



Social Security (Means Test Treatment of Private Trusts – Excluded Trusts) Declaration 2015

Social Security Act 1991

I, Finn Pratt, Secretary of the Department of Social Services, make this Declaration under subsection 1207P(4) of the *Social Security Act 1991*.

Dated 19 August 2015

Finn Pratt AO PSM
Secretary
Department of Social Services

1 Name of Declaration

This Declaration is the *Social Security (Means Test Treatment of Private Trusts – Excluded Trusts) Declaration 2015*.

2 Commencement

This Declaration commences on the day after it is registered.

3 Purpose

This Declaration specifies the classes of trusts that are excluded trusts for section 1207P of the Act.

4 Revocation

The following declarations are revoked:

Social Security (Means Test Treatment of Private Trusts – Excluded Trusts) Declaration 2005; and

Social Security (Means Test Treatment of Private Trusts – Excluded Trusts) (DEEWR) Declaration 2008.

5 Definitions

In this Declaration:

Act means the *Social Security Act 1991*.

community purpose means a purpose that is intended to benefit primarily the members of a particular community or group.

government body includes the following kinds of body:

- (a) a department or agency of the Commonwealth;
- (b) a department or agency of a State or Territory;
- (c) a municipal corporation or other local government body;
- (d) a body corporate in which the Commonwealth, a State or a Territory body holds a controlling interest.

income has the same meaning as in subsection 1207P(7) of the Act.

indigenous-held land has the same meaning as in section 4B of the *Aboriginal and Torres Strait Islander Act 2005*.

reference time means 7.30 pm, standard time in the Australian Capital Territory, on 9 May 2000.

6 Community trusts are excluded trusts

(1) Each trust that is a community trust is an excluded trust for the purposes of section 1207P of the Act.

(2) A *community trust* is a trust that has the sole or dominant purpose of:

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- (a) receiving, managing or distributing property transferred directly to it, or through an interposed entity, by a government body for a community purpose; or
 - (b) holding, managing or disposing of indigenous-held land, for a community purpose; or
 - (c) receiving, managing or distributing income that:
 - (i) has been generated from indigenous-held land; and
 - (ii) is applied for a community purpose.

7 Fixed trusts created before reference time are excluded trusts

- (1) Each trust that is a fixed trust created before the reference time is an excluded trust for the purposes of section 1207P of the Act.
- (2) However, a trust referred to in subsection (1) is not an excluded trust, if after the reference time:
 - (a) the trust has been varied under the trust deed; or
 - (b) there has been a transfer of property (other than income generated by the trust) to the trust.