

## EXPLANATORY STATEMENT

### FEDERAL FINANCIAL RELATIONS ACT 2009

#### National Specific Purpose Payment Determination 2011-12

The *Intergovernmental Agreement on Federal Financial Relations* (the IGA) provides a robust foundation for collaboration on policy development and service delivery, and facilitates the implementation of economic and social reforms in areas of national importance.

In agreeing the new framework for federal financial relations, the Commonwealth committed to the provision of financial support for the States' service delivery efforts through:

- general purpose financial assistance, including the ongoing provision of GST payments, to be used by the States for any purpose;
- National Specific Purpose Payments (National SPPs) to be spent in key service delivery sectors; and
- National Partnership payments to support the delivery of specified outputs or projects, to facilitate reforms, or to reward those jurisdictions that deliver on nationally significant reforms.

The new federal financial framework commenced on 1 January 2009. The payment provisions of the IGA are implemented through the *Federal Financial Relations Act 2009* (the Act).

#### National Specific Purpose Payments (National SPPs)

Under the IGA, the Commonwealth provides National SPPs to the States and Territories as a financial contribution to support State and Territory service delivery in the areas of healthcare, schools, skills and workforce development, disability, and housing.

The Act provides for the Minister to determine for each financial year, the total amount and the manner in which National SPPs are distributed between the States and Territories. The Act also requires the Minister have regard to the IGA when making a determination for National SPPs.

Advance payments in respect of the National SPPs are provided throughout the financial year based on estimates of each jurisdiction's anticipated entitlement. Any adjustment between the advances paid to a jurisdiction and the jurisdiction's determined entitlement is made in the first practicable payment in the subsequent financial year.

The Minister's determination in respect of National SPPs is a legislative instrument and will be registered on the Federal Register of Legislative Instruments.

Part 3 of the Act and 'Schedule D — Payment Arrangements' to the IGA provide that the States are required to spend each National SPP in the service sector relevant to the payment. However, the States have full budget flexibility to allocate funds within that sector as they see fit to achieve any mutually agreed objectives for that sector.

This Determination is in accordance with Part 3 of the Act, which provides for the Minister, by legislative instrument, to determine the total amounts payable to each service sector, the manner in which these total amounts are indexed, and the manner in which these amounts are divided between the States.

Financial assistance for non-government schools is provided under the *Schools Assistance Act 2008*, and therefore is not included in this Determination.

**Consultation**

The IGA was subject to extensive consultation with the States and was signed by all jurisdictions in December 2008. The IGA is publicly available on the website for the Ministerial Council for Federal Financial Relations. Consultation with the States on National SPPs also occurs regularly, principally through meetings between Heads of Treasuries.

**Commencement**

The Determination commences on the day it was made.

## Statement of Compatibility with Human Rights

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

### **Federal Financial Relations (National Specific Purpose Payments) Determination 2011-12**

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*

The purpose of this Legislative Instrument is to determine the final outcome of National Specific Purpose Payments relating to 2011-12. These payments, determined in accordance with the *Federal Financial Relations Act 2009* are provided to States and Territories as a financial contribution to support State and Territory service delivery in the areas of healthcare, schools, skills and workforce development, disability services and affordable housing. The Determination specifies the division of funds between the States and Territories.

#### *Human rights implications*

The provision of National Specific Purpose Payments to the States and Territories to assist in the areas of healthcare, schools, skills and workforce development, disability services and affordable housing assists in the realisation of a number of human rights:

- The National Healthcare Specific Purpose Payment promotes the right to the highest attainable standard of physical and mental health (art 12(1), International Covenant on Economic Social and Cultural Rights (ICESCR); art 24, Convention of the Rights of the Child (CRC) and art 25, Convention on the Rights of Persons with Disabilities (CRPD)).
- The National Schools Specific Purpose Payment and the National Skills and Workforce Development Specific Purpose Payment promotes the right to education (art 13, ICESCR; art 28, CRC and art 24, CRPD), and the full realisation of the right to work through vocational training (art 6, ICESCR and art 27, CRPD).
- The National Affordable Housing Specific Purpose Payment promotes the right to an adequate standard of living (specifically in relation to housing) (art 11, ICESCR; art 27, CRC and art 28, CRPD).
- The determination does not stipulate how and to what ends the recipient States and Territories are to spend the National Disability Specific Purpose Payments, but the payments are likely to promote:
  - the right of children with disabilities to education, training and health care (art 23, CRC and art 7, CRPD);
  - rights concerning the ability of persons with disabilities to live independently and be included in the community (art 19, CRPD);
  - rights concerning the personal mobility of persons with disabilities (art 20, CRPD);
  - rights concerning habilitation and rehabilitation of persons with disabilities (art 26, CRPD); and
  - the right to take part in cultural life (art 30, CRPD)

in addition to the rights already mentioned above concerning health, education, work and adequate standard of living.

***Conclusion***

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues and enhances the protection of human rights.