EXPLANATORY STATEMENT

Social Security (Administration) (Exempt Welfare Payment Recipients — Persons with Dependent Children) (Indications of Financial Vulnerability) Principles 2010

The *Social Security (Administration) (Exempt Welfare Payment Recipients – Persons with Dependent Children) (Indications of Financial Vulnerability) Principles 2010* are made under subsection 123UGD(5) of the *Social Security (Administration) Act 1999* (the Act). The Minister for Families, Housing, Community Services and Indigenous Affairs, as well as making these Principles in her own capacity, is also making them 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 12 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).

These Principles have been made for the purposes of the new disengaged youth and long-term welfare payment recipient measures.

Purpose

New Subdivision BB of Division 2 of Part 3B of the Act provides for exemptions for people who become subject to income management under the new disengaged youth and long-term welfare payment recipient measures (the new measures).

For people without dependent children, the exemption criteria (in section 123UGC of the Act) relate, in general terms, to engagement in full-time study or a sustained pattern of employment.

For people with dependent children, the exemption criteria (in section 123UGD of the Act) relate, in general terms, to responsible parenting practices. (The term ‘dependent child’ is defined in section 123UGC of the Act as being a child who is a ‘school age child’ or younger. ‘School age child’ is defined, in section 123UGG of the Act, as being a child who is required under a law of a State or Territory to be enrolled at, or attend, a school.)

These Principles relate to the specific exemption criterion, set out in paragraph 123UGD(1)(d) of the Act, that applies to any person who has one or more dependent children.

In deciding whether to grant an exemption to a person who has dependent children, the Secretary must be satisfied that the person and/or the children are undertaking the activities required under section 123UGD. The *Social Security (Administration) (Exempt Welfare Payment Recipients — Persons With Dependent Children) (Specified Activities) Determination 2010* sets out specified activities that can be undertaken for the purposes of subparagraph 123UGD(1)(b)(iii) and paragraph 123UGD(c) of the Act. The Secretary must also be satisfied, for paragraph 123UGD(1)(d) of the Act, that, in the preceding 12 months, there have been no indications of financial vulnerability in relation to the person.

Subsection 123UGD(5) of the Act provides that, in deciding whether he or she is satisfied that there have been no indications of financial vulnerability in relation to the person in the preceding 12 months, the Secretary must comply with any decision-making principles set out by the Minister in a legislative instrument.

This instrument sets out the decision-making principles that the Secretary must comply with in deciding whether he or she is satisfied that there have been no indications of financial vulnerability in relation to the person in the preceding 12 months.

The Principles are a legislative instrument, and commence on 9 August 2010.

Explanation and effect of provisions

Part 1 (sections 1 to 4) of the Principles sets out provisions of a technical nature.

Section 1 sets out the title of the Principles.

Section 2 provides that the Principles commence on 9 August 2010.

Section 3 contains definitions and interpretations that are relevant to the Principles.

In particular, subsection 3(1) provides that the term ‘relevant period’, as used in the Principles, refers to the period of 12 months that the Secretary is obliged to consider under paragraph 123UGD(1)(d) of the Act in relation to a particular person.

The defined term ‘specified dependant’ reflects the persons whose priority needs the Secretary is required to take into account for the purposes of the income management regime, as reflected in section 123TB and section 123YA of the Act.

Subsection 3(2) of the Principles is an interpretation provision that provides an explanation of when a person is experiencing ‘financial exploitation’.

Section 4 sets out the purpose of the Principles: as explained in section 4, Part 2 of the Principles (sections 5 to 8) sets out the decision-making principles that the Secretary must comply with in deciding whether he or she is satisfied that there have been no indications of financial vulnerability in relation to a person during the 12-month period ending immediately before the test time under subsection 123UGD(1) of the Act.

These decision-making principles take the form of a number of matters that the Secretary (or delegate) is obliged to consider in making the decision for paragraph 123UGD(1)(d).

A consideration of the matters (indicators) that have been identified provide a comprehensive, overall impression of a person’s financial circumstances for the purposes of paragraph 123UGD(1)(d) of the Act. Much of the information (evidence) relevant to the Secretary’s consideration of these indicators will be accessible from existing Centrelink records about a person, thereby minimising the evidence-collection burden on the person applying for the exemption.

Section 5 provides that that Secretary must consider whether the person experienced financial exploitation (within the meaning provided in subsection 3(2) of these Principles) during the relevant 12-month period.

Section 6 provides that the Secretary must also consider what priority needs the person, and the person’s children, partner and other dependants (if applicable), had during the relevant 12-month period and whether the person was applying appropriate resources to meet some or all of those priority needs during the relevant period. This consideration reflects the expectation that a person will use their income, including income in the form of income support and family assistance payments, to meet their priority needs and the needs of their dependents. However, paragraph 6(b) explicitly recognises that the goal of meeting all priority needs may not always be met where a person has limited financial resources.

Section 7 provides that the Secretary must also consider what strategies (however described) the person used, during the relevant period, to manage his or her financial resources, and whether it is likely that the person will continue to use those strategies (or similar strategies) to manage their financial resources in the foreseeable future. The term ‘strategies’ is defined in subsection 3(1) of the Principles as including tools and training, and the note following section 7 provides a number of examples of ‘strategies’ that a person might use to manage their financial resources. Additional examples include: using an on-line budgeting tool; visiting a financial counsellor for assistance in setting up or revising a personal or household budget; and entering into a voluntary income management arrangement with Centrelink.

Subsection 8(1) provides that the Secretary must consider whether the person has made requests to Centrelink for an urgent payment of their regular welfare payment during the relevant 12-month period.

Instalments of welfare payments are usually paid to a person once a fortnight, or once a week, on a regular cycle (for example, a person’s regular welfare payment payday may be every Wednesday fortnight). However, a person can ask Centrelink to pay them a part of their welfare payment *before* their regular payday: such payments are commonly referred to as ‘urgent payments’. The remainder of the person’s welfare payment will then be paid to them on their regular payday. Urgent payments are only made to people where Centrelink has determined that the person in question is experiencing financial hardship.

Under subsection 8(1), if the person has asked Centrelink for one or more urgent payments, the Secretary must consider the reasons that the person gave to Centrelink for the request on each occasion on which they sought an urgent payment. If the person sought an urgent payment, and the request was refused by Centrelink, the Secretary must also consider Centrelink’s reasons for refusing the request.

Subsection 8(2) provides that the Secretary must consider how many times (if ever) the person has made requests to Centrelink to change their regular welfare payment payday. As described above, welfare payment recipients generally are paid their entitlements in a regular fortnightly or weekly cycle. A welfare payment recipient may ask Centrelink to change the day on which their entitlement is paid. For example, a person whose regular welfare payment payday is every Wednesday may ask Centrelink to change the payday to Friday so that the Centrelink payday coincides with the person’s employment payday. The change may be a temporary change (that is, for a specified period), or the change may be made permanently (usually until a further request by the person). Under subsection 8(2), the Secretary must consider the reasons that the person gave to Centrelink for each change request.

Consultation

Consultation on these Principles 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 Principles.

Regulatory Impact Analysis

These Principles do not require a Regulatory Impact Statement or a Business Cost Calculator Figure. These Principles are not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.