

EXPLANATORY STATEMENT

Social and Community Services Pay Equity Special Account (Additional Program) Specification 2013

The *Social and Community Services Pay Equity Special Account (Additional Program) Specification 2013 (the Specification)* is made under paragraph 7(4)(a) of the *Social and Community Services Pay Equity Special Account Act 2012 (the Act)*.

Background

The Act establishes the Social and Community Services Pay Equity Special Account (**the Account**), which is a special account under section 21 of the *Financial Management and Accountability Act 1997*. The Account underpins the Commonwealth contribution to pay increases for social and community services sector workers in Commonwealth-funded programs. This extends to programs funded under agreements with and payments to States and Territories, such as National Partnership Payments and National Specific Purpose Payments.

Commonwealth supplementation is delivered through funding drawn down from the Account by eight Commonwealth Agencies. The supplementation is then paid to assist employers:

- who are covered by a pay equity order or to whom a pay equity order applies; and
- who receive funding, directly or indirectly, from the Commonwealth for the purposes of a program prescribed under the Act.

All of the programs within the scope of the Act, and therefore qualified to receive funds from the Account, are listed in Schedules 1, 2 and 3 to the Act. Subsections 7(4) and 8(8) of the Act provide flexibility to ensure that the Schedules accurately reflect the programs under which employers are able to receive assistance from the Act, and therefore are within the scope of the Act.

Purpose and operation

The purpose of the Specification is to add a further program to Schedule 1 to the Act, in accordance with paragraph 7(4)(a). Schedules 1 and 2 provide an exhaustive list of the Commonwealth programs that are within the scope of the Act.

The Specification adds *Early Intervention Services for Children with Disability (the program)* into the list of programs in Part 1 of Schedule 1 to the Act, under the heading Department of Families, Housing, Community Services and Indigenous Affairs.

The program was previously appropriated under *Services and Support for People with Disability*, which is listed in Part 1 of Schedule 1 to the Act. The program provides funding for significant early intervention measures for children with disability.

This Specification ensures that organisations funded under the *Early Intervention Services for Children with Disability* program, with employees who are covered by a pay equity order or to whom a pay equity order applies, will be eligible to receive funds from the Account.

The Specification will commence the day after registration. However, in accordance with subsection 9(3) of the Act, the Specification will not take effect until the end of the disallowance period. The disallowance period is specified as 5 sitting days by subsection 9(2) of the Act.

The Specification is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation

Consultation on the Specification was undertaken with Department of Prime Minister and Cabinet and Department of Finance and Deregulation.

Regulatory Impact Analysis

The Specification 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*

This Legislative Instrument is the Social and Community Services Pay Equity Special Account (Additional Program) Specification 2013

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 *Social and Community Services Pay Equity Special Account Act 2012 (the Act)* establishes the Social and Community Services Pay Equity Special Account (**the Account**) which is a special account under section 21 of the *Financial Management and Accountability Act 1997*. The Account underpins the Commonwealth contribution to pay increases for social and community services sector workers in Commonwealth-funded programs. This extends to programs funded under agreements with and payments to States and Territories, such as National Partnership Payments and National Specific Purpose Payments.

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Human rights implications

This Specification engages and promotes the human right to just and favourable conditions of work, as set out in Article 7 of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*. This extends to ensuring that remuneration provides all workers, as a minimum standard, with fair wages. It also includes ensuring equal remuneration for work of equal value without distinction of any kind – in particular, women being guaranteed conditions of work not inferior to those enjoyed by men.

Fair Work Australia determined that Social and Community Services Sector workers currently receive significantly less remuneration for performing comparable work to public sector employees. The Account facilitates funding to organisations with employees who are covered by a pay equity order or to whom a pay equity order applies, and who receive funding, directly or indirectly, from the Commonwealth. It will also ensure greater transparency of government.

Subsection 7(2) of the Act sets out that a purpose of the Account is to assist employers meet the costs of payments required to be made to employees as a result of the pay equity orders. In accordance with subsection 7(4) of the Act, the addition of the *Early Intervention Services for Children with Disability* program to the list of programs in Part 1 of Schedule 1 to the Act, ensures that employers providing social and community services under this program are also able to receive assistance from the Account.

This promotes their human right to just and favourable conditions of work.

Conclusion

This Specification is compatible with human rights.

**The Hon Julie Collins MP, Minister for Community Services, Minister for
Indigenous Employment and Economic Development, Minister for the
Status of Women**