

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2005 No. 191**

Issued by the Authority of the Minister for Family and Community Services

*Social Security (International Agreements) Act 1999*

*Social Security (International Agreements) Act 1999 Amendment  
Regulations 2005 (No. 2)*

Subsection 8(1) of the *Social Security (International Agreements) Act 1999* (the Act) provides that a Schedule setting out the terms of an agreement between Australia and another country may be added to the Act by regulations, if the agreement relates to reciprocity in social security or superannuation matters.

Subsection 8(2) of the Act provides that regulations made by virtue of subsection 8(1) must not come into operation on a day earlier than the day on which the agreement concerned comes into operation for Australia.

Section 25 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient for carrying out or giving effect to the Act.

The purpose of the Regulations is to insert the Agreement on Social Security between the Government of Australia and the Government of Ireland done at Dublin on 9 June 2005 (the new Agreement) as Schedule 8 to the Act, replacing the current Schedule 8 (the Agreement on Social Security between Australia and Ireland done at Canberra on 8 April 1991). The new Agreement would coordinate the social security schemes of the countries to give better welfare protection for people who move between Australia and Ireland. The Irish Government has confirmed that the new Agreement could enter into force on 1 January 2006.

When people live in more than one country during their working lives, they often find that when they claim a pension or benefit they do not have enough residence or contributions under a social security system to qualify for payment. A network of social security agreements has been set up within the international community to help alleviate this problem. A key element in these agreements is the undertaking by the partners to share the responsibility for providing adequate social security coverage and, as a consequence, the associated costs. Australia is a country with a large foreign-born population and a growing internationally mobile Australian-born population, and it is appropriate for it to participate in this network of agreements.

The new Agreement will enable people with contribution records in Ireland living in Australia, to claim and qualify for part pensions from the Government of Ireland. Similarly, many former Australian residents living in Ireland will be able to claim and qualify for a part Australian pension. The new Agreement also includes provisions modifying Australia's Superannuation Guarantee arrangements to avoid double coverage of Irish employees seconded to work temporarily in Australia.

Reciprocal exemptions are provided for Australian workers seconded to work temporarily in Ireland.

The new Agreement on Social Security with Ireland complements similar agreements with Austria, Belgium, Canada, Chile, Croatia, Cyprus, Denmark, Germany, Italy, The Netherlands, Malta, New Zealand, Portugal, Slovenia, Spain and the United States of America.

All international intergovernmental agreements specify 'entry into force' requirements, which stipulate that each party notify the other party by an exchange of diplomatic notes or by ratification that all constitutional, legislative and any other matters that are necessary to be done have been done. An agreement will then come into operation on a date specified by reference to the exchange of diplomatic notes or instruments of ratification.

The new Agreement with Ireland provides for entry into force on the first day of the second month after the exchange of instruments of ratification. The exchange of instruments of ratification is expected to take place in November 2005, with the effect that the new Agreement would enter into force on 1 January 2006.

In the Agreement with Ireland, the entry into force provision is expressed so that, provided the exchange of instruments of ratification is completed the Agreement will enter into force on 1 January 2006. The exchange of diplomatic notes is expected to take place in December 2005.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Three separate groups (listed below) were contacted as part of the treaty process. These were Irish community organisations (20), welfare organisations (20) and all State and Territory Governments.

Letters and an information sheet outlining the changes to the Agreement were sent to each group on 6 May 2005 seeking their views and asking for a response by 30 May 2005.

Two formal responses were received. One from the Queensland and one from the Tasmanian Government. Neither response raised any issues. No other comments were received from any other group or government agency.

The Irish Community Organisations consulted were:

Association of Irish Chartered Accountants in Australia (NSW)	Irish Australia Association of SA
Australian Irish Heritage Association (WA)	Irish Australian Business Association (WA)
Australian Irish Welfare Bureau (Illawarra)	Irish Australian Chamber of Commerce (Vic)

Australian Irish Welfare Association (Vic)	Irish Chaplaincy (NSW)
Australian Irish Welfare Bureau (NSW)	Irish Club of WA (WA)
Cairde Na hEireann (ACT)	Irish Echo (NSW)
Canberra Irish Club (ACT)	Irish National Association (NSW)
Celtic Club (WA)	Lansdowne Club (NSW)
Claddagh Association of WA	Queensland Irish Association
Gaelforce Promotions (WA)	Sydney St Patrick's Parade

The welfare organisations consulted were:

ACROD (National Office)	Ethnic Communities' Council of Western Australia
ACT Multicultural Community Council	FECCA
Association of Independent Retirees	Multicultural Council of NT Inc
Australian Council of Social Service	Multicultural Council of Tasmania
Combined Pensioners and Superannuants Association	National Ethnic Disability Alliance
COTA National Seniors	National Seniors Association
Council of Intellectual Disability Agencies	Physical Disability Council of Australia Ltd
Ethnic Communities' Council of NSW	Southern Cross Group
Ethnic Communities' Council of QLD	Welfare Rights Centre
Ethnic Communities' Council of Victoria	Multicultural Communities Council of SA

The Regulations will commence on 1 January 2006. This commencement date satisfies the requirement of subsection 8(2) of the Act that regulations not come into operation on a day earlier than the day the relevant agreement comes into effect for Australia.