

## EXPLANATORY STATEMENT

### *Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1)*

The *Social Security (Parenting Payment participation requirements – classes of persons) Instrument 2018 (No. 1)* (the Instrument) is made by the Minister for Jobs and Innovation under subsection 500(2) of the *Social Security Act 1991* (the Act).

#### **Purpose and Operation of Instrument**

The Instrument is made under subsection 500(2) of the Act and specifies two classes of persons. The effect of the Instrument is to subject parenting payment recipients in these classes of persons to the participation requirements in section 500A of the Act. They must meet these participation requirements in order to continue to qualify for parenting payment (paragraph 500(1)(ca) of the Act).

The Instrument supports the national expansion of ParentsNext announced as part of the Australian Government 2017–18 Budget.

#### ParentsNext

ParentsNext is a pre-employment program that assists parents with young children to identify their education and employment goals and to achieve these goals by participating in activities and connecting to relevant local services.

For many parents, particularly women, caring for young children means less time spent in the paid workforce. While valuable new skills and social networks can be acquired through parenting, parents also risk losing work-specific skills and the confidence to enter paid employment. For parents in receipt of government income support payments, this can increase the risk of long-term welfare dependency.

Since April 2016, ParentsNext has been operating in 10 locations around Australia. From 1 July 2018, ParentsNext will be expanded from its 10 existing locations to all non-remote areas of Australia. Expanding ParentsNext will benefit around 68,000 parents annually. With approximately 96 per cent of participants expected to be women and 10,000 of those women Indigenous, the program also aims to increase female participation in the workforce and support meeting Closing the Gap targets.

The expanded ParentsNext program will be delivered in two streams—a Targeted Stream and an Intensive Stream. The Targeted Stream will deliver tailored pre-employment assistance to eligible parents in jobactive employment regions throughout Australia, except where the Intensive Stream operates. The Intensive Stream will deliver the same services as the Targeted Stream, but will include greater financial assistance to support eligible parents gain employment. The Intensive Stream will operate in the 10 existing ParentsNext locations and in 20 additional locations where a high proportion of parenting payment recipients are Indigenous. The 30 ParentsNext Intensive Stream locations comprise 67 ‘local government areas’ (as determined by relevant State and Territory governments).

#### The Instrument – specifying classes of persons for ParentsNext

The Instrument will commence on 1 July 2018. It specifies two classes of persons – the Targeted Participant and Intensive Participant classes of persons – to accord with the two program streams in ParentsNext. Through specifying these classes of persons in the

Instrument, persons in those classes will be subject to the participation requirements in section 500A of the Act. They will also be subject to relevant aspects of the applicable compliance framework under the *Social Security (Administration) Act 1999*. Currently, the applicable compliance framework is contained in Division 3A of Part 3 of the *Social Security (Administration) Act 1999*. However, subject to the passage of the Social Services Legislation Amendment (Welfare Reform) Bill 2017, a new compliance framework is proposed to apply from 1 July 2018.

The Instrument also repeals the *Social Security (Parenting payment participation requirements – classes of persons) Specification 2016 (No. 1)* (the 2016 Instrument) which specifies a class of persons for the existing ParentsNext program. However, it saves classes of persons in the 2016 Instrument, including a class of person in the *Social Security (Parenting payment participation requirements – classes of person (DEEWR) Specification 2011 (No. 1)*, to enable the transition of existing ParentsNext participants into the Intensive Stream of the expanded ParentsNext program.

## **Explanation of the provisions**

### **Section 1 – Name of instrument**

This section provides that the title of the Instrument is the *Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1)*.

### **Section 2 – Commencement**

This section provides that the Instrument will commence on 1 July 2018.

### **Section 3 – Authority**

This section provides that the Instrument is made under subsection 500(2) of the Act.

### **Section 4 – Definitions**

**Section 4** defines terms used in the Instrument. The **note** to section 4 alerts the reader to the fact that certain expressions used in the Instrument are defined in the Act and have the meanings in the Act. For example, the term ‘PP child’ is used in the Instrument, and is defined in the Act. The Act provides that a person has a PP child if:

- (i) the person has a child, is a member of a couple, the child has not turned 6, and the person is the principal carer of the child; or
- (ii) the person has a child, is not a member of a couple, the child has not turned 8, and the person is the principal carer of the child.

The definitions in the Instrument are relevant to determining which persons fall within the classes of persons in sections 6 and 7. In particular:

- (a) The definition of **jobactive employment region** means the geographical regions in Australia in which employment services are delivered by jobactive employment service providers.
- (b) The definition of **jobless family** means a person (and the person’s partner, if the person is part of a couple) has not been in work for the 6 month period immediately prior to the day referred to in subsection 6(1). Whether a person is part of a jobless family is relevant when determining if a person is in the Targeted Participant class.

- (c) The definition of **listed local government area** lists each of the 67 local government areas applicable to the Intensive Participant class of persons. These are the local government areas as determined by State and Territory jurisdictions as at 4 April 2016. The boundaries of local government areas in which the Intensive Stream will be delivered have been preserved as at 4 April 2016 because it is the date on which the existing ParentsNext program commenced. This ensures consistency with the existing program and supports current participants from that program to transition into the Intensive Stream.
- (d) The definition of **work** is:
- (i) work that generates employment income; or
  - (ii) work where the person carries on a business and the most recent information reported to the Human Services Department in relation to the profitability of the business was that the business was generating a profit.

## **Section 5 – Schedule 1**

This section repeals the 2016 Instrument which specifies the class of persons subject to the existing ParentsNext program. The existing program will conclude on 30 June 2018 prior to commencement of the expanded program.

## **Section 6 – Class of persons – Targeted Participant**

**Section 6** specifies the Targeted Participant class of persons. Targeted Participants are people who face an increased risk of long term welfare dependency, and/or are approaching a point where they will have compulsory job search requirement (which occurs when their youngest child turns 6). Targeted Participants are parenting payment recipients who will benefit from extra support, through ParentsNext, to overcome barriers to their future employment.

**Subsection 6(1)** provides that a person is in the Targeted Participant class of persons if, on a particular day on or after 1 July 2018, the criteria set out in paragraphs 6(1)(a) – (e) apply to the person.

**Paragraph 6(1)(a)** requires that the person resides in a jobactive employment region but not in a listed local government area.

**Paragraph 6(1)(b)** requires that the person has been receiving a parenting payment for a continuous period of at least 6 months prior to the particular day.

**Paragraph 6(1)(c)** requires that the person has a youngest PP child who is at least 12 months old and under 6 years of age.

**Paragraph 6(1)(d)** requires that the person has not engaged in work in the 6 month period immediately prior to the particular day.

**Paragraph 6(1)(e)** requires that the person:

- is an early school leaver; or
  - is part of a jobless family and has a youngest PP child who is at least 5 years of age;
- or

- has been assessed as highly disadvantaged in their Job Seeker Classification Instrument and has a youngest PP child who is at least 3 years of age.

The Job Seeker Classification Instrument is a tool used by the Human Services Department to measure a person's relative level of disadvantage based on expected difficulty in finding employment due to their personal circumstances and labour market skills.

**Subsection 6(2)** provides that a person ceases to be in the Targeted Participant class of persons if the person ceases to reside in a jobactive employment region (that is not a listed local government area) or whose youngest PP child is no longer between 12 months and 6 years of age. This would occur when the person's youngest PP child turns 6 years old. It would also occur when the person has a baby, and therefore has a youngest PP child who is under 12 months of age.

### **Section 7 – Class of persons – Intensive Participant**

**Section 7** specifies the Intensive Participant class of persons. Although similar to the Targeted Participant criteria, the criteria for a person to be in the Intensive Participant class of persons are broader. In particular, Intensive Participants will begin participating when their child is younger, resulting in earlier intervention. This reflects the intent of the stream – to provide a higher level of support in areas where there are high levels of socio-economic disadvantage and/or where a high proportion of parenting payment recipients are Indigenous.

**Subsection 7(1)** provides that a person is in the Intensive Participant class of persons if, on a particular day on or after 1 July 2018, the criteria set out in paragraphs 7(1)(a) – (e) apply to the person.

**Paragraph 7(1)(a)** requires that the person resides in a jobactive employment region and in a listed local government area.

**Paragraph 7(1)(b)** requires that the person has been receiving a parenting payment for a continuous period of at least 6 months prior to the particular day.

**Paragraph 7(1)(c)** requires that the person has a youngest PP child who is at least 6 months old and is under 6 years of age.

**Paragraph 7(1)(d)** requires that the person has not engaged in work in the 6 month period immediately prior to the particular day.

**Paragraph 7(1)(e)** requires that the person:

- is an early school leaver; or
- has a youngest PP child who is at least 5 years of age; or
- has been assessed as highly disadvantaged in their Job Seeker Classification Instrument.

**Subsection 7(2)** provides that a person is also in the Intensive Participant class of persons if, on 30 June 2018, they were in the 'Participating Parent' class of persons, as specified in section 5 of the 2016 Instrument. Section 5 of the 2016 Instrument also saved the 'teenage parent' class of persons specified in the *Social Security (Parenting payment participation requirements – classes of person (DEEWR) Specification 2011 (No. 1)*. Subsection 7(2) has the effect of transitioning participants in the existing ParentsNext program into the Intensive Stream of the new program.

**Paragraph 7(3)(a)** provides that a person ceases to be in the Intensive Participant class of persons if the person ceases to reside in a listed local government area that is also part of a jobactive employment region.

**Paragraph 7(3)(b)** provides that a person ceases to be in the Intensive Participant class of persons if the person's youngest PP child turns 6 years old. The effect of this paragraph is that a person will continue to be in the Intensive Participant class even if they have another PP child subsequent to the one that caused them to fall within that class. By keeping a person within the Intensive Participant class of persons, support through the ParentsNext program is continuous, rather than ceasing for a 6-month period.

This may be contrasted to the cessation event in subsection 6(2) of the Instrument where a person will cease to be in the Targeted Participant class of persons if they have a PP child after the one that caused them to fall within the Targeted Participant class of persons.

### **Consultation**

Consultation has taken place in accordance with section 17 of the *Legislation Act 2003*.

The Department of Jobs and Small Business (the then named Department of Employment), undertook public consultations on program design for ParentsNext, including consultations regarding who should participate in ParentsNext, as reflected in the two classes of persons specified in this Instrument. Consultations included a discussion paper released on 12 September 2017, and consultation workshops held across Australia between 18 September and 5 October 2017.

Stakeholders responding to consultations included peak parenting and social welfare bodies, education institutions, employment services providers, child care organisations, health services providers, State and local government representatives, Indigenous organisations, and Commonwealth government agencies (including the Department of the Prime Minister and Cabinet, the Department of Social Services and the Department of Human Services).

### **Regulatory Impact Analysis**

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

The Regulation Impact Statement relating to the Indigenous Employment Measures in the 2017-18 Budget is attached to this Explanatory Statement at [Attachment B](#). The regulatory impact of the national expansion of ParentsNext as a whole was assessed as \$414,596 per annum, comprising a burden of \$359,944 for ParentsNext providers and \$54,652 for employers. This regulatory burden relates to providers and employers administering the Participation Fund and outcome payments to ParentsNext providers servicing persons in the Intensive Stream of ParentsNext, rather than the participation requirements resulting from the specification of classes of persons in the Instrument.

## **Attachment A**

### **Statement of Compatibility with Human Rights**

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

#### ***Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1) (the Instrument)***

This 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 Instrument and ParentsNext**

The Instrument is made under subsection 500(2) of the *Social Security Act 1991* (the Act) and specifies two classes of persons. The effect of the Instrument is to subject parenting payment recipients in these classes of persons to the participation requirements in section 500A of the Act. They must meet those participation requirements in order to continue to qualify for parenting payment (paragraph 500(1)(ca) of the Act).

The Instrument supports the national expansion of ParentsNext announced as part of the Australian Government 2017–18 Budget.

ParentsNext is a pre-employment program that assists certain parents with young children to identify their education and employment goals and to achieve these goals by participating in activities and connecting to relevant local services.

For many parents, particularly women, caring for young children means less time spent in the paid workforce. While valuable new skills and social networks can be acquired through parenting, parents also risk losing work-specific skills and the confidence to enter paid employment. For parents in receipt of government income support payments, this can increase the risk of long-term welfare dependency.

Since April 2016, ParentsNext has been operating in 10 locations around Australia. From 1 July 2018, ParentsNext will be expanded from its 10 existing locations to all non-remote areas of Australia. Expanding ParentsNext will benefit around 68,000 parents annually. With approximately 96 per cent of participants expected to be women and 10,000 of those women Indigenous, the program also aims to increase female participation in the workforce and support meeting Closing the Gap targets.

The existing program will conclude on 30 June 2018 prior to commencement of the expanded program after 1 July 2018.

The expanded ParentsNext will be delivered in two streams – a Targeted Stream and an Intensive Stream. The Targeted Stream will deliver tailored pre-employment assistance to eligible parents in jobactive employment regions throughout Australia, except where the Intensive Stream is operating. The Intensive Stream will deliver the same services as the Targeted Stream, but will include greater financial assistance to support eligible parents gain employment. The Intensive Stream will operate in the 10 existing ParentsNext locations and 20 additional locations where a high proportion of parenting payment recipients are Indigenous.

The Instrument will commence on 1 July 2018. It specifies two new classes of persons – the Targeted Participant and Intensive Participant classes of persons – to accord with the two new ParentsNext program streams.

The Targeted Participant and Intensive Participant classes of persons will be subject to participation requirements in section 500A of the Act. They will also be subject to relevant aspects of the applicable compliance framework under the *Social Security (Administration) Act 1999*. Currently, the applicable compliance framework is contained in Division 3A of Part 3 of the *Social Security (Administration) Act 1999*. However, subject to the passage of the Social Services Legislation Amendment (Welfare Reform) Bill 2017, a new compliance framework is proposed to apply from 1 July 2018.

## **Human rights implications**

The Instrument engages the following human rights:

- the right to social security – article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and article 26 of the Convention on the Rights of the Child (CRC)
- the right to an adequate standard of living – article 11 of ICESCR and article 27 of the CRC
- the right to work – article 6 of ICESCR and article 11 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)
- the right to education – article 13 of ICESCR, article 10 of CEDAW and article 28 of the CRC
- the right to equality and non-discrimination – articles 2, 16 and 26 of the International Covenant on Civil and Political Rights (ICCPR), article 2 of the CRC, and article 5 of the International Convention on all Forms of Racial Discrimination (CERD)
- the obligation to consider the best interests of the child in all actions concerning children – article 3 of the CRC.

### **1. Right to social security/Right to an adequate standard of living**

Article 9 of the ICESCR recognises the right of every person to social security. The right to social security requires State Parties to establish a social security system and, within their maximum available resources, ensure access to a social security scheme that provides 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. Article 26 of the CRC recognises the right of every child to benefit from social security, taking into account the resources and circumstances of both the child and the person responsible for the child.

Article 11 of the ICESCR recognises the right of every person to an adequate standard of living including adequate food, water and housing, and to the continuous improvement of living conditions. Article 27 of the CRC also recognises the right of the child to an adequate standard of living for the child's physical, mental, spiritual, moral and social development.

The Committee on Economic, Social and Cultural Rights (CESCR) has stated that limitations on this right must be proportional; the least restrictive alternative should be adopted where several types of limitations are available; and, where such limitations are permitted, they should be of limited duration and subject to review. The CESCR is a body of independent

experts that monitor the implementation of the ICESCR. The CESCR's views are influential but not binding on States Parties to the ICESCR.

By virtue of the Instrument, a person who falls within either of the Targeted Participant or Intensive Participant classes of persons will have participation requirements under section 500A of the Act. Failure to meet these requirements will result in the person being subject to the relevant compliance action under the *Social Security (Administration) Act 1999*. This may include the suspension, reduction or cancellation of the person's parenting payment, depending on the compliance framework that applies to ParentsNext participants, and the person's particular circumstances. This engages the right to social security and the right to an adequate standard of living.

*Reason for limitation - legitimate objective*

The objective of ParentsNext is to encourage and assist eligible parents who are in receipt of parenting payment and have young children to identify and make progress towards achieving their education and employment goals through participation in activities and connecting to local services. This is a legitimate objective because the attainment of educational qualifications and skills that support undertaking work assists parents to find employment when their children reach school age, and reduces the risk of long-term poverty and welfare dependency for themselves and their children.

*Rational connection between the limitation and the objective*

Current ParentsNext providers have reported that participants are frequently reluctant to participate in programs like ParentsNext, despite its benefits. Participants often come from families that are subject to intergenerational disadvantage, and may suffer from complex circumstances that act as barriers to employment and education (like homelessness, domestic violence, drug and alcohol dependency, mental health challenges, and/or language and numeracy difficulty). This can mean they are unable to identify ways to improve their education and work prospects, and are discouraged from seeking (or unable to seek) support.

The risk of compliance action has proved to be effective in ensuring participants engage with providers delivering ParentsNext and similar programs, and are able to benefit from the services that they offer (including support to address the barriers to employment and education identified above). Linking participation requirements to the continued receipt of income support payments also acts as a re-engagement mechanism to ensure participants continue to actively participate and are focussing on the long term outcomes for themselves and their children.

Qualitative research undertaken in the 10 locations in which ParentsNext has operated since April 2016 indicates that the program has positively impacted the level of confidence and self-esteem of participants. The majority of participants consider it to be an effective program. Ninety per cent of current ParentsNext providers agree that it improves participants' work readiness and their chances of finding and keeping a job; connects participants to assistance to address barriers to employment and education; and engages participants in activities to achieve their employment and education goals. The program has also delivered a notable increase in networks and partnerships formed, including working relationships between ParentsNext providers and parents' support networks.

To date, ParentsNext has helped around 22,000 participants to meet their individual employment and education goals and prepare for work, including by undertaking more than



39,000 activities like education, training and non-vocational services. Nearly 400 participants have left the program after finding stable employment.<sup>1</sup>

*Limitation is reasonable, necessary and proportionate*

Any limitations there may be to the right to social security and the right to an adequate standard of living, due to imposing requirements directed at overcoming barriers to employment, are reasonable and necessary in view of the evidence outlined above. The limitations are also proportionate for the reasons discussed below.

Persons in each class are only required to attend quarterly interviews with ParentsNext providers, sign a Parenting Payment Employment Pathway Plan containing a compulsory activity, and participate in that activity. This is much less than standard participation requirements for those serviced by jobactive employment service providers, which usually include more regular appointments, monthly job search requirements, and more intensive activities with minimum hourly requirements.

A ParentsNext provider is required to work actively with a person to understand their specific needs, the barriers to employment and education that they face, and their family circumstances in determining an appropriate compulsory activity. In signing the Parenting Payment Employment Pathway Plan, the person agrees that the compulsory activity is appropriate and undertakes to complete the activity. Activities may include, for example, updating existing skills or gaining recognition of prior skills; training or further study (particularly Year 12 or Certificate III qualifications for parents who have not completed the final year of secondary school); referrals to local services, like parenting services; literacy and numeracy courses; or referrals to services to address non-vocational barriers to employment like confidence building, health care or counselling.

In relation to the compliance action that may (or will) be taken if a person fails to comply with their participation requirements, if a participant's parenting payment is suspended, payment is often reinstated in full (including back payment) once the participant re-engages. Payment reduction or cancellation will not occur if the person has a reasonable excuse for the failure. A reasonable excuse includes, for example, where the person is suffering from a serious illness, or if the person has unforeseen family or caring responsibilities.

Further, participants will also be able to seek a review of any decision to apply a financial penalty or to cancel their payment. Finally, notwithstanding non-compliance, Family Tax Benefits payable to the person remain unaffected.

ParentsNext providers are made aware of the risk of participants not meeting participation requirements and work actively to support them to do so. Once commenced in the program, participants usually see its benefits very quickly and choose to actively engage for the benefit of themselves and their families.

## **2. Right to work**

Article 6 of ICESCR recognises the right of every person to the opportunity to gain a living by work which they freely choose or accept, and Article 11 of CEDAW provides for equality

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<sup>1</sup> Data as at 31 January 2018.

of men and women in employment, including the right to free choice of profession and employment.

The Instrument promotes the right to work by increasing the opportunities of those within the specified classes to gain employment. Participation in the ParentsNext program will assist those persons to identify their education and employment goals and to achieve these goals by participating in activities and connecting to local support services. Participants will not be required to look for work, but will be supported to increase their education, and build appropriate employment-related skills and life skills to better enable them to access work when their children commence schooling.

### **3. Right to education**

Article 13 of ICESCR recognises the right of every person to education. Relevantly, it recognises that secondary education, including technical and vocational secondary education, should be made generally available and accessible to all. Article 28 of the CRC recognises the right of children to education and Article 10 of CEDAW provides for equality in access to education for women and for the organisation of programs for girls and women who have left school prematurely.

The Instrument promotes the right to education by providing support for parents, some of whom are also children, to continue their education. Participants who fall within the Intensive Participant and Targeted Participant classes of persons, especially those who are early school leavers (that is, persons who have not completed the final year of secondary school or an equivalent qualification and are under 22 years) will receive support to identify education or training that will assist them to attain a Year 12 or Certificate III qualification. The program can also assist participants to address literacy and numeracy skills, where needed.

### **4. Right to equality and non-discrimination**

The right to equality and non-discrimination is protected by articles 2, 16 and 26 of the ICCPR and article 2 of the CRC. This is a fundamental human right that is essential to the protection and respect of all human rights. It provides that every person is entitled to enjoy their rights without discrimination of any kind on the basis of a number of prohibited grounds, and that all people are equal before the law and entitled without discrimination to the equal and non-discriminatory protection of the law.

The ICCPR defines 'discrimination' as a distinction based on a personal attribute (for example, race, sex or religion), which has either the purpose ('direct' discrimination), or the effect ('indirect' discrimination), of adversely affecting human rights. The UN Human Rights Committee has explained indirect discrimination as 'a rule or measure that is neutral on its face or without intent to discriminate', which exclusively or disproportionately affects people with a particular personal attribute. Views of the Committee are influential but not binding on States Parties to the ICCPR.

Article 5 of the CERD reinforces the general prohibition in the ICCPR, and recognises the right of everyone to equality before the law, without distinction as to race, colour, or national or ethnic origin.

Articles 2, 3, 4 and 15 of CEDAW further describe the content of the right to equality and non-discrimination as it relates to women, outlining the specific elements that States Parties are required to take into account to ensure relevant rights are maintained for women.

The Instrument, by specifying a particular group of parents who comprise mostly young people, early school leavers, and females, engages the right to equality and non-discrimination. The ParentsNext program is designed to support specific parents with young children between 6 months and 6 years, including those under 22 years. The identification of participants based on their age is direct discrimination on the basis of a personal attribute and therefore limits the right to equality and non-discrimination.

The selection of the additional 20 Intensive Stream locations based on the high level of parenting payment recipients who are Indigenous is also direct discrimination on the basis of race, and therefore also limits the right to equality and non-discrimination.

ParentsNext could also be considered indirectly discriminatory on the basis of sex, as the vast majority of those affected by the Instrument will be female. Any indirect discrimination against females may limit the right to equality and non-discrimination.

*Permissible limitation - legitimate objective*

It is appropriate to restrict the eligibility for ParentsNext to particular groups of parents as the program is designed to provide those groups with support to address the specific disadvantage they face.

Joblessness among families is a significant social and economic problem, with Australia having one of the highest proportions of children living in jobless families in the OECD.<sup>2</sup>

The majority of parents in jobless families are women and, at any one time there are around 11,000 teenage parents on parenting payment. Around 80 per cent of these parents have not completed Year 12 or equivalent qualifications, and over 25 per cent have only primary school as their highest level of education. Teenage parents who are unemployed are far more likely to have poor employment prospects, low educational attainment, low incomes, poor health and low educational and employment outcomes for their children<sup>3</sup> – contributing to the risk of long term welfare dependency for themselves and their children.

It is also appropriate that twenty of the Intensive stream locations were selected based on the proportion of parenting payment recipients who were Indigenous as one of the objectives of the program is to help Close the Gap in Indigenous employment. Indigenous women have lower employment rates than Indigenous men and non-Indigenous Australians.<sup>4</sup> Indigenous Australians are around 5 five times more likely than non-Indigenous Australians to be on parenting payment, with around 45,000 Indigenous parents on the payment.<sup>5</sup>

*Rational connection between the limitation and the objective*

If parents on income support are assisted to gain employment-related skills and education earlier, as well as using the time when their children are young to stabilise their family life,

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<sup>2</sup> OECD, 11/7/2014, Children in families by employment status:

[http://www.oecd.org/els/family/LMF\\_1\\_1\\_Children\\_in\\_families\\_by\\_employment\\_status\\_Jul2014.pdf](http://www.oecd.org/els/family/LMF_1_1_Children_in_families_by_employment_status_Jul2014.pdf)

<sup>3</sup> See for example Whiteford, P. (2009). Family Joblessness in Australia, Paper commissioned by the Social Inclusion Unit of PM&C, Canberra.

<http://apo.org.au/research/family-joblessness-australia>

<sup>4</sup> Australian Government, 2018, Closing the Gap: Prime Minister's Report 2018

<https://closingthegap.pmc.gov.au/sites/default/files/ctg-report-2018.pdf?a=1>

<sup>5</sup> DSS Income Support Demographic Data <https://data.gov.au/dataset/dss-payment-demographic-data>

they are more likely to gain ongoing employment and less likely to need to rely on income support on a continuing basis. Expanding ParentsNext will assist more parents to identify their barriers to education and employment, to develop a plan to address those barriers and to participate in activities to meet their education and employment goals, thereby increasing their capacity to work in the future.

Given the high level of need amongst Indigenous parents, it is appropriate that the Australian Government identify locations to deliver the Intensive Stream of ParentsNext where a high proportion of parenting payment recipients are Indigenous. This will result in Indigenous parents being more likely to receive assistance from ParentsNext, receiving that assistance sooner, and receiving a higher level of assistance than if they had been in the Targeted stream.

*Limitation is reasonable, necessary and proportionate*

The identification of specific groups of parents, including by reference to their age, their children's age, their race, and indirectly, their sex, is reasonable, necessary and sufficiently precise to assist those parents to improve their family wellbeing, educational attainment and employment prospects and to begin to disrupt the intergenerational disadvantage from which many suffer. It also recognises that the right to education and the right to work are essential for realising other human rights.

## **5. Rights of the Child**

The obligation to consider the best interests of the child as a primary consideration is contained in article 3 of the CRC. The objective of ParentsNext is to encourage and assist parents of young children in receipt of parenting payment to progress towards their education and employment goals. The attainment of educational qualifications and work-specific skills will assist parents to find employment in the future, therefore helping to disrupt intergenerational disadvantage and reducing the risk of long term welfare dependency for participating parents and their children.

The rights of children are given primary importance in ParentsNext. A ParentsNext provider is required to work actively with participants to understand their specific needs, the barriers to employment and education that they face, and their family circumstances. Participation in ParentsNext will connect parents, and by proxy their children, with local services and community organisations which will assist and support them to meet their identified needs. Depending on a person's circumstances, support provided to the person may include assistance with parenting skills or to access appropriate child care. It would not include any activities or services that would compromise their ability to parent.

Finally, notwithstanding non-compliance of a participant with participation requirements, Family Tax Benefits payable to that person will remain unaffected.

## **Conclusion**

The Instrument is compatible with human rights. It promotes the right to work, the right to education, and the rights of the child. To the extent that it limits rights to social security and an adequate standard of living, or the right to equality and non-discrimination, those limitations are for a legitimate objective, have a rational connection to achieving the objective, and are reasonable, necessary and proportionate to achieve the objective. That objective is to assist parents with young children to identify their education and employment

goals and to attain these goals by participating in activities and connecting to relevant local services.

**Attachment B**

**Regulation Impact Statement Summary**

**Indigenous Employment Measures  
2017-18 Budget**

**Regulation Impact Statement**

**Office of Best Practice Regulation ID N<sup>o</sup>: 21338**

## 1. Introduction

This Regulation Impact Statement (RIS) relates to the Indigenous employment measures in the 2017-18 Budget. The RIS has been prepared in accordance with the Australian Government Guide to Regulation 2014 and more recent guidance notes issued by the Office of Best Practice Regulation (OBPR).

This RIS addresses the required seven questions, extending the previous Early Assessment RISs prepared in 2016 and 2017:

- What is the policy problem to be solved? (Section 2)
- Why is government action needed? (Section 3)
- What policy options are being considered? (Section 4)
- What is the likely net benefit of each option? (Section 4)
- What is the best option from those you have considered? (Section 4)
- Who will you consult about these options and how will you consult them? (Section 5)
- How will you implement (Section 6) and evaluate (Section 7) your chosen option?

Overall, the Indigenous measures in the 2017-18 Budget have a regulatory cost estimated to be \$0.46 million per annum. This is offset against the *Better Targeting of Assistance to Support Jobseekers* measure announced in the 2017-18 Budget.

## 2. The problem

As at 2014-15, less than one in two (48.4 per cent) working age Indigenous Australians were in work, compared to nearly three-quarters (72.6 per cent) of working age non-Indigenous Australians. This translates to a gap of 101,400 Indigenous Australians not in work.

**Chart 1: Comparison of Indigenous and non-Indigenous labour market indicators**



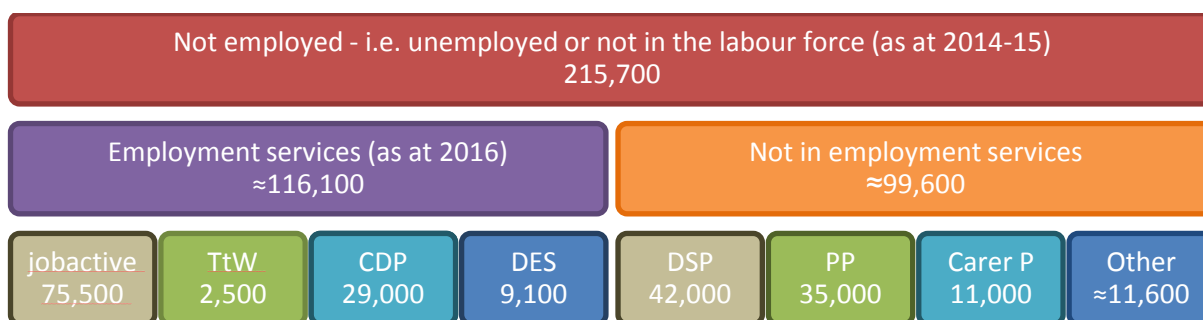
Evidence<sup>6,7</sup> shows that low employment rates will continue to reduce Indigenous health, living standards and the social and emotional wellbeing of Indigenous Australians as long as the gap persists. Low rates of Indigenous employment are creating negative perceptions of Indigenous Australians. Beyond Blue found that one-third of people believe Indigenous Australians are “lazy” and should “behave more like other Australians”.<sup>8</sup>

<sup>6</sup> Waddell, G. and Burton, K. 2006 Is Work Good for your Health and Well-being?

<sup>7</sup> Gray, M. Hunter, B. and Biddle, N. 2014, The Economic and Social Benefits of Increasing Indigenous Employment.

<sup>8</sup> Beyond Blue, 2014 Discrimination against Indigenous Australians: A snapshot of the views of non-Indigenous people aged 25-44.

## Chart 2 – Indigenous Australians unemployed and not in the labour force



### Employment services

Of the 215,700 Indigenous Australians (aged 15-64 years) who are not in work, around 116,400 are participating in employment services (jobactive, Community Development Programme (CDP), Disability Employment Services (DES), and Transition to Work (TtW)). Indigenous Australians in these services are significantly less likely to find work – for example, in jobactive, which services around 75,500 Indigenous Australians, an Indigenous Australian is around one-third less likely to be placed into a job for 26 weeks compared to a non-Indigenous Australian ([Attachment A](#) – provides further information on Department of Employment programs).

Indigenous Australians are over three times more likely to be in jobactive than other Australians. jobactive administrative data shows that Indigenous job seekers need to overcome a number of significant barriers to find work – with Indigenous job seekers:

- nearly twice as likely to be homeless, compared to other job seekers;
- more than twice as likely to be ex-offenders; and
- one-and-a-half times more likely to live in a regional area.

During extensive consultations, stakeholders identified numerous barriers to Indigenous employment, including a number of issues with getting Indigenous job seekers out of employment services and into work, findings included:

- the need for greater collaboration between employment service providers;
- some jobactive providers lack both the specialised cultural awareness to work with Indigenous Australians and the capacity to work with employers to identify appropriate positions for Indigenous Australians;
- many businesses lack the strategies, and the cultural capabilities, that will allow them to effectively find and retain Indigenous staff. Employers are not able to learn from others' experiences, as many employers are not willing to share their failings;
- one-quarter of Indigenous job seekers have a criminal record (compared to 9 per cent for non-Indigenous job seekers) – which can be a major barrier to employment; and
- Indigenous job seekers are disproportionately young (with 47 per cent of Indigenous Australians aged under 20). Indigenous youth often need extra assistance on the pathway to work with only 59 per cent of Indigenous students achieving Year 12 (compared to 85 per cent for non-Indigenous students).

### Not in employment services



Of those Indigenous Australians not in work, around 100,000 are not receiving any assistance from employment services. This includes including around 42,000 Disability Support Pension (DSP) and 35,000 Parenting Payment (PP) recipients (see Chart 2). Indigenous Australians not in work proportionally make up 6 per cent of all DSP recipients and 13 per cent of all PP recipients not in work.

The Organisation for Economic Co-operation and Development (OECD) research has shown that not participating in the labour market reinforces the cycle of inequality.<sup>9</sup> This can be seen in the Australian case with more than nine-in-ten Indigenous DSP recipients and more than three-quarters of Indigenous PP recipients still on income support four years later. For non-Indigenous Australians, more than nine-in-ten DSP recipients and 60 per cent of PP recipients are still on income support four years later. Critically, Indigenous Australians are overrepresented on both payments – they are twice as likely to receive DSP and five times more likely to receive Parenting Payment than other Australians.

Given the number and overrepresentation of Indigenous Parenting Payment recipients, there was substantial focus on consulting with Indigenous parents. During consultations, parents frequently talked about wanting to work, but identified a number of barriers to employment. The most common barrier was access to childcare and the cost, with parents often unaware of the available supports. Parents also noted the limited assistance available through jobactive and the lack of support tailored towards parents.

### **3. Objectives of government action**

In 2008 the Council of Australian Governments (COAG) agreed to seven Closing the Gap targets, including halving the gap in employment outcomes between Indigenous and non-Indigenous Australians by 2018. Since the introduction of the Closing the Gap employment target in 2008 the gap has widened by 3.0 percentage points.

The objective of the 2017-18 Budget measures is to accelerate progress towards achieving the employment Closing the Gap target, which is not on track to be met by 2018. As shown in the previous section, supporting Indigenous Australians to increase their labour market prospects will require sustained Government action to support more Indigenous Australians into the labour force (particularly parents), and to strengthen the services available to place Indigenous job seekers in work.

This approach recognises that a narrow focus on employment services will not be sufficient to making inroads towards achieving the employment Closing the Gap target. It should be noted that other Portfolios have been asked to bring forward proposals to improve outcomes for Indigenous Australians across a range of focus areas, including but not limited to: Health; Early Childhood and School Education; and Justice and Community Safety.

Indigenous Australians have much lower levels of educational attainment than other Australians and this is an important explanation for their relatively low level of employment.

Health problems can make it difficult or impossible to work, or make it more difficult to find work by lowering productivity or restricting the range of jobs a person can manage. Compared with the non-Indigenous population there are higher rates of ill-health and

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<sup>9</sup> OECD 2013 Activating jobseekers: Lessons from seven OECD countries.

disability among the Indigenous population. This is likely to be an important factor in explaining the lower rates of employment of Indigenous Australians.

There have been several studies that have estimated the impact of employment rates for Indigenous Australians after being arrested. Research indicates having been arrested reduces the probability of being employed by about 18 per cent for Indigenous males and 13 per cent for Indigenous females.<sup>10</sup> 15 per cent of the difference in employment–population rates between Indigenous and non-Indigenous Australians was explained by the differences in the arrest rates.

Historical data shows that creating sustainable economic and employment growth is the fundamental avenue for increasing Indigenous employment. However growth alone is not enough – the 2000s mining boom generated a large number of jobs for Indigenous Australians, but even at the height of the boom, the gap was still close to one-quarter of the Indigenous population.

Key labour market indicators show that Indigenous job seekers need to overcome a number of significant barriers to find work. Some of the barriers to Indigenous employment include poor education outcomes, poor job retention, criminal record checks, caring and family responsibilities and poor health outcomes.

These challenges are often exacerbated by policy inconsistencies. For example, the support available to Indigenous parents is not consistent with them being a participation priority. If an Indigenous parent is in ParentsNext or if they are referred on to jobactive, they are unable to access existing wage subsidies until they have been participating in employment services for six months.

#### **4. Policy options**

To increase Indigenous employment, three options were considered: the status quo (Option 1), mandatory reporting (Option 2) and the 2017-18 Budget measures (Option 3).

The preferred approach to grow Indigenous employment was the 2017-18 Budget measures due to their broad nature, with measures to:

- increase the number of Indigenous Australians participating in the labour market (ParentsNext);
- support employers (wage subsidies); and
- provide more effective mainstream employment services to prepare Indigenous Australians for work (pre-employment training, mentoring, expanding Transition to Work).

The measures are largely based on expanding and strengthening existing programs, and as such have a minimal regulatory cost. By contrast, maintaining the status quo will, by definition, have no impact on Indigenous employment, and is not preferred.

Mandatory reporting could have a major impact on demand for Indigenous workers. However, the proposal is highly regulatory in nature, while having no direct impact on

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<sup>10</sup> Borland, J. and Hunter, B. 2000. 'Does crime affect employment status?—the case of Indigenous Australians', *Economica*, 67(1): 123–44.

Indigenous labour supply, the number of Indigenous Australians in work or improving their job retention.

### **Option 1 – Status quo (not preferred)**

The Government could decide not to implement additional or changed measures in respect to Indigenous job seekers but wait until the long-term impacts of recent changes to mainstream employment services have been evaluated. These changes include the introduction of the:

- jobactive employment service;
- ParentsNext pre-employment service in ten Local Government Areas;
- Transition to Work youth employment service;
- Empowering YOUth Initiatives; and
- Youth Jobs PaTH.

jobactive presented a shift towards more outcomes focused employment services. ParentsNext extends light-touch participation to parents in ten locations. The other new initiatives focused on reducing youth unemployment (a major issue for the Indigenous cohort).

Indigenous Australians benefit from these new services. For example, Indigenous Australians make up 18 per cent of Transition to Work participants and 12 per cent of ParentsNext participants.

Delaying any changes to 2020 would allow them to be taken forward as part of a new Employment Services contract post 1 July 2020, with the benefit of evaluations of jobactive and other programs.

If no changes are made, this would devalue Indigenous employment as an issue. Indigenous job seekers will continue to be overlooked for jobs due to a range of barriers such as the lack of employability skills and limited work experience.

By definition, if no changes are made to existing programs and no new measures are implemented, then there is no regulatory cost or impact.

### **Option 2 – Mandatory reporting (not preferred)**

#### **Description**

Introducing mandatory reporting will encourage employers to adopt measures to increase Indigenous employment. Employers with more than 100 employees would be required to report against a set of indicators. Employers would need to report on:

- numbers and proportions of employees by Indigenous status and level;
- numbers and proportions of senior managers by Indigenous status;
- average tenure of Indigenous and non-Indigenous staff;
- recruitment and retention rates for Indigenous and non-Indigenous staff;
- procurement/supply/purchasing through Indigenous businesses;
- any organisational commitments/targets to Indigenous employment or purchasing;
- organisational strategies to increase Indigenous employment and purchasing;
- whether the organisation has a Reconciliation Action Plan and/or is a Supply Nation member; and
- whether the organisation uses any government employment or training programs.

The reporting data would be used to develop educational materials and help employers to identify areas for focus, develop informed strategies and measure performance against peers over time. Further, it would help identify industry and role specific information that would inform future Indigenous employment policy.

### **Benefits**

Mandatory reporting will result in better evidence being provided to employers on where they can make improvements to their workforce profile and their Indigenous equality, recruitment and retention frameworks. Mandatory reporting would also create a level of accountability on Indigenous employment for large employers.

Mandatory reporting has the potential to generate a strong boost to employer demand for Indigenous job seekers. However, it would not improve the effectiveness of employment services nor would it increase the participation of Indigenous job seekers.

However as detailed below, mandatory reporting carries a very high regulatory cost. During consultations on changes to Workplace Gender Equality reporting, employers reported that mandatory reporting can be burdensome (see the *Workplace Gender Equality Reporting RIS February 2015*). In particular, concerns were raised around more detailed data, such as mapping data to occupation. However it is this level of detail that provides the best understanding of what is happening, and working, in terms of Indigenous employment in Australian businesses.

### **Regulatory costs**

The regulatory impact for mandatory reporting is identified as the increased time and resources for relevant employers to collect information as well as prepare and submit reports. Mandatory reporting for Indigenous employees is based on Workplace Gender Equality Reporting RIS from February 2015 for female employees and the same parameters and assumptions have been used for this costing. This is because it will affect the same number of businesses and the reporting requirements will be a similar length. The annual cost of mandatory reporting is significant – approximately \$19.8 million for 4,660 reporting employers (businesses with over 100 employees). This is an average annual cost of \$4,250 per business.

Employers have reported that sourcing the remuneration data and manipulating the data to fit into the occupational categories is very onerous and time consuming. This option places the greatest regulatory cost burden on employers. Feedback from the consultation process, through the department's online survey conversations with employers and submissions, shows that the impost of reporting varies considerably between businesses. Some reporting organisations estimated the cost of reporting was less than \$100, while others estimated the cost to be \$140,000. The median cost of reporting for the current requirements is estimated by the department to be \$1,500.

The full consideration of this option must include whether this benefits not only Indigenous Australians and employers but also other stakeholders, such as the business community, shareholders, the wider economic environment and social analysts. On balance, it is not an efficient or effective way to improve Indigenous employment outcomes.

As the Government is not pursuing this option, a regulatory offset has not been identified. The department is seeking to pursue net reductions in compliance costs and will work with affected stakeholders and across Government to identify regulatory burden reductions where appropriate.

### Option 2 – Regulatory Burden and Cost Offset (RBCO) Estimate Table

Average Annual Compliance Costs (from business as usual)				
Sector/Cost Categories	Business	Not-for-profit	Individuals	Total by cost category
Administrative Costs	\$19,827,150	\$0	\$0	\$19,827,150
Substantive Compliance Costs	\$0	\$0	\$0	\$0
Delay Costs	\$0	\$0	\$0	\$0
Total by Sector	\$19,827,150	\$0	\$0	\$19,827,150
Proposal is cost neutral? No				
Proposal is deregulatory No				
Balance of cost offsets \$ <u>N/A</u>				

### Option 3 – 2017-18 Budget measures (preferred)

#### Description

The 2017-18 Budget measures present a comprehensive package to increase Indigenous employment to help meet the Government's Closing the Gap employment target, by:

- boosting the participation of Indigenous parents in the labour market (*ParentsNext – intensive service offering*); and
- enabling stronger engagement by employment services providers with Indigenous communities and provide enhanced support for Indigenous participants (*Closing the Gap – Employment Services*).

A key principle of the 2017-18 Budget measures is to build the capacity of Indigenous communities and employment service providers to contribute to achieving parity in employment outcomes for Indigenous Australians. Throughout the consultation process, providers said that the reason for not hiring Indigenous staff members was a lack of experience and skills. Experience and upskilling is needed to ensure Indigenous Australians participating in employment services can convert strong engagement into strong employment outcomes. These measures give providers the tools to deal directly with job seekers, for example, mentoring may help to bridge the cultural gap so that employers are able to learn from the past experience of others and the Yarrabah pilot is supported by measures to build the community's capacity to deliver employment services.

The Indigenous employment measures in the 2017-18 Budget are:

### ***ParentsNext – intensive service offering***

ParentsNext is a light touch engagement program that supports parents, particularly women, to plan and prepare for returning or joining the workforce. It currently operates in ten locations.

The 2017-18 Budget includes expanding ParentsNext from its existing locations to all jobactive regions across Australia. The expansion will be delivered in two streams:

- one stream will include an intensive service extended to 20 locations where a high number of Parenting Payment recipients are Indigenous; and
- the other stream will constitute a more targeted ParentsNext program that will be available in all jobactive regions across Australia.

The intensive service offering will help boost the participation of Indigenous parents in the labour market and help achieve the Closing the Gap employment targets. The intensive service offering will include a new Participation Fund, so the provider receives additional funding per commencement (to cover activities such as pre-employment training), along with an outcome bonus to encourage successful placements into education or employment.

This RIS only deals with the intensive service offering.

### ***Closing the Gap – Employment Services***

The *Closing the Gap – Employment Services* measure includes a number of elements, which enable stronger engagement by employment services providers with Indigenous communities and provide enhanced support for Indigenous participants. This measure includes:

- delivering pre-employment training and mentoring for Indigenous jobactive participants through the Employment Fund;
- expanding access to the Transition to Work program to all Indigenous job seekers aged 21 years or under;
- additional employment assistance to Indigenous prisoners to ensure they are provided with better preparation and assistance to transition from prison (through the Prison to Work program);
- supporting community-designed and delivered employment services in Yarrabah, Queensland;
- allowing immediate access to increased wage subsidies (from \$6,500 to \$10,000) for Indigenous job seekers; and
- increasing the emphasis on Indigenous outcomes in the jobactive performance framework.

### **Benefits**

The measures will drive community led solutions, increase the number of Indigenous Australians engaged in the labour market and build the capacity of employment services to better engage with Indigenous communities and connect Indigenous job seekers to jobs

through additional access to the Employment Fund and immediate access to increased wage subsidies for Indigenous job seekers. A key principle of the package is to build the capacity of Indigenous communities, employers and employment service providers to contribute to achieving parity in employment outcomes for Indigenous Australians. The measures seek to reduce barriers to greater Indigenous employment participation by improving job retention, encouraging youth educational attainment and employment participation, and supporting ex-offenders and parents into the labour market.

Three of the major focus groups are Indigenous parents, ex-offenders and youth. As a result of these measures, one-quarter of Indigenous Parenting Payment recipients (nearly 9,000 Indigenous parents, at a point in time) will now be receiving assistance through ParentsNext, which received strong support during consultations. When fully implemented, the Prison to Work program will help 4,940 Indigenous Australians per year prepare for the labour force prior to release (about 52 per cent of eligible Indigenous prisoners will participate voluntarily). The package will also provide intensive support to 6,500 Indigenous youth per year through the Transition to Work program (approximately 15,100 Indigenous Australians between the ages of 15 and 24 are unemployed).

ParentsNext (in the current ten locations) operates as a small scale program, with target locations having a small Indigenous population. The evaluation of the predecessor to ParentsNext found the program to be effective, with early case studies suggesting results continue to be positive. By expanding and intensifying the service in 20 locations with a high Indigenous population, the program provides a cost effective strategy to increasing Indigenous labour force participation, essential in Closing the Gap.

Transition to Work is a program that assists young people aged 15-21 with intensive, pre-employment support to improve their work-readiness and help them into work (including apprenticeships and traineeships) or education.

Expanding Transition to Work eligibility would further support young Indigenous Australians by providing them with intensive support to help them develop the work-related skills employers want and need. This approach will ensure that Indigenous youth are supported when they leave school to prevent them from becoming disengaged.

jobactive, as the department's mainstream employment program will be required to do the heavy lifting, with approximately 75,500 Indigenous job seekers in jobactive. It is anticipated that these measures could result in up to 10,000 Indigenous Australians placed in work by 2020–21.<sup>11</sup> While difficult to make an exact proportional comparison to the Closing the Gap target, it would take at least 65,000 more Indigenous Australians in paid work by 2018 to achieve the target.

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<sup>11</sup> This is based on the outcome estimates in the various costings models used to cost the Indigenous employment package.

## Regulatory costs

The regulatory costs of the package are \$456,334 per annum and are summarised by the following table. The regulatory elements of the proposal are introducing the intensive service offering for ParentsNext and the new Prison to Work program.

The regulatory costs of the package will be offset against the *Better Targeting of Assistance to Support Jobseekers* measure.

Average annual regulatory costs (from business as usual)				
Change in costs (\$)	Business	Community orgs	Individuals	Total change in costs
ParentsNext – intensive service offering	\$414,596	\$0.0	\$0.0	\$414,596
Closing the Gap – employment services	\$41,738	\$0.0	\$0.0	\$41,738
<b>Total of all New Policy Proposals (by sector)</b>	<b>\$456,334</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$456,334</b>

### ***ParentsNext – intensive service offering***

Introducing a Participation Fund and outcome fees to ParentsNext will result in an additional regulatory burden on jobactive providers.

The annual regulatory cost of \$414,596 consisting of \$359,944 for providers and \$54,652 for employers (see [Attachment B](#)).

### ***Closing the Gap – employment services***

The only element of this measure that is regulatory is the Prison to Work program, with a regulatory burden of \$41,738 per annum on the new Prison to Work providers.

*Pre-employment training and mentoring:* This element involves Employment Fund changes. There is no change to the processing that needs to be undertaken by jobactive providers. This proposal changes what the Employment Fund can be spent on – it does not change the process for making purchases through the Employment Fund.

*Transition to Work:* There is no net regulatory burden from expanding Transition to Work to all Indigenous job seekers under the age of 22, as the red tape of delivering Transition to Work is equivalent to the red tape of delivering jobactive.

*Prison to Work:* Introducing a new program to provide employment services in prisons will result in additional regulatory burden on new Prison-to-Work providers.

The regulatory costing ([Attachment B](#)) is based on assumptions prior to negotiating the arrangements with states and territories. The department will seek to agree regulatory costs with OBPR should these change following negotiations.



jobactive trial by the Yarrabah community: The transition of jobactive functions from the existing jobactive providers to the Yarrabah Aboriginal Shire Council results in no additional processing with the regulatory burden shifting from a private provider to the Council.

Wage subsidies: There is no change to processing burden that needs to be undertaken by jobactive providers or employers. This proposal changes the value of subsidies and provides immediate access to wage subsidies (instead of waiting six months) – it does not change the process for entering wage subsidy agreements. The change of the value and timeframe for subsidies is fundamentally non-regulatory in nature and does not change the frequency or population of claimants.

jobactive performance framework: Changes to Star Ratings involves no additional reporting by jobactive providers.

## 5. Consultation

Policies and programs must be done “with” and not “to” Indigenous Australians. In further developing the discrete policy options under the broad policy themes, it is important that elements are co-designed with Indigenous Australians. The Indigenous community at a local level needs to be involved in the design, delivery and implementation of measures that impact their community.

The consultations also sought to gauge the impact of potential changes to programs and policy on different groups affected, from Indigenous jobseekers and Indigenous Australians not in the labour force, to community organisations, employment services providers and employers.

Yarrabah was specifically chosen as the pilot for the trial because consultations with the community initiated the proposal. The Yarrabah Aboriginal Shire Council (the Council) indicated that services delivered in Yarrabah should be delivered by the community, for the community. In particular, the Council wanted to deliver community based activities that keep community members engaged, build their skills and experiences and help develop the community. Yarrabah is also close to a major labour market (Cairns) and it is one of the largest Indigenous communities in Australia.

In light of the consultations, the department considered the three options outlined earlier. The consultations strongly demonstrated that there is a need to move from the status quo if Indigenous employment is to be increased: consultation feedback, outlined below, identified many areas for improvement.

Consultation with business reinforced feedback that they do not want more regulation – many large businesses were already making an explicit choice not to engage in Government programs due to restrictive program requirements and administration. The consultation also highlighted that cultural capability and willingness to engage with Indigenous employees needed to be embedded throughout an organisation. Mandatory reporting was considered a top-down, administrative approach which would be considered a ‘burden’.

The final option provides a more comprehensive platform to address the issues raised in consultation by all stakeholders. Specific measures were added or amended in light of issues raised by the consultation, as unseen matters came to light.

The sections below outline the range of consultation which was undertaken.

## Phase one consultation

Phase one of consultations were targeted, confidential and held with Indigenous organisations and employment sector stakeholders who deliver Indigenous and/or employment programs. Stakeholders were targeted to ensure the department would get the best information in the most cost effective way.

## Objectives

The aim of the consultations was to gain a greater understanding of:

- how organisations are currently working with Indigenous Australians;
- what support mechanisms and strategies are currently being used to help Indigenous Australians and what has been successful/unsuccessful;
- what obstacles are in the way of Indigenous people entering the labour force and finding jobs; and
- how to build on existing programs and policies to maximise employment outcomes for Indigenous job seekers.

## Who we consulted with

The organisations consulted included state and territory governments, Indigenous organisations, employer peak bodies, employment services peak bodies, welfare organisations, regional advocacy groups and employment service providers. A full list is provided below.

### Organisations consulted regarding Indigenous employment in September 2016

Aboriginal Employment Strategy	Yarn'n
Australian Indigenous Mentoring Experience (AIME)	Aboriginal Affairs and Reconciliation – South Australian Department of State Development (SA Government)
Business Council of Australia	Aboriginal Affairs NSW (NSW Government)
Cape York Institute	Department of Aboriginal Affairs (WA Government)
CareerTrackers	Department of Aboriginal and Torres Strait Islander Partnerships (QLD Government)
Centre for Aboriginal Economic Policy Research	Department of Economic Development, Jobs, Transport & Resources (Victorian Government)
Empowered Communities (Inner Sydney) /Tribal Warriors – Shane Phillips	Office of Aboriginal and Torres Strait Islander Affairs (ACT Government)
GenerationOne	Australian Council of Social Service
John Perry – Jobs QLD delivering ParentsNext and is a Board Director of NESAs. Also a former manager at BoysTown.	Australian Chamber of Commerce and Industry
National Centre of Indigenous Excellence	jobactive provider - Max Solutions

Northern Australian Alliance - Advance Cairns	Jobs Australia
First Australians Chamber of Commerce and Industry	National Employment Services Association
Reconciliation Australia	Social Ventures Australia
Supply Nation	Women in Prison Advocacy Network (WIPAN)

## Phase two consultation

The second phase of the consultations, built on the initial consultations, with a greater focus ‘on-the-ground’ stakeholders – particularly job seekers, providers, employers and parents.

### Objectives

The objectives of the phase two consultations were to:

- engage with Indigenous job seekers and communities about how best to help Indigenous job seekers gain and keep a job;
- gain direct feedback on proposed measures from Indigenous job seekers, employers, community organisations and other relevant stakeholders; and
- understand possible unintended impacts of current and future measures on Indigenous job seekers, employment service providers, communities and employers.

### Who we consulted with

The second phase of consultation included consultations with Indigenous job seekers, Indigenous parents, local employers, community members, and providers in 10 locations nationally. Senator the Hon Michaelia Cash, Minister for Employment, and Senator the Hon Nigel Scullion, Minister for Indigenous Affairs hosted an Indigenous Employment Forum 10 February 2017, which asked the views of large businesses on Indigenous employment and government programs.

## Post-Budget reaction

**National Employment Services Association (NESA):** NESA welcomed the *Closing the Gap – Employment Services* measure, with a media release from NESA CEO, Ms Sally Sinclair, thanking the Government for “listening to the employment services sector and responding to Closing the Gap”. The media release noted the importance of the mentoring, ParentsNext and Prison to Work elements of the package.

**Jesuit Social Services:** Julie Edwards, CEO of Jesuit Social Services described the Prison to Work program as “crucial”, describing strengthening employment as ‘the most effective to prevent reoffending’.

**Brotherhood of St Laurence:** CEO welcomed ParentsNext and the *Closing the Gap – Employment Services* and called the Transition to Work program a “success story”.

**National Congress of First People:** The National Congress wanted more investment to achieve all seven the Close the Gap targets, with the Budget measures focused around accelerating progress towards achieving the employment target.

## What have we found

## **Employers**

Employers noted their reluctance to use government programs, due to the inflexibility of the requirements and the amount of paperwork. There were requests to harmonise the requirements of Indigenous employment programs, such as the Employer Parity Initiative, Vocational Training and Employment Centres and jobactive, to make it easier for businesses to use the programs. The Business Council of Australia stressed the importance of building local connections between businesses, employment service providers and Indigenous communities to support more Indigenous job seekers into jobs.

Employers also wanted more information on where Indigenous Australians were seeking work, so that they could more effectively plan their own Indigenous recruitment programs. This was particularly important where organisations had made commitments, through Reconciliation Action Plans, to support Indigenous employment in their organisations.

Employers also recognised the need to build cultural competency within and throughout their business, to support higher levels of engagement with and retention of Indigenous employees. They were keen to have employees provided with support after being placed in a job, through mentoring, to encourage retention.

## **Providers**

Providers felt that Indigenous job seekers were not necessarily being assessed at a level which recognised the level of support that was needed, or that recognised factors such as long term disadvantage and intergenerational trauma.

Providers wanted more flexibility to be able to provide more support to Indigenous job seekers, but without introducing more reporting requirements. Extending the use of existing mechanisms, such as opening up the Employment Fund was supported. Providers also noted that they had more success in engaging and placing Indigenous job seekers into jobs where they had connections with local communities, however this took time and resources which were felt to be beyond the scope of current remuneration.

Providers also didn't seem aware of the range of programs available that could support Indigenous job seekers outside of the employment services system. There was also minimal collaboration between providers.

## **Indigenous job seekers, parents and communities**

Indigenous job seekers noted that traditional recruitment methods didn't work for them, and that due to issues such as criminal history, they were automatically screened out of many large recruitment processes. Non-traditional recruitment methods, where either the job seeker or the employment services provider could talk with the employer directly, were seen as more effective. Job seekers didn't seem aware of the range of assistance that they might be able to access, either from their employment service provider or from other Commonwealth or state government programs or community programs

Job seekers and parents noted the difficulties of juggling job search requirements with other commitments, such as childcare, Department of Community Service requirements, Corrections requirements, and/or accommodation.

Community agencies and members noted that the cultural commitments that Indigenous job seekers and employees have are still not understood, and that providers and employers need more support to understand the dynamics of Indigenous communities.

### **State Governments**

State and territory governments wanted more and better linkages between complementary services, to increase effectiveness of programs and reduce overlap.

### **Further consultations**

As each measure is implemented, further consultation will be undertaken to ensure that each takes into account the needs of the communities which it will affect, and is done in such a way as to minimise additional regulatory burden, yet achieve the intended result. Much of it will be co-designed with those who are to be affected, and will explicitly consider what any additional administrative burden may result.

## **6. Implementation**

All measures begin on 1 January 2018, except the ParentsNext intensive service offering which commences on 1 July 2018 (as part of the national rollout of ParentsNext).

ParentsNext will require a new legislative instrument.

ParentsNext and Prison-to-Work will require procurement exercises to source new providers.

All the elements will require changes to IT system and program guidelines.

## **7. Evaluation**

Most of the changes will be considered through existing evaluations. The jobactive and Transition to Work changes will be evaluated as per existing program arrangements. The extended and refocused ParentsNext will be evaluated as part of national ParentsNext rollout. These existing evaluations have been funded as part of the initial rollout of these programs. The Evaluation, Research and Evidence Branch within the department will ensure that the Indigenous elements of the package are considered.

As new programs, the Prison-to-Work program and the Yarrabah pilot will receive standalone evaluations. These evaluations will combine qualitative and quantitative analysis to determine the effectiveness of each program.

## **Attachment A – Department of Employment Programs**

### ***jobactive***

The Australian Government is committed to assisting people to connect with employment. The Government's mainstream employment service is jobactive, which helps people find work and better meet the needs of employment.

Under jobactive, most participants will have a Job Plan. In general, people will be required to meet regularly with their providers, undertake up to 20 job searches per month, and after 12 months of unemployment participate in an approved activity like Work for the Dole six months each year. A person's requirements are generally determined by his or her age, assessed work capacity and whether the person has primary responsibility for the care of dependent children.

### ***Employment Fund and Wage Subsidies***

The Closing the Gap report makes it clear that much more work is needed to close the gap in Indigenous employment. To achieve this, measures to improve the capacity of jobactive to place more Indigenous job seekers into work have been introduced. This includes:

- increasing the flexibility in the Employment Fund, which is a discretionary fund that a jobactive provider can use to help a person obtain the relevant skills, experience or support to find and keep a job. jobactive providers also need to balance the needs of all of their clients and are required to ensure that the purchase represents value for money and will not bring jobactive or the Australian Government into disrepute. As a result, some people may not be assisted or fully funded for the assistance they are seeking; and
- employers hiring an Indigenous participant may be eligible to receive a Long Term Unemployed and Indigenous wage subsidy of up to \$6,500 (GST inclusive).

### ***ParentsNext***

The Australian Government understands the challenges faced by parents/caregivers in combining employment and family responsibilities when children are younger. As children get older, however, the community expects parents/caregivers to increase their level of employment and reduce the need to rely on income support.

For this reason, a principal carer parent on working age income support payments, such as Parenting Payment or Newstart Allowance, has part-time obligation requirements once the youngest child in his or her care turns six years of age.

The ParentsNext program provides early intervention for parents, with a focus on getting them job ready earlier and in particular by the time their youngest child goes to school through setting employment goals, interview practice, qualifications, resume writing and advice on childcare subsidies.

### ***Transition to Work***

Transition to Work provides intensive pre-employment assistance to young people who have disengaged from work and study and are at risk of long-term welfare dependency. The service is designed to improve the work readiness of young people 15 to 21 years of age and help them get into work (including apprenticeship and traineeships) or education.

Eligible participants receive intensive support from community-based organisations with expertise in helping young people to develop the work-related skills employers want and need.

### ***Youth Jobs PaTH***

Youth Jobs PaTH is a three stage pathway to work that helps young people gain the employability skills employers want, provides work experience opportunities and supports young job seekers move from welfare to work through:

- Prepare – Employability Skills Training to help young people better understand what employers expect of them in the workplace, and equip them with the skills, attitude and behaviours for them to be successful in jobs;
- Trial – PaTH Internships of four to 12 weeks to help young people gain the skills and work experience they need to get and keep a job; and
- Hire – a Youth Bonus wage subsidy of up to \$10,000 (GST inclusive) to encourage the employment of young people 15 to 24 years of age. Also from 1 January 2017, existing wage subsidies were further streamlined to make them more attractive to employers by simplifying access and reducing red tape.

### ***Empowering YOUth***

Empowering YOUth Initiatives provides grant funding to not-for-profit and non-government organisations for innovative initiatives to assist 15 to 24 year olds at risk of long-term welfare dependency, onto the pathway of sustainable employment.

### ***Prison to Work***

The Prison to Work program, released by COAG on 9 December 2016, responds to the recommendations made in the Prison to Work report, and addresses a number of actions in the Prison to Work Action Plan.

The Prison to Work program is a Commonwealth Government in prison employment service negotiated between the state and territory governments and provides all Indigenous prisoners with access to in prison employment services.

Under the Prison to Work program, eligible prisoners (sentenced only but not available to those on remand) will be offered employment assistance while they are in prison to help them prepare for employment post release employment. Prisoners who elect to receive assistance will first have their level of labour market disadvantage assessed. The assessments will be conducted by either the in prison employment services provider or a prison based medical/allied health professional.

## Attachment B – Detailed Regulatory Costings

### ***ParentsNext – more intensive service offering***

Introducing a Participation Fund and outcome fees to ParentsNext will result in additional regulatory burden on ParentsNext providers.

- **Participation Fund:** The Participation Fund will use many of the existing Employment Fund processes.
  - Based on the Employment Services 2015 (ES2015) RIS, the average Employment Fund transaction takes 5 minutes.
  - In the ParentsNext costing, annual Participation Fund expenditure is \$13,670,190. Assuming an average transaction of \$500, this gives 27,340 transactions.
  - Using a default hourly labour cost of \$68.79 per hour, this gives a regulatory impact of  $27,340 \times 5/60 \times \$68.79 = \$156,727$ .
- **Outcome Fees:** The information that triggers an education outcome is already captured in the ParentsNext system. As with jobactive, IT systems will use Centrelink information to automate the payability of some employment outcomes.

#### Providers

- Given the similarity with jobactive outcomes, the average time taken to process an employment outcome claim is 25.5 minutes (from ES2015 RIS).
- In the ParentsNext costing, it is estimated that there will be 6,951 outcomes paid per year.
- Using a default hourly labour cost of \$68.79 per hour, this gives a regulatory impact of  $6,951 \times 25.5/60 \times \$68.79 = \$203,218$ .

#### Employers

- In the ES2015 RIS, it is assumed that 7.2 per cent of employment outcomes would require 1.5 hours of employer processing.
- Using an employer cost of \$72.80 per hour (ES2015 RIS), this gives a regulatory impact of  $6,951 \times 7.2\% \times 1.5 \times \$72.80 = \$54,652$ .

This gives an annual regulatory cost of \$414,596 consisting of \$359,944 for providers and \$54,652 for employers.

### ***Closing the Gap – Employment Services – Prison to work***

Introducing a new program to provide employment services in prisons will result in a regulatory burden on the new Prison-to-Work providers.

- **Participation plans:** Prison-to-Work Providers will be required to lodge participation plans for eligible Indigenous prisoners.
  - Based on the ES2015 RIS costing, the average lodgement transaction takes 8 minutes. The employment provider cost is from the ES2015 RIS costing, based on the average wage in the jobactive network and adjusted for inflation, providing an hourly rate cost of \$56.20 per hour (between May 2015 and November 2016 wages increased by 2.5 per cent (ABS Cat No. 6302.0)).
  - Based on the COAG Prison to Work report, 9,500 Indigenous Australians would be eligible to receive assistance as part of Prison-to-Work employment services. Based on take-up of similar voluntary programs, it is expected to be 52 percent of eligible prisoners will participate (4,940 prisoners).
  - Using a provider cost of \$56.20 per hour, this gives a regulatory impact of  $4,940 \times 8/60 \times \$56.20 = \$37,017$ .



- *Quarterly reporting:* Prison-to-Work providers will be expected to lodge quarterly reports, outlining the meetings which have been held and the amount of warm handovers which have been completed.
  - Based on providing 4 reports per year, that takes 90 minutes each to draft, using an hourly cost of \$56.20 for 14 Prison-to-Work Providers nationally (calculated on numbers of Indigenous prisoners and geographic spread):
  - $14 \times 1.5 \times 4 \times \$56.20 = \$4,721$

Therefore, the annual burden of this proposal is \$41,738 per annum.