wish to have her maiden name recorded so that entitlements (to the extent that they continue) are unaffected by the change in her marital status. If a participating agency uses one of these names, this name will be stored on the Register to help link the person to any other name that they may be known by a particular agency.

Additionally, if the person has another name that they would like included on the Register (for example, a new name assumed to escape a domestic violence situation), this can also be included.

It is important to record other names so that where a person has more than one name, their entitlements are assessed under their verified name. This assists in preventing fraud.

Item 1(e)

A person may request that their preferred title be included on the Register for the purpose of receiving correspondence that is appropriately addressed. It is the experience of Medicare Australia that a number of their customers clearly prefer correspondence to be addressed to them with their appropriate title (for example, 'Mrs X') rather than in a more informal manner. The title will not appear on the surface of the card.

Item 1(f)

A person may request that an honour awarded to them under the Australian or British honours systems be included in the Register for the purpose of receiving correspondence. Such honours recognise their contribution to Australian society. It is expected that the

relevant awards will be those recognised through the award system at <http://www.itsanhonour.gov.au/>. The honorific will not appear on the surface of the card.

Item 2: Date of birth

A person's date of birth is recorded on the Register to assist in differentiating them from people with identical names. Date of birth particularly supports customer authentication in online and telephone transactions.

Date of birth is optional on the surface of the card and in the chip of the card. Customers can choose to have this information on the surface of the card or in the chip if they wish to use it for proof of age to obtain goods, services or benefits. Using date of birth is preferable to a flag on the surface of the card or in the chip to show age because date of birth is more flexible and can cover a range of age-related concessions for goods, services or benefits. Setting a flag at a certain age, for example 60, would not assist those wanting to access concessional benefits at 55. That is, setting the flags would not achieve what customers have asked for.

Item 3: Citizenship or residency

Items 3(a) and (b)

Entitlement to the majority of Commonwealth benefits requires residency status to be established at the point of application. Entitlement to a Commonwealth benefit is a requirement for registration for an access card. It will therefore simplify the application process to have this information stored on the Register.

Item 3(c)

The Register will record that a visitor satisfies the criteria under a relevant Reciprocal Health Care Agreement if applicable by including information necessary to evidence that those criteria are met.

Item 4: Indigenous status

Items 4(a) and 4(b)

This is a voluntary indicator. A person who is an Aboriginal person or a Torres Strait Islander may choose to include that fact on the Register. This information will help the design of specific benefits to meet particular health, veterans' and social services needs. A similar question presently exists on the Medicare enrolment form.

The Indigenous status item will not be on the surface of the access card or on the chip of the card.

The Fels Taskforce had advocated a voluntary indigenous identifier.

Item 5: Sex

A person's sex is recorded on the Register primarily to assess entitlement to health benefits, veterans' and social services payments connected to whether a person is male or female. For

example, under the *Social Security Act 1991* the qualifying age to receive the Age Pension is currently different for males and females.

Also, Medicare Australia, in administering the Medical Benefits Scheme and the Pharmaceutical Benefits Scheme, will need to know a person's sex for the issue of certain products and services.

Item 6: Contact details

Item 6(a)

The inclusion of a person's residential address on the Register is required for the purpose of correspondence. Having this information on the Register means that if a person changes their address, they need to update their address only once, rather than multiple times with each participating agency with whom they have a relationship.

The residential address will also support customer authentication in online and telephone transactions.

Inclusion of the residential address on the Register also has the benefit of enabling the Government to easily identify people who may require emergency payments and assistance in the event of a natural disaster or emergency, such as a cyclone.

A person's residential address is also included in the chip unless an exemption applies. Where a person has chosen not to include their date of birth in the chip in their card, their residential address will assist in evidencing that the person is who they say they are.

Information on previous residential addresses will not be retained on the Register.

Item 6(b)

The inclusion of a person's postal address on the Register provides an authoritative source for sending correspondence to the person and provides greater assurance that correspondence will reach the person. Again having this information on the Register means that if a person changes their address, they only need to update their address only once, rather than multiple times with each participating agency with whom they have a relationship.

Items 6(c) and 6(d)

The inclusion of a person's contact details such as email and telephone details, at that person's request, provides alternatives for being contacted by a participating agency. This means a person can ensure contact is made in a way that is easier for them.

Item 6(e)

If a person is visually impaired, they can request that information about the manner or format in which they prefer to receive correspondence be included on the Register.

The inclusion of this information assists that person by ensuring ease of access to health benefits, veterans' and social services benefits and by ensuring communications are in the format that the person chooses.

Item 7: Benefit cards

The fact that a person is entitled to a benefit card will be recorded on the Register so that when the access card is reissued (either due to loss, damage, theft or on expiry) the card can be reissued with this information on it. This will ensure that replacement cards reflect the card owner's benefit card entitlements.

Certain information relating to the benefit card will be recorded, for example, to identify the commencement and expiry date of the card. This is important to ensure benefits are not paid where there is no longer an entitlement to that benefit.

The fact that a person is entitled to a benefit card is also stored in the chip of the card to enable the status of the person to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, that card reader will enable limited status indicator information to be displayed to the service provider.

Service providers will not be able to read information from the card or Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions).

Item 8: Registration status

Item 8(a)

The date of effect of a person's registration is required on the Register to determine the validity of their registration and card. This date will also be used to identify the number of active, suspended, or cancelled cards for overall access card planning and management purposes.

Item 8(b)

While the circumstances of suspension or cancellation of registration are not dealt with in this legislation, the fact of a suspended card or cancellation of registration (for example, due to fraud) must be recorded on the Register. This will indicate to participating agencies the reason a card is not working and provide some indication of the steps that need to be taken to ensure follow-up on registration if necessary.

Items 8(c) and 8(d)

The access card will be issued to a person who achieves either 'full' or 'interim' proof of identity (POI) status. Such persons will be able to access Commonwealth benefits. 'Interim' status will be recorded on the Register unless and until a person's identity is fully verified, at which time 'full' status is achieved and recorded on the Register.

It is the intent of the Australian Government that access card registrations meet the Gold Standard Enrolment Framework of the National Identity Security Strategy to the greatest possible extent. This will ensure that the risks of identity fraud are managed and appropriate protections to Australian Government outlays are provided.

Department of Human Services agencies will work with card holders who have been granted 'interim' status to assist them to achieve 'full' registration status wherever possible.

They will continue to receive health benefits and veterans' and social services, where they are entitled to them, regardless of whether they have 'full' or 'interim' status.

The proposed Gold Standard Enrolment Framework includes an ability to take into account a person's known customer status as part of their POI. Customers who have previously been identified to a high standard by DVA or Centrelink will not be required to go through a full POI process when registering for the access card.

There will, however, always be a small group of card holders who for a range of reasons will be unable to completely satisfy the Gold Standard Enrolment. These people will continue to get access to the services and benefits they need, provided they can establish a continuing entitlement to those services and benefits.

It has been decided that issuing an access card to people who do not meet the Gold Standard and recording an applicant's enrolment status on the card's chip strikes the right balance between improving identity security and ensuring convenient access to health benefits and veterans' and social services. The Australian Government's move to improving identity security for accessing health benefits and veterans' and social services will not lead to a denial of an access card to people who can now access those benefits and services, unless they have engaged in fraud.

Registration status information will also be included on the chip of the access card.

Item 9: Access card (except DVA information)

Item 9(a)

An access card number will be issued with each card. This number is not unique to the individual for an indefinite period and will alter on reissue of a card. This number will be used for online and telephone authentication and will make such interactions simpler and more convenient for consumers.

The access card number on the surface of the card enables consumers to use that number for online verification against the Register.

The access card number in the chip will provide additional card security by ensuring authentication of the card number to prevent fraud.

Item 9(b)

Ownership in the access card vests in the card owner from the date of issue. The issue date will be recorded on the Register.

Item 9(c)

Each card's expiry date will be recorded on the Register so that the Commonwealth Government is able to reissue cards in a timely and planned manner.

Recording the expiry date on the surface of the card provides consumers and service providers with an indication that the card being presented is a valid card.

Additionally, this information serves as a reminder to consumers of when they require a new card.

Items 9(d) and (e)

The Register will record the customer's PIN if the customer has elected a PIN at the time of registration. Additional information, such as secret questions and answers, will also be recorded on the Register, to be used to authenticate the card holder during PIN resets. This will ensure that a PIN is updated by reference to the previous PIN or secret password—providing a chain of authentication when a PIN is reset. The PIN and secret password information will be securely recorded on the Register.

A PIN will be included on the card at the option of the card owner. A PIN will provide additional security. A person's PIN is recorded in the chip of the card to enable them to control access to information secured by the PIN. Additionally, the PIN may be used to authenticate the card holder in electronic transactions.

Item 9(f)

A person's photograph is recorded on the Register primarily to prevent fraud through the use of one-to-one and one-to-many photograph matching. The inclusion of the photograph on the Register also preserves and safeguards the photographic image for use in replacement cards. This allows for the reissue of cards without requiring a new photo to be taken.

The inclusion of a person's photograph on the surface of the card similarly facilitates easy visual identification in face-to-face interactions.

Item 9(g)

The digitised signature on the Register will help prevent fraud by allowing the matching of signatures in a claim for a benefit when a customer is not present.

Item 9(h)

As with other cards, such as a Medicare card, a card owner will be able to request to have their card suspended or cancelled if the card is lost or stolen. The Government may also need to suspend or cancel a card in circumstances such as fraud. This information needs to be recorded in the Register to ensure reissue of the card in a secure environment.

Items 9(i), (j) and (k)

Information that a card owner chooses to include on the surface of their card (i.e. in relation to the colour of the card, record of date of birth, and 'blind' status) is recorded on the Register. This streamlines service delivery by enabling the card to be reissued (whether due to loss, damage or theft or on expiry) with the same information displayed on it. This ensures that the replacement card, reflecting the card owner's choice, is issued without inconveniencing the card owner.

This will not prevent issuing agencies from checking that the choices previously registered are still those required by the card owner. However, it allows a client to simply and conveniently indicate that they would like the settings they originally chose.

Item 10: Access card (DVA information)

Items 10(a)–(f)

If a person has an entitlement such as ‘TPI’ (totally and permanently incapacitated) under the *Veterans’ Entitlements Act 1986*, they can choose to have this status included on the surface of their card.

Information that a card owner chooses to include on the surface of their card (i.e. in relation to the colour of the card, record of date of birth, and ‘blind’ status) is recorded on the Register. This streamlines service delivery by enabling the card to be reissued (whether due to loss, damage or theft or on expiry) with the same information displayed on it. This ensures that the replacement card, reflecting the card owner’s choice, is issued without inconveniencing the card owner.

This will not prevent issuing agencies from checking that the choices previously registered are still those required by the card owner. However, it allows a client to simply and conveniently indicate that they would like the settings they originally chose.

This information is also stored in the chip of the card to enable the status of the person to be identified and verified at the time services, benefits or concessions are provided. Card readers will be designed so that the necessary information on Veterans’ entitlements will be displayed to the service provider.

Service providers will not be able to read information from the Register that they do not need access to in order to deliver the health benefit or veterans’ or social service (including concessions). They will have limited access to information on the chip.

Item 10(g)

If a person is a DVA White Card holder they may choose to have this specific status indicated on the surface of their access card.

Information that a card owner chooses to include on the surface of their card (i.e. in relation to the colour of the card, record of date of birth) is recorded on the Register. This streamlines service delivery by enabling the card to be reissued (whether due to loss, damage or theft or on expiry) with the same information displayed on it. This ensures that the replacement card, reflecting the card owner’s choice, is issued without inconveniencing the card owner.

This will not prevent issuing agencies from checking that the choices previously registered are still those required by the card owner. However, it allows a client to simply and conveniently indicate that they would like the settings they originally chose.

The status of the person as a DVA White Card holder is also stored in the chip of the card to enable the status of the person as a DVA White Card holder (and therefore eligible only for services that are war or service caused or related) to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, that card reader will enable the status indicator information to be displayed to the service provider.

Service providers will not be able to read information from the Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions). They will have limited access to information on the chip.

Item 10(h)

A person eligible for a DVA Gold Card may choose to have an access card issued to them that is gold coloured. This will be the default position. Alternatively, if the person chooses *not* to have a gold coloured access card, they will be issued with a standard coloured access card.

Information that a card owner chooses to include on the surface of their card (i.e. in relation to the colour of the card, record of date of birth, and 'blind' status) is recorded on the Register. This streamlines service delivery by enabling the card to be reissued (whether due to loss, damage or theft or on expiry) with the same information displayed on it. This ensures that the replacement card, reflecting the card owner's choice, is issued without inconveniencing the card owner.

Item 11: DVA information

Item 11(a)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as 'totally and permanently incapacitated' is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

Service providers will not be able to read information from the card or Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions).

Item 11(b)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as 'blinded in both eyes' is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

Service providers will not be able to read information from the card or Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions).

Item 11(c)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as a former prisoner of war is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions (such as increased dental coverage and some nursing home payment benefits), and is therefore recorded on the Register to denote that status and eligibility.

Service providers will not be able to read information from the card or Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions).

Item 11(d)

Information on whether the card holder has an entitlement to a pension rate specified by subsection 24 (3) of the Veterans' Entitlements Act because they are entitled to an extreme disablement adjustment is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

Service providers will not be able to read information from the card or Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions).

Item 11(e)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as a war widow or war widower is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

Service providers will not be able to read information from the card or Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions).

Item 11(f)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as a dependant is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

Service providers will not be able to read information from the card or Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions).

Item 11(g)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as a DVA White Card holder is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

Service providers will not be able to read information from the card or Register that they do not need access to in order to deliver the health benefit or veterans' or social service (including concessions).

Item 11(h)

When corresponding with members of the veterans' community, it is common to refer to the military rank and title that the person held on retirement, or still holds if they are a serving member of the Australian Defence Force. Where a card owner requests that their rank be used in correspondence, recording this information on the Register assists in ensuring that the correct title is used in correspondence.

Item 12: Documents produced to prove identity

Items 12(a) and (b)

POI documents provided at interview by a person to verify their identity must be originals and will be scanned and immediately returned. Some information to describe the document (such as the type, number, expiry date) will be recorded in the Register to allow verification with the issuer of the document and to validate collection of the appropriate documents. Only enough information as is necessary to describe the document provided will be stored, and this will be in accordance with the requirements of the *Privacy Act 1988*.

We are working with National Archives on issues relating to the copying and storage of registration documents. The Australian Government's intent is to keep as few documents as possible. Opportunities for the deletion of all scanned images of verified identity documents will be explored after the registration period has concluded. Images will need to be retained for at least the duration of the registration period to support evidence of the registration for accountability, privacy and fraud prevention purposes.

Item 13: Statements required by legislation

The Register will record statements about an individual that are required to be recorded by Commonwealth legislation such as the Privacy Act or the *Freedom of Information Act 1982*.

For example, section 48 of the Freedom of Information Act allows individuals to request amendments to incomplete, incorrect, out of date or misleading personal information held by an agency. Section 51 of that Act requires an agency to annotate their records with details of the request should the request for an amendment to an allegedly incomplete, incorrect, out of date or misleading piece of personal information be unsuccessful. This statutory requirement would be met by including an entry in a field permitted by item 13.

Item 14: Participating agency

If a person has a relationship with any of the participating agencies, this will be recorded by a flag on the Register so that information on the Register (such as an updated address) will only be disclosed to those agencies that have a need to know.

Also, clause 19 includes provision for temporary information on the Register to be held until it is transferred to the chip of the card. A participating agency flag provides the facility to transfer this information.

Item 15: Emergency payment number

One of the objectives of the access card is to facilitate the rapid distribution of emergency funds to assist people in need or where they have been affected by natural disasters or emergencies.

The emergency payment number is a number recorded on the chip and in the Register to facilitate and direct the payment of funds. The emergency payment is not an individual's personal account number. To be able to be activated if needed, this number must conform to banking sector requirements and hence will be different from the person's access card number. The emergency payment number must be included in the chip of the card so that in an emergency the card owner can use their access card to access emergency funds deposited

by the Government. The card owner will be able to use their card to either obtain cash directly or transfer the deposited funds to such accounts as they choose.

Item 16: Death

A person's death is included on the Register because notification of date of death is also required to prevent fraud and overpayment of benefits. In addition, there are some cases where funeral or bereavement expenses or pensions to a surviving partner may be payable upon notification of death.

Item 17: Other information

Item 17(a)

The Secretary may make a determination to add technical or administrative information to the Register (for example, audit logs). The Secretary is not permitted to include any personal information that could identify a person by name or other personal identifier on the Register. The technical or administrative information must be reasonably necessary for the administration of the Register or an access card.

As determinations by the Secretary under items 2, 3, 7, 8, 9, 12 and 17(a) are not legislative in nature, subclause 17(2) is declaratory of the legal position that such determinations are not legislative instruments.

The inclusion of the technical or administrative information in a legislative instrument was considered but not supported. Much of this information relates to the security protocols in operation to protect information on the Register. Releasing the details of such information would provide a blueprint for hacking into the system. (Note: other measures to prevent hacking are discussed in the Security section in Part 6.)

Item 17(b)

The Minister may include other information on the Register only if that information is necessary for the purposes of the Act. This restriction is intended to ensure that only limited relevant information will be included. This means the information will need to be relevant to the provision of benefits, services, programs or facilities involving a participating agency.

The Minister's determination to include other information will be of a legislative character and accordingly must be registered on the Federal Registrar of Legislative Instruments. It will also need to be tabled in both Houses of Parliament and will be subject to parliamentary scrutiny (i.e. it will be subject to disallowance by either House of Parliament). This mechanism will provide the necessary public and parliamentary scrutiny and oversight of any information that the Minister proposes to add under this item.

4.3 Information on the surface of the access card

Item 1: Name

Items 1(a) and (b)

The front of the card will contain the card owner's name. In recognition of the fact that some people may be more commonly known by a name other than their legal name, for example John Malcolm Fraser, card owners will be able to include their preferred name on the card. In order to ensure the integrity of the system, the chip in the card will also include the card owner's legal name (protected by the personal identification number of the person's access card) as verified by the documents produced during the registration process (for example, the name on the birth certificate).

While a person can choose to include his or her preferred name on the card rather than their legal name, the Bill authorises the Secretary to refuse to include an individual's preferred name on an access card if the Secretary is satisfied that the use of that name is prohibited by a law of the Commonwealth, a state or a territory.

Additionally, the Secretary may refuse to include a name on an access card if the name is inappropriate. An inappropriate name is defined in clause 5 as a name that:

- (a) is obscene or offensive
 - (b) could not practicably be established by repute or usage:
 - (i) because it is too long
 - (ii) because it consists of or includes symbols without phonetic significanceor
 - (iii) for some other reason
 - (c) includes or resembles an official title or rank
- or
- (d) is contrary to the public interest for some other reason.

This definition is based on a similar provision in the New South Wales *Births, Deaths and Marriages Registration Act 1995*. Similar provisions apply in other states and territories.

Item 2: Card number

The Bill also provides that the card number will be included on the surface of the card. The Government considers that a number is necessary for customer convenience.

A card number is integral to the business operations of DVA, Centrelink and Medicare Australia, their customers and third parties. The number provides the means for service delivery, particularly for telephone- and internet-based services.

The Government believes that the access card number is an additional protection for the consumer. Most Australians would be familiar with using card numbers over the phone to carry out transactions or for internet banking.

An easily quoted number is required for online and call centre operations.

If the number were to be eliminated from the card it would have several disadvantages. First, clients who call agencies by telephone would be required to identify themselves by other means using multiple references and this may be more intrusive of their privacy. This would make client interactions lengthier and more complicated and inconvenient for agencies and their customers than they need to be.

Second, some providers would be required to quote an appropriate reference number in order to be reimbursed for services provided.

Third, some clients may have difficulty remembering numbers without these being easily visible.

Fourth, systems may fail. If they do, the processing of transactions will be compromised in the absence of a visible card number.

Item 3: Card expiry date

The surface of the card will contain the card's expiry date. Listing the expiry date on the access card provides assurance to consumers and service providers that the card being presented is a current card. It also serves as a reminder to consumers when they are required to get a new card. In their first report to the Australian Government, the Consumer and Privacy Taskforce recommended that the Government consider including the year and month of the expiry of the card on the surface of the card.

Item 4: Photograph

A photo is essential to the integrity and success of the new scheme. A photo will allow a person to simply and quickly prove who they are when accessing Commonwealth benefits at frontline service delivery points. It will also assist in correct identification when customers undertake transactions with other service providers, potentially including doctors and pharmacists. The inclusion of a photograph on the card will significantly enhance the identity security elements of the card, protecting the card owner's identity and reducing opportunities for fraud.

One of the platforms of the new scheme is a strengthened POI mechanism that has the capacity to authenticate users, identify their entitlements (such as concession status) and ensure they access the right services and benefits. A photo will be a major factor in preventing fraudulent health and social service transactions and detecting fraudulent activities.

Reliable POI and the improved access control this permits are also essential components of any effective system to protect personal information.

The verification of existing cards depends heavily on visual checks of paper, cardboard and simple plastic cards. Verification of these cards is becoming less reliable. The absence of a photograph on existing cards compromises identity verification.

Item 5: Signature

The Australian Government has consulted widely in its assessment on the value of a digitised signature. It has decided that a digitised signature on the card provides greater utility and security for the card holder.

A digitised copy of a card owner's signature will appear on the surface of the card and also in the chip. This is also being included in the chip as an added security device and will support customer authentication for claiming benefits when the customer is not present. Specifically, this occurs when customers mail in claim forms to a participating agency. The inclusion of a signature will make it easier to crosscheck signatures on the 50 million forms that are completed every year at Centrelink, Medicare, DVA and other offices across government.

The veterans' community was in strong favour of retaining the digitised signature on the surface of the card to enable the transaction of their unique benefits.

Item 6: Date of birth

Some individuals may want to include their birth date on the surface of the card. The Bill will allow individuals to include their birth date if they choose to do so. Otherwise, the card surface will not include details of an individual's date of birth.

Customers are likely to choose to have this information on the surface of the card or in the chip if they wish to use it for proof of age to obtain goods, services or benefits. Using date of birth is preferable to a flag on the surface of the card or in the chip to show age because date of birth is more flexible and can cover a range of age-related concessions for goods, services or benefits. Setting a flag at a certain age, for example 60, would not assist those wanting to access concessional benefits at 55. That is, setting the flags would not achieve what customers have asked for.

If a person chooses to include this information on their card, it will be on the back and not the face of the card.

Item 7: DVA information

As a mark of respect for Australian veterans, the Government believes that they should be able to choose to include on their cards particular information relating to their status. This has been provided for in the Bill.

Item 8: Blind disability support pensioners

Current recipients of the Disability Support Pension who are blind receive a range of concessions that other disability support pensioners do not receive. They will be given the option of having the word 'Blind' appear on the surface of their access card to facilitate the delivery of such concessions.

4.4 Information in the Commonwealth's area of the chip

Item 1: Name

Item 1(a)

A person's name is recorded as a primary indicator, in combination with other information, that a person is who they say they are. This is to assist in ensuring that a benefit is received only by the person entitled to that benefit. This also ensures that all participating agencies recognise that name as belonging to the person who is entitled to the relevant benefit.

This name will also appear on the surface of the card and in the chip of the card if the person has not asked that their preferred name be included. This information will be available at the point of delivery of a benefit or service, including, for example, the purchase of concession tickets at a theatre, whether or not the card is read by a card reader or presented for visual inspection.

Items 1(b) and 1(c)

A person's preferred name is included in the chip of the card and on the surface of the card to facilitate a person using their commonly used name in their day-to-day affairs.

Sometimes a person will not have, or will not be able to establish, a legal name; for example, a person who is in Australia as a humanitarian entrant may not have a passport or other documentation. In such circumstances an exemption from providing a legal name may apply, and the person's name will appear as a 'preferred name'.

Item 2: Date of birth

A person's date of birth is recorded on the Register to assist in differentiating people with identical names. Date of birth particularly supports customer authentication in online and telephone transactions.

Date of birth is optional on the surface of the card and in the chip of the card. Customers can choose to have this information on the surface of the card or in the chip if they wish to use it for proof of age to obtain goods, services or benefits. Using date of birth is preferable to a flag on the surface of the card or in the chip to show age because date of birth is more flexible and can cover a range of age related concessions for goods, services or benefits. Setting a flag at a certain age, for example 60, would not assist those wanting to access concessional benefits at 55. That is, setting the flags would not achieve what customers have asked for.

Item 3: Sex

A person's sex is recorded on the Register primarily to assess entitlement to health benefits and veterans' and social services payments according to whether the person is male or female. For example, under the *Social Security Act 1991*, the qualifying age to receive the Age Pension is currently different for males and females.

Also, Medicare Australia, in administering the Medical Benefits Scheme and the Pharmaceutical Benefits Scheme, will need to know a person's sex for the issue of certain products and services.

Item 4: Residential address

The inclusion of a person's residential address on the Register is required for the purpose of correspondence. Having this information on the Register means that if a person changes their address, they need to update their address only once, rather than multiple times with each participating agency with whom they have a relationship.

The residential address will also support customer authentication in online and telephone transactions.

Inclusion of the residential address on the Register also has the benefit of enabling the Government to easily identify people who may require emergency payments and assistance in the event of a natural disaster or emergency, such as a cyclone.

A person's residential address is also included in the chip unless an exemption applies. The inclusion of the address in the chip will support faster service delivery—the retrieval of the address from the chip will be faster and less resource intensive than drawing it down from the database in every instance. Having it on the chip will also reduce the number of times the database needs to be accessed to confirm data held on the card or the chip. Where a person has chosen not to include their date of birth in the chip in their card, their residential address will assist in proving that they are who they say they are.

Item 5: Photograph

A person's photograph is recorded on the Register primarily to prevent fraud through the use of one-to-one and one-to-many photograph matching. The inclusion of the photograph on the Register also preserves and safeguards the photographic image for use in replacement cards. This allows for the reissue of cards without requiring a new photo to be taken.

The inclusion of a person's photograph on the surface of the card similarly facilitates easy visual identification in face-to-face interactions.

In instances where the photo has been inadvertently defaced, retrieval of the photo from the chip will be faster and less resource intensive than drawing it down from the database. Having the photo on the chip reduces network load for retrieving a photo from the Register, increases security and privacy by limiting the need to grant access rights for the operators to the photo database and proves easily that the card and photo are not compromised (through the comparison of the photo on the face of the card with the photo on the chip).

Item 6: Signature

The digitised signature on the Register will help prevent fraud by allowing the matching of signatures in a claim for a benefit environment, when a customer is not present.

In instances where the signature has been inadvertently defaced retrieval of the number from the chip will be faster and less resource intensive than drawing it down from the database. Having it on the chip will also reduce the number of times the database needs to be accessed to confirm data held on the card or the chip.

Item 7: Card number

An access card number will be issued with each card. This number is not unique to the individual for an indefinite period and will alter on the reissue of a card.

This number will be used for online and telephone authentication and will make such interactions simpler and more convenient for consumers.

The access card number on the surface of the card enables consumers to use that number for online verification against the Register.

The access card number in the chip will provide additional card security by ensuring authentication of the card number to prevent fraud.

In instances where the number has been inadvertently defaced retrieval of the number from the chip will be faster and less resource intensive than drawing it down from the database. Having it on the chip will also reduce the number of times the database needs to be accessed to confirm data held on the card or the chip.

Item 8: Card expiry date

Each card's expiry date will be recorded on the Register so that the Commonwealth Government is able to reissue cards in a timely and planned manner.

Recording the expiry date on the surface of the card provides consumers and service providers with an indication that the card being presented is a valid card. Additionally, this information serves as a reminder to consumers of when they require a new card.

In instances where the expiry date has been inadvertently defaced retrieval of the expiry date from the chip will be faster and less resource intensive than drawing it down from the database. Having it on the chip will also reduce the number of times the database needs to be accessed to confirm data held on the card or the chip.

Item 9: Card PIN, etc.

The Register will record a customer's PIN. Additional information, such as secret questions and answers, will also be recorded on the Register, to be used to authenticate the card holder during PIN resets. This will ensure that a PIN is updated by reference to the previous PIN or secret password—providing a chain of authentication when a PIN is reset. The PIN and secret password information will be securely recorded on the Register.

A PIN will be included on the card at the option of the card owner. A person's PIN is recorded in the chip of the card to enable them to control access to information secured by the PIN. Additionally, the PIN may be used to authenticate the card holder in electronic transactions.

The PIN provides additional security which enhances customer privacy by restricting access to selected customer's information.

Item 10: Benefit cards

Benefit cards serve two main purposes within the Australian community:

- to identify that the card holder, and any listed dependant where applicable, is entitled to the range of treatments, concessions or services provided by the Australian Government
- to assist the card holder, and any listed dependant where applicable, in any claim for a non-Commonwealth concession or service provided by state and territory government agencies, local government authorities and private businesses.

The information contained in the chip, such as card and payment type and the start and expiry dates of those entitlements, will be of use to providers when confirming those entitlements in a non-online environment. On docking the access card into an authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider from the chip. (Further investigations about the information required to be made available on the card reader display are still underway.)

The fact that a person is entitled to a benefit card will be recorded on the Register so that when the access card is reissued (either due to loss, damage, theft or on expiry) the card can be reissued with this information on it. This will ensure that replacement cards reflect the card owner's benefit card entitlements.

Item 11: Medicare number

The Medicare number is used by medical practitioners and pharmacists to identify patients/customers not only in their practice management systems but also when communicating with Medicare Australia for Medicare claiming purposes.

Item 12: Reciprocal Health Care Card number

The Reciprocal Health Care Card number is used by medical practitioners and pharmacists to identify patients/customers not only in their practice management systems but also when communicating with Medicare Australia and DVA for claiming purposes.

Item 13: Emergency payment number

One of the objectives of the access card is to facilitate the rapid distribution of emergency funds to assist people in need or where they have been affected by natural disasters or emergencies.

The emergency payment number is a number recorded on the chip and in the Register to facilitate and direct the payment of funds. The emergency payment is not an individual's personal account number. To be able to be activated if needed, this number must conform to banking sector requirements and hence will be different from the person's access card number. The emergency payment number must be included in the chip of the card so that in an emergency the card owner can use their access card to access emergency funds deposited by the Government. The card owner will be able to use their card to either obtain cash directly or transfer the deposited funds to such accounts as they choose.

The emergency payment number, as for the access card number, will change every time a card is reissued.

Item 14: Registration status

Items 14(a) and (b)

The access card will be issued to a person who achieves either 'full' or 'interim' POI status. Such persons will be able to access Commonwealth benefits. 'Interim' status will be recorded on the Register unless and until a person's identity is fully verified, at which time 'full' status is achieved and recorded on the Register.

It is the intent of the Australian Government that access card registrations meet the Gold Standard Enrolment Framework of the National Identity Security Strategy to the greatest possible extent. This will ensure that the risks of identity fraud are managed and appropriate protections to Australian Government outlays are provided.

Department of Human Services agencies will work with card holders who have been granted 'interim' status to assist them to achieve 'full' registration status wherever possible.

They will continue to receive health benefits and veterans' and social services, where they are entitled to them, regardless of whether they have 'full' or 'interim' status.

The proposed Gold Standard Enrolment Framework includes an ability to take into account a person's known customer status as part of their POI. Customers who have previously been identified by DVA or Centrelink to a high standard will not be required to go through a full POI process when registering for the access card.

There will, however, always be a small group of card holders who for a range of reasons will be unable to completely satisfy the Gold Standard Enrolment. These people will continue to get access to the services and benefits if they can establish a continuing entitlement to those services and benefits.

It has been decided that issuing an access card to people who do not meet the Gold Standard and recording an applicant's enrolment status on the card's chip strikes the right balance between improving identity security and ensuring convenient access to health benefits and veterans' and social services. The Australian Government's move to improving identity security for accessing health benefits and veterans' and social services will not lead to a denial of an access card to people who can now access those benefits and services, unless they have engaged in fraud.

Registration status information will also be included on the access card Register.

Item 15: DVA information

Item 15(a)

This number is necessary on the chip to provide indication of the identity status in online transactions.

Item 15(b)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as 'totally and permanently incapacitated' is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

This information is recorded in the chip of the card to enable the specific entitlement status of the individual under the Veterans' Entitlements Act to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider. (Further investigations about the information required to be made available on the card reader display are still underway.)

Item 15(c)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as 'blinded in both eyes' is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

This information is recorded in the chip of the card to enable the specific entitlement status of the individual under the Veterans' Entitlements Act to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an

authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider. (Further investigations about the information required to be made available on the card reader display are still underway.)

Item 15(d)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as a former prisoner of war is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions (such as increased dental coverage and some nursing home payment benefits), and is therefore recorded on the Register to denote that status and eligibility.

This information is recorded in the chip of the card to enable the specific entitlement status of the individual under the Veterans' Entitlements Act to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider. (Further investigations about the information required to be made available on the card reader display are still underway.)

Item 15(e)

Information on whether the card holder has an entitlement to a pension rate specified by subsection 24 (3) of the Veterans' Entitlements Act because they are entitled to an extreme disablement adjustment is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

This information is recorded in the chip of the card to enable the specific entitlement status of the individual under the Veterans' Entitlements Act to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider. (Further investigations about the information required to be made available on the card reader display are still underway.)

Item 15(f)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as a war widow or war widower is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions (such as travel concessions cards in New South Wales, Victoria and Western Australia), and is therefore recorded on the Register to denote that status and eligibility.

This information is recorded in the chip of the card to enable the specific entitlement status of the individual under the Veterans' Entitlements Act to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider. (Further investigations about the information required to be made available on the card reader display are still underway.)

Item 15(g)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as a dependant is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

This information is recorded in the chip of the card to enable the specific entitlement status of the individual under the Veterans' Entitlements Act to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider. (Further investigations about the information required to be made available on the card reader display are still underway.)

Item 15(h)

Information on whether the card holder has an entitlement status under the Veterans' Entitlements Act as a DVA White Card holder is recorded on the Register because this status carries with it eligibility for certain services, benefits or concessions.

This information is recorded in the chip of the card to enable the specific entitlement status of the individual under the Veterans' Entitlements Act to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider. (Further investigations about the information required to be made available on the card reader display are still underway.)

Item 15(i)

Some veterans who are DVA White Card holders have a code associated with the condition for which they have been granted a DVA White Card. This code is an International Classification of Diseases (ICD) code. The ICD code information will be made available to health professionals to assist in determining a person's eligibility for treatment under the Repatriation Benefits Scheme.

This information is recorded in the chip of the card to enable the specific entitlement status of the individual under the Veterans' Entitlements Act to be identified and verified at the time services, benefits or concessions are provided. On docking the access card into an authorised reader, the card reader will enable limited status indicator information to be displayed to the service provider. (Further investigations about the information required to be made available on the card reader display are still underway.)

Item 16: Statements required by legislation

The Register will record statements that are required to be recorded by Commonwealth legislation such as the *Privacy Act 1988* or the *Freedom of Information Act 1982*.

For example, section 48 of the Freedom of Information Act allows individuals to request amendments to incomplete, incorrect, out of date or misleading personal information held by an agency. Section 51 of that Act requires an agency to annotate their records with details of the request should the request for an amendments to an allegedly incomplete, incorrect, out-of-date or misleading piece of personal information be unsuccessful. This statutory requirement would be met by including an entry in a field permitted by item 13.

Item 17: Other information

Item 17(a)

Under item 17(a), the Secretary will be able to add technical or administrative information to the chip (for example, audit logs and the serial number of the chip). Item 17(a) makes it clear that under this item the Secretary is not permitted to include any personal information that could identify a person by name or other personal identifiers. Additionally, even the technical or administrative information that may be included under this item must be reasonably necessary for the administration of the Register or an access card.

As determinations by the Secretary under items 10 and 17(a) are not legislative in nature, subclause 34(2) is declaratory of the legal position that such determinations are not legislative instruments.

Item 17(b)

Under item 17(b), the Minister will be able to include other information in the Commonwealth's area of the chip—but only if that information is necessary for the purposes of the Act. This restriction is intended to ensure that only limited relevant information will be able to be included under this provision (i.e. the information will need to be relevant to the provision of benefits, services, programs or facilities involving a participating agency).

The Minister's determination to include other information will be of a legislative character and accordingly must be registered on the Federal Registrar of Legislative Instruments. It will also need to be tabled in both Houses of Parliament and will be subject to parliamentary scrutiny (i.e. it will be subject to disallowance by either House of Parliament). It is considered that this mechanism will provide the necessary public and parliamentary scrutiny and oversight of any information that is proposed to be added under this provision.

4.5 Voluntary information on the customer-controlled section of the chip

On 8 November 2006 the then Minister for Human Services, the Hon Joe Hockey MP, announced that the access card would include a customer-controlled part of the chip. In this area, the customer will be able to customise their card with the addition of personal information, such as emergency contact and next-of-kin details and information on allergies, organ donor status and health alerts (subject to the physical capacity of the chip and any legal constraints).

The voluntary inclusion of information, such as health alerts and emergency contact information, is the subject of consultation with the Consumer and Privacy Taskforce, the health services sector, and consumer health and privacy organisations. A discussion paper was issued by the Consumer and Privacy Taskforce on 21 February 2007 to enable input from the public and interested parties or organisations and the preparation of a final report and recommendations to be put to Government.

Clause 33 of the Bill introduces the basic framework for voluntary information by providing that the access card will contain a microchip in the card to store and process information and that the chip will contain two separate areas: the card owner's area and the Commonwealth's area.

Part 5 Offences

In their 8 November 2006 response to the Consumer and Privacy Taskforce, the Australian Government committed to a legislative framework that will, among other things, clearly set out prohibitions and protections unique to the access card. The offence provisions within the first Bill are central in giving effect to this commitment.

The access card Register will be supported and protected by the Commonwealth's overarching legislative framework, including the suite of existing privacy legislative protections. Other protections to prevent unauthorised access and use can be found in the *Crimes Act 1914*, the *Public Service Act 1999*, the Australian Public Service Code of Conduct, the Public Service Regulations 1999 and the Criminal Code under the *Criminal Code Act 1995*. A discussion of these, and the penalties associated with them, is provided in Part 6.

On 7 February 2007 the Minister for Human Services, Senator the Hon Ian Campbell, asked the Chairman of the Consumer and Privacy Taskforce, Professor Allan Fels, AO, to undertake a Privacy Impact Assessment before issues around privacy are resolved in subsequent legislation.

A major objective in the Government's policy in relation to the access card is that access cards are not to be used as national identity cards.

Part 4 of the legislation sets out the offences relating to the access card, including inappropriately requiring that the access card be produced, as well as other offences such as those relating to damaging, defacing or selling the access card.

The Bill relies on the principles of the Criminal Code and Public Service Act to prevent the unauthorised access and use of information. The existing criminal justice process will be relied upon to investigate and prosecute criminal cases. In addition, participating agencies such as Centrelink have their own internal audit and security staff who investigate information related crimes.

It is intended that the specific offence provisions within the Human Services (Enhanced Service Delivery) Bill 2007 will be interpreted with reference to section 5.6 of the Criminal Code. Accordingly, a breach of the offence provisions requires that the person commit the proscribed conduct intentionally. Subsection 5.6(1) of the Criminal Code provides that if the law creating the offence does not specify a fault element for a physical element that consists only of conduct, intention is the fault element for that physical element. Subsection 5.6(2) of the Code provides that if the law creating the offence does not specify a fault element for a physical element that consists of a circumstance or a result, recklessness is the fault element for that physical element.

These provisions of the Criminal Code apply to each of the offence clauses within the Human Services (Enhanced Service Delivery) Bill 2007.

5.1 Offences for requiring production of an access card

Clause 45: Requiring production of an access card for identification

A major objective in the Government's policy in relation to the access card is that access cards are not to be used as national identity cards. This objective is clearly stated in subclause 6(2) which sets out the objects of the Bill.

The Government has also made it clear that attempts by persons to demand the card as a form of identification (other than in relation to the provision of Commonwealth benefits or to prove concession status) would be prohibited and subject to significant penalties.

Clause 45 makes it an offence for persons to intentionally require a card owner to produce his or her card for identification purposes. This means that banks, stores, service providers and other businesses cannot require a card owner to produce their card for identity purposes. Of course, a card holder can choose to provide his or her card for that purpose, and many people may find it convenient to do so. This is consistent with paragraph 6(1)(e) and clause 40 which provide that card holders can use their access cards for any lawful purpose they choose. However, no one can require them to produce it—other than in relation to the provision of Commonwealth benefits or in relation to concessions.

A person will be taken to 'require' the production of an access card if they provide no other reasonable option for a card owner to prove that they are who they say they are. That is, a person will contravene this clause if they require the access card as the only acceptable source of proof of identity.

To deal with the situation where a person does not use words that expressly require a person to produce a card, subclause 45(2) ensures that so long as a card holder can reasonably understand that he or she is being required to produce their card, then a person will be taken to have required the production of a card. Many elderly people and other vulnerable individuals may feel threatened by powerful businesses in situations where a person may not expressly require a person to produce their card, but nevertheless the individual understands by the statements made that they are being required to produce their card. This clause is intended to protect such vulnerable groups from that situation.

As a reflection of the Government's commitment that the access card cannot be required for identity purposes, a breach of clause 45 will attract significant penalties. For a deliberate breach of subclause 45(1) a person will be subject to a maximum penalty of five years imprisonment or 500 penalty units (a penalty unit is currently \$110), or both. Corporations are subject to five times this penalty level. An offence against subclause 45(2) will be subject to a maximum penalty of two years imprisonment or 120 penalty units, or both.

It will not be an offence for a person who is a delegate or an authorised person under the Bill to require the production of the access card for identification purposes where that production is for the purposes of the Bill (i.e. to facilitate the administration and provision of Commonwealth benefits). Given that the access card is being introduced to ensure that only those entitled to benefits receive them, then this is a necessary exemption and is consistent with the policy to introduce the card as an effective anti-fraud measure in relation to the delivery of Commonwealth benefits.

Another exception is where a person requires a card holder to produce their access card to ensure that the card holder is entitled to a concession. For example, some service providers provide some of their services at discounted rates to pensioners or to persons who are entitled to particular kinds of Commonwealth concessions. Subparagraph 45(1)(d)(i) is intended to ensure that these service providers can continue to provide these discounted rates to persons who are entitled to the relevant concession. Accordingly, it will not be an offence for a person to require a card holder to produce his or her card to verify that they are entitled to the relevant concession.

Similarly, an exemption will apply in relation to staff of state hospitals who may require production of an access card to prove that a patient has a Medicare number in order to provide a hospital service (subparagraph 45(1)(d)(ii)).

Clause 46: Requiring production of an access card for supply of goods and services, etc.

This clause is closely related to the previous clause. It prohibits persons from intentionally requiring a card holder to produce his or her card as a precondition to the supply of goods or services.

The notion of goods and services is widely defined and includes the following conduct:

- the supply of goods or services
- the conferral of any right, title or advantage
- the admission to a status
- the modification or cancellation of a status
- the admission to membership of an association or body (whether incorporated or not)
- the renewal or continuation of membership of an association or body (whether incorporated or not)
- the acceptance of an application for appointment to an office
- the making of an agreement
- the making available of facilities
- the allowing of access to, or use of, any premises
- the making of an offer of employment.

As the Government's intention is that the card will be required to be produced only in relation to the provision of Commonwealth benefits, this clause ensures that service providers cannot refuse to provide their services or goods because a customer does not provide his or her access card. The offence does not apply to a delegate or an authorised person or delegate who refuses to supply Commonwealth benefits to a person who refuses to produce his or her access card (paragraph 46(1)(c)). Given the rationale for the card this exception is both necessary and appropriate.

A person will be taken to 'require' the production of an access card if they provide no reasonable option for a card owner to prove that they are who they say they are. That is, a person will contravene this clause if they require the access card as the only acceptable source of proof of identity.

Another exception is where a person requires a card holder to produce their access card to ensure that the card holder is entitled to a concession. For example, some service providers provide some of their services at discounted rates to pensioners or to persons who are entitled to particular kinds of Commonwealth concessions.

Subparagraph 46(1)(d)(i) is intended to ensure that these service providers can continue to provide these discounted rates to persons who are entitled to the relevant concession. Accordingly, it will not be an offence for a provider to refuse to provide a service at a discounted rate if a person refuses to produce his or her card to verify that they are entitled to the relevant concession. In these cases, the card holder will not be refused the service, but will simply be required to pay the normal price for the service. Similarly, an exemption will apply in relation to staff of state hospitals who may require production of an access card to prove that a patient has a Medicare number in order to provide a hospital service (subparagraph 46(1)(d)(ii)).

The offence in this clause is related to the offence in clause 45 as a supplier would generally only require a card in relation to the supply of goods or services in order to prove identity. It was considered appropriate to include a specific offence dealing with the supply of goods and services as a consumer protection measure to ensure that consumers were aware of their rights and that service providers were fully aware of their obligations.

Like the offence in clause 45, the maximum penalty for an intentional breach of this provision is a maximum penalty of five years imprisonment or 500 penalty units, or both. The penalty level reflects the seriousness with which the Government views such conduct.

Subclause 46(2) is similar to subclause 45(2). It deals with the situation where a person does not use words that expressly require a person to produce a card, but makes statements that a card holder can reasonably understand that he or she was being required to produce their card. In such a case the person will be taken to have required the production of a card. Many elderly people and other vulnerable individuals may feel threatened by powerful businesses in situations where a person may not expressly require a person to produce their card, but nevertheless the individual understands by the statements made that they are being required to produce their card. This clause is intended to protect such vulnerable groups from that situation. An intentional breach of subclause 46(2) will attract a maximum penalty of two years imprisonment or 120 penalty units, or both.

5.2 Offences committed by others

Clause 47: Defacing or damaging someone else's access card

This clause will make it an offence for a person to intentionally deface or damage an access card that does not belong to the person. Given that the access card will be a key part of the Government's infrastructure in the effective and efficient delivery of Commonwealth benefits and a key component in preventing fraud against the taxpayer, the penalty level for a deliberate contravention reflects the significance of the card for these purposes.

The maximum penalty for a contravention of this provision is imprisonment for five years or 500 penalty units, or both.

Clause 48: Changing information in the Commonwealth's area of the chip in someone else's access card

Clause 48 will make it an offence for a person to intentionally change the information in the Commonwealth's area of the chip in someone else's card. Given that the access card will be a key part of the Government's infrastructure in the effective and efficient delivery of Commonwealth benefits and a key component in preventing fraud against the taxpayer, it would be inappropriate for persons to change information in the chip of the card either for mischievous purposes or for fraudulent purposes. The level of penalty (five years or 500 penalty units or both) reflects significance of the card as an anti-fraud measure.

The offence will not apply to actions by authorised persons or delegates who change information for the purposes of the Bill.

Clause 49: Selling, etc. someone else's access card

Clause 49 will make it an offence for a person to intentionally sell someone else's access card. Given that the access card will be a key part of the Government's infrastructure in the effective and efficient delivery of Commonwealth benefits and a key component in preventing fraud against the taxpayer, it would be inappropriate for persons to be able to sell someone else's access card. A person would normally only engage in such conduct to gain some sort of financial advantage for themselves or someone else or as part of a fraudulent enterprise. The level of penalty (maximum of 10 years imprisonment or 1,000 penalty units, or both) reflects the significance of the card as an anti-fraud measure.

It is considered that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties. The penalty level is based on a similar provision in the *Australian Passports Act 2005*.

5.3 Offences committed by the card holder

Clause 50: Defacing or damaging your access card: dishonest intent

The purpose of clause 50 is to discourage card owners from intentionally defacing or damaging their card with the intention of dishonestly obtaining an advantage (whether financial or otherwise) for themselves or someone else.

The word 'dishonest' is defined in clause 5 to mean:

- dishonest according to the standards of ordinary people, and
- known by the person to be dishonest according to the standards of ordinary people.

As a fundamental objective of the access card is to provide a robust system to reduce fraud, it is considered necessary to include a number of restrictions on the ownership principle, to the extent that a person may want to tamper with their card for fraudulent purposes.

Normally, a person is entitled to do what they want with their own property, subject to any legal restraints that may be imposed by any particular law.

Clause 50 proceeds on the same basis. While clause 50 will make it an offence for a person to tamper with or destroy their own card, this will be limited to those circumstances where a person does so in order to obtain some sort of financial advantage for himself or herself or

for another person. So if a person alters details on the card in order to try to secure a Commonwealth benefit to which they (or another person) are not entitled, then even though they may own the card they will contravene this clause. The offence will apply whether or not the person succeeds in obtaining the advantage.

The maximum penalty for this offence is imprisonment for five years or 500 penalty units, or both.

Clause 51: Changing information in the Commonwealth's area of the chip in your access card: dishonest intent

Although card owners will own their card, that ownership of itself does not give them ownership of the information in the Commonwealth's area of the chip in the card (see clause 38).

Clause 51 will make it an offence for a card owner to intentionally change any information in the Commonwealth's area of the chip in their access card. This will only apply where the card owner does so with the intention of dishonestly obtaining an advantage (whether financial or otherwise) for the card owner or any other person. The person will not need to succeed in obtaining the advantage for the offence to apply.

The maximum penalty for a breach of this provision is imprisonment for five years or 500 penalty units, or both.

Given that the access card will be a key part of the Government's infrastructure in the effective and efficient delivery of Commonwealth benefits and a key component in preventing fraud against the taxpayer, the penalty level for a deliberate contravention reflects the significance of the card.

Clause 52: Changing information in the Commonwealth's area of the chip in your access card

This offence is similar to the offence in clause 51. However, while the person must intend to change the information (i.e. it will not apply where a person accidentally changes the information), there is no requirement for dishonest intent. On this basis the offence attracts a lesser penalty of two years imprisonment or 120 penalty units, or both.

Clause 53: Selling, etc. your access card

Even though a person may own their access card, this provision will make it an offence for the person to intentionally sell their access card. The maximum penalty for the commission of this offence is imprisonment for 10 years, or 1,000 penalty units, or both.

It is important to ensure that cards are not sold by card owners and that appropriate penalties are imposed on such activities. This is important given that the card is intended to be a major factor in reducing fraud against the Commonwealth. It is considered that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties.

This offence (and penalty) is based on a similar provision in the Australian Passports Act.

5.4 Other access card offences

Clause 54: Unlawful access cards

The purpose of clause 54 is to empower the Secretary to be able to require persons to return access cards:

- that have been obtained by means of false or misleading statements, information or documents
- that have been used in the commission of an offence
- or
- that are false access cards.

A person will commit an offence against this provision if the person has possession of the card and fails to return it as required after being advised that the Secretary is authorised to require the return of the card and that the person will commit an offence if he or she does not do so.

The maximum penalty for the commission of this offence is imprisonment for two years or 120 penalty units, or both. This is important given that the card is intended to be a major factor in reducing fraud against the Commonwealth. It is considered that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties.

Clause 55: Dishonestly obtaining an access card

Clause 55 makes it an offence for a person to dishonestly obtain an access card. The maximum penalty for the commission of this offence is imprisonment for 10 years, or 1,000 penalty units, or both.

The word ‘dishonest’ is defined in clause 5 to mean:

- dishonest according to the standards of ordinary people, and
- known by the person to be dishonest according to the standards of ordinary people.

This offence is considered necessary given that the card is intended to be a major factor in reducing fraud against the Commonwealth. It is considered that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties. This offence (and penalty) is based on a similar provision in the Australian Passports Act.

Clause 56: Possessing a false access card

This clause makes it an offence for a person to possess a false access card. The maximum penalty for the commission of this offence is imprisonment for 10 years, or 1,000 penalty units, or both. This offence is considered necessary given that the card is intended to be a major factor in reducing fraud against the Commonwealth. It is considered that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties. This offence (and penalty) is based on a similar provision in the Australian Passports Act.

Clause 57: Unauthorised copying, etc. of access card number, photograph or signature

Clause 57 is intended to prevent persons from copying or recording certain information on a person's access card (i.e. a person's access card number, photograph or signature). It will also be an offence for a person to keep a copy or maintain a record of a person's access card number, photograph or signature.

Under this clause a person will also be prohibited from divulging a card owner's access card number (as well as signature and photograph) to a third person or using such information in a way which would connect it with the owner's identity. This clause is based on section 8WB of the *Taxation Administration Act 1953* dealing with tax file numbers and is intended, amongst other things, to prevent persons from making unauthorised databases using information on an access card.

The clause is designed to protect a card owner's privacy as well as the confidentiality of information on the surface of an access card to ensure that the integrity of the access card system is not compromised.

The clause is intended to cover all forms of copying, including photocopying, scanning and photographing.

The offence will not apply to delegates or persons who are authorised persons under the Bill and who record or copy the access card number, photograph or signature for the purposes of the Bill. For example, a pharmacist (who is authorised) and who records a card owner's access card number in connection with a pharmaceutical benefit will not commit an offence under this provision.

However, persons who are delegates or authorised persons but who copy or record an access card number for purposes that are outside the purposes of the Bill will breach this clause unless they do so with the owner's written consent or they are otherwise lawfully excused.

Section 10.5 of the Criminal Code provides that a person does not commit an offence under a Commonwealth law if the person's actions are justified or otherwise excused under a law of the Commonwealth. For example, under section 108 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* reporting entities are, in certain circumstances, required to make and retain a copy of a document used for identification purposes.

In a situation where a person chooses to provide their access card to a reporting entity (for example, a bank), the entity may in the future make and retain a copy of the card (which would include the card number) under the Anti-Money Laundering and Counter-Terrorism Financing Act. In this situation, section 10.5 of the Criminal Code would apply and the reporting entity would not be criminally responsible under clause 57.

Subclause (2) will also provide a defence where a card owner consents to the card number, photograph or signature being copied or recorded. The consent will have to be in writing. Such consent will need to be obtained in a way that ensures that it is specific and informed consent. In accordance with the principle of informed consent, an individual can withdraw his or her consent. This is consistent with the underlying philosophy that a card owner can use his or her card for any lawful purpose they choose (see paragraph 6(1)(e) and clause 40).

The maximum penalty for the commission of an offence in this clause is two years imprisonment or 120 penalty units, or both.

5.5 Offences in relation to applications for registration

Clause 58: Making false or misleading statements in relation to an application for registration or access card

The purpose of clause 58 is to prevent individuals from being registered or obtaining access cards by deliberately making false or misleading statements as part of the application process for registration for an access card. The maximum penalty for the commission of this offence is imprisonment for 10 years or 1,000 penalty units, or both.

This offence is considered necessary given that the card is intended to be a major factor in reducing fraud against the Commonwealth. The Government believes that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties. This offence (and penalty) is based on a similar provision in the Australian Passports Act.

Clause 59: Giving false or misleading information in relation to an application for registration or access card

The purpose of clause 59 is to prevent individuals from being registered or obtaining access cards by deliberately giving false or misleading information as part of the application process for registration for an access card. The maximum penalty for the commission of this offence is imprisonment for 10 years or 1,000 penalty units, or both.

This offence is considered necessary given that the card is intended to be a major factor in reducing fraud against the Commonwealth. The Government believes that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties.

This offence (and penalty) is based on a similar provision in the Australian Passports Act.

Clause 60: Producing false or misleading documents in relation to an application for registration for access card

The purpose of this clause is to prevent individuals from being registered or obtaining access cards by deliberately using false or misleading documents as part of the application process for registration for an access card. The maximum penalty for the commission of this offence is imprisonment for 10 years or 1,000 penalty units, or both.

This offence is considered necessary given that the card is intended to be a major factor in reducing fraud against the Commonwealth. The Government believes that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties.

This offence (and penalty) is based on a similar provision in the Australian Passports Act.

Subclause (3) provides a defence where a document which may be false or misleading is accompanied by a statement signed by the person producing the document stating the document is, to the person's knowledge, false or misleading. This is intended to protect innocent parties who are unsure of the validity of a document, although that document may be the material available to them to meet identity criteria. The provision is based on subsection 31(3) of the Australian Passports Act.

5.6 Offences by Commonwealth officers

Clause 61: Issuing an access card contrary to this Act

Clause 61 applies to persons who have been delegated a power under the Bill to issue access cards. This clause creates an offence for such persons to issue an access card knowing that the issue of the card is contrary to the Bill. The maximum penalty for the commission of this offence is imprisonment for 10 years or 1,000 penalty units, or both.

This offence is considered necessary given that the card is intended to be a major factor in reducing fraud against the Commonwealth. The Government believes that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties.

This offence (and penalty) is based on a similar provision in the Australian Passports Act.

Clause 62: Abuse of public office

Clause 62 applies to persons who have been delegated or authorised under the Bill to perform functions in relation to the access card. A major purpose of this clause is to prevent such persons using their position or influence to pressure an official responsible for issuing access cards to issue a card for improper purposes (for example, to a friend who may not be entitled to a card). The maximum penalty for the commission of this offence is imprisonment for 10 years or 1,000 penalty units, or both.

This provision is important given that the card is intended to be a major factor in reducing fraud against the Commonwealth. The Government believes that any attempts to degrade the anti-fraud aspects of the card warrant significant penalties.

This offence (and penalty) is based on a similar provision in the Australian Passports Act.

5.7 Other offences

Clause 63: Protection of access card name and symbol

In view of the importance of the access card to the effective delivery of Commonwealth benefits (including as a fraud preventative measure), the Government believes that the name of the card should be protected and not be available for use in business. The use of the name in business could cause significant confusion amongst consumers, degrade the integrity of the card and could facilitate the manufacture of misleading cards. For these reasons the Government has decided that the name of the card should vest exclusively in the Commonwealth.

This clause is related to clause 28 (under which the Commonwealth acquires all property in the access card name and symbol) and makes it an offence for a person to use the protected access card name or the protected access card symbol without the consent of the Minister. The relevant protected names are 'Health and Social Services Access card' and any name determined by the Minister under clause 27.

The commission of the offence in this clause will attract a penalty of up to 30 penalty units.

Part 6 Safeguards and requirements

In addition to the protections contained in the Bill, a range of other protections exist to ensure that customer information is treated appropriately.

6.1 Privacy

The access card Register will be supported and protected by the Commonwealth's overarching legislative framework, including the existing suite of privacy legislative protections.

Such existing legislative privacy protections that will extend to the access card Register include the *Privacy Act 1988*. Other protections to prevent unauthorised access and use can be found in the *Crimes Act 1914*, the *Public Service Act 1999* and the Australian Public Service Code of Conduct, the Public Service Regulations 1999 and the Criminal Code under the *Criminal Code Act 1995*.

Specifically the Privacy Act limits access to records containing personal information and also limits disclosure of such information under the Information Privacy Principles (IPPs). The Department of Human Services (DHS) must comply with the IPPs, including the following.

IPP 4

The Register is to be protected by such security safeguards as it is reasonable in the circumstances to take, against loss, against unauthorised access, use, modification or disclosure, and against other misuse.

IPP 6

An individual is entitled to have access to personal information about him or her in the Register—except to the extent that DHS is required or authorised to refuse to provide access under a law of the Commonwealth that provides for access by persons to documents.

IPP 7

DHS must take appropriate steps to ensure that information in the Register is accurate, relevant, up to date, complete and not misleading.

IPP 9

DHS must not use personal information except for a purpose to which the information is relevant.

IPP 10

IPP 10 restricts DHS's use of personal information about an individual in the Register to the purposes for which the information was collected (i.e. for the purposes of the Bill)—unless the individual consents to the information being used for other purposes or the information comes within a specified exception set out in the IPP.

IPP 11

IPP 11 provides, in addition to a number of limited exceptions set out in the IPP, that DHS must not disclose personal information on the Register about an individual to another person, body or agency unless the individual:

- has consented to the disclosure
- or
- is reasonably likely to have been aware, or was aware under IPP 2, that DHS usually passes that information to that other person, body or agency.

A breach of the IPPs will amount to an interference with a person's privacy (section 13(1)(a) of the Privacy Act). Such interferences are subject to investigations (section 40) and determinations (section 52) by the Privacy Commissioner.

The Commissioner is empowered to make determinations that:

- an agency's conduct has interfered with a person's privacy and the agency should not repeat or continue the conduct (section 52(1)(b)(i))
- an agency should perform any reasonable act or course of conduct to redress any loss or damage suffered by a complainant (section 52(1)(b)(ii))
- a person is entitled to a specified amount by way of compensation for any loss or damage suffered by a person (section 52(1)(b)(iii)).

An agency is obliged to comply with determinations made by the Privacy Commissioner (sections 58, 59 and 60). If necessary, these determinations can be enforced in the Federal Court or Federal Magistrates Court requiring the agency to comply (section 62).

Section 70 of the Crimes Act would also prohibit the unauthorised disclosure of information on the Register by officers in DHS or participating agencies or any Commonwealth officer:

70 Disclosure of information by Commonwealth officers

- (1) A person who, being a Commonwealth officer, publishes or communicates, except to some person to whom he is authorized to publish or communicate it, any fact or document which comes to his knowledge, or into his possession, by virtue of being a Commonwealth officer, and which it is his duty not to disclose, shall be guilty of an offence.
- (2) A person who, having been a Commonwealth officer, publishes or communicates, without lawful authority or excuse (proof whereof shall lie upon him), any fact or document which came to his knowledge, or into his possession, by virtue of having been a Commonwealth officer, and which, at the time when he ceased to be a Commonwealth officer, it was his duty not to disclose, shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

There are also significant penalties imposed on public servants who breach their obligations of confidentiality, such as their obligations of confidentiality in relation to information on the Register. These obligations are set out in the Public Service Act, the Australian Public Service Code of Conduct and the Public Service Regulations 1999:

13 The APS Code of Conduct

- (1) An APS employee must behave honestly and with integrity in the course of APS employment.

...

- (4) An APS employee, when acting in the course of APS employment, must comply with all applicable Australian laws. For this purpose, Australian law means:
- (a) any Act (including this Act), or any instrument made under an Act; or
 - (b) any law of a State or Territory, including any instrument made under such a law.

...

- (10) An APS employee must not make improper use of:
- (a) inside information; or
 - (b) the employee's duties, status, power or authority
- in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person.

...

- (13) An APS employee must comply with any other conduct requirement that is prescribed by the regulations.

Failure to comply with the Code of Conduct may result in a range of disciplinary actions, including termination of employment, as set out in section 15 of the Public Service Act:

15 Breaches of the Code of Conduct

- (1) An Agency Head may impose the following sanctions on an APS employee in the Agency who is found (under procedures established under subsection (3)) to have breached the Code of Conduct:
- (a) termination of employment
 - (b) reduction in classification
 - (c) reassignment of duties
 - (d) reduction in salary
 - (e) deductions from salary, by way of fine
 - (f) a reprimand.

Regulation 2 of the Public Service Regulations 1999 also sets out confidentiality requirements on public servants. A breach of this regulation would also amount to a breach of the Code of Conduct (see section 13(13) of the Public Service Act):

Public Service Regulations 1999

2.1 Duty not to disclose information (Act s 13)

- (1) This regulation is made for subsection 13 (13) of the Act.
- (2) This regulation does not affect other restrictions on the disclosure of information.
- (3) An APS employee must not disclose information which the APS employee obtains or generates in connection with the APS employee's employment if it is reasonably foreseeable that the disclosure could be prejudicial to the effective working of government, including the formulation or implementation of policies or programs.
- (4) An APS employee must not disclose information which the APS employee obtains or generates in connection with the APS employee's employment if the information:
 - (a) was, or is to be, communicated in confidence within the government; or
 - (b) was received in confidence by the government from a person or persons outside the governmentwhether or not the disclosure would found an action for breach of confidence.

Further protections of information on the Register are contained in the Criminal Code (contained in the Criminal Code Act) which makes it an offence for a Commonwealth officer to improperly use information obtained in the course of official duties (142.2(1)). This will apply even where the officer has ceased to work in a capacity in which he or she had access to the relevant information (142.2(2)).

142.2 Abuse of public office

- (1) A Commonwealth public official is guilty of an offence if:
- (a) the official:
 - (ii) engages in any conduct in the exercise of the official's duties as a Commonwealth public official; or
 - (iii) uses any information that the official has obtained in the official's capacity as a Commonwealth public official
 - (b) the official does so with the intention of:
 - (i) dishonestly obtaining a benefit for himself or herself or for another person; or
 - (ii) dishonestly causing a detriment to another person.

Penalty: Imprisonment for 5 years.

- (2) A person is guilty of an offence if:
- (a) the person has ceased to be a Commonwealth public official in a particular capacity
 - (b) the person uses any information that the person obtained in that capacity as a Commonwealth public official
 - (c) the person does so with the intention of:
 - (i) dishonestly obtaining a benefit for himself or herself or for another person; or
 - (ii) dishonestly causing a detriment to another person.

Penalty: Imprisonment for 5 years.

- (3) Paragraph (2)(a) applies to a cessation by a person:
- (a) whether or not the person continues to be a Commonwealth public official in some other capacity
 - (b) whether the cessation occurred before, at or after the commencement of this section.

It is recognised that there is merit in treating privacy protections in a holistic manner and addressing further privacy protections in the access card legislation. The Explanatory Memorandum to the access card legislation makes it clear that protection of information on the access card is to be comprehensively dealt with under subsequent access card legislation.

On 7 February 2007 the Minister for Human Services, Senator the Hon Ian Campbell, asked the Chairman of the Consumer and Privacy Taskforce, Professor Allan Fels, AO, to undertake a Privacy Impact Assessment before issues around privacy are resolved in subsequent legislation.

Further underlining the emphasis on security and privacy, the legislation contains penalties for staff who inappropriately access information contained in the access card system. These are examined in Part 5.

6.2 Security

In terms of security, the access card system will use advanced and proven smartcard security technologies. This will be a significant improvement on the outdated magnetic strip and cardboard cards in use today. Security is built into the chip and onto the card to prevent and detect tampering with the physical card, and to secure the card holder's information.

To strengthen card-holder privacy, the amount of data shown on the surface of the card has been minimised. There is much less data visible on the access card than on any Australian driver's licence. Importantly, the card holder's photograph will be on the surface of the card. Swapping, borrowing or stealing cards will be far less attractive for those attempting to access benefits they are not eligible to, as a photograph is on the card, and the card will have higher security and more anti-tampering features than existing cards.

Physical security on the card will involve a variety of mechanisms to protect the card against tampering, and to defeat counterfeiting. These include security printing of various forms on the surface of the card, and the protection of the photograph on the surface of the card, for example, by a high-quality Optical Variable Device.

Information in the chip in the card will be protected using advanced technology such as encryption, PIN protection and secure zones. It will only be able to be accessed by authorised personnel, using authorised readers.

All online activity will be securely logged, including access, authentication, transactions and business activity. All logs will be analysed constantly for anomalous behaviour. Further underlining the emphasis on security and privacy, the Bill contains penalties for people who inappropriately access information contained in the access card system.

The access card system will comply with applicable international and Australian standards to optimise security, interoperability and long-term maintainability. These standards are increasingly being used around the world by governments to provide more secure access to a range of services.

This comprehensive approach to security and privacy ensures that the three dimensions—people, physical and information security—are built into every part of the solution.

An important element of the security framework is evaluation, testing and certification of the end-to-end access card system by the Defence Signals Directorate (DSD)—Australia's national authority for information security and signals intelligence.

Anti-hacking architecture

To protect customer information, data in the access card system is not held centrally in one place. No single officer will be able to access all components of the system. The system is modular in design and comprises separate databases (i.e. Secure Customer Database, Photo Database, Biometrics System, Card Management System). Hackers would be confronted by multiple defences—isolated separate databases protected by many different levels of security and encryption. Any attempt to hack the card would not result in access to the system or any part of the system.

During the registration and personalisation process, all customer data that is in transit between systems is protected by two layers of encryption so that it cannot be read if intercepted.

First, following verification of the documents presented for registration, the customer information collected during registration process is passed to the Card Management System. This system digitally signs and encrypts the package of customer information and securely transfers the package to the card issuer. This step assures that the data on the card cannot be altered.

Second, all information to be written to the card will be transmitted using secure messaging as defined by international standards. This technique prevents data being intercepted between the system and the access card. Further, the system design incorporates industry best practice in the protection of information in transmission and in storage. The system will also be subjected to a certification process by the DSD to provide assurance that this protection of customer information has been achieved.

Australian Government Smartcard Framework

The Department of Finance and Administration, through the Australian Government Information Management Office (AGIMO), is developing the Australian Government Smartcard Framework in close consultation with Australian Government agencies, state and territory governments and industry. The framework will become an essential reference for agencies introducing smartcard technology and will be used by agencies to ensure that, where necessary, smartcard implementations are mutually compatible and conform to international standards.

The framework sits under a broader body of work by AGIMO concerning identity management and authentication and has the full support of the Secretaries' Committee for ICT and the Cross Jurisdictional Chief Information Officers Committee.

On 29 June 2006, the Special Minister of State launched the first two modules of the framework, the 'Overview and Principles' and the 'Smartcard Handbook', stating that 'the vision for the Smartcard Framework is to ensure that government adopts a consistent and interoperable approach to the use of smartcard technology'.

These modules have also been favourably received by the states and territories. In September 2006 the Online and Communication Council (OCC) considered these documents and agreed, in principle, that the principles outlined in the framework become the national smartcard principles. The OCC also accepted that there is a need to adopt a consistent standards-based approach to smartcard implementations across all levels of government in Australia, as set out in the framework.

During 2007, work is continuing on the remaining two modules, the 'Standards and Model Specification' and the 'Smartcard Implementation Guide'. These have been released for comment to internal government stakeholders and will be released for public comment in March 2007. A Privacy Impact Assessment on the framework is being conducted by AGIMO.

The framework will be presented at the June 2007 meeting of the OCC for endorsement as the National Smartcard Framework. This will represent a significant step forward in ensuring that all levels of government within Australia take a consistent approach to the implementation of smartcard technologies.

Development of a smartcard framework is seen as critical to the introduction of the access card. DHS will comply with the framework, and is working closely with AGIMO.

6.3 Other matters

Authorised persons

Within the Bill, the term ‘authorised persons’ refers to Commonwealth officers and some limited category of persons (such as medical practitioners or pharmacists) that have a close connection to the delivery of Commonwealth services or programs. Participating agencies are defined in the legislation as DHS, the Department of Veterans’ Affairs (DVA), Medicare Australia, Centrelink, Australian Hearing Services and Health Services Australia Limited. In response to concern articulated in some submissions that the category of Commonwealth officers that could be authorised was too broad, the Human Services (Enhanced Service Delivery) Bill 2007 now provides that Commonwealth officers from non-participating agencies must be in an agency listed in regulations.

The Office of the Access card is also further exploring with the health sector their issues in relation to the definition of authorised persons.

Powers of police and security agencies

The objects and purposes of the Human Services (Enhanced Service Delivery) Bill 2007 are restricted to facilitating the provision of health benefits and veterans’ and social services involving the participating agencies (DHS, DVA, Centrelink, Medicare Australia, Australian Hearing and Health Services Australia). Nothing in the Bill authorises the police or law enforcement or security agencies to have access to information or data (including a person’s biometric photograph) in the Register.

Existing Commonwealth legislation such as the Privacy Act, the Crimes Act, the Criminal Code Act and the Public Service Act and Regulations will apply to information and data in the Register.

It is not intended to disclose information in the Register unless disclosure is authorised by the Privacy Act or unless compelled to do so by law (for example, under a search warrant). As with current arrangements for access to DHS and DVA records, it is the policy intent that the Australian Federal Police (AFP) should have the ability to obtain and use information from the Register and chip of the card under the Privacy Act to respond to threat-to-life or threat-of-injury situations, disaster victim identification and emergency responses and investigation of missing persons.

Reviews and appeals

The Government is committed to ensuring that there is a clear legislative review and appeals mechanism in place for review of administrative decisions related to the access card proposals, which does not reduce the existing review rights for those in receipt of Commonwealth health benefits and veterans’ and social services. Review and appeals mechanisms adopted must be compatible with existing review and appeals mechanisms.

The Minister for Human Services has asked the Consumer and Privacy Taskforce to look into this matter and provide advice on the appropriate model to be included in the next package of legislation.

Part 7 Other provisions within the Bill

7.1 The registration process

Registration for the access card will be a simple two-step process. The first step involves making the initial application either online, by phone, mail, fax or in person.

The next step will be an interview where the customer will show their proof of identity (POI) documents, have their signature scanned and a high-resolution photo taken.

There will be some exemptions from the requirement for interviews, signatures and photographs; for example, patients in hospices.

Registration interview locations will be made available throughout Australia at Medicare Australia, Centrelink, Department of Veterans' Affairs (DVA) and Australia Post offices, and at mobile registration offices in rural and remote locations. Interpreters and other specialist assistance will be provided for registration, where required.

The registration process will not be onerous and will need to be completed only once, regardless of how many Human Services agencies the person currently has a relationship with.

Persons who return to Australia after living overseas and who do not have an access card will be able to obtain health benefits and social services and given time to register for a card. This situation applies today with Medicare. Where an Australian citizen is residing permanently overseas, their need to register for a card will depend on whether they are in receipt of Commonwealth payments.

The registration period is proposed to start in early 2008. Information about what customers will need to do and the POI documents they will need to supply will be available closer to the date.

7.2 Vulnerable groups

Special arrangements will be made to assist vulnerable groups in the community with registration. Customers who are unable to achieve full registration status will still be able to receive services and benefits where they have a continuing entitlement to those services and benefits.

7.3 Document verification

People will be able to register for the access card through three streams of enrolment:

1. identification through verification of commencement POI *documents* plus evidence of use of identity in the community

2. identification through verification of commencement POI *information* (without original documents required to be presented) plus evidence of use of identity in the community
3. identification through verification of DHS known customer plus evidence of commencement and/or use of identity in the community presented at interview.

POI documents presented by persons during the registration process to verify their identity will be scanned where necessary and immediately returned. Alternatively, some information about the document, such as the document number, will be recorded.

Retaining information about the documents which were provided at registration also protects customers from identity takeover where another person may present fraudulent or counterfeit POI documents.

POI documents presented by persons during the registration process to verify their identity will be confirmed or verified with issuing authorities.

Recommendation 20 of the Consumer and Privacy Taskforce Report Number 1 stated 'POI documents should not be scanned, copied or kept on file once those POI documents have been verified'. The Australian Government response was to agree to examine existing arrangements with a view to implementing this recommendation.

DHS agencies are required by law to maintain records of their activities. The Australian National Archives requires that each 'agency has an overriding responsibility for the creation of full and accurate records of all business activities'. The Department of Human Services will work with the Australian National Archives to develop the disposal recommendations. If required this will be given legislative force in subsequent legislation.

7.4 People aged under 18 years

There will be no change to eligibility for health benefits and social services for people aged under 18 years when the access card comes into operation in April 2008. The Government has determined that a person 15 years and over will be issued with his or her own access card if they apply.

A person under 15 years may be issued with his or her own access card if eligible for Medicare with the consent of a parent or guardian. A person under 15 may be issued with a card if eligible for Medicare without the consent of a parent or guardian if personal circumstances require it; for example, if they are homeless, in foster care or a ward of the state or in receipt of or entitled to receive Commonwealth payments or pensions in their own right. In considering such applications, supporting documentation would be required from people such as teachers, social workers, medical practitioners, youth refuge workers, police, members of the legal profession, or welfare, religious or charitable organisations.

If a person aged under 18 is receiving a Centrelink income support payment in their own right, they will need to register for an access card. This group would normally receive concession cards that are being replaced by the access card (which will give them important concessions).

A person who is under 18 may be issued with an access card if they are entitled to a Veterans' Affairs Gold Card in their own right.

A person under the age of 18 who currently holds a Medicare card will still be able to obtain an access card.

There are 123,911 people aged under 18 currently in receipt of a Medicare card; an estimated 150,000 people under 18 are in receipt of Centrelink income support payments.

It is not feasible to require all people aged under 18 to register for the access card. For example, about 2.9 per cent of 15-year-olds and 8.1 per cent of 16-year-olds have their own Medicare card. It would be impractical and inconvenient to make the remainder register for an access card that they would have little use for until they are 18.

People who are 18 or older will require an access card to access Commonwealth benefits.

For people under 18, there is no a requirement to have a separate card to access Commonwealth benefits unless they have an entitlement in their own right.

Persons under 18 years who do not want or require a card of their own will be included on the card of a parent or guardian.

Administration

The Minister and Secretaries have powers to allow people aged under 18 to get an access card. The Secretaries' power will be informed by the Government's policy guideline.

Authorised Medicare, Centrelink and DVA staff will issue an access card to a person under the age of 18 years as per current arrangements. Policy guidelines, which define the eligibility for persons under 18 years of age to obtain their own access card, will be used by authorised staff to process requests by persons under 18 years of age for an access card.

Registration

The requirements under the access card will be consistent with the requirements currently in operation.

People aged under 18 will need to register for the access card with Medicare or Centrelink so that their needs can be met.

Registration arrangements under the access card are still being developed and will be informed by current Centrelink, Medicare and DVA processes.

For example, Centrelink figures indicate that two-thirds of 16- to 24-year-olds are able to produce a birth certificate when they apply for payment. Other information that could verify the use of their identity in the community includes school records and/or bank statements.

Vulnerable under 18-year-olds

People who are under 18 years of age and in complex and difficult circumstances will continue to receive special assistance.

Centrelink currently has alternative POI arrangements that can be applied to applicants aged under 18 (for example, those who have left home under difficult circumstances and may not want to go back for their birth certificate). Centrelink staff would normally check some of the initial personal information supplied to confirm that the applicant is who they say they are.

A review is then set for improved POI requirements (the case worker will follow up copies of birth certificate, driver's licence, etc. in due course). Payments are continued in the interim.

Where they are vulnerable, under 18-year-olds receive case management assistance, including help with:

- the POI process, which can involve Centrelink approaching births, deaths and marriages authorities on their behalf (and in some cases paying the associated fee)
- applying for a Medicare card.

7.5 Ownership

The decision on vesting the ownership of the card in the individual card holder reflects the Australian Government response to a specific recommendation of the Consumer and Privacy Taskforce chaired by Professor Allan Fels.

Recommendation 8 in Report Number 1 of the Consumer and Privacy Taskforce was that the card holder should own the card. The Taskforce recognised, however, that it would be necessary to place some limitations on this principle; for example, prohibiting card holders from defacing their cards.

The Australian Government accepted this recommendation and agreed to reflect this principle in legislation.

7.6 Exemptions

Clause 65 authorises the Minister for Human Services or the DHS Secretary to exempt individuals (other than a DVA individual) from some general requirements in the access card legislation, in appropriate circumstances. A similar power is provided to the DVA Minister and DVA Secretary in relation to people falling within the responsibility of DVA.

Exemption powers are needed to provide sufficient flexibility to ensure that, in appropriate cases, individuals are not disadvantaged or unnecessarily inconvenienced when registering for the access card.

The Bill provides that individuals wanting an access card will, as a general rule, need to:

- attend an interview
- have their photograph taken
- provide their signature
- be at least 18

- provide their legal name
- have their residential address included in the Commonwealth's area of the chip of the card.

However, it is clear that a number of individuals registering for the access card will not be able to meet these requirements. For example:

- some people may be too ill to attend an interview
- some may find it emotionally distressing to have their photograph taken (for example, a person who is severely disfigured)
- some individuals under 18 may need to be provided with a card of their own (for example, to access medical services)
- in some situations (for example, domestic violence), it may be inappropriate to include a person's residential address in the Commonwealth's area of the chip.

The Minister has the power under the Human Services (Enhanced Service Delivery) Bill 2007 to exempt certain groups of people from elements of the access card registration process detailed under the Bill. For example, the Minister will be able to exempt a class of individuals in hospices from requirements to have their photograph taken, to attend an interview and provide a signature for the access card. Such a general exemption would be published. People included in such a class would be automatically exempted from relevant requirements and would not need to make a special application.

The legislation provides that a person may seek an exemption from the Secretary of the Department of Human Services (on an individual case basis) or a Minister (for a class of persons). The exemption can include an exemption from having a photo taken, providing a signature or attending an interview.

The classes of persons that either the Minister or the Secretary would exempt from these matters have not yet been determined in full but will include people in hospices and the very frail. This issue is being addressed in the community consultation on the legislation process being undertaken by the Consumer and Privacy Taskforce.

7.7 Delegations and authorisations

Clause 68 of the access card legislation allows the Minister for Human Services to delegate some (but not all) of his or her powers or functions under the Bill.

The delegation provision(s) in the access card legislation is consistent with the usual delegation provisions in Commonwealth legislation. The Minister for Human Services' powers must either be exercised personally by the Minister (and therefore are non-delegable) or, with one exception, can be delegated only to the DHS Secretary.

The Minister for Human Services' powers to:

- issue policy statements (clause 8),
- determine the name of the access card and symbol (clause 27) and
- issue identity guidelines (clause 66),

cannot be delegated. These must be exercised personally by the Minister.

The powers of the Minister for Human Services to:

- add information to the Register or chip (clauses 17 and 34),
- determine additional eligibility requirements for an access card (clause 24(1)(g)) and
- issue class exemptions (clause 65(1))

can be delegated only to the DHS Secretary. The DHS Secretary will not be able to sub-delegate these powers.

The power to determine the form of the access card (clause 27(4)) will be restricted to Commonwealth officers in a participating agency and therefore will not be unfettered (i.e. the Minister will not be able to delegate this power to ‘any person’).

The Office of the Access Card is currently undertaking consultations before finalising the policy with respect to delegations.

Part 8 Responding to concerns raised in submissions

Following an examination of the submissions received on the exposure draft, information on the key issues raised has been prepared and is provided below. Topics are presented in alphabetical order. For each topic, the issues are broadly described and further information in response to the issue has been provided. Further detail on the legislation may be found within the Explanatory Memorandum to the Bill.

8.1 Concessions

Many concession services are currently provided to holders of Australian Government concession cards. These include concessions delivered on behalf of the Australian Government (for example, Medicare Services delivered by general practitioners and Pharmaceutical Benefits Scheme concessions delivered at pharmacies), concessions delivered by states and territories (for example, public transport concessions) and concessions delivered by third parties (for example, discounted haircuts or cinema tickets for pensioners provided by private businesses).

Issues raised in submissions

Submissions commented that operational arrangements and technology would need to ensure that businesses requiring concession verification would be able to do so.

A number of individuals requested assurance that concession entitlement would not alter with the introduction of the access card.

Response / further information

There will be no change to eligibility for health benefits and veterans' and social services, including concession entitlements, when the new access card comes into operation in April 2008.

While the issues relating to the validation of concessions are still being explored, systems to validate concession entitlements will be simple and straightforward for the card holder and the concession provider to use.

The Bill provides that concession information will be on the Register and the chip of the card. It will not be an offence for a person to require a card owner to produce his or her card to verify that they are entitled to the relevant concession.

For concession groups whose entitlements do not tend to vary over time, such as veterans, aged pensioners and eligible self-funded retirees, optional coloured cards will be available to provide an easy verification of concession status.

Access to concessions for those concessional groups where there is a higher turnover will be via technology-based solutions such as card readers (a range of options including low-cost handheld readers will be available) and Centrelink's online concession validation system.

We are undertaking extensive consultation with the states and territories to determine the best approach to transport and other concessions.

8.2 Content on the chip

As clause 33 of the Bill specifies, the access card will contain a microchip in the card to store and process information. The chip will contain two separate areas:

- the card owner's area
- the Commonwealth's area.

It is proposed that the card owner will be able to include in their area of the chip any information that they choose to include. The Human Services (Enhanced Service Delivery) Bill 2007 does not deal with issues relating to the card owner's area of the chip, which are currently the subject of consultation by the Consumer and Privacy Taskforce.

Clause 34 sets out the information that will be included in the Commonwealth's area of the chip.

Issues raised in submissions

Submissions sought clarification as to what is in the Commonwealth's area in the chip of the card and what is, or is not, PIN protected.

Encryption and security of the chip needs to be made clear to ensure that sharing of information can be restricted to the functions of the card.

Response / further information

Commonwealth area

Clause 34 sets out the information that will be included in the Commonwealth's area of the chip. The legislation specifically states at clause 36 that no other information can be included on the Commonwealth's area of the chip of the card. The information to be collected on the Commonwealth's area of the chip is necessary to implement the access card system and for the proper delivery of Commonwealth benefits only to those who are entitled to them.

PIN protection

The Bill allows for PIN protection at the option of the card owner. Details are subject to consultation and further development.

Encryption and security of the chip

While the final details of the chip design will depend on the responses of industry to the requests for tender, the Australian Government has clearly specified that information in the chip must be protected using advanced technology such as encryption, PIN protection and secure zones. It can only be accessed via authorised personnel, using authorised readers. The access card system must also comply with applicable international and Australian standards to optimise security, including the Australian Government Smartcard Framework.

An important element of the security framework is evaluation, testing and certification by the Defence Signals Directorate—Australia’s national authority for information security and signals intelligence.

Restrictions to the sharing of information

Only authorised people will be permitted to access your information and they will only have access to those fields of information that they need to deliver health benefits and veterans’ and social services to you. Transactions involving the card will be securely logged, including access, authentication and the specific details of the transaction. All logs will be analysed constantly for anomalous behaviour.

Existing privacy protections in the *Privacy Act 1988* will apply to prevent unauthorised access and use of information. Other protections in the *Crimes Act 1914* and the Public Service Code of Conduct will also apply to penalise any unauthorised use or disclosure of information on the access card or Register.

While the offence provisions provide strong consumer protections, additional protection of information is expected in subsequent legislation. On 7 February 2007, the Minister for Human Services announced that he had asked Professor Fels to undertake a Privacy Impact Assessment before issues involving privacy are resolved in subsequent legislation. The Taskforce’s response will inform the further legislative protections.

8.3 Content on the Register

A Register will be established under Division 3 of the Human Services (Enhanced Service Delivery) Bill 2007 that will be separate from the databases maintained by the various delivery agencies such as Centrelink, Medicare Australia and the Department of Veterans’ Affairs (DVA).

There will be no centralised database holding all of an individual’s health, veterans’ and social services information in one place. Existing agency records will remain with the relevant agency—where they are now.

Other than optional information which you can choose to put on the chip of your card, information that will be included in the Register is only that which is considered necessary for the Register to facilitate the effective implementation of the access card system and the delivery of Commonwealth benefits to those who are properly entitled to them. The information in the Register will be verified and will be able to be checked against cards that are presented by individuals when they claim benefits or seek services.

Issues raised in submissions

Submissions queried the importance or relevance of holding the following information on the Register:

- residential and postal addresses
- storage of ‘flags’ that denote which agency a person deals with
- place of birth
- gender
- temporary information passing through the Register.

Other queries raised included:

- retention of information after the death of a person
- storage of proof of identity (POI) documents including photographs after identity is established
- why information was being held in a central register as opposed to holding the information with the agency delivering the services
- whether the access card could include additional information on the Register such as private health insurance details
- whether data fields could be compatible with general practitioner records.

Response / further information

Address

Your residential and postal addresses are required on the Register as a mechanism for verifying your identity for the purpose of providing health benefits and veterans' and social services and for the sending of correspondence. For some individuals their address information will not appear on the Register (for example, those on the Witness Protection Program). In other circumstances existing protocols will be in place for those that have specific requirements around the release of their address information (such as those that have advised agencies of domestic violence concerns). A homeless person does not have an address so obviously no address will appear on the Register.

Flags

If you are a customer of a specific Human Services agency (for example, Centrelink), or DVA, this will be flagged on the Register. This will indicate that you have a relationship with that agency and will enable any changes of circumstances or address to be updated and forwarded to the relevant agencies only.

Place of birth

In response to submissions, the Government has decided that 'place of birth' will not be included on the Register. Initially, it was included for the purpose of establishing 'who you are' and proving eligibility for claiming a benefit under Reciprocal Health Care Agreements.

However, it has been determined that entitlement to the majority of Commonwealth benefits requires Australian citizenship status and/or residency status to be established at the point of application. It should therefore simplify the application process to collect 'citizenship/residency' for the Register instead of 'place of birth'.

Gender

Gender information is necessary because some services and benefits are gender-specific. For example, the Age Pension eligibility age is different for females and males, and some PBS medicines are prescribed exclusively for men or women. For clarity, and in response to some specific submissions on the issue, the term 'gender' has been replaced with 'sex'.

Temporary information

Temporary information will be held on the Register to enable updates of information held on the card chip to be kept securely until the card is docked. Once the card is docked, the temporary information is transferred to the card's chip, removing it from the Register. The legislation now makes clear that the information is transferred (and thus removed from the Register) when the card is (successfully) docked in an online reader.

Retention of information after the death of a person

Legislative record storage, archival and destruction practices in participating agencies will not change with the implementation of the access card. The *Archives Act 1983* determines the retention requirements for Commonwealth documents. We are currently exploring how it will apply to the Human Services (Enhanced Service Delivery) Bill 2007 to determine the extent to which records must be kept in the Register after the death of a person.

Storage of proof of identity documents

Consistent with the Australian Government response to Recommendation 20 in Report 1 of the Consumer and Privacy Taskforce, we are exploring relevant legislation (including the Archives Act) and business process with a view to establishing processes so that POI documents or copies of them are not kept once they are no longer required for verification or fraud purposes.

Centralised versus decentralised information storage

The Register is designed to sit as a secure gateway between the card and the specific agency databases. Having a centralised register with only the minimum necessary amount of customer registration data avoids the need to integrate the data of all participating agencies. It avoids the problems associated with inconsistencies in the business rules of participating agency databases (for example, the way a customer name or address is formatted for data storage may vary substantially between databases). In addition, a single database facilitates the process of 'once only' registration and/or updating of customer records—enabling greater convenience for card owners.

The Register established as part of the access card system will not be amalgamated with the databases of existing participating agencies. It will be established separately from participating agency databases and will not contain specific medical or health information. It will not contain transactional records.

Detailed customer records will continue to be held separately by Centrelink, Medicare Australia, DVA and other participating agencies. Existing agency records will remain with the relevant agency—where they are now.

Additional information on the Register

There is no proposal to include additional information on the Register. The range of information collected for the Register is strictly limited under clause 17 of the Bill.

Data fields compatible with general practitioner records

Compatibility between information kept on the Register and GP records is not being explored as part of the access card system. Data linking or data matching between the Register and general practitioner records is not an objective of the access card system. The scope of the access card system is limited to that announced by the Government and contained in the Human Services (Enhanced Service Delivery) Bill 2007.

8.4 Delegations and appeals

While the legislation gives a range of powers and responsibilities to the Secretary of the Department of Human Services, clause 70 allows the Secretary to delegate his or her powers under the Bill to a Commonwealth officer in a participating agency or to the chief executive of an agency under the *Financial Management and Accountability Act 1997* or a director or Chief Executive of a Commonwealth authority or company that is prescribed for the purposes of clause 70.

For practical purposes many of the powers in relation to the access card will in turn be delegated to the customer service officers in the relevant participating agencies (for example, Medicare, Centrelink and DVA) who will be acting on behalf of the Secretary in administering various aspects of the Bill (for example, conducting interviews, taking photographs and formally issuing cards).

Issues raised in submissions

A submission requested that any such delegations should not preclude appeals against registration decisions to persons of authority outside the participating agencies, to ensure external review.

Response / further information

The Government is committed to ensuring that there is an explicit legislative review mechanism in place for the review of administrative decisions related to the access card that does not reduce the existing review rights for those in receipt of Commonwealth health benefits and veterans' and social services under existing arrangements.

Such arrangements will need to be compatible with existing appeals mechanisms operating across Centrelink, Medicare Australia and DVA. These range from a Federal Court only appeal mechanism, to a three-tier review system that starts in the Social Security Appeals Tribunal, moves through to the Administrative Appeals Tribunal and ends in the Federal Court.

The Minister for Human Services, Senator the Hon Ian Campbell, has requested the Consumer and Privacy Taskforce undertake consultation to provide advice as to what appeals process should apply for the access card.

8.5 Dependants and carers

If you have children, their details will be included on your card's chip. Although issues relating to dependants and carers have not been dealt with in this Bill, clause 13 makes it clear that a person may apply for registration on behalf of another person.

Issues raised in submissions

A few submissions noted that where a person may be required to act as an agent for an individual who is unable to manage their own affairs, the Bill should clearly and expressly extend the requirement to provide accurate POI to the agent or guardian of the individual.

Other submissions suggested that the Bill refers to 'you' and thus does not provide sufficient clarity on the responsibility of an agent acting on your behalf.

Response / further information

Arrangements for dependants and carers will be contained in subsequent legislation. Arrangements for people acting as agents for individuals unable to manage their own affairs are currently being considered and will be outlined in subsequent legislation as necessary.

The Government confirmed via a press release on 24 January 2007 that current services and entitlements for people under 18 will not change as a result of introducing an access card.

8.6 Disability features

A submission requested that consideration be given to the access card being distinct in size, shape, feel and appearance to enable people who are blind or vision impaired to distinguish it from other cards.

Recommendation 9 of Report Number 1 of the Consumer and Privacy Taskforce was that a feature be built into the access card itself to render it as disability friendly as possible and that all access cards be produced in this way. The Australian Government supported this recommendation and is studying the submissions made to the Taskforce and examining features of cards overseas to determine what features will be useful to people with disabilities.

Benefit card holders who are blind may also have 'Blind' written on the surface of their access card to streamline their access to concessions.

Other provisions for visually impaired people are detailed in the Bill and its Explanatory Memorandum.

In addition, the Department has undertaken to consult with groups representing vision impaired people during the design of the card, to ensure that the access cards are accessible.

The legislation provides that the design of the card is a matter for ministerial determination.

8.7 Exemptions

The Minister has the power under the Human Services (Enhanced Service Delivery) Bill 2007 to exempt certain groups of people from elements of the access card registration process detailed under the Bill (for example, people who are in prisons or other institutions, or who are terminally ill).

Issues raised in submissions

A submission requested further information on who would be exempt under ministerial exemptions.

Response / further information

The legislation provides that a person may seek an exemption from the Secretary of the Department of Human Services (on an individual case basis) or a Minister (for a class of persons). The exemption can include an exemption from having a photo taken, providing a signature or attending an interview.

The classes of persons that either the Minister or the Secretary would exempt from these matters have not yet been determined in full but will include people in hospices and the very frail. This issue is being addressed in the community consultation on the legislation process being undertaken by the Consumer and Privacy Taskforce.

8.8 Function creep

The legislation sets out the objects and purposes of the card in Division 4 of Part 1. Clause 6 highlights the Government's rationale for the access card; that is, to improve the delivery of Commonwealth benefits to the community and to reduce fraud on Australian taxpayers.

Issues raised in submissions

Many submissions indicated concern that the range of information on the access card and Register and the purposes for which it is collected may expand over time.

It was also suggested in some submissions that the use of forms for the collection of such information should be subject to independent, and preferably parliamentary oversight.

Response / further information

Function creep

As the access card is not a national identity card and is not intended to be used as a national identity card, subclause 6(2) expressly provides that it is an object of the Bill that access cards are not to be used as, and do not become, national identity cards.

Clause 7 spells out that the purposes of the Bill are to facilitate the provision of benefits, services, programs or facilities to some or all members of the public by the participating agencies, including the Department of Human Services (including the Child Support Agency and CRS Australia), DVA, Medicare Australia, Centrelink, Australian Hearing Services and Health Services Australia Limited.

Clause 41 specifies that Commonwealth officers in participating agencies are limited to using the access card to facilitate the provision of relevant benefits, services, programs and facilities.

Any change in purpose from that specified in clause 7 will require the Government of the day to propose an amendment to the legislation and have it debated in, and passed through, Parliament.

Together with clause 7, clause 41 is intended to constrain the use of the access card and to address concerns about function creep.

Oversight of forms and parliamentary oversight

As a result of concerns raised in submissions on the exposure draft of the Bill, the Bill now requires that the Commonwealth Privacy Commissioner be consulted on the content of application forms and the Secretary must take into account the Commissioner's comments.

When information is added to the Register or chip of the card by the Minister, it will be the subject of parliamentary scrutiny and possible disallowance by Parliament.

8.9 Governance and oversight

The Human Services (Enhanced Service Delivery) Bill 2007 provides that the Register will be established and maintained by the Secretary of the Department of Human Services.

The specific details of such things as oversight arrangements and appeals processes relating to the Register and the broader access card system are not detailed in the Bill.

Issues raised in submissions

There were a number of submissions that commented on the absence of governance and review mechanisms in the proposed legislation.

Response / further information

Governance and oversight of the access card system is not included in this Bill but will be addressed in subsequent legislation as necessary.

The Consumer and Privacy Taskforce has been tasked by the Government to report and make recommendations on appropriate review mechanisms.

8.10 Information on the card surface

Only a minimal amount of information will be visible on the surface of the card. The access card will contain less information on its surface than do most driver's licences.

Clause 30 of the Bill sets out the specific information items that will be visible on the surface of an access card. Some data items like name and access card number must be included on the surface of the card. Some other information items such as date of birth can be included on the surface of the card at the request of the card owner.

Issues raised in submissions

Some submissions queried the importance or relevance of holding the following information on the card surface as it may potentially increase identity theft:

- title
- date of birth (as opposed to age-related qualification)
- signature.

A number of submissions welcomed the limited amount of information on the surface of the card, in particular the option of displaying a preferred name and optional date of birth. The option to use a flag for date of birth was raised in a number of submissions.

Some submissions suggested that date of birth be mandatory.

Many individuals stressed the importance of coloured cards, such as veterans' Gold Cards, as they are highly valued by the card holder and offer immediate recognition of entitlement.

Response / further information

Title

Following submissions received it was decided that there was no need for a title to be included on the surface of the card. It was noted that no title is included on existing Medicare cards. However, a title was considered beneficial for correspondence with customers. Accordingly, the Bill no longer seeks title to be recorded on the access card. Title will now only be recorded in a limited form (Mr, Mrs, Miss, etc.) on the Register.

Date of birth

Due to the mixed response on date of birth and the complexities in providing an age bracket (or flag) that meets all existing concession requirements, it was decided that a person's date of birth can be included on the surface and chip of the card if they choose. Customers are likely to choose to have this information on the surface of the card or in the chip if they wish to use it for proof of age to obtain goods, services or benefits. Using date of birth is preferable to a flag on the surface of the card or in the chip to show age because date of birth is more flexible and can cover a range of age-related concessions for goods, services or benefits. Setting a flag at a certain age, for example 60, would not assist those wanting to access concessional benefits at 55. That is, setting the flags would be complex to properly serve customers.

Signature

In responding to Recommendation 15 in Report Number 1 of the Consumer and Privacy Taskforce, the Australian Government concluded that a digitised signature on the card provides greater utility and security for the card holder. For example, it will make it easier to cross check signatures on the 50 million forms that are completed each year at Centrelink, Medicare and other government agencies.

Inappropriate names

Clause 30 of the Bill sets out the specific information items that will be visible on the surface of an access card. It is proposed that the card owner's photograph and preferred name will be on the front surface of the card. The Secretary of the Department of Human Services will be authorised to refuse to include a person's preferred name on the Register and access card if that name is inappropriate (for example, where a name is obscene or offensive).

Coloured cards

The Bill makes clear DVA Gold Card holders will continue to get a gold coloured access card unless they choose not to. For other concessions groups whose entitlements do not tend to vary through time, such as aged pensioners and eligible self-funded retirees, optional coloured cards will be available.

8.11 Lost or stolen cards

Clause 25 specifies the time at which the card is to be taken to be issued. Effectively, the card is issued once it is sent to you or when you collect the card. It is at this time that you take ownership of the card.

If your access card is lost or stolen, a new access card will be issued with a new access card number.

Issues raised in submissions

Some submissions expressed concern that the card is taken to be issued when it is sent out from the manufacturer, rather than when there is some proof of receipt. The submission raised a concern that cards may be intercepted in the post, stolen or delivered in error.

Response / further information

Arrangements for lost or stolen cards are currently being considered and will be outlined in subsequent legislation as necessary.

With respect to the delivery of access cards once the person has been registered, it is proposed that if a person chooses to protect information on the chip of the card with a PIN they can have the card posted to them through the mail. However, where a person chooses not to have a PIN they can pick up their access card at an issuing agency or have the card sent to them by registered mail.

8.12 National ID card

As the access card is not a national identity card and is not intended to be used as a national identity card, subclause 6(2) of the Human Services (Enhanced Service Delivery) Bill 2007 expressly and clearly states that it is an object of the Bill that access cards are not to be used as, and do not become, national identity cards.

Issues raised in submissions

The submissions varied considerably in relation to the legislative clauses on the access card which prohibit it from becoming a national identity card.

Some submissions suggested that the legislation was too restrictive and that the access card was not sufficiently flexible for use as an identity tool if the consumer chose to use it as such. Many individuals noted their preference to use the access card as an identity tool in the absence of a driver's licence or passport.

Other submissions raised concerns that the access card would become a national identity card and suggested strengthening legislative provisions. In one submission, the access card legislation was compared with the UK Identity Cards Act.

Response / further information

When the Prime Minister announced the access card, he specifically ruled out the introduction of a compulsory national identity card.

The access card is a service delivery card, owned by the customer who controls the card and the purpose for which it is used.

The legislation establishes that the access card:

- will not be a national identity card
- will not be compulsory for every Australian
- will not contain a person's health record
- will not record an individual's financial details
- will not be required to be carried at all times
- will not be required to transact normal, everyday business
- will not be required to be shown to anyone other than for the provision of health and social service benefits provided by the Australian Government and to confirm concession status.

Australia's access card is vastly different from the United Kingdom's identity card:

- The UK identity card includes up to 13 biometrics (ten fingerprints, a biometric photo and two iris scans). The access card contains only one—a photograph. The UK card is specifically intended to provide POI for national security, immigration control and all public services.
- Unlike the UK identity card, the access card is to be used for health and social security purposes/concessions and can be used for other purposes only with the card holder's consent.

The exposure draft of the Bill provided that the Minister for Human Services had a discretion to issue identity guidelines. It is now clarified that the Minister must issue Identity Guidelines to guide the making of decisions about whether someone has sufficiently proved their identity for the purpose of receiving health or social services entitlements.

8.13 Offences

A major objective in the Government's policy in relation to the access card is that access cards are not to be used as national identity cards.

Part 4 of the legislation sets out the offences relating to the access card, including inappropriately requiring that the access card be produced, as well as other offences such as those relating to damaging, defacing or selling the access card.

Issues raised in submissions

Submissions on the exposure draft considered the issue of offences in four broad categories:

- There was strong support in the submissions for the reliance on the principles of the Criminal Code and *Public Service Act 1999* as proposed in the exposure draft of the Bill.
- The exposure draft of the Bill provided that the access card number should not be recorded or copied. Some businesses, however, expressed concern that this protection created some practical difficulties. Others suggested that the protections did not go far enough and should be extended to the copying of photographs and signatures. Some submissions asked that the legislation clarify that an offence is not committed when recording information from the card with the card owner's permission. Further information was requested on what would be the appropriate form of consent.
- It was also suggested that the definition of 'authorised persons' required further clarification. Some submissions expressed concern that the category of Commonwealth officers that could be authorised was too broad.
- Some submissions argued that there should be a regulatory mechanism to ensure that offences are reviewed and prosecuted.

Response / further information

Use of criminal offences

Protections in the Crimes Act and the Public Service Code of Conduct continue to prevent the unauthorised access and use of information.

Recording or copying information

In response to submissions, the prohibition on copying or recording the access card number will be extended in the Human Services (Enhanced Service Delivery) Bill 2007 to the recording or copying of photographs and signatures. It was also decided that people should be able to provide specific and informed consent in writing to information being recorded if they thought that it would increase their ability to use the access card for purposes of their choosing.

Authorised persons

The term 'authorised persons' is intended to refer to Commonwealth officers and some limited category of persons (such as medical practitioners or pharmacists) that have a close connection to the delivery of Commonwealth services or programs. Participating agencies are defined in the legislation as the Department of Human Services, DVA, Medicare Australia, Centrelink, Australian Hearing Services and Health Services Australia Limited. In

response to concern articulated in some submissions that the category of Commonwealth officers that could be authorised was too broad, the Human Services (Enhanced Service Delivery) Bill 2007 now provides that Commonwealth officers from non-participating agencies must be in an agency listed in regulations.

We are also further exploring with the health sector their issues in relation to the definition of authorised persons.

Review mechanisms

Specific administrative review mechanisms are not included in this Bill. However, the Government has made clear that existing administrative appeal rights will not be diminished. Further review mechanisms related to the access card will be the subject of advice from the Consumer and Privacy Taskforce and addressed in subsequent legislation. The existing criminal justice process will be relied on to investigate and prosecute criminal cases. In addition, participating agencies such as Centrelink have their own internal audit and security staff who investigate information related crimes.

8.14 Privacy

Current laws such as the Privacy Act protect the way your personal information is handled by the Government. If these laws are breached, sanctions may apply. These laws will apply to the access card.

The Privacy Act ensures that:

- you know why your personal information is being collected, if the information is authorised or required under any law and who it will usually be given to
- you have a legally enforceable right to get access to your records
- you are able to apply to have inaccurate information about you amended
- information about you can be used only for the purpose for which it is collected except for particular reasons, such as threats to life or health.

Issues raised in submissions

Some submissions stressed the importance of adherence to the Privacy Act and the protections contained in the Act, particularly in relation to the use of a new card number or a unique customer identifier.

There was some concern that the legislative framework relied too heavily on the use of a unique number to link participating agencies, increasing the potential for datamatching and affecting privacy.

Some submissions also stated that the legislation does not extend sufficiently to protect against third party use of private information.

It was suggested that privacy and security features associated with the card and its systems need to be strengthened to protect centralised data holdings and that access to that system is limited only to a small number of personnel and that access be logged.

Response / further information

Privacy protections

Existing privacy protections in the Privacy Act will apply in regard to the access card and the Register. Other protections in the Crimes Act and the Public Service Code of Conduct will also apply to prevent unauthorised access and use of information.

While the offence provisions provide strong consumer protections, additional protection of information will be specified in subsequent legislation. On 7 February the Minister for Human Services announced that he had asked Professor Fels to undertake a Privacy Impact Assessment before issues involving privacy are resolved in subsequent legislation.

The use of a unique number

The access card number is not a unique identifier. The access card number will change every time a card is reissued. It is a number for the card and not a number for the card owner.

As mentioned above, the Bill provides that access card numbers, photographs and signatures are protected from copying and recording.

Protecting against unauthorised access by third parties

Current laws, such as the Privacy Act, protect the way your personal information is handled by the Government and third parties. If these laws are breached, sanctions, including criminal penalties, may apply. These laws will apply to the access card.

Legislation is not the only privacy protection built into the access card system. Security and privacy are paramount to the access card. The Australian Government has made a significant commitment to ensuring that comprehensive security is engineered into every aspect of the program, from the initial conception through design, and the entire life of the program.

Transactions involving the card will be securely logged, including access, authentication and the specific details of the transaction. All logs will be monitored.

Further underlining the emphasis on security and privacy, the exposure draft legislation contains penalties for staff who inappropriately access information contained in the access card system.

This comprehensive approach to security and privacy ensures that the three dimensions—people, physical and information security—are built into every part of the solution.

An important element of the security framework is evaluation, testing and certification of the end-to-end access card system by the Defence Signals Directorate—Australia's national authority for information security and signals intelligence.

Protecting centralised data holdings on the Register

Only authorised people will be permitted to access your information and they will have access only to those fields of information that they need to deliver health benefits and

veteran's and social services to you. Transactions involving the card will be securely logged, including access, authentication and the specific details of the transaction. All logs will be analysed constantly for anomalous behaviour.

8.15 Secretary's discretion

Under the Human Services (Enhanced Service Delivery) Bill 2007, the Secretary of the Department of Human Services has a range of discretionary powers, including the power to record additional information on the Register.

Issues raised in submissions

Submissions welcomed legislative constraints on function creep but were concerned that 'other' information to be collected (on the chip or Register) under Secretarial discretion is not explained sufficiently and is not open to public scrutiny or legislative control.

To ensure increased public confidence, transparency and accountability, many submissions suggested that the Secretary's discretionary powers were not sufficiently circumscribed through guidelines and called for greater parliamentary oversight.

Response / further information

Discretion of the Secretary to collect additional information

Submissions have brought about clarification of the powers of the Secretary of the Department of Human Services to add information to the Register. Under item 17(a) of clause 17 of the Human Services (Enhanced Service Delivery) Bill 2007 the Secretary will only be able to add technical or administrative information to the Register (for example, audit logs or the serial number of the chip). The Secretary is not permitted to include any personal information that could identify a person by name or other personal identifier on the Register.

Additionally, even the technical or administrative information that may be included under this item must be reasonably necessary for the administration of the Register or an access card.

The Secretary of the Department of Human Services does not have the power to add personal information to the Register—only a Minister could do that by legislative instrument. When information is added to the Register or the card's chip by the Minister, it will be the subject of parliamentary scrutiny and have the potential to be disallowed by Parliament.

Parliamentary oversight of Secretary's powers

The Bill will now require that the Commonwealth Privacy Commissioner be consulted on the application forms and that the Secretary take into account the Commissioner's comments.

The exposure draft of the Bill provided that the Minister for Human Services had a discretion to issue identity guidelines. It is now clarified that the Minister is required to issue identity guidelines to guide the making of decisions about whether someone has sufficiently proved their identity for the purpose of receiving health or social services entitlements.

8.16 Suspensions and cancellations

In some cases it may be necessary to suspend or cancel a person's registration for the access card (for example, where it has been determined that they have committed an offence under the Bill relating to falsifying their information).

Issues raised in submissions

A submission suggested that the legislation should differentiate between cancellation of a card and termination of a registration. For example, the termination of registration would mandate the termination of the card, but not the reverse.

Response / further information

Situations where an access card may be suspended or cancelled are under consideration and are not included in the Human Services (Enhanced Service Delivery) Bill 2007. They will be included in subsequent legislation.

8.17 Transition to the access card system

Registrations for the access card will commence in April 2008. From 2010, you will need to present your card when dealing with an agency or provider of these services.

Issues raised in submissions

A submission commented that the Bill covers some transitional arrangements, but is open ended and provides no timetable for removal. That submission suggested that there was inadequate coverage in the Bill about the interaction of the existing entitlements system and the access card for the period between April 2008 and 2010.

Response / further information

The interaction of the access card and existing cards between 2008 and 2010 is not covered by the Bill and depends in part on the results of current tender processes.

Once these matters are finalised, any legislative amendments will be introduced in the subsequent access card legislation.

8.18 Voluntary information

Clause 33 of the Bill establishes that the access card will contain a microchip in the card to store and process information and that the chip will contain two separate areas: the card owner's area and the Commonwealth's area.

It is proposed that the card owner will be able to include in their area of the chip area any information that they choose to include (subject to the physical capacity of the chip and any legal restraints). It is expected that card owners will be able to customise their cards to include additional information, such as organ donor status or emergency contact details.

Issues raised in submissions

A few submissions commented that the Bill does not include the clear right of the card holder to include voluntary or emergency information and allow for the access of that information by required professionals.

Submissions supported the introduction of the card to improve service delivery, notably in disaster and emergency situations. Other submissions queried the creation of a separate emergency payment number and suggested that the Medicare or access card number should become the emergency payment number.

Response / further information

Voluntary information

Voluntary inclusion of information, such as health alerts and emergency contact information, is the subject of consultation with the Consumer and Privacy Taskforce, the health services sector, and consumer health and privacy organisations. A discussion paper to be issued early in 2007 by the Consumer and Privacy Taskforce will enable input and recommendations to be put to Government.

Emergency payments

One of the objectives of the access card is to facilitate the rapid distribution of emergency funds to assist people in need or where they have been affected by natural disasters or emergencies.

The emergency payment number is a number recorded on the chip and in the Register to facilitate and direct the payment of funds. The emergency payment is not an individual's personal account number. To be able to be activated if needed, this number must conform to banking sector requirements and hence will be different from the person's access card number. The emergency payment number must be included in the chip of the card so that in an emergency the card owner can use their access card to access emergency funds deposited by the Government. The card owner will be able to use their card to either obtain cash directly or transfer the deposited funds to such accounts as they choose.

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