

EXPLANATORY STATEMENT

Social Security (Administration) (Delayed Lodgement of Claims for Pension Bonus) Guidelines 2007

Summary

Under subsection 17(6) of the *Social Security (Administration) Act 1999* (the Act), the Secretary is given the power to make guidelines setting out special circumstances for the purposes of subsection 17(5). The effect of these guidelines is to indicate (without doing so exclusively) special circumstances that may be sufficient for the Secretary to determine that a person's claim for pension bonus that is lodged after that person's claim for age pension is taken to have been made at the same time as the age pension claim.

Subsection 17(1) of the Act requires that a pension bonus claim is lodged together with a claim for age pension or in accordance with an invitation to claim under section 17(3). The intention of these guidelines is to specify circumstances where a registered member of the pension bonus scheme makes a claim for pension bonus, not at the time of lodging their age pension claim, but within two years of their age pension claim due to a failure, either by the Secretary or by the person, to meet the requirements for claims in subsection 17(1) of the Act. However, these circumstances are not intended to fall within the ambit of "special circumstances" if the person knowingly gives the Secretary incorrect information and this is the reason why the Secretary does not invite the person to make a claim under subsection 17(3) of the Act.

These guidelines are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Background

The *Families, Community Services and Indigenous Affairs Legislation Amendment (Further 2007 Budget Measures) Act 2007* added into the Act subsections 17(5) and (6) to enable greater flexibility with regard to claims for pension bonus. Prior to the addition of those subsections section 17 of the Act, a claim for pension bonus by a person must either be attached to a proper claim made by the person and lodged together with it or, if the person's claim for age pension is made on a form which does not require the person to indicate their membership of the pension bonus scheme and the Secretary is aware of their membership, made in accordance with an invitation that the Secretary is required to offer to the person under subsection 17(3) of the Act.

The changes made by the new subsections 17(5) and 17(6) give the Secretary the discretion, if satisfied that special circumstances exist in relation to the lodgement of a person's claim for pension bonus, to deem that the person claimed pension bonus at the same time as his or her claim for age pension. New subsection 17(6) enables the Secretary to make guidelines indicative of "special circumstances" for this purpose.

Explanation of Provisions

Section 1 states the name of the instrument.

Section 2 states that the instrument commences on 1 January 2008. This means that the instrument will have effect on and from that date.

Section 3 contains the interpretation of the term *Act* as it is used in the instrument. It means the *Social Security (Administration) Act 1999*.

Section 4 contains the guidelines for when special circumstances apply in relation to the lodgement of a person's claim for pension bonus by persons who are registered members of the pension bonus scheme immediately before lodging a claim for age pension. There are two circumstances that are specified.

The first circumstance is intended to apply where the person lodges a claim for pension bonus within two years of their age pension claim and the Secretary should have invited, but did not invite, the person to make the claim for pension bonus according to subsection 17(3) of the Act because the person's age pension claim was made in accordance with a form that did not require the claimant to disclose whether the person was a registered member of the pension bonus scheme or the corresponding scheme under Part IIIAB of the *Veterans' Entitlements Act 1986*. However, this circumstance is not a "special circumstance" for the purposes of paragraph 17(5)(c) of the Act if the invitation was not offered to the person because the person knowingly gave the Secretary incorrect information that led the Secretary to conclude that the making of the invitation would be inappropriate.

The second circumstance is intended to apply where the person lodges a claim for pension bonus within two years of their age pension claim and the person's age pension claim was made in accordance with a form that did require the claimant to disclose whether the person was a registered member of the pension bonus scheme or the corresponding scheme under Part IIIAB of the *Veterans' Entitlements Act 1986* and the claimant did not disclose that they were a member and the Secretary did not seek disclosure of that information before granting the claim for age pension.

Consultation

The Department of Veterans' Affairs was consulted during the preparation of this instrument. This was done to ensure a co-ordinated and consistent approach to the treatment of claims for pension bonus under both the social security law and the *Veterans' Entitlements Act 1986*.

This instrument is beneficial to persons who are members of the pension bonus scheme because it increases the range of situations in which claims for pension bonus can be lodged. Public consultation was therefore seen as unnecessary.

Regulatory Impact Analysis

This instrument does not require a Regulatory Impact Statement (RIS) and/or a Business Cost Calculator Figure. This instrument is not regulatory in nature, will not

impact on business activity and will have no, or minimal, compliance costs or competition impact. It is not expected that any compliance costs will be incurred by business as a result of the effect of this instrument.