

## EXPLANATORY STATEMENT

### **Social Security (Administration) (Ending Unemployment Non-payment Periods – Classes of Persons) (DEEWR) Specification 2009 (No. 1)**

#### **Summary**

The *Social Security (Administration) (Ending Unemployment Non-payment Periods – Classes of Persons) (DEEWR) Specification (No. 1) 2009* (Specification) is made by the Secretary of the Department of Education, Employment and Workplace Relations (Secretary) under subsection 42S (5) of the *Social Security (Administration) Act 1999* (the Act).

The purpose of the Specification is to specify certain classes of people for whom an unemployment non-payment period applied because the person was unemployed as a result of a voluntary act or misconduct may be ended by the Secretary.

#### **Background**

Section 42S of the Act provides that a participation payment is not payable for a period of eight weeks where it is determined that the person is unemployed as a result of a voluntary act of the person or as a result of the person's misconduct as an employee. Subsection 42S (4) provides that the Secretary may end a person's unemployment non-payment period if (a) serving the non-payment period would cause the person to be in severe financial hardship; and (b) the person is in a class of persons specified by legislative instrument.

The classes of people listed in this Specification are job seekers who have a dependent child, job seekers with significant caring responsibilities, jobseekers with a medical condition, whether physical or psychological, and jobseekers without adequate housing. Inclusion in the Specification will ensure that the Secretary can end unemployment non-payment periods imposed on these vulnerable job seekers.

#### **Explanation of Provisions**

**Section 1** states the name of the Specification.

**Section 2** states that the Specification commences on 1 July 2009. This corresponds with the commencement date of the amendment to the Act under which the Specification is made. The amendment is made by the *Social Security Legislation Amendment (Employment Services Reform) Act 2009*.

**Section 3** contains interpretation provisions. Section 3 states that 'dependent child' has the meaning given by section 5 of the *Social Security Act 1991* (Social Security Act). Subsections 5 (2) to (9) of the Social Security Act set out when a young person, who is either under 16 years or 16 to 21 years, is a dependent child for the purposes of that Act.

**Subsection 4 (1)** specifies that persons who have significant family and caring responsibilities, including persons with a dependent child, persons who have an

illness, impairment or condition that requires treatment which the person cannot afford to pay for after they have met their essential expenses, persons who have a cognitive, neurological, psychiatric or psychological impairment or mental illness (which has been established by medical evidence), and persons who do not have access to safe, secure and adequate housing, or are using emergency accommodation or a refuge are all classes of persons whose unemployment non-payment period may be ended.

**Subsection 4 (2)** sets out, non-exclusively, circumstances under which a person is taken not to have access to safe, secure and adequate housing. This definition is derived from the *Supported Accommodation Assistance Act 1994*, and is intended to encompass the particular characteristics or incidents of a person's accommodation that may adversely affect them or place them at risk. This definition encompasses people who would be considered homeless under the definitions of primary, secondary and tertiary homelessness currently used by the *Australian Bureau of Statistics* but is preferred for the purpose of the instrument because it defines homelessness by its impacts on individuals and on their capacity to meet their obligations.

### **Consultation**

Consultations were undertaken with the following organisations.

- Homelessness Australia;
- Catholic Social Services Australia;
- Mission Australia;
- National Employment Services Association;
- National Welfare Rights Network
- Australian Council of Social Service;
- Commonwealth Ombudsman's office; and
- Centrelink

The organisations consulted were provided with a draft of the Determination and were invited to provide comments at a forum held on 12 March 2009.

The Department of Families, Housing, Community Services and Indigenous Affairs was consulted during the preparation of this determination. This was done to ensure a co-ordinated and consistent approach for all social security payments under the Act.

### **Business Cost Calculator Figure**

This Specification does not require a Regulatory Impact Statement (RIS) nor a Business Cost Calculator Figure. This Specification is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.