

EXPLANATORY STATEMENT

Issued by the authority of the Secretary of the Department of Education, Skills and
Employment

Social Security Act 1991; Social Security (Administration) Act 1999

Social Security (Streamlined Participation Requirements) Instrument 2022

Authority

This instrument is made under subsection 28(1) of the *Social Security Act 1991* ('the 'Social Security Act'), and subsections 40K(2), 40X(4) and 42AC(3), of the *Social Security (Administration) Act 1999* ('the Administration Act'), including those provisions as construed in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*. That subsection provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Purpose and operation

The *Social Security (Streamlined Participation Requirements) Instrument 2022* ('the Instrument') replaces and makes minor amendments to several existing instruments under the social security law, to reflect amendments to the law made by the *Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Act 2022* ('the Streamlined Participation Requirements Act').

The Instrument does not change the substantive effect of the instruments which are being replaced or amended. Rather the Instrument makes technical changes to reflect revised language in the social security law following commencement of the Streamlined Participation Requirements Act.

Part 2 of the Instrument declares Work for the Dole and the National Work Experience Program to be approved programs of work for income support payment, consistent with the pre-existing declaration of those programs under a non-legislative instrument. This Part is made under subsection 28(1) of the Social Security Act, which is amended by the Streamlined Participation Requirements Act to provide that the declaration of approved programs of work for income support payment is a legislative instrument.

Part 3 of the Instrument determines the kinds of requirements which people's employment pathway plans cannot contain. This Part is made under subsection 40K(2) of the Administration Act, and replaces the *Social Security (Employment Pathway Plan Requirements) Determination 2015 (No. 1)* ('the EPP Requirements Determination'). The EPP

Requirements Determination is made under a number of provisions in the Social Security Act which are repealed and replaced under Schedule 1 to the Streamlined Participation Requirements Act; the EPP Requirements Determination will be of no effect when those provisions of the Social Security Act are repealed. Part 3 of the Instrument substantively reproduces the content of the EPP Requirements Determination.

Part 4 of the Instrument sets out matters which must be taken into account in determining, for the purposes of the social security law, whether particular paid work is unsuitable to be done by a person. This Part is made under subsection 40X(4) of the Administration Act, and replaces the *Social Security (Unsuitable Work) Determination 2016* ('the Unsuitable Work Determination'). The Unsuitable Work Determination is made under a number of provisions in the Social Security Act which are repealed and replaced under Schedule 1 to the Streamlined Participation Requirements Act; the Unsuitable Work Determination will be of no effect when those provisions of the Social Security Act are repealed. Part 4 of the Instrument substantively reproduces the content of the Unsuitable Work Determination.

Schedule 1 to the Instrument makes minor amendments to the *Social Security (Administration) (Job Search Efforts) Determination 2018* ('the Job Search Determination') as a result of amendments to the social security law made by the Streamlined Participation Requirements Act. The purpose of the amendments is to align the language of the Job Search Determination with that in the social security law as amended - in particular, the consistent use of the terminology of "paid work" instead of "employment".

Regulatory impact

The Office of Best Practice Regulation has confirmed the Instrument is unlikely to have a more than minor regulatory impact, and therefore the preparation of a Regulation Impact Statement is not required (reference number - OBPR22-02093).

Commencement

The Instrument will commence immediately after the commencement of Schedule 1 to the Streamlined Participation Requirements Act, which will be the seventh day after that Act receives the Royal Assent.

Consultation

Consultation was previously undertaken on the Unsuitable Work Determination, the EPP Requirements Determination and the Job Search Determination. No further consultation was necessary on the amendments made by this Instrument, as extensive consultation has already been undertaken. There are no changes in the policy of these determinations, and the only changes relate to amendments to the social security law by the Streamlined Participation Requirements Act, on which extensive consultation was undertaken.

The Department of Education, Skills and Employment ('the Department') briefed the following organisations about the Streamlined Participation Requirements Act:

- Australian Council Of Social Service;
- Australian Human Rights Commission;
- National Employment Services Association;
- Jobs Australia;
- AMES Australia;
- The Australian Labor Party;
- Anglicare Australia;
- St Vincent de Paul Society;
- Economic Justice Australia;
- The Antipoverty Centre;
- People With Disability Australia; and
- National Council of Single Mothers and Their Children.

Briefings were also offered to the Australian Unemployed Workers' Union and the Salvation Army.

In addition, the provisions of the Streamlined Participation Requirements Act were subject to a Senate Inquiry, with 15 submissions, and public hearings.

The Department also consulted extensively in the development of the new employment services model, Workforce Australia. The changes to some of the determinations relate to a critical element of the new model, enabling job-ready job seekers to self-manage their requirements online while increasing investment towards the most disadvantaged, and reflect the provisions of the Streamlined Participation Requirements Act which enable this.

This was a key recommendation of the Employment Services Expert Panel report, *I Want to Work* (available at: <https://www.dese.gov.au/new-employment-services-model/resources/i-want-work>). The Expert Panel included representatives from the Australian Council Of Social Service, the National Employment Services Association and Jobs Australia.

The new model was informed by input from over 1400 stakeholders, including employers, employment services providers, job seekers, community organisations, unions, academia and state/local governments, as well intensive user centred design and trials. Further information about the consultation process for the new model is available at the link below:

www.dese.gov.au/new-employment-services-model/consultation-inform-new-employment-services

Statement of Compatibility with Human Rights

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

Social Security (Streamlined Participation Requirements) Instrument 22022

The *Social Security (Streamlined Participation Requirements) Instrument 2022* ('the Instrument') is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Instrument:

- declares certain programs to be approved programs of work for income support payment, continuing the status quo of the current declaration which is a non-legislative instrument;
- replaces the existing instrument which determines the kinds of requirements that employment pathway plans cannot contain;
- replaces the existing instrument which determines the matters to be taken into account in working out whether particular paid work is unsuitable;
- amends the legislative instrument related to whether a person has undertaken adequate job search efforts.

The Instrument does not change the operation of the instruments it replaces or amends; rather the Instrument makes technical changes to reflect revised language in social security law following commencement of the *Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Act 2022* ('Streamlined Participation Requirements Act') and that job seekers will now have the option of entering into Employment Pathway Plans ('EPPs') online if they choose, rather than with an employment services provider or Services Australia.

Part 1 of the Instrument contains formal provisions specifying the name, commencement, and authority for the Instrument, as well as the effect of the Schedule 1.

Part 2 of the Instrument declares certain programs to be approved programs of work for income support payment. The effect of this declaration is that participants will be entitled to the approved program of work supplement as part of their income support payment, which is \$20.80 per fortnight.

Part 3 of the Instrument sets out the same requirements that may not be included in a person's employment pathway plan as set out in the *Social Security (Employment Pathway Plan Requirements) Determination 2015 (No. 1)* ('the EPP Requirements Determination').

Part 4 determines matters which must be taken into account in determining if particular paid work is unsuitable for a person. It does so in substantively the same terms as the current *Social Security (Unsuitable Work) Determination 2016* ('the Unsuitable Work Determination').

Apart from minor differences in drafting styles, which do not affect operation of the provisions, the only difference between the Instrument and the EPP Requirements Determination and the Unsuitable Work Determination is that the reference to "the Secretary" taking into account certain matters mentioned in those instruments has been removed. This is because, in keeping with the amendments to the social security law by the Streamlined Participation Requirements Act, more job-ready job seekers will be able to choose to self-manage their own employment pathway plan requirements and undertake work in accordance with their employment pathway plans as a result of their own choices rather than as a result of a decision by the Employment Secretary or a delegate.

The Department of Education, Skills and Employment ('the Department') will provide guidance to job seekers who self-manage their requirements to help ensure that they do not select activities where appropriate support or facilities would not be available to them. Further, safeguards built into the Digital Employment Services Platform will ensure people do not get left behind, including a Digital Services Contact Centre to provide advice and extra support via phone and email.

In addition, existing safeguards built into compliance arrangements will ensure that before anybody faces any financial penalty for not meeting their requirements they will have the appropriateness of their requirements for their individual circumstances assessed twice by human delegates (Capability Interview and Capability Assessment). Further, job seekers are able to move to a provider of their choice at any time if they feel the online service is not meeting their needs.

Providing the ability for job-ready job seekers to manage their requirements through Digital Services will also allow resources to be redirected away from administration and into proactive support and tailored assistance for the most disadvantaged job seekers - who will be serviced by providers in face-to-face servicing.

This reflects a key recommendation of the Employment Services Expert Advisory Panel report, *I Want to Work* (available at: <https://www.dese.gov.au/new-employment-services-model/resources/i-want-work>), which was to leverage the benefits of digital servicing for the most job ready to increase investment in those job seekers who are long-term unemployed or at risk of becoming so. Retaining and improving face-to-face servicing, in Enhanced Services, will deliver the personalised support needed to decrease the proportion of the caseload that are long-term unemployed or at risk of becoming long-term unemployed.

Schedule 1 to the Instrument makes minor amendments to the language of the *Social Security (Administration) (Job Search Efforts) Determination 2018* ('the Job Search Determination') as a result of minor amendments to the social security law made by the Streamlined Participation Requirements Act. The amendments replace certain references to "employment" or "un/suitable employment" by references to "paid work" or "paid work, except paid work that is unsuitable". The reason for this was to make the language used in the social security law more consistent, so that job seekers can more easily understand their obligations.

Human rights implications

The Instrument engages the following rights:

- the right to social security in article 9 of the International Covenant on Economic, Social and Cultural Rights ('ICESCR');
- the right to an adequate standard of living in article 11 of the ICESCR; and
- the right to work in article 6 of the ICESCR.

Article 9 of the ICESCR recognises the right of everyone to social security. Article 11 of the ICESCR recognises the right of everyone to an adequate standard of living and to the continuous improvement of living conditions.

Article 6 of the ICESCR recognises the right to work. This includes the right to the opportunity to gain a living by work which the person freely chooses or accepts and is considered an inherent part of human dignity. To enable people to realise their right to work, states party to the Convention are required, among other things, to assist and support individuals in order to enable them to identify and find available employment, and to protect their right to just and favourable conditions of employment.

Approved programs of work for income support payment

Right to social security and right to an adequate standard of living

The Instrument promotes the right to social security and through that the right to an adequate standard of living. The Instrument does this by specifying certain programs are approved programs of work. Job seekers participating in an approved program of work receive a \$20.80 per fortnight supplementary payment to assist with the costs of their participation. Section 40J of the Administration Act also specifies that job seekers cannot have mandatory participation in an approved program of work included in their employment pathway plans in certain circumstances (although may choose to have it as a voluntary term).

The Instrument does not impose any requirements or obligations on a person and has a beneficial impact on the payment of a person's income support. The Instrument does not

negatively affect or limit a person's right to social security or their right to an adequate standard of living.

Kinds of requirements that employment pathway plans cannot contain

Right to social security and right to an adequate standard of living

The Instrument does not impose any requirements or obligations on a person and does not impact on the payment of a person's income support. The Instrument imposes limitations as to what can be required of a person in their EPP.

The Instrument enhances and protects the right to social security and an adequate standard of living by prescribing what EPPs must not contain. The Instrument provides that an EPP must not contain a requirement to seek or be involved in work in a number of situations. For example, the Instrument provides that EPPs cannot contain requirements to undergo involuntary medical treatment or undertake an activity that would contravene an occupational health and safety law. It also provides that if a person has an illness, disability or injury, their EPP cannot contain a requirement that they undertake or seek to undertake an activity that would aggravate that illness, disability or injury or in circumstances where adequate support facilities to manage or take account of their illness, disability or injury are not available.

The EPP Requirements Determination provided for consideration by "the Secretary" - in practice the consideration was done by delegates - of whether adequate support facilities to manage or take account of a person's illness, disability or injury are available, whereas the Instrument removes the reference to the Secretary. As noted above, this is because job ready job seekers will be able to choose their own requirements in accordance with amendments by the Streamlined Participation Requirements Act.

Job seekers will not be disadvantaged by the removal of the reference to the Secretary. This is because they will not be required to choose requirements which would not involve adequate support facilities and will be provided with information to that effect. Further, the EPP Requirements Determination did not require that "the Secretary" give consideration to any of the other matters, such as contravention of an occupational health and safety law, mentioned in it. There was no particular reason to refer to Secretarial consideration in the context of whether adequate support facilities are available for an activity but not in the context of any of the other matters mentioned in the Instrument.

Matters to be taken into account in working out whether particular paid work is unsuitable

Right to social security and right to an adequate standard of living

The Instrument promotes the right to social security and through that the right to an adequate standard of living. The Instrument does this by providing additional certainty to job seekers who are the principal carer of one or more children or who have a partial capacity to work that they will not be required to look for, accept or undertake work which is considered unsuitable for them in their individual circumstances, by specifying matters which must be taken into account when deciding whether particular paid work is unsuitable.

The Instrument does not impose any requirements or obligations on a person and has no impact on the payment of a person's income support. If there is an absence of suitable work for a person, that person will continue to receive income support as long as they comply with their participation requirements. The Instrument does not negatively affect or limit a person's right to social security or their right to an adequate standard of living.

The Instrument also does not limit the matters which can be considered in determining whether particular paid work is unsuitable for a person, i.e. even if a matter is not mentioned in the instrument it could still be considered. For example the Social Security Guide at section 3.11.1.20 indicates that particular work may be unsuitable for a person if inconsistent with their genuine ethical, cultural or religious beliefs.

Right to work

One of the ways the social security law promotes the right to work is by requiring a person in receipt of a participation payment to seek, accept and undertake paid work that is not unsuitable for them; and for the person's EPP to include requirements relating to those matters.

The Instrument engages the right to work of persons who receive income support because it sets out circumstances in which the work might be considered to be unsuitable for them.

The Instrument provides that the following matters are to be taken into account:

- the duration of the journey from the person's home to the place of work (or from work to home) where the time for the journey would normally exceed 60 minutes.
- whether the person would be financially worse off as a result of undertaking the work because of the financial cost to the person in organising care and supervision for one or more of their children, and the financial cost of travel to the work.
- whether the financial benefit to the person of undertaking the work would be marginal, because of the financial cost in providing appropriate care and supervision for one or more of their children.

By ensuring that certain matters are taken into account that can make paid work unsuitable for a person, the Instrument helps ensure that a person cannot be required to work in jobs that are not suitable for them. These arrangements do not mean that a person may not accept work that is considered unsuitable for them if they wish to do so – merely that they cannot be compelled to accept it.

The Unsuitable Work Determination provided for “the Secretary” – in practice a delegate – to take into account the matters it refers to, whereas the Instrument removes references to the Secretary. Job seekers will not be disadvantaged by the removal of the reference to the Secretary as it will remain the case that compliance action cannot be taken against them for not accepting or not continuing in work which involves the circumstances set out in the Instrument.

Amendment of the Job Search Determination

There are no human rights implications for the amendment of the Job Search Determination.

The minor amendments which the Instrument makes to the Job Search Determination are simply to align the language used in that Determination with minor changes to the social security law. There is no change to the operation of the Job Search Determination, and so it will continue to operate in the same way as it currently operates.

Information regarding how the Job Search Determination is compatible with human rights is contained within the human rights compatibility statement for that instrument:

<https://www.legislation.gov.au/Details/F2018L00776/Explanatory%20Statement/Text>

Conclusion

The Instrument is compatible with human rights because it is beneficial and does not limit the right to social security or the right to an adequate standard of living. The Instrument enhances and protects the right to work.

Secretary of the Department of Education, Skills and Employment

Social Security (Streamlined Participation Requirements) ***Instrument 2022***

Explanation of Provisions

Part 1—Preliminary

Section 1 sets out the name of the Instrument as the *Social Security (Streamlined Participation Requirements) Instrument 2022* ('the Instrument').

Section 2 provides that the Instrument will commence immediately after the commencement of Schedule 1 of the Streamlined Participation Requirements Act, which will be the seventh day after that Act receives the Royal Assent.

Section 3 provides that the Instrument is made under subsection 28(1) of the *Social Security Act 1991* ('the Social Security Act') and under subsections 40K(2), 40X(4) and 42AC(3) of the *Social Security (Administration) Act 1999* ('the Administration Act').

Section 4 provides that each instrument in a Schedule to this instrument is amended as set out in the Schedule.

Part 2—Approved programs of work for income support payment

Section 5 of the Instrument is made for the purposes of section 28(1) of the Social Security Act, declaring that Work for the Dole and the National Work Experience Programme are approved programs of work for income support payment.

Work for the Dole and the National Work Experience Programme have both been declared as approved programs of work for income support payment by the Employment Secretary under subsection 28(1) of the Social Security Act for several years. One of the consequences of a program being declared an approved program of work is that participants in the program are entitled to an approved program of work supplement as part of their income support payment, which is \$20.80 per fortnight.

The declaration of the above programs as approved programs of work for income support payment in the Instrument is necessary because of amendments to subsection 28(1) of the Social Security Act made by Schedule 5 to the *Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Act 2022* ('Streamlined Participation Requirements Act'). Those amendments provide that the declaration of approved programs of work for income support payment is done by the Employment Secretary by legislative instrument. This was done to clarify the status of the instrument, bring the instrument-making power into line with modern drafting practices, and to provide Parliamentary oversight of such declarations. That declarations under subsection 28(1) of

the Social Security Act to date have not been legislative instruments has not disadvantaged job seekers because it has not prevented the payment of the supplement.

Part 3—Kinds of requirements that employment pathway plans must not contain

Section 6 of the Instrument provides that employment pathway plans ('EPPs') must not contain requirements of the following kinds:

- to seek to be involved in, or to be involved in, criminal activity;
- to undergo involuntary medical treatment
- to undergo involuntary psychological or psychiatric treatment
- to be involved in or undertake an activity outside Australia if the person resides in Australia
- to seek work as a sex worker or to be involved in the sex or adult entertainment industry
- to seek to undertake or to undertake an activity that would contravene a law relating to discrimination or to occupational health and safety
- in relation to a person who has an illness, disability or injury that has been established by medical evidence – a requirement that the person seek to undertake, or to undertake, an activity that medical evidence suggests would aggravate their condition or in circumstances where appropriate support of facilities to manage or take account of their condition would not be available.

The medical evidence which suggests that the activity would aggravate the person's condition may or may not be the same as the evidence which established the condition, depending on the circumstances.

These are the same matters to which the EPP Requirements Determination refers. However, it should be noted that the EPP Requirements Determination – and hence section 6 of this Instrument – are of limited practical significance because the kinds of requirements they refer to, for example a requirement to engage in unsafe or criminal activities, are requirements which would not in any event be included in plans by the Employment Secretary or delegate due to other provisions in the social security law, and other legal and policy considerations. In particular, subsection 40D(5) of the Administration Act, inserted by the Streamlined Participation Requirements Act, makes clear that the Employment Secretary must not approve requirements which are not suitable for the person.

Nonetheless, to make clear that protections for job seekers are being maintained, the Instrument sets out the same requirements that may not be included in a person's employment pathway plan as those which are set out in the EPP Requirements Determination.

Part 4—Matters to be taken into account in working out whether particular paid work is unsuitable

The social security law, both before and after commencement of the Streamlined Participation Requirements Act, contains provisions which set out, for the purposes of that law, when particular paid work will be unsuitable to be done by a person.

Subsection 40X(1) of the Administration Act, inserted by Schedule 1 to the Streamlined Participation Requirements Act, sets out the circumstances when particular work will be unsuitable for a person, being:

- if the person cannot do it because of a lack of training and no training will be provided;
- it would aggravate a medical condition of the person;
- the person lacks access to appropriate care and supervision for one or more children they are the principal carer for at times they would be required to do the work;
- the work is unsafe;
- remuneration would be less generous than applicable statutory conditions;
- commuting to and from the work would be unreasonably difficult;
- the work would require enlistment in the Defence Force or the Reserves;
- the person would have to move home to do the work; and
- “for any other reason, the work is unsuitable to be done by the person”.

These are the same circumstances as those referred to by the social security law provisions which subsection 40X(1) replaced and consolidated.

Subsection 40X(4), inserted by the Streamlined Participation Requirements Act, provides that the Employment Secretary must determine, by legislative instrument, matters to be taken into account in working out whether particular paid work is unsuitable to be done by a person “for any other reason”. Provisions which were replaced and consolidated by subsection 40X(4) also required the Employment Secretary to make such an instrument, being the Unsuitable Work Determination.

The Unsuitable Work Determination provided for additional factors to be considered for a person who is the principal carer of one or more children or has a partial capacity to work. These are whether the duration of the journey between the person’s home and work would normally exceed 60 minutes (having regard to all forms of transport available and accessible to the person), and whether the person would be financially worse off, or only marginally better off, because of the cost of child care or travel associated with undertaking work.

As outlined below, even without the Unsuitable Work Determination, other legal and policy considerations would prevent a person being required to look for or undertake work in the circumstances that the person would be unable to undertake the work. However, the

Unsuitable Work Determination provides additional certainty for job seekers who are principal carers or have an assessed partial capacity to work.

To make clear that protections for job seekers are being maintained, section 7 of the Instrument provides for the same matters referred to in the Unsuitable Work Determination to be taken into account in working out whether particular paid work is unsuitable for a principal carer or person with a partial capacity to work.

Neither the Unsuitable Work Determination nor section 7 of the Instrument limit the “other reasons” for which particular paid work might be unsuitable for a person. Thus, in addition to those factors set out in the primary legislation and in the Instrument and the Unsuitable Work Determination, there are other factors that may be considered in assessing the suitability of work for a person. These are outlined in the Social Security Guide at <https://guides.dss.gov.au/guide-social-security-law/3/11/1/20> and include whether the work is unsuitable on moral, cultural or religious grounds and whether the work is consistent with prevailing community standards.

For example, a job seeker who had an ethical or religious objection to selling or serving alcohol would not be required to take up work involving such activity, and a job seeker with an ethical objection to killing or eating animals would not be required to work in an abattoir. The Instrument will not change this.

Section 7 of the Instrument details the matters to take into account in working out if particular paid work is unsuitable to be done by a person “for any other reason”.

Subsection 7(1) provides that the section only applies to working out if work is unsuitable for a person who has (a) a partial capacity to work or (b) who is the principal carer of one or more children (“the person’s children”). A note to subsection 7(1) refers to definitions of partial capacity and principal carer, which are contained in the Social Security Act.

Paragraph 7(2)(a) requires consideration of whether the amount of time that would be needed for the person to travel from the person’s home to their place of work, or vice versa, would normally exceed 60 minutes.

Even if travel may not otherwise be unreasonably difficult, this ensures that the length of time spent travelling to and from work, including via the location of child care, when it is greater than 60 minutes is taken into account, when determining if particular paid work is unsuitable for a person.

In determining if a journey would normally exceed 60 minutes for the purpose of this paragraph, subsection 7(3) provides that regard must be had to all forms of transport, whether public or private, that are available to and accessible by the person. In considering what forms of transport are available and accessible to a person there is a need to consider,

for example, whether the transport is accessible to them having regard to any disability which they have.

Paragraph 7(2)(b) requires consideration of whether a person would be financially worse off by undertaking particular paid work compared with not undertaking it because of the financial cost of travel that would be incurred by the person in undertaking the work.

For the principal carer of one or more children, paragraph 7(2)(c) requires consideration of whether the person would be financially worse off, or only marginally better off, as a result of undertaking the work, by comparison with not undertaking the work, because of the financial cost to the person in providing appropriate care and supervision for the person's children at the times when the person would be required to undertake the work.

Schedule 1—Amendments

Social Security (Administration) (Job Search Efforts) Determination 2018

Schedule 1 to the Instrument amends the *Social Security (Administration) (Job Search Efforts) Determination 2018* ('the Job Search Determination'). The purpose of the Job Search Determination is to set out how the Employment Secretary is to work out whether a job seeker has undertaken adequate job search efforts for the purpose of paragraph 42AC(1)(e) of the Administration Act. The Job Search Determination provides that the Employment Secretary must take into account not only the quantity of job search efforts, i.e. the number of jobs that a person has sought to obtain and but also the quality of those efforts, i.e. whether they have searched for a range of different jobs and in a range of different ways.

The amendments by the Streamlined Participation Requirements Act which are relevant to the Job Search Determination were to replace certain references to "employment" or "un/suitable employment" by references to "paid work" or "paid work, except paid work that is unsuitable". The reason for this was to make the language used in the social security law more consistent, so that job seekers can more easily understand their obligations.

For example, the longstanding requirement in the social security law, maintained by the Streamlined Participation Requirements Act, is that as a general concept job seekers need to seek suitable paid work, and accept it and undertake it should it be offered to them.

It therefore makes sense for provisions dealing with the consequences of failing to accept an offer of suitable work, such as section 42AD of the Administration Act, to refer to an offer of suitable "paid work", rather than "employment". The Streamlined Participation Requirements Act therefore made the language used in relevant provisions more consistent. There is no change to the operation of the law.

As a consequence of these language changes in the Social Security Act and Administration Act, it is appropriate to make similar changes in legislative instruments under those Acts. Accordingly, the minor amendments which the Instrument makes to the Job Search

Determination are simply to align the language used in that Determination with the above minor changes to the social security law. No change to the operation of the Job Search Determination is involved, and so it will continue to operate in the same way as it currently operates.

Item 1 repeals a note to section 4 of the Job Search Determination which is no longer needed.

Item 2 repeals and substitutes the definition of “job search effort” in section 4 of the Job Search Determination, utilising the language of making contact with a “person or body” about “paid work” in place of making contact with a “prospective employer” about a “job” or “job vacancy”.

Item 3 repeals and substitutes the definition of “suitable work” in section 4 of the Job Search Determination, in effect omitting provisions in the social security law that are repealed and replaced by amendments in Schedule 1 to the Streamlined Participation Requirements Act. The note to the new definition indicates that section 40X of the Administration Act sets out when particular paid work is unsuitable to be done by a person. This is a minor technical amendment to reflect amendments by the Streamlined Participation Requirements Act.

Items 4, 5, 6, 7, 8, 9 and 10 substitute references to “employers” or “employer” in section 5 of the Job Search Determination for references to “another person or body” or “the other person or body”. Again, this reflects that job seekers are required to look for paid work, and so rather than referring to an “employer” it is more appropriate to refer to a person or body who is offering paid work.

The Job Search Determination will continue to operate in the same way as previously notwithstanding the above minor amendments.