



Australian Government

**Department of Health,
Disability and Ageing**

Ms Joanna Abhayaratna
Executive Director
Office of Impact Analysis
Department of the Prime Minister and Cabinet
1 National Circuit
BARTON ACT 2600
Email: Helpdesk-OIA@pmc.gov.au

Dear Ms Abhayaratna

Certification of Sunsetting of Legislative Instruments authorised under the *My Health Records Act 2012* (MHR instruments)

I am writing to the Office of Impact Analysis (OIA) regarding the legislative instruments made under the *My Health Records Act 2012* that are scheduled to sunset on 1 April 2026, in accordance with the *Legislation Act 2003*. The following instruments are within the scope of the review:

- *My Health Records Regulation 2012* (MHR Regulation 2012). Note the sunsetting date for this instrument results from the *Legislation (My Health Records Instruments) Sunset-altering Declaration 2022* (2022 Sunset-altering Declaration) made under subsection 51A(1) of the *Legislation Act* on 25 January 2022.
- *My Health Records Rule 2016* (MHR Rule 2016) — Note the sunsetting date for this instrument results from the 2022 Sunset-altering Declaration.
- *My Health Records (Assisted Registration) Rule 2015* (MHR Assisted Registration Rule 2015).
- *My Health Records (Opt-out Trials) Rule 2016* (MHR Opt-Out Trials Rule 2016)

In addition, while not due to sunset until 1 April 2028, the *My Health Records (National Application) Rules 2017* (MHR National Application Rules 2017) were also considered as part of this review.

Collectively, the five instruments comprise the “MHR instruments” in scope of this review.

It has been decided that some MHR instruments are to be remade without significant amendments, and others repealed:

- The MHR Regulation 2012 is to be remade with only minor and technical updates.
- The provisions of the MHR Rule 2016 will be remade in new MHR Rules 2026, maintaining the settings which underpin the My Health Record system with minor adjustments.
- The MHR Assisted Registration Rule 2015 and the MHR National Application Rules 2017 are to be repealed, with provisions with ongoing application to be included in the remade MHR Rules 2026.
- The MHR Opt-Out Trials Rule 2016 enabled the 2016 opt-out participation trials, which assessed whether transitioning from an opt-in to an opt-out model would improve MHR

uptake and benefits. Following the successful trial, the opt-out model was implemented nationally in 2019, in accordance with the MHR National Application Rules. As the MHR Opt-Out Trials Rule is now obsolete, it will be repealed. Its cessation will not affect ongoing MHR system operation or obligations for consumers or healthcare providers.

While the new MHR Regulations and MHR Rules will include some amendments compared with the current instruments to reflect contemporary drafting practice, there are no changes to policy intent, with the requirements prescribed in these instruments maintaining continuity of the My Health Record (MHR) system.

In lieu of a detailed Impact Analysis for remaking these instruments, the Department of Health, Disability and Ageing has self-assessed the MHR instruments and certifies that they are operating effectively and efficiently - consistent with the Government's requirements for Sunsetting Legislative Instruments. As noted above, those instruments which are no longer required will be repealed and/or provisions consolidated.

This assessment has been informed by a consultation process involving a public consultation, as well as targeted engagement with states and territories, the Australian Digital Health Agency, Services Australia, and the Office of the Australian Information Commissioner between October 2024 and February 2026.

I also note that the regulatory burden to people, businesses, and community organisations has been quantified using the Australian Government's Regulatory Burden Measurement framework. These are provided below.

Average annual regulatory costs (from business as usual)

Change in costs (\$ million)	Business	Community organisations	People	Total change in costs
Total, by sector	\$0	\$0	\$0	\$0

I acknowledge that the OIA will publish this letter for transparency purposes.

Yours sincerely



Penny Shakespeare
Deputy Secretary
Health Resourcing Group
4 March 2026