

EXPLANATORY STATEMENT

Social Security (Administration) (Classes of Exempt Welfare Payment Recipients) Specification 2010

The *Social Security (Administration) (Classes of Exempt Payment Recipients) Specification 2010* (the Specification) is made under subsection 123UGB (2) of the *Social Security (Administration) Act 1999* (the Act). The Minister for Families, Housing, Community Services and Indigenous Affairs, as well as making the Specification in her own capacity, is also making it on behalf of the Minister for Education and the Minister for Employment and Workplace Relations.

Background

The *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010* (the Amending Act) amended Part 3B of the Act to provide the basis for a national welfare reform initiative aimed at supporting disengaged and vulnerable welfare recipients in disadvantaged locations across Australia. Three new income management measures have been introduced, to be used in selected locations in Australia, covering:

- people aged 15 to 24 who have been in receipt of Youth Allowance, Newstart Allowance, Special Benefit or Parenting Payment for more than 13 weeks in the last 26 weeks (the disengaged youth measure); and
- people aged 25 and above (and younger than Age Pension age) who have been in receipt of Youth Allowance, Newstart Allowance, Special Benefit or Parenting Payment for more than 52 weeks in the last 104 weeks (the long-term welfare payment recipient measure); and
- people assessed by the Secretary as requiring income management for reasons including vulnerability to financial crisis or economic abuse (the vulnerable welfare payment recipient measure).

The categories of welfare payment recipients covered by the new measures were chosen based on evidence that indicates a range of negative outcomes for people with early or long-term dependence on income support payments.

For people subject to income management under the new disengaged youth measure or the long-term welfare payment recipient measure, the Amending Act inserted provisions into the Act to provide for exemptions from the measures. The exemptions are intended to ensure that the new measures are narrowly targeted to reach the people the Government considers are most in need of support and assistance, and extend no further than necessary.

Purpose of Specification

Under subsection 123UGB(1) of the Act, the Secretary may determine that a person is an exempt welfare payment recipient if he or she is satisfied that the person is included in a class of persons specified in a legislative instrument made by the Minister

Subsection 123UGB(2) of the Act provides that the Minister may specify a class of persons to be exempt welfare payment recipients.

The effect of this Specification is to specify classes of persons who are exempt welfare payment recipients for the purposes of section 123UGB of the Act.

If the Secretary determines, under subsection 123UBG(1) of the Act, that a person is an exempt welfare payment recipient because he or she is satisfied that the person is included in a class of persons specified in this Specification, then the person will be exempt from income management under the disengaged youth measure and the long-term welfare payment recipient measure (as applicable).

A person who has been determined to be an exempt welfare payment recipient for the purposes of the disengaged youth measure and the long-term welfare payment recipient measure may become subject to income management under another measure (such as the new vulnerable welfare payment recipient measure, the child protection measure, the Cape York Family Responsibilities Commission measure or voluntary income management), provided that the relevant conditions are satisfied in relation to that other measure.

The Specification is a legislative instrument, and commences on 9 August 2010.

Classes of persons specified

Section 4 of the Specification sets out the classes of persons who are exempt welfare payment recipients for the purposes of section 123UGB of the Act.

Paragraph 4(a) of the Specification refers to a class of persons who are, amongst other things, receiving special benefit. Special benefit recipients are covered by the new disengaged youth and long-term welfare payment recipient measures, because they are recipients of a 'category E welfare payment'. (The term 'category E welfare payment' is defined in section 123TC of the Act as including special benefit.)

The main characteristics of the other category E welfare payments are that they attract participation requirements under the *Social Security Act 1991*. However, special benefit is a payment that is payable to a broad range of people: under that Act, some people who are receiving special benefit will attract participation requirements and others will not.

To ensure that the new income management measures apply consistently across welfare payment recipient groups, paragraph 4(a) of this Specification exempts the class of special benefit recipients who do not attract participation requirements: that is, who are not required to satisfy the activity test in section 731A of the Social Security Act, and who cannot be required by the Secretary to enter into a Special Benefit Employment Pathway Plan. Examples include people who are paid special benefit in lieu of age pension or disability support pension, or in lieu of a parenting payment in respect of a child who is less than 6 years of age.

Paragraph 4(b) of the Specification refers to the class of persons who are receiving CDEP Scheme Participant Supplement.

CDEP Scheme Participant Supplement is neither a 'category E welfare payment', nor a 'category I welfare payment', and is therefore not a payment that can be income managed under either of the new income management measures. However, some CDEP Scheme Participant supplement recipients could also be eligible recipients of category E and category I welfare payments. In this case, they could be subject to income management under one of the new measures.

To ensure that the new income management measures apply consistently across welfare payment recipient groups, this Specification gives effect to the policy that all CDEP Scheme Participant Supplement recipients should be treated consistently and should be exempt from income management under the disengaged youth and long-term welfare payment recipient measures.

Consultation

Consultation on the Specification was undertaken with the Department of Education, Employment and Workplace Relations to ensure a co-ordinated approach in respect of welfare payments, for which each Department has responsibility, which may become subject to the income management regime. Centrelink was also consulted on the Specification.

Regulatory Impact Analysis

The Specification does not require a Regulatory Impact Statement or a Business Cost Calculator Figure. The Specification is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.