

## EXPLANATORY STATEMENT

### **Social Security (Administration) (Declared voluntary income management areas — New South Wales, Queensland, South Australia and Victoria) Determination 2012**

The *Social Security (Administration) (Declared voluntary income management areas — New South Wales, Queensland, South Australia and Victoria) Determination 2012* (the Determination) is made under paragraph 123TGA(c) of the *Social Security (Administration) Act 1999* (the Act). The Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform, as well as making the Determination in her own capacity, is also making it on behalf of the Minister for Education and the Minister for Employment and Workplace Relations.

#### **Background**

As part of the 2011-12 Budget, the Australian Government is implementing the Building Australia's Future Workforce package. This includes introducing new measures to promote long term economic participation in various of the nation's most disadvantaged communities. The measures involve extra responsibilities and more assistance for teenage parents on income support, jobless families and other vulnerable groups, to support children and families and help parents enter or return to the workforce.

As part of this package, income management is being introduced into five new sites from 1 July 2012. These sites were chosen because they demonstrated a high level of disadvantage, based on a number of factors including unemployment levels, youth unemployment, skills gaps, educational achievement, the numbers of people receiving welfare payments, and the length of time people have been on income support payments.

Income management will apply to vulnerable families and individuals in these communities, including:

- people referred for income management by State child protection authorities, where they assess that a child is at risk (the child protection measure);
- people assessed by Centrelink Social Workers as being vulnerable by reference to factors including financial crisis and risk of homelessness (vulnerable welfare payment recipient measure); and
- people who volunteer for income management (voluntary income management).

This determination gives effect to the implementation of voluntary income management in the five sites. Separate Determinations commence the child protection, and vulnerable welfare payment recipient measures in these sites.

## **Purpose**

This Determination specifies five local government areas located in New South Wales, Queensland, South Australia and Victoria as 'declared voluntary income management areas'. Schedule 1 covers New South Wales, Schedule 2 covers Queensland, Schedule 3 covers South Australia and Schedule 4 covers Victoria.

The Determination is a legislative instrument and commences on 1 July 2012, as provided for in section 2 of the Determination.

## **Consultation**

Ongoing consultations have been undertaken with State child protection and housing authorities with a view to entering into bilateral agreements between the Commonwealth and State governments that finalise referral protocols to income management. In conjunction with these consultations, the Commonwealth has held regular meetings with stakeholders in the five sites, including community organisations that have raised concerns, with a particular focus on income management.

Consultation on the Determination was undertaken with the Department of Employment and Workplace Relations and with the Department of Industry, Innovation, Science, Research and Tertiary Education.

## **Regulatory Impact Analysis**

The Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

# Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

Part 3B of the *Social Security (Administration) Act 1999* (the Act) establishes an income management regime that applies to recipients of certain welfare payments. If a person is subject to the income management regime under Part 3B, the Secretary will deduct amounts from the person's relevant welfare payments and credit those amounts to the person's income management account. The Secretary may then debit amounts from the person's income management account, in accordance with Part 3B, for the purpose of taking actions directed to meeting the priority needs of the person or his or her dependants.

The purpose of this instrument is to determine that the identified Local Government Areas of: Bankstown, New South Wales; Rockhampton and Logan, Queensland; Playford, South Australia; Shepparton, Victoria; are 'declared voluntary income management areas' for the purposes of Part 3B of the Act.

The effect of the Determination is that once these areas are determined to be a declared voluntary income management area, people residing within these locations may volunteer for income management.

The key objectives of income management under the Act are:

- reduce immediate hardship and deprivation by directing welfare payments to the priority needs of recipients, their partner, children and any other dependents,
- help affected welfare payment recipients to budget so that they can meet their priority needs,
- reduce the amount of discretionary income available for alcohol, gambling, tobacco and pornography,
- reduce the likelihood that welfare payment recipients will be subject to harassment and abuse in relation to their welfare payments, and
- encourage socially responsible behaviour, particularly in the care and education of children.

## Human rights implications

### The right to social security

Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognised ‘the right of everyone to social security, including social insurance’. That right requires a country to, within its maximum available resources; provide a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education. People subject to income management retain their same right to social security whilst being provided a mechanism to acquire the essential items outlined in Article 9 of the ICESCR. The requirement to apply an allocated percentage of their social security payments to the maintenance of themselves and their children via food, clothing and housing supports this right.

### The right to an adequate standard of living

Article 11.1 of the ICESCR states that everyone has the right to ‘*an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions*’ and that ‘*appropriate steps*’ be taken to ‘*ensure the realization of this right*’. Further to this, article 11.2 of the ICESCR states that ‘*measures, including specific programmes,*’ should be taken in ‘*recognizing the fundamental right of everyone to be free from hunger*’. Through income management, an allocated percentage of a person’s income support and family payments are directed to pay for life’s essentials.

Voluntary income management will act as a support program provided by the Commonwealth to assist people to ensure their nutritional, clothing and housing needs are met. Further to this, the determination to include the states of NSW, Qld, SA and Victoria as declared income management areas further complies with Article 27 of the Convention on the Rights of the Child (CRC), which states:

*2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.*

*3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.*

## The right to privacy

Article 17 of the ICCPR provides that no one shall be subjected to arbitrary or unlawful interference with their privacy. Privacy guarantees a right to secrecy from the public of personal information. For interference with privacy not to be arbitrary, it must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the particular circumstances. Reasonableness in this context incorporates notions of proportionality to the end sought and necessity in the circumstances.

This instrument will not change any existing disclosure of information legislation. As a person will be voluntarily participating in income management and will be able to withdraw consent at any time, this will not impinge on the person's right to privacy.

## **Conclusion**

The *Social Security (Administration) (Declared voluntary income management areas – New South Wales, Queensland, South Australia and Victoria) Determination 2012* is compatible with human rights. Income management will advance the protection of human rights by ensuring that income support payments are spent in the best interests of children and families, whilst also helping affected welfare payment recipients to improve their budgeting skills so they can meet their priority needs. To the extent that it may limit human rights those limitations are reasonable, necessary and proportionate to achieving the legitimate objective of reducing immediate hardship and deprivation, encouraging socially responsible behaviour, particularly in the care and education of children, and reducing the likelihood that welfare payment recipients will be subject to harassment and abuse in relation to their welfare payments.

**Minister for Families, Community Services and Indigenous Affairs**