

## Responses requiring no further comment

### Australian Jobs (Australian Industry Participation) Rule 2014

*FRLI: F2014L00125*

*Portfolio: Industry*

*Tabled: House of Representatives and Senate, 11 February 2014*

*PJCHR comments: Third Report of the 44<sup>th</sup> Parliament, tabled 4 March 2014*

*Response dated: 17 March 2014*

#### Information sought by the committee

3.39 This instrument prescribes matters relating to Australian Industry Participation plans for the purposes of the Australian Jobs Act 2013 (the Act). This includes information that a project proponent or facility operator must provide as part of their compliance report under the Act. It also includes information that a project proponent must provide when notifying the Australian Industry Participation Authority of a preliminary trigger day for a major project.

3.40 The committee sought clarification as to whether the information required for compliance reports or for notification purposes could include personal information about individuals and, if so, the justification for any limitations on the right to privacy.

3.41 The Minister's response is attached.

#### Committee's response

3.42 The committee thanks the Minister for his response.

3.43 The response states that '[t]he Rule only applies to constitutional corporations, not individuals, and the information required is of a commercial nature rather than personal information'.

**3.44 In light of the information provided, the committee makes no further comment on this instrument.**



**THE HON IAN MACFARLANE MP**

**MINISTER FOR INDUSTRY**

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Senator Dean Smith  
Chair  
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17 MAR 2014

Dear Senator *Dean*  
Dear Senator

Thank you for your letter of 4 March 2014 on behalf of the Parliamentary Joint Committee on Human Rights concerning the Australian Jobs (Australian Industry Participation) Rule 2014. The Committee sought clarification as to whether the legislative instrument is compatible with the right to privacy.

The Committee specifically identified sections 7, 8 and 10 of the Australian Jobs (Australian Industry participation) Rule. The Rule only applies to constitutional corporations, not individuals, and the information required is of a commercial nature rather than personal information. A more detailed response, to assist the Committee's deliberation, on why information disclosure under the Rule does not include personal information about individuals is attached.

I trust this response will assist the Committee in determining the human rights compatibility of the Australian Jobs (Australian Industry Participation) Rule 2014. Should you have any further questions, please do not hesitate to contact me again.

Yours sincerely

Ian Macfarlane

## Right to Privacy

The Committee has requested clarification on range of information required to be disclosed under the Rule, and whether such disclosure may include personal information about individuals. The specific provisions mentioned by the Committee are sections 7, 8 and 10 of the Rule.

Under the *Australian Jobs Act 2013* (the Act) a project proponent is defined as a person who is responsible for carrying out a project<sup>1</sup>. The Act only applies to ‘designated projects’ where one or more project proponents are constitutional corporations<sup>2</sup>, a similar limitation is applied to facility operators under section 117 of the Act. The Act only applies to constitutional corporations, not individuals.

As outlined in the Act’s Human Rights Compatibility Statement, information that is provided or obtained under the Act will be of a commercial nature. This principle is consistent within the Rule. The range of information being requested through the compliance reports and the notification obligations do not require personal information about individuals to be provided.

In the event that personal information is inadvertently collected or disclosed under the Rule or the Act, it will be subject to the safeguards under the *Privacy Act 1988*. It should be noted that, under Information Privacy Principle 11.3, a person, body or agency to which personal information is disclosed shall not use or disclose the information for a purpose other than the purpose for which the information was given to the person, body or agency.

The Australian Industry Participation Authority, who collects the information required by the Act and the Rule, is bound by the *Privacy Act 1988* and will operate in accordance with the relevant principles when dealing with personal information.

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<sup>1</sup> Section 5, *Australian Jobs Act 2013*

<sup>2</sup> Section 7, *Ibid*

