

EXPLANATORY STATEMENT

Social Security (Declared Program Participant) Amendment Determination 2019

Summary

The *Social Security (Declared Program Participant) Amendment Determination 2019* (the Determination) is made by the Secretary of the Department of Jobs and Small Business under subsection 28C(1) of the *Social Security Act 1991* (the Act).

The purpose of the Determination is to amend the definition of '**Community Development Programme provider**' (CDP Provider) in the *Social Security (Declared Program Participant) Determination 2018* (the DPP Determination). An additional funding agreement, the Head Agreement for the Community Development Program 2019-2022, will commence on 1 March 2019. It is necessary to amend the DPP determination to refer to this funding agreement in the definition of CDP Provider to ensure that the definition of 'declared program participant' covers all persons being serviced by providers under the new funding agreement. This would ensure that the intended compliance framework continues to apply to persons participating in the Community Development Program (CDP). The compliance framework that applies to CDP participants is in Division 3A of Part 3 of the *Social Security (Administration) Act 1999* (the Administration Act).

Background

The CDP is the remote employment service that supports participants in remote Australia to build skills, address barriers and contribute to their communities through a range of flexible activities. It is designed around the unique social and labour market conditions found in remote Australia.

The DPP Determination has a definition of CDP provider that refers to one funding agreement: the Funding Agreement 2013-2018 Remote Jobs and Communities Programme (now referred to as the remote Jobs and Communities Programme Funding Agreement 2013-2018). An additional funding agreement, the Head Agreement for the Community Development Program 2019-2022, will commence on 1 March 2019. It is necessary to amend the DPP determination to refer to both funding agreements in the definition of CDP provider.

The definition of CDP provider is relevant to who is a 'declared program participant' for the purposes of the social security law. As 'declared program participants', CDP participants are subject to the compliance framework in Division 3A of Part 3 of the Administration Act (the Division 3A compliance framework). Participation payment recipients other than declared program participants are subject to the Targeted Compliance Framework (TCF) in Division 3AA of Part 3 of the Administration Act. Participation payment recipients are recipients of newstart allowance, youth allowance (if the person is neither undertaking full-time study nor is a new apprentice), parenting payment (if the person is subject to participation requirements), and special benefit (if the person is a nominated visa holder).

The DPP Determination provides that a person is a 'declared program participant' if the person has claimed or is receiving a participation payment or disability support pension and is serviced by a CDP provider.

Amending the definition of CDP provider to refer to both funding agreements ensures that all persons serviced by CDP Providers under those agreements are 'declared program participants' and are subject to the Division 3A compliance framework and not the TCF.

The definition of '**Community Development Programme provider**' will be changed to be a definition of '**Community Development Program provider**' to reflect current usage of the word 'program' which also aligns with the reference to 'declared program participant' in subsection 28C(1) of the Act.

Operation of the provisions

Part 1 Preliminary

Section 1 – Name

This section provides that the name of the Determination is the *Social Security (Declared Program Participant) Amendment Determination 2019*.

Section 2 – Commencement

This section provides a table that provides the whole of the instrument will commence on 1 March 2019.

Section 3 – Authority

This section provides that the Determination is made under subsection 28C(1) of the Act.

The Determination is also made in reliance on subsection 33(3) of the *Acts Interpretation Act 1901* that provides a power to make an instrument includes the power to repeal, rescind, revoke, amend or vary any such instrument.

Section 4 – Schedule

This section provides that each instrument that is specified in Schedule 1 to the Determination is amended or repealed as set out in that Schedule.

Schedule 1 Amendments

Schedule 1 makes amendments to the DPP Determination.

Item 1 of Schedule 1 omits the existing definition of '**Community Development Programme provider**' and inserts a new definition of '**Community Development Program provider**'.

The new definition ensures that the definition of '**Community Development Program provider**' includes the following funding agreements:

- Funding Agreement 2013-2018 Remote Jobs and Communities Programme (now referred to as the remote Jobs and Communities Programme Funding Agreement 2013-2018).
- Head Agreement for the Community Development Program 2019-2022.

Schedule 1 commences on 1 March 2019 when the Head Agreement for the Community Development Program 2019-2022 will commence.

Consultation

This instrument is technical in nature in that it only changes a definition to include a new funding agreement and does not alter the policy position reflected in the *Social Security (Declared Program Participant) Determination 2018*.

The amended instrument is being prepared as part of the CDP program reforms. The CDP reform consultation process engaged with a variety of stakeholders, including CDP job seekers, local communities and organisations, CDP service providers, the Prime Minister's Indigenous Advisory Council, peak bodies, Indigenous leaders, community advocates and academics. The reforms were informed by consideration of the 40 submissions received in response to the Department of the Prime Minister and Cabinet's Remote Employment and Participation discussion paper, the findings from the recent CDP Senate Enquiry and the 2017 Australian National Audit Office Performance Audit.

Regulatory Impact Analysis

The instrument 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

Social Security (Declared Program Participant) Amendment Determination 2019

This legislative instrument (Determination) 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 Determination

The *Social Security (Declared Program Participant) Amendment Determination 2019* (the Determination) is made by the Secretary of the Department of Jobs and Small Business under subsection 28C(1) of the *Social Security Act 1991* (the Act).

The purpose of the Determination is to make amendments to the definition of '**Community Development Programme provider**' (CDP provider) in the *Social Security (Declared Program Participant) Determination 2018* (the DPP Determination).

The Community Development Program (CDP) is the remote employment service that supports participants in remote Australia to build skills, address barriers and contribute to their communities through a range of flexible activities. It is designed around the unique social and labour market conditions found in remote Australia.

The DPP Determination has a definition of CDP provider that refers to one funding agreement: the Funding Agreement 2013-2018 Remote Jobs and Communities Programme (now referred to as the remote Jobs and Communities Programme Funding Agreement 2013-2018). An additional funding agreement, the Head Agreement for the Community Development Program 2019-2022, will commence on 1 March 2019. It is necessary to amend the DPP determination to refer to both funding agreements in the definition of CDP provider.

The definition of CDP provider is relevant to who is a 'declared program participant' for the purposes of the social security law. As 'declared program participants', CDP participants are subject to the compliance framework in Division 3A of Part 3 of the *Social Security (Administration) Act 1999* (the Administration Act) (the Division 3A compliance framework). Participation payment recipients other than declared program participants are subject to the Targeted Compliance Framework (TCF) in Division 3AA of Part 3 of the Administration Act. Participation payment recipients are recipients of newstart allowance, youth allowance (if the person is neither undertaking full-time study nor is a new apprentice), parenting payment (if the person is subject to participation requirements), and special benefit (if the person is a nominated visa holder).

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Human rights implications

The Determination does not engage human rights.