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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**COMMONWEALTH SERVICES DELIVERY AGENCY
(CONSEQUENTIAL AMENDMENTS) BILL 1997**

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator the Hon Jocelyn Newman, Minister for Social Security)

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**COMMONWEALTH SERVICES DELIVERY AGENCY
(CONSEQUENTIAL AMENDMENTS) BILL 1997**

OUTLINE AND FINANCIAL IMPACT STATEMENT

The Commonwealth Services Delivery Agency Bill 1996 proposes to establish a new statutory authority, to be formally known as the Commonwealth Services Delivery Agency (the Agency). The Agency will be responsible for delivering various Commonwealth services.

This Bill makes minor, consequential amendments to various Acts, to account for the fact that the Agency will be delivering the relevant services, rather than the various departments.

Financial impact: Nil

COMMONWEALTH SERVICES DELIVERY AGENCY (CONSEQUENTIAL AMENDMENTS) BILL 1997

1. Summary of the measures contained in the Bill

The Commonwealth Services Delivery Agency Bill 1996 establishes a new statutory authority, to be formally known as the Commonwealth Services Delivery Agency (the Agency). The Agency will be responsible for delivering various Commonwealth services.

This Bill makes minor, consequential amendments to various Acts, to account for the fact that the Agency will be delivering the relevant services, rather than the various departments.

2. Background

In the 1996 Budget, the Government announced its intention to create a new statutory authority, that would be responsible for delivering various Commonwealth Government services that are currently provided by a variety of Commonwealth departments. The Commonwealth Services Delivery Agency Bill 1996 (the Agency Bill), which was introduced into the House of Representatives on 4 December 1996, gives effect to that commitment, by establishing a body that will be formally known as "the Commonwealth Services Delivery Agency" (the Agency).

Clause 7(1) of the Agency Bill provides that the Chief Executive Officer of the Agency may enter into service arrangements with the principal officers of Commonwealth authorities for the provision of Commonwealth services. "Principal officer" is defined in clause 3 of the Agency Bill as being the Secretary of a Department of State or, in the case of a Commonwealth authority, the person identified in regulations (made under this legislation) as being the principal officer.

"Commonwealth authority" is defined in clause 3 of the Agency Bill as a Department of State or a body (other than the Agency) established for a public purpose, by or under a law of the Commonwealth. "Commonwealth service" is also defined in clause 3, as meaning a service, benefit program or facility for some or all members of the public that is provided by the Commonwealth, whether under an enactment or otherwise. These definitions therefore limit the Chief Executive Officer's power to enter into service arrangements.

Clause 7(2) of the Agency Bill provides that arrangements for the provision of Commonwealth services may include arrangements for doing anything incidental, conducive or related to the provision of the services, including (for example):

- the Chief Executive Officer or the employees of the Agency being able to exercise powers or functions delegated to them under specified enactments; and
- the determination (by the Chief Executive Officer or the employees of the Agency) of a person's eligibility for, or entitlement to receive or have access to, Commonwealth services.

As set out in the Explanatory Memorandum to the Agency Bill, what the Agency Bill envisages is that powers under the *Social Security Act 1991* and the *Student and Youth Assistance Act 1973* (for example), that reside in the Secretaries of the Department of Social Security and the Department of Employment, Education, Training and Youth Affairs, respectively, will, as part of the service arrangements, be delegated by those Secretaries to the Chief Executive Officer or the employees of the Agency. This would then enable persons acting on behalf of the Agency to determine eligibility, etc for the benefits and payments payable under the relevant enactments. Such persons would, however, exercise these powers as delegates of the relevant Secretary.

This Bill makes minor, consequential amendments to various Acts, to account for the fact that the Agency will be delivering the relevant services, rather than the various departments.

3. Clauses and Schedules involved in the measures

Clause 1 sets out how the Act is to be cited.

Clause 2 sets out when the Act is to commence.

Clause 3 provides that each Act specified in a Schedule to the Act is to be amended or repealed as set out in the Schedule.

Schedule 1 provides for various amendments to the *Social Security Act 1991*.

Schedule 2 provides for amendments to various other Commonwealth Acts.

4. Explanation of the changes

Clause 1 provides that the Act may be cited as the *Commonwealth Services Delivery Agency (Consequential Amendments) Act 1997*.

Clause 2 provides that the Act is to commence at the commencement of the *Commonwealth Services Delivery Agency Act 1997* (which is intended to commence on 1 July 1997).

Clause 3 provides that each Act specified in a Schedule to the Act is to be amended or repealed as set out in the Schedule.

Schedule 1 - Amendment of the Social Security Act 1991

Schedule 1 of the Bill provides for amendments to the *Social Security Act 1991* (the Social Security Act). Section 3 of the Social Security Act contains an index of the definitions contained in that Act. **Items 1 and 2 of Schedule 1** insert 4 new definitions into that index and change an existing entry. The relevant definitions are discussed below.

Subsection 23(1) of the Social Security Act contains various "general definitions" for the purposes of that Act. **Item 3** inserts into subsection 23(1) a definition of "Agency". The definition provides that this term refers to the Commonwealth Services Delivery Agency, established by the "Agency Act". **Item 4** inserts into subsection 23(1) a definition of "Agency Act". The definition provides that the term means the *Commonwealth Services Delivery Agency Act 1997*.

Item 5 inserts into subsection 23(1) a definition of "CEO". The definition provides that the term refers to the Chief Executive Officer of the Agency.

Item 6 inserts into subsection 23(1) a definition of "employee". The definition provides that, in relation to the Agency, the term has the same meaning as provided for in the Agency Act. (Clause 3 of the Agency Bill provides that "employee" means a member of the Agency's staff referred to in subclause 35(1) or employed under subclause 35(3) of the Agency Bill. Subclause 35(1) provides that the Agency's staff are to be persons appointed or employed under the *Public Service Act 1922*. Subclause 35(3) provides that, in addition, the CEO can employ persons on such terms and conditions as are determined by the Board of the Agency, in writing.)

Subsection 23(1) contains a definition of "protected information". It states that the term means information about a person that is or was held in the records of the Department of Social Security or information that there is no information about a person held in the records of the Department. **Item 7** inserts into that definition a reference to information being contained (or not, as the case may be) in records held by the Agency, to reflect the fact that, as a result of the service arrangements entered into under the Agency Act, the Agency will be holding records.

Subsection 23(1) contains a definition of "Secretary". Paragraph (a) of the definition provides that, except in relation to Part 6.3 of the Social Security Act (which sets out procedures for the review of decisions by the Social Security Appeals Tribunal - the SSAT), this term refers to the Secretary to the Department of Social Security. Paragraph (b) provides a special definition in relation to Part 6.3, that reflects the fact that some of the decisions to which that Part applies are made by "the Secretary of the Employment Department" under the *Student and Youth Assistance Act 1973*. The effect of paragraph (b) of the definition is to ensure that obligations in relation to complying with SSAT requirements attach to the relevant Secretary.

Item 8 repeals paragraph (b) of the definition and inserts a new paragraph (b). The new paragraph (b) reflects the fact that if a decision under review is a decision of the CEO or an employee of the Agency, acting as the delegate of the Secretary to the Department of Social Security or the Secretary of the Employment Department (ie the Department of Employment, Education, Training and Youth Affairs), then the obligations under Part 6.3 that would normally attach to those Secretaries attach to the CEO.

Item 9 inserts into subsection 23(1) of the Social Security Act a definition of "service arrangements". The definition provides that the term has the same meaning as in the Agency Act. (Clause 7 of the Agency Bill defines "service arrangements" as arrangements entered into between the CEO of the Agency and the principal officer of a Commonwealth authority for the provision of Commonwealth services.)

Chapter 6 of the Social Security Act deals with review of decisions. Part 6.1 deals with internal review. In that Part, subsection 1240(1) provides for persons affected by a decision to apply to the Secretary to the Department of Social Security for a review of the decision.

Item 10 amends subsection 1240(1) to provide that it is to be read subject to subsections 1240(1AA) and (2).

Item 11 inserts a new subsection 1240(1AA). That new subsection provides that if a decision referred to in subsection 1240(1) has been made by an employee of the Agency, in the exercise of a delegated power, then the person affected by the decision may apply to the CEO for a review of the decision (rather than the Secretary). This makes it clear that internal review of decisions made by employees of the Agency, in the exercise of a delegated power, is to be by the CEO of the Agency.

Subsection 1240(1A) relates to the review of decisions made under the *Child Support (Assessment) Act 1989*. It imposes obligations on the Secretary to the Department of Social Security in relation to applications for review of such decisions. **Item 12** amends that subsection to reflect the fact decisions may, in fact, be made by the CEO of the Agency.

Subsection 1240(2) provides that certain decisions are not the subject of internal review. The relevant decisions are decisions of the Secretary himself or herself, certain decisions of the Employment Secretary, certain decisions of the Minister for Primary Industries and Energy and the Secretary to the Department of Primary Industries and Energy and decisions of the Human Services Secretary under or in relation to the Social Security Act. **Item 13** adds to that list a reference to decisions of the CEO in exercise of a delegated power. This means that decisions of the CEO himself or herself, in the exercise of a delegated power, will receive the same exemption from internal review as decisions of the Secretary to the Department of Social Security.

Subsection 1240(3) of the Social Security Act provides that, if a person applies for review of a decision under subsection 1240(1), then the Secretary or an authorised review officer may review the decision under section 1243 of the Social Security Act (which sets out the Secretary's powers in relation to internal review). **Item 14** inserts a new subsection 1240(3AA), which provides that, in the case of an application for review made to the CEO under (new) subsection 1240(1AA), the CEO or an authorised review officer may review the decision under section 1243.

Item 15 inserts a new subsection 1240(3AB), which provides that, if a person applies under (new) subsection 1240(1AA) for review of a decision made by an employee of the Agency, then the reference in (new) subsection 1240(3AA) to an "authorised review officer" is taken to be a reference to an authorised review officer who is an employee of the Agency. This is consistent with the existing treatment (under subsection 1240(3A)) of decisions made by the Employment Secretary, review of which is by an authorised review officer who is an officer of that Department (rather than of the Department of Social Security).

Subsection 1240(3B) of the Social Security Act provides that, despite the general power under subsection 1240(3) to review decisions, the exercise (or non-exercise) of the Secretary's power under section 1285A of the Social Security Act - which allows the Secretary to settle proceedings before the Administrative Appeals Tribunal in relation to debts - is not subject to internal review. **Item 16** inserts into subsection 1240(3B) a reference to (new) subsection 1240(3AA), to make it clear that, similarly, the internal review power applicable under (new) subsection 1240(3AA) does not apply to decisions about whether or not to exercise the power under section 1285A. **Item 17** amends subsection 1240(3B) to reflect the fact that the power under section 1285A may be exercised (or not) by the CEO of the Agency (under delegation).

Subsection 1240(4) provides that if a person applies to the SSAT for review of a decision, without first seeking internal review, then the person is taken to apply to the Secretary for review under subsection 1240(1) on the day that the person applied to the SSAT. **Items 18** and **19** amend subsection 1240(4) to reflect the role of the CEO of the Agency in relation to internal review.

Subsection 1241(1) of the Social Security Act allows the Secretary to continue the payment of a social security payment to a person, pending the outcome of a review of the decision. **Items 20** and **21** amend subsection 1241(1) to reflect the role of the CEO of the Agency in relation to internal review. Similarly, **clauses 22** and **23** amend subsection 1241(4) to reflect the fact that action under subsection 1240(1) may be taken by persons other than the Secretary (ie by the CEO).

Section 1242 of the Social Security Act relates to the automatic continuation of a payment if review of a section 282 cancellation decision is sought. This relates to decisions to cancel sole parent pension on the basis of the Secretary forming an opinion that a person is living in a marriage-like relationship with a person (which then disqualifies the person from receiving sole parent pension). **Item 24** amends subsection 1242(2) to reflect the fact that applications for review of such a decision might be made to the CEO of the Agency, under (new) subsection 1240(1AA).

Section 1242A of the Social Security Act provides for automatic continuation of payment if review of a section 607 terms decision is sought. This relates to a person's failure to agree to

the terms of a Newstart Activity Agreement. Such a failure can amount to a refusal to enter into a Newstart Activity Agreement which, in turn, can lead to disqualification for newstart allowance. **Item 25** amends subsection 1242A(2) to reflect the fact that applications for review of a decision relating to the terms of a Newstart Activity Agreement might be made to the CEO of the Agency, under (new) subsection 1240(1AA).

Section 1243 of the Social Security Act sets out the Secretary's powers in relation to an application for review under subsection 1240(1). **Item 26** amends subsection 1243(1) to reflect the fact that applications for review might also be made to the CEO of the Agency, under (new) subsection 1240(1AA).

Section 1243A of the Social Security Act provides for what is to occur in situations where the Secretary makes a determination ("the first determination") that a social security payment is granted or is payable to a person or is payable to a person at a certain rate and then makes a subsequent determination ("the second determination") to cancel the payment or to reduce the rate **and** the person applies for review of the second determination more than 13 weeks after being notified of that determination **and** the second determination is ultimately set aside. **Items 27** and **28** amend subsection 1243A(1) to reflect the role of the CEO of the Agency in the review process.

Section 1247 of the Social Security Act provides for applications for review of decisions by the SSAT. **Items 29** and **30** amend subsections 1247(1) and (1A) to reflect the role of the CEO of the Agency in the review process.

Section 1253 of the Social Security Act sets out the SSAT's powers in relation to the review of decisions. **Items 31** and **32** amend subsections 1253(1) and (2) to reflect the role of the CEO of the Agency in the review process.

Section 1254A of the Social Security Act sets out the SSAT's powers in relation to Newstart Activity Agreement decisions. **Item 33** amends paragraph 1254A(b) to reflect the role of the CEO of the Agency in the review process.

Section 1257 of the Social Security Act sets out the methods for applying to the SSAT for review of a decision. **Item 34** adds a new subparagraph 1257(1A)(a)(iii), which reflects the role of the CEO of the Agency in the review process. In particular, the new subparagraph allows persons to apply for a review of a decision made by the CEO or an employee of the Agency by delivering an application to an office of the Agency.

Section 1260 of the Social Security Act sets out who are the parties to an SSAT review. **Item 35** amends subsection 1260 to reflect the role of the CEO of the Agency in the review process. In particular, a new paragraph 1260(1)(ba) is inserted, which makes the CEO of the Agency a party to an SSAT review if the relevant decision was made by the CEO or an employee of the Agency.

Section 1261 of the Social Security Act sets out procedures for the review of decisions by the SSAT. **Item 36** amends subsection 1261(1) to reflect the role of the CEO of the Agency in the review process. In particular, it requires that applications for review delivered to the Agency must be forwarded to the National Convener of the SSAT.

Section 1285 of the Social Security Act provides the mechanism by which the Secretary to the Department of Social Security can appeal a decision of the SSAT to the Administrative Appeals Tribunal (AAT). It provides that if a decision has been reviewed by the SSAT and has been varied or set aside then the *Administrative Appeals Tribunal Act 1975* (the AAT Act) applies to a review under section 1283 of the Social Security Act - ie a review by the AAT of an SSAT decision - as if the Secretary were a "person affected" by the decision, for the purposes of section 27 of the AAT Act. **Item 37** adds a new subsection 1285(2), that makes similar provision in relation to decisions of the CEO of the Agency that are reviewed by the SSAT.

Section 1291 of the Social Security Act deals with lodging of documents with the AAT. It imposes obligations on the Secretary of the Department of Social Security in relation to appeals from SSAT decisions. **Item 38** amends subsection 1291(1) to reflect the role of the CEO of the Agency in relation to the review of decisions originally made by the CEO. **Item 39** adds new subsections 1291(4) and (5), that also reflect and provide for the role of the CEO in these circumstances.

Section 1299 of the Social Security Act sets out the Secretary to the Department of Social Security's powers of delegation. Subsection 1299(1) provides that he or she can delegate all or any of his or her powers under the Social Security Act to "an officer". "Officer" is defined in subsection 23(1) of the Social Security Act as "a person performing duties, or exercising powers or functions under or in relation to this Act, the *Farm Household Support Act 1992* or subsection 91A(3) of the *Child Support (Assessment) Act 1989* ...".

Item 40 inserts a new subsection 1299(1A), which provides that the Secretary can, in accordance with service arrangements (and subject to subsection (2) but despite subsection (3A)), delegate to the CEO or an employee of the Agency any or all of his or her powers under the Social Security Act. Such delegation must be by signed instrument.

Subsection 1299(2) provides that certain powers cannot be delegated. These are the Secretary's power under subsection 1218A(2) to continue a social security payment, despite the lack of a departure certificate, in circumstances beyond the control of the recipient of the payment, and the power under paragraph 1314(1)(b) to disclose information to the Secretary of a Commonwealth department or the head of a Commonwealth authority. **Item 41** amends subsection 1299(2) to allow the Secretary to delegate these powers to the CEO of the Agency. **Item 42** inserts a new subsection 1299(2A) that prevents the CEO from sub-delegating this power.

Subsection 1299(3) provides that certain powers can only be delegated to persons nominated by the Employment Secretary. **Item 43** inserts a new subsection 1299(3A), which imposes an equivalent limitation of the CEO's power to delegate those powers.

Subsection 1299(4) provides that the restriction on delegation imposed by subsection 1299(3) does not apply in relation to the Secretary's powers under subsections 601(1), (1A) or (1E). These provisions relate to the activity test for newstart allowance. **Item 44** amends subsection 1299(4) to extend this exception from the limitation on delegation to the CEO.

Item 45 inserts a new subsection 1299(6), which defines "officer" for the purposes of section 1299. The definition states that "officer" does not include the CEO or an employee on the Agency. This ensures that the Secretary can only delegate powers to the CEO and to

employees of the Agency under (new) subsection 1299(1A). In turn, this means that such delegation of power must be in accordance with service arrangements.

Division 2 of Part 7.2 of the Social Security Act deals with confidentiality.

Subsection 1312(1) provides that a person may obtain "protected information" (as defined in subsection 23(1) of the Social Security Act) if the information is obtained for the purposes of the Social Security Act or the *Farm Household Support Act 1992* (the Farm Household Support Act). **Item 46** inserts into subsection 1312(1) a reference to information being obtained for the purposes of Part 8 of the *Student and Youth Assistance Act 1973* (the Student and Youth Assistance Act). This amendment will allow information to be obtained as part of the integrated registration process that will apply under the Agency. In particular, it will allow client information relevant to a range of payments to be entered in a single registration process, rather than information having to be collected in a series of registration processes, each under the authority of a different Act.

Paragraph 1312(1A)(d) allows for the disclosure of protected information for the purposes of the Social Security Act or the Farm Household Support Act. For similar reasons to those discussed above, **Item 47** amends paragraph 1312(1A)(d) to insert a reference to information being disclosed for the purposes of Part 8 of the Student and Youth Assistance Act.

Section 1312A of the Social Security Act provides that it is an offence to obtain protected information intentionally. Access is authorised under the section if the information is obtained for the purposes of the Social Security Act or the Farm Household Support Act. For similar reasons to those discussed above, **Item 48** inserts a reference to information being authorised if obtained for the purposes of Part 8 of the Student and Youth Assistance Act. **Item 49** makes a consequential amendment to Note 2 to section 1312A.

Similarly, section 1312B provides that it is an offence to make a record of, disclose or otherwise make use of protected information. Such use of the information is permitted, however, if authorised or permitted under the Social Security Act or the Farm Household Support Act. For similar reasons to those discussed above, **Item 50** inserts a reference to such use of the information being permitted if authorised or required by Part 8 of the Student and Youth Assistance Act.

Section 1313 of the Social Security Act deals with requirements for the production of documents and the disclosure of information in court and tribunal proceedings, etc. It provides that an officer is not required to produce a document or disclose information possessed or *obtained* for the purposes of the Social Security Act or the Farm Household Support Act, other than for the purposes of those Acts. For similar reasons to those discussed above, **Item 51** amends section 1313 to extend that exception to include information and documents obtained for the purposes of Part 8 of the Student and Youth Assistance Act and to authorise production and disclosure for the purposes of Part 8 of the Student and Youth Assistance Act.

Subsection 1314(1) of the Social Security Act allows the Secretary to the Department of Social Security, in the public interest, to disclose information acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under the Social Security Act or the Farm Household Support Act. For similar reasons to those discussed above, **Item 52** amends subsection 1314(1) to allow disclosure of information acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under Part 8 of the Student and Youth Assistance Act.

Section 1318 of the Social Security Act makes it an offence to offer to supply protected information. Subsection 1318(3) provides an exception in relation to anything done by an officer acting in the exercise or performance of his or her duties, functions or powers under the Social Security Act or the Farm Household Support Act. For similar reasons to those discussed above, **Item 53** amends subsection 1318(3) to provide an exception in relation to anything done by an officer acting in the exercise or performance of his or her duties, functions or powers under Part 8 of the Student and Youth Assistance Act.

Item 54 inserts a new Schedule 1AA into the Social Security Act. In simple terms, Schedule 1AA provides that, if the Secretary delegates his or her powers under the Social Security Act to the CEO or an employee of the Agency, references in the body of the Social Security Act to "the Secretary" and "the Department" should be read as if they were references to "the CEO" and "the Agency", respectively.

Clause 1(1) of new Schedule 1AA provides that if the Secretary delegates to the CEO or an employee of the Agency a power under the Social Security Act to require or request a person to give the Secretary a document or information, then the delegate may, in exercising that power, require or request the person to give the document or information to the CEO instead of the Secretary.

Clause 1(2) of new Schedule 1AA provides that if the Secretary delegates to the CEO or an employee of the Agency a power under the Social Security Act to require or request a person to give or send to, or lodge with, the Department a document or information, then the delegate may, in exercising that power, require or request the person to give or send the document or information to the Agency, or lodge it with the Agency, instead of the Department.

Clause 1(3) of new Schedule 1AA provides that a person who gives a document or information to the CEO or gives or sends a document or information to the Agency, or lodges such document or information with the Agency, in compliance with a request by a delegate of the Secretary, shall be treated for all purposes as if they had given the document, etc to the Secretary or given the document, etc to the Department, as the case may be.

This provision ensures that a person who complies with a relevant request from a delegate of the Secretary cannot be penalised for failure to comply with the requirements of the Social Security Act, simply on the basis of their having, for example, provided a document to the CEO, rather than to the Secretary, as the relevant provision of the Social Security Act formally requires.

Clause 1(4) of new Schedule 1AA provides that a person who does not give a document or information to the CEO or does not give or send a document or information to the Agency, or does not lodge such document or information with the Agency, in compliance with a request by a delegate of the Secretary, shall be treated for all purposes as if they had not given the document, etc to the Secretary or had not given the document, etc to the Department, as the case may be.

This provision ensures that a person who *fails* to comply with a relevant request from a delegate of the Secretary *can* be penalised for failure to comply with the requirements of the Social Security Act.

Clause 2 of new Schedule 1AA specifically deals with references in the Social Security Act to "the Secretary" and "the Department" that, as a result of the delegation of powers to the CEO and employees of the Agency, become inappropriate.

Clause 2(1) of new Schedule 1AA provides that if the Secretary delegates to the CEO or an employee of the Agency all or any of his or her powers under the Social Security Act and the delegation of those powers means that a reference to the Secretary, the Department, or an officer of the Department is inappropriate (whether for administrative reasons or any other reason) then the Secretary may direct that the provision is to have effect as if:

- the reference to the Secretary were a reference to the CEO; or
- the reference to the Department were a reference to the Agency; or
- the reference to an officer of the Department were a reference to an employee of the Agency;

as the case requires. This ensures that, as appropriate, references in the Social Security Act to "the Secretary" can be read as references to "the CEO". It also avoids the need for extensive (though minor in nature) amendment of the Social Security Act.

This mechanism will not, however, have any adverse affect on customers of the Department (and, ultimately, the Agency), since the forms and letters customers will receive, notifying them of requirements and obligations, will make it clear that information, etc has to be supplied to the CEO or the Agency. There will be no need for such forms and letters to refer to the Department of Social Security.

Clause 2(2) of new Schedule 1AA provides that if the Secretary gives a direction in relation to a provision, the provision has effect in accordance with the direction while the direction is in force. This makes it clear that the direction only has effect in relation to the relevant provisions so long as it is in force. If the direction is revoked, the provisions revert to their normal meaning (ie "Secretary" will *mean* Secretary).

Clause 2(3) of new Schedule 1AA provides that a direction under these provisions comes into force on the day that it is notified in the Commonwealth *Gazette*, or on such later day as is specified in the direction, and that the direction remains in force until it is revoked.

Clause 2(4) of new Schedule 1AA provides that a direction is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. This means that the direction must be tabled in both Houses of the Parliament and is disallowable by either House.

Schedule 2 - Consequential amendment of other Acts

Schedule 2 of the Bill contains minor, consequential amendments of other Acts. Like the amendments contained in Schedule 1, the amendments in Schedule 2 reflect the fact that various services will be delivered by the CEO of the Agency and by employees of the Agency, rather than by the Secretary to the Department of Social Security and by officers of that Department. Details of the amendments are set out below.

Child Support (Assessment) Act 1989

Section 91A of the *Child Support (Assessment) Act 1989* (the Child Support (Assessment) Act) sets out procedures that are to be followed in situations where an application is made to the Child Support Registrar for registration of a child support agreement in relation to a child and the payee is a recipient of, or a claimant for, sole parent pension, additional family payment at more than the minimum family payment rate or special needs sole parent pension. Subsection 91A(2) provides that such an application must be sent to the Secretary to the Department of Social Security as soon as practicable after it has been made (so that the Secretary can, among other things, work out the effect of any payment under the agreement on the person's eligibility for sole parent pension, etc). **Item 1 of Schedule 2** amends subsection 91A(2), to require that, if the Secretary has delegated his or her powers under this section to the CEO or an employee of the Agency, then a copy of the agreement is to be provided to the CEO of the Agency.

Subsection 91A(6) provides that the Secretary may delegate all or any of his or her powers under section 91A to an officer of the Department of Social Security. **Item 2** amends subsection 91A(6), to allow the power to be delegated to the CEO or an employee of the Agency, in accordance with a service arrangement.

Section 149 of the Child Support (Assessment) Act allows the Child Support Registrar to delegate all or any of his or her powers under that Act to various persons. **Item 3** adds a new subsection 149(1AA), to allow the Registrar to delegate powers to the CEO or an employee of the Agency, in accordance with a service arrangement.

Section 150 of the Child Support (Assessment) Act sets out secrecy obligations in relation to the Act. Subsection 150(1) contains various definitions, including one of "person to whom this section applies". Paragraph (b) of the definition refers to the Secretary to the Department of Social Security. **Item 4** adds a new paragraph (ba), which refers to the CEO of the Agency. Paragraph (c) of the definition refers to officers and employees of the Department of Social Security. **Item 5** adds a new subparagraph (c)(iii), which refers to employees of the Agency.

Subsection 150(3) provides that the prohibition on communicating "protected information" that is contained in subsection 150(2) does not apply to the Registrar communicating protected information to various specified persons and for various specified reasons (including to the Department of Social Security for the purposes of the Child Support (Assessment) Act). **Item 6** adds to those persons and reasons a reference that allows information to be communicated to the CEO or an employee of the Agency for the purpose of the administration of the Child Support (Assessment) Act or of any other law of the Commonwealth relating to pensions, allowances or benefits.

Child Support (Registration and Collection) Act 1988

Subsection 4(1) of the *Child Support (Registration and Collection) Act 1988* (the Child Support (Registration and Collection) Act) sets out various definitions for the purposes of that Act. **Item 7 of Schedule 2** adds to those definitions a definition of "CEO". The definition provides that the term means the Chief Executive Officer of the Agency.

Subsection 4(1) also contains a definition of "employee". **Item 8** repeals the definition and substitutes a new definition, that repeats the existing definition but also adds a paragraph that states that, in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 9 inserts into subsection 4(1) a definition of "service arrangements", which states that the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 10 inserts into subsection 4(1) a definition of "Services Delivery Agency", which states that the term means the Commonwealth Services Delivery Agency established by the *Commonwealth Services Delivery Agency Act 1997*.

Subsection 15(1) of the Child Support (Registration and Collection) Act allows the Child Support Registrar to delegate all or any of his or her powers or functions under that Act to various nominated persons (including to the Secretary or an officer of the Department of Social Security). **Item 11** inserts a new subsection 15(1A), which provides that the Registrar may delegate all or any of his or her powers or functions to the CEO or an employee of the Agency, in accordance with a service arrangement.

Section 16 of the Child Support (Registration and Collection) Act sets out secrecy obligations in relation to the Act. Subsection 16(1) contains various definitions, including one of "person

to whom this section applies". Paragraph (b) of the definition refers to the Secretary to the Department of Social Security. **Item 12** adds a new paragraph (ba), which refers to the CEO of the Agency. Paragraph (c) of the definition refers to officers and employees of the Department of Social Security. **Item 13** adds a new subparagraph (c)(iii), which refers to the employees of the Agency.

Subsection 16(3) provides that the prohibition on communicating "protected information" that is contained in subsection 16(2) does not apply to the Registrar communicating protected information to various specified persons and for various specified reasons (including communicating protected information to the Department of Social Security for the purposes of the Child Support (Registration and Collection) Act). **Item 14**, by way of a new paragraph (ba), adds to those persons and reasons a reference that allows information to be communicated to the CEO or an employee of the Agency for the purpose of the administration of the Child Support (Registration and Collection) Act or of any other law of the Commonwealth relating to pensions, allowances or benefits.

Data-matching Program (Assistance and Tax) Act 1990

Section 3 of the *Data-matching Program (Assistance and Tax) Act 1990* (the Data-matching Act) sets out various definitions for the purposes of that Act. One of those definitions is that of "assistance agency". **Item 15 of Schedule 2** adds to that definition a new paragraph (e), that refers to the Agency. **Item 16** adds to subsection 3(1) a definition of "CEO". The definition provides that the term means the Chief Executive Officer of the Agency.

Item 17 adds to subsection 3(1) a definition of "employee", which states that , in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Subsection 3(1) contains a definition of "matching agency", which states that the term means the officers of the Department of Social Security that are referred to in section 4 of the Data-matching Act. That section, in turn, states that the Secretary to the Department of Social Security is to ensure that there are officers of that Department who are responsible for the matching of data under the Data-matching Act. **Item 18** repeals that definition and substitutes a new definition, which provides that, unless a direction under section 3A is in force, the term means the officers of the Department of Social Security referred to in subsection 4(1). It further provides that if a direction under section 3A is in force, the term means the employees of the Agency referred to in subsection 4(2).

Subsection 3(1) contains a definition of "personal assistance". Paragraph (b) of the definition refers to various types of assistance provided by "the Department of Employment, Education and Training". **Item 19** adds to that paragraph a reference to assistance provided by the Agency. Paragraph (c) of the definition refers to various types of assistance provided by the Department of Social Security. **Item 20** adds to that paragraph a reference to assistance provided by the Agency.

Item 21 adds to subsection 3(1) a definition of "Services Delivery Agency", which states that the term means the Commonwealth Services Delivery Agency established by the *Commonwealth Services Delivery Agency Act 1997*.

Item 22 inserts a new section 3A into the Data-matching Act. New subsection 3A(1) states that, if the Secretary to the Department of Social Security delegates to the CEO or an employee of the Agency all or any of his or her powers under the Data-matching Act and, as a result of the delegation of those powers, it is not appropriate for the Department of Social Security to be an assistance agency within the meaning provided in the Data-Matching Act, then the Secretary may direct that, despite subsection 3(1), the Department is not taken to be an assistance agency.

New subsection 3A(2) provides that a direction under subsection (1) has effect according to its terms. New subsection 3A(3) provides that a direction under subsection (1) comes into force on the day that it is notified in the *Commonwealth Gazette*, or on such later day as is specified in the direction, and that the direction remains in force until it is revoked.

New subsection 3A(4) provides that a direction is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. This means that the direction must be tabled in both Houses of the Parliament and is disallowable by either House.

As noted above, section 4 of the Data-matching Act states that the Secretary to the Department of Social Security is to ensure that there are officers of that Department who are responsible for the matching of data under the Data-matching Act. **Item 23** amends section 4 by adding a new subsection (2), which provides that, while a direction under section 3A is in force, the CEO is to ensure that there are employees of the Agency who are responsible for the matching of data under the Data-matching Act.

Section 10 of the Data-matching Act sets out how "source agencies" may use the results of the data-matching program. Subsection 10(3) provides that, subject to subsection (3A), any action in relation to information received under the program must be commenced within 12 months of it having been received. Subsection 10(3A) provides that various specified persons - including the Secretary to an assistance agency - can grant a 12 month extension to

the period referred to in subsection (3). **Item 24** inserts into subsection (3A) a reference to the CEO of the Agency.

Defence (Re-establishment) Act 1965

Section 46A sets out definitions applicable to Part V of the *Defence (Re-establishment) Act 1965* (the Defence (Re-establishment) Act). That Part deals with the rehabilitation of disabled former national servicemen. **Item 25** inserts into section 46A a definition of "CEO". The definition provides that the term means the Chief Executive Officer of the Agency.

Item 26 adds to section 46A a definition of "employee", which states that , in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 27 adds to section 46A a definition of "service arrangements". The definition provides that the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 28 adds to section 46A a definition of "Services Delivery Agency", which states that the term means the Commonwealth Services Delivery Agency established by the *Commonwealth Services Delivery Agency Act 1997*.

Section 49 of the Defence (Re-establishment) Act provides that a disabled person is not entitled to receive any assistance or benefit under Part V unless (among other things) he has applied to the Secretary to the Department of Social Security for assistance or benefit under this Part within 12 months of having completed his national service. **Item 29** inserts into paragraph 49(b) a reference to the CEO of the Agency, allowing for an application to be made to the CEO, as the case requires.

Item 30 inserts into the Defence (Re-establishment) Act a new section 49AA, which allows the Secretary to the Department of Social Security to delegate his or her powers under Part V to the CEO or an employee of the Agency, in accordance with service arrangements

Section 49A sets out definitions applicable to Part VA of the Defence (Re-establishment) Act, which deals with the rehabilitation of disabled regular servicemen. **Item 31** inserts into section 49A a definition of "CEO". The definition provides that the term means the Chief Executive Officer of the Agency.

Item 32 adds to section 49A a definition of "employee", which states that , in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 33 adds to section 49A a definition of "service arrangements". The definition provides that the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 34 adds to section 49A a definition of "Services Delivery Agency", which states that the term means the Commonwealth Services Delivery Agency established by the *Commonwealth Services Delivery Agency Act 1997*.

Section 49D of the Defence (Re-establishment) Act provides that a disabled person is not entitled to receive any assistance or benefit under Part VA unless (among other things) he has applied to the Secretary to the Department of Social Security for assistance or benefit under this Part within 12 months of having become a former regular serviceman. **Item 35** inserts into paragraph 49D(b) a reference to the CEO of the Agency, allowing for an application to be made to the CEO, as the case requires.

Item 36 inserts into the Defence (Re-establishment) Act a new section 49E, which allows the Secretary to the Department of Social Security to delegate his or her powers under Part VA to the CEO or an employee of the Agency, in accordance with service arrangements.

Employment Services Act 1994

Section 4 of the Employment Services Act 1994 (the Employment Services Act) sets out definitions applicable to that Act. **Item 37** adds to section 4 a definition of "employee", which states that, in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 38 adds to section 4 a definition of "service arrangements". The definition provides that the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 39 adds to section 4 a definition of "Services Delivery Agency", which states that the term means the Commonwealth Services Delivery Agency established by the *Commonwealth Services Delivery Agency Act 1997*.

Section 10 of the Employment Services Act provides that, for the purposes of that Act, anything done in the name of or on behalf of the Commonwealth Employment Service (CES) by an officer of the Department of Employment, Education, Training and Youth Affairs is taken to have been done by the CES. **Item 40** adds to section 10 a reference to anything done by the CEO or an employee of the Agency on behalf of the CES.

Section 47 of the Employment Services Act provides for the delegation of powers under that Act. Subsection 47(1) provides that the Employment Secretary can delegate his or her powers under sections 40, 41, 42, 44, 45 or 46 to an officer of the Department of Employment, Education, Training and Youth Affairs. **Item 41** amends subsection 47(1) to allow the Employment Secretary to delegate his or her powers under those sections to the CEO or an employee of the Agency, in accordance with a service arrangement.

Part 4.10 of the Employment Services Act deals with review of case management decisions. Section 146 allows the Employment Secretary to authorise an officer of the Department of Employment, Education, Training and Youth Affairs to exercise his or her powers under the Part. Consistent with the role of the Agency in relation to case management decisions, **Item 42** amends section 146 to allow the Employment Secretary, in accordance with service arrangements, to authorise the CEO or an employee of the Agency to exercise his or her powers under Part 4.10.

Subsection 160(1) of the Employment Services Act sets out methods for applying to the Social Security Appeals Tribunal under subsection 153(1) for review of a decision. **Item 43** amends subsection 160(1), to allow an application for review to be sent or delivered to an office of the Agency.

Farm Household Support Act 1992

Subsection 3(2) of the *Farm Household Support Act 1992* (the Farm Household Support Act) sets out definitions applicable to that Act. **Item 44** inserts into subsection 3(2) a definition of "Agency", which is defined to mean the Commonwealth Services Delivery Agency, established by the *Commonwealth Services Delivery Agency Act 1997*.

Item 45 inserts into subsection 3(2) a definition of "CEO". The definition provides that the term means the Chief Executive Officer of the Agency.

Item 46 adds to subsection 3(2) a definition of "employee", which states that , in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 47 adds to subsection 3(2) a definition of "service arrangements". The definition provides that the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Section 53 of the Farm Household Support Act allows the Secretary to the Department of Social Security to delegate all or any of his or her powers under that Act to an "officer" (as defined in the Social Security Act). **Item 48** inserts a new subsection 53(2), which allows the Secretary to delegate his or her powers under the Farm Household Support Act to the CEO or an employee of the Agency, in accordance with service arrangements.

Item 49 inserts a new section 53A into the Farm Household Support Act. New subsection 53A(1) provides that if the Secretary delegates to the CEO or an employee of the Agency a power under the Farm Household Support Act to require a person to produce or give to the Department of Social Security any document or information, then the delegate may, in exercising that power, require the person to produce or give the document or information to the Agency, instead of the Department.

New subsection 53A(2) provides that a person who produces or gives a document or information to the Agency, in compliance with a requirement by a delegate of the Secretary, shall be treated for all purposes as if he or she had given the document, etc to the Department in compliance with a requirement by the Secretary.

New subsection 53A(3) provides that a person who does not produce or give a document or information to the Agency in compliance with a request by a delegate of the Secretary shall be treated for all purposes as if they had not produced or given the document or information to the Department in compliance with a requirement by the Secretary.

New subsection 53A(4) deals with references in the Farm Household Support Act to "the Secretary" and "the Department" that, as a result of the delegation of powers to the CEO and employees of the Agency, become inappropriate (that is, because the information etc should be provided to the CEO). It provides that if the Secretary delegates to the CEO or an employee of the Agency all or any of his or her powers under the Farm Household Support Act and the delegation of those powers means that a reference to the Secretary, the Department, or an officer of the Department is inappropriate (whether for administrative reasons or any other reason) then the Secretary may direct that the provision is to have effect as if:

- the reference to the Secretary were a reference to the CEO; or
- the reference to the Department were a reference to the Agency;

as the case requires. This ensures that, as appropriate, references in the Farm Household Support Act to "the Secretary" can be read as references to "the CEO".

New subsection 53A(5) provides that if the Secretary gives a direction in relation to a provision, the provision has effect in accordance with the direction while the direction is in force. This makes it clear that the direction only has effect in relation to the relevant provisions so long as it is in force. If the direction is revoked, the provisions revert to their normal meaning (ie "Secretary" will *mean* Secretary).

New subsection 53A(6) provides that a direction under these provisions comes into force on the day that it is notified in the Commonwealth *Gazette*, or on such later day as is specified in the direction, and that the direction remains in force until it is revoked.

New subsection 53A(7) provides that a direction is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. This means that the direction must be tabled in both Houses of the Parliament and is disallowable by either House.

Gift Duty Assessment Act 1941

Section 10 of the *Gift Duty Assessment Act 1941* sets out the secrecy obligations under that Act. In spite of the secrecy provisions, subsection 10(4) allows the Commissioner of Taxation to communicate information to various persons in various circumstances, including to the Secretary to the Department of Social Security for the purpose of the administration of any law of the Commonwealth relating to pensions. **Items 50** and **51** amend subsection 10(4) to allow information to be provided to the CEO or an employee of the Agency for the purpose of the administration of any law of the Commonwealth relating to pensions.

Health Insurance Act 1973

Subsection 3(1) of the *Health Insurance Act 1973* (the Health Insurance Act) sets out definitions applicable to that Act. **Item 52** inserts into subsection 3(1) a definition of "CEO". The definition provides that the term means the Chief Executive Officer of the Agency.

Item 53 adds to subsection 3(1) a definition of "employee", which states that, in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 54 adds to section 3(1) a definition of "service arrangements". The definition provides that the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 55 inserts into subsection 3(1) a definition of "Services Delivery Agency", which is defined to mean the Commonwealth Services Delivery Agency, established by the *Commonwealth Services Delivery Agency Act 1997*.

Section 130 of the Health Insurance Act sets out the secrecy obligations under that Act. In spite of the secrecy provisions, subsection 130(6) allows the Secretary to the Department of Health or the Managing Director of the Health Insurance Commission to communicate information to various persons (including the Secretary to the Department of Social Security) if a person has been convicted of certain nominated offences. **Items 57** adds to those nominated persons the CEO and the employees of the Agency. **Items 56** and **58** make minor technical amendments (to tidy up the drafting of subsection 130(6)).

Subsection 130(7) allows the Secretary to the Department of Health or the Managing Director of the Health Insurance Commission to communicate information to various persons in various circumstances, including to the Secretary to the Department of Social Security for the purpose of the administration of an Act administered by the Minister for Social Security. **Item 59** amends subsection 130(7) to allow information to be provided to the CEO or an employee of the Agency in the same circumstances.

Subsection 130(9) limits the use of information divulged under subsections 130(6) and (7). **Item 61** inserts a new paragraph 130(9)(aa), limiting the use of information divulged to the CEO or an employee of the Agency to use in performance of the powers or functions under an Act administered by the Minister for Social Security. **Item 62** makes a consequential amendment to subsection 130(10). **Item 60** makes a minor, technical amendment (to tidy up the drafting of subsection 130(9)).

Subsection 130G(1) provides that all courts must take judicial notice of the signatures of certain nominated persons. **Items 63 to 65** amend subsection 130G(1) to include the CEO and employees of the Agency within the scope of the subsection's operation.

Section 130J provides for delegation of the powers of the Secretary to the Department of Social Security under the Health Insurance Act. **Item 66** inserts a new subsection 130J(1), which provides that the Secretary may not delegate a power to the CEO or an employee of the Agency, except in accordance with a service arrangement.

Item 67 inserts a new section 131A into the Health Insurance Act. New subsection 131A(1) provides that if the Secretary delegates to the CEO or an employee of the Agency a power under the Health Insurance Act to require a person to give or return a document or information to the Department of Social Security, then the delegate may, in exercising that power, require the person to give or return the document or information to the Agency, instead of the Department.

New subsection 131A(2) provides that a person who returns or gives a document or information to the Agency, in compliance with a requirement by a delegate of the Secretary, shall be treated for all purposes as if he or she had returned or given the document, etc to the Department in compliance with a requirement by the Secretary.

New subsection 131A(3) provides that a person who does not return or give a document or information to the Agency in compliance with a request by a delegate of the Secretary shall be treated for all purposes as if they had not returned or given the document or information to the Department in compliance with a requirement by the Secretary.

New subsection 131A(4) deals with references in the Health Insurance Act to "the Secretary" and "the Department" that, as a result of the delegation of powers to the CEO and employees of the Agency, become inappropriate. It provides that if the Secretary delegates to the CEO or an employee of the Agency all or any of his or her powers under the Health Insurance Act and the delegation of those powers means that a reference to the Secretary, the Department, or an officer of the Department is inappropriate (whether for administrative reasons or any other reason) then the Secretary may direct that the provision is to have effect as if:

- the reference to the Secretary were a reference to the CEO; or
- the reference to the Department were a reference to the Agency; or
- the reference to an officer of the Department were a reference to an employee of the Agency;

as the case requires. This ensures that, as appropriate, references in the Health Insurance Act to "the Secretary" can be read as references to "the CEO", to "the Department" as "the Agency", etc.

New subsection 131A(5) provides that if the Secretary gives a direction in relation to a provision, the provision has effect in accordance with the direction while the direction is in force. This makes it clear that the direction only has effect in relation to the relevant provisions so long as it is in force. If the direction is revoked, the provisions revert to their normal meaning (ie "Secretary" will *mean* Secretary).

New subsection 131A(6) provides that a direction under these provisions comes into force on the day that it is notified in the Commonwealth *Gazette*, or on such later day as is specified in the direction, and that the direction remains in force until it is revoked.

New subsection 131A(7) provides that a direction is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. This means that the direction must be tabled in both Houses of the Parliament and is disallowable by either House.

New subsection 131A(8) defines (for the purposes of section 131A) "Department" as the Department of Social Security and "Secretary" as the Secretary to the Department of Social Security.

Income Tax Assessment Act 1936

Section 16 of the *Income Tax Assessment Act 1936* (the Income Tax Act) sets out the secrecy obligations under that Act. In spite of the secrecy provisions, subsection 16(4) allows the Commissioner of Taxation to communicate information to various persons in various circumstances, including to the Secretary to the Department of Social Security for the purpose of the administration of any law of the Commonwealth relating to pensions, allowances or benefits. **Item 68** amends subsection 16(4), to allow information to be provided to the CEO of the Agency - rather than the Secretary to the Department of Social Security - for the purpose of the administration of any law of the Commonwealth relating to pensions, allowances or benefits, if the Secretary has delegated the relevant powers to the CEO under a service arrangement.

Section 202CB of the Income Tax Act deals with the quotation of tax file numbers in employment declarations. Subsections 202CB(2) to (4) set out certain requirements in that respect. Subsection 202CB(6) states that those requirements do not apply to employment declarations given to the Secretary to the Department of Social Security in certain nominated circumstances (ie under the Social Security Act, the Student and Youth Assistance Act, etc). **Item 69** amends subsection 202CB(6) to extend that exemption to employment declarations given to the CEO of the Agency.

Section 202CE of the Income Tax Act deals with the effect of incorrect quotation (by an individual) of a tax file number. Subsection 202CE(7) provides an exemption from the application of the provisions of section 202CE in relation to employment declarations given to the Secretary to the Department of Social Security. **Item 70** expands that exemption to include employment declarations given to the CEO of the Agency.

National Health Act 1953

Section 135A of the *National Health Act 1953* (the National Health Act) sets out the secrecy obligations under that Act. In spite of the secrecy provisions, subsection 135A(6) allows the Secretary of the Department of Health to communicate information to various persons (including the Secretary to the Department of Social Security) if a person has been convicted of certain nominated offences. **Item 71** adds to those nominated persons the CEO and the employees of the Agency. **Item 72** makes minor technical amendments (to tidy up the drafting of subsection 135A(6)).

Subsection 135A(7) allows the Secretary to the Department of Health to communicate information to various persons in various circumstances, including to the Secretary to the Department of Social Security for the purpose of the administration of an Act administered by the Minister for Social Security. **Item 73** amends subsection 135A(7) to allow information to be provided to the CEO or an employee of the Agency in the same circumstances.

Subsection 135A(9) limits the use of information divulged under subsections 135A(6) and (7). **Item 75** inserts a new paragraph 135A(9)(aa), limiting the use of information divulged to the CEO or an employee of the Agency to use in performance of the powers or functions under an Act administered by the Minister for Social Security. **Item 74** makes minor, technical amendments (to tidy up the drafting of subsection 135A(9)).

Subsection 135A(24) of the National Health Act sets out definitions applicable to that Act. **Item 76** inserts into subsection 135A(24) a definition of "CEO". The definition provides that the term means the Chief Executive Officer of the Agency.

Item 77 adds to subsection 135A(24) a definition of "employee", which states that, in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Item 78 inserts into subsection 135A(24) a definition of "Services Delivery Agency", which is defined to mean the Commonwealth Services Delivery Agency, established by the *Commonwealth Services Delivery Agency Act 1997*.

Re-establishment and Employment Act 1945

Section 150 of the *Re-establishment and Employment Act 1945* (the Re-establishment and Employment Act) extends the operation of the *Disability Services Act 1986* to certain members of the Forces. Subsection 150(3) of the Re-establishment and Employment Act contains an incorrect reference to the Secretary to the Department of Community Services. **Item 79** replaces that reference with a reference to the Secretary to the Department of Social Security.

Item 80 inserts a new section 152A into the Re-establishment and Employment Act. New subsection 152A(1) provides that the Secretary to the Department of Social Security may, in accordance with service arrangements, delegate his or her powers under the Re-establishment and Employment Act to the CEO or an employee of the Agency.

New subsection 152A(2) sets out definitions applicable to section 152A. "Employee" is defined, in relation to the Agency, as having the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*. "Service arrangements" are defined as having the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*. "Services Delivery Agency" is defined to mean the Commonwealth Services Delivery Agency, established by the *Commonwealth Services Delivery Agency Act 1997*.

Student and Youth Assistance Act 1973

Subsection 3(1) of the *Student and Youth Assistance Act 1973* (the Student and Youth Assistance Act) sets out definitions applicable to that Act. **Item 81** inserts into subsection 3(1) a definition of "Agency". The definition states that the term refers to the Commonwealth Services Delivery Agency established by the Agency Act. **Item 82** inserts into subsection 3(1) a definition of "Agency Act". The definition states that the term means the *Commonwealth Services Delivery Agency Act 1997*.

Item 83 inserts into subsection 3(1) a definition of "CEO". The definition states that the term means the Chief Executive Officer of the Agency. **Item 84** adds to subsection 3(1) a definition of "employee", which states that, in relation to the Agency, the term has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

Subsection 3(1) contains a definition of "protected information". The definition provides that the term means information about a person that has been obtained for the purposes of the Student and Youth Assistance Act and is held in the records of the Department of Employment, Education, Training and Youth Affairs or the Department of Social Security. **Item 85** adds to the definition a reference to information held in the records of the Agency.

Item 86 makes it clear that the term "service arrangements" has the same meaning as in the Agency Act.

Section 338 of the Student and Youth Assistance Act gives the Employment Secretary the power to delegate his or her powers under that Act. **Item 87** inserts a new subsection 338(1A), which provides that (subject to section 338) the Secretary to the Department of Social Security may, in accordance with service arrangements, delegate all or any of his powers under the Student and Youth Assistance Act to the CEO or an employee of the Agency.

Subsection 338(2) provides that the Employment Secretary can only delegate his or her powers under paragraph 355(1)(b) of the Student and Youth Assistance Act to the Secretary to the Department of Social Security. **Item 88** amends subsection 338(2) to allow this power to be delegated to the CEO of the Agency.

Subsection 338(2) provides that certain powers can only be delegated to officers of the Department of Employment, Education, Training and Youth Affairs. **Item 89** amends subsection 338(3) to allow those powers to be delegated to officers of the Agency. **Item 90** provides that if the Secretary to the Department of Social Security delegates his or her power under subsection 338(2) to the CEO of the Agency, the CEO cannot then delegate that power to an employee of the Agency.

Item 91 inserts a new section 338A into the Student and Youth Assistance Act. New subsection 338A(1) provides that if the Secretary delegates to the CEO or an employee of the Agency a power under the Student and Youth Assistance Act to require a person to give, send or produce a document or information to the Department of Social Security, then the delegate may, in exercising that power, require the person to give, send or produce the document or information to the Agency, instead of the Department.

New subsection 338A(2) provides that a person who gives, sends or produces a document or information to the Agency, in compliance with a requirement by a delegate of the Secretary, shall be treated for all purposes as if he or she had given, sent or produced the document, etc to the Department in compliance with a requirement by the Secretary.

New subsection 338A(3) provides that a person who does not return or give, send or produce a document or information to the Agency in compliance with a request by a delegate of the Secretary shall be treated for all purposes as if they had not given, sent or produced the document or information to the Department in compliance with a requirement by the Secretary.

New subsection 338A(4) deals with references in the Student and Youth Assistance Act to "the Secretary" and "the Department" that, as a result of the delegation of powers to the CEO and employees of the Agency, become inappropriate. It provides that if the Secretary delegates to the CEO or an employee of the Agency all or any of his or her powers under the Student and Youth Assistance Act and the delegation of those powers means that a reference to the Secretary, the Department, or an officer of the Department in a prescribed provision is inappropriate (whether for administrative reasons or any other reason) then the Secretary may direct that the provision is to have effect as if:

- the reference to the Secretary were a reference to the CEO; or
- the reference to the Department were a reference to the Agency; or
- the reference to an officer of the Department were a reference to an employee of the Agency;

as the case requires. This ensures that, as appropriate, references in the Student and Youth Assistance Act to "the Secretary" can be read as references to "the CEO", to "the Department" as "the Agency", etc.

New subsection 338A(5) provides that if the Secretary gives a direction in relation to a provision, the provision has effect in accordance with the direction while the direction is in force. This makes it clear that the direction only has effect in relation to the relevant provisions so long as it is in force. If the direction is revoked, the provisions revert to their normal meaning (ie "Secretary" will *mean* Secretary).

New subsection 338A(6) provides that a direction under these provisions comes into force on the day that it is notified in the Commonwealth *Gazette*, or on such later day as is specified in the direction, and that the direction remains in force until it is revoked.

New subsection 338A(7) provides that a direction is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. This means that the direction must be tabled in both Houses of the Parliament and is disallowable by either House.

New subsection 338A(8) defines (for the purposes of section 338A) "Department" as the Department of Social Security and "Secretary" as the Secretary to the Department of Social Security. It also defines "prescribed provision" as meaning a provision of Part 8 of the Student and Youth Assistance Act or of Part 9 or 10 of that Act, in so far as the provision relates to youth training allowance.

Division 3 of Part 10 of the Student and Youth Assistance Act deals with confidentiality. Subsection 351(1) provides that a person may obtain "protected information" (as defined in subsection 3(1) of the Student and Youth Assistance Act) if the information is obtained for the purposes of the Student and Youth Assistance Act. **Item 92** inserts into subsection 351(1) a reference to information being obtained for the purposes of the Social Security Act. This amendment will allow information to be obtained as part of the integrated registration process that will apply under the Agency. In particular, it will allow client information relevant to a range of payments to be entered in a single registration process, rather than information having to be collected in a series of registration processes, each under the authority of a different Act.

Paragraph 351(2)(d) allows for the disclosure of protected information for the purposes of the Student and Youth Assistance Act. For similar reasons to those discussed above, **Item 93** amends paragraph 351(2)(d) to insert a reference to information being disclosed for the purposes of the Social Security Act.

Section 352 of the Student and Youth Assistance Act provides that it is an offence to obtain protected information intentionally. Access is authorised under the section if the information is obtained for the purposes of the Student and Youth Assistance Act. For similar reasons to those discussed above, **Item 94** inserts a reference to information being authorised if obtained for the purposes of the Social Security Act. **Item 95** makes a consequential amendment to Note 2 to section 352.

Similarly, section 353 provides that it is an offence to make a record of, disclose or otherwise make use of protected information. Such use of the information is permitted, however, if authorised or permitted under the Student and Youth Assistance Act. For similar reasons to those discussed above, **Item 96** inserts a reference to such use of the information being permitted if authorised or required by the Social Security Act.

Section 354 of the Student and Youth Assistance Act deals with requirements for the production of documents and the disclosure of information in court and tribunal proceedings, etc. It provides that an officer is not required to produce a document or disclose information possessed or *obtained* for the purposes of the Student and Youth Assistance Act, other than for the purposes of that Act. For similar reasons to those discussed above, **Item 97** amends section 354 to extend that exception to include information and documents obtained for the purposes of the Social Security Act and to authorise production and disclosure for the purposes of the Social Security Act.

Subsection 355(1) of the Student and Youth Assistance Act allows the Secretary to the Department of Employment, Education, Training and Youth Affairs, in the public interest, to disclose information acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under the Student and Youth Assistance Act. For similar reasons to those discussed above, **Item 98** amends subsection 355(1) to allow disclosure of information acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under the Social Security Act.

Section 359 of the Student and Youth Assistance Act makes it an offence to offer to supply protected information. Subsection 359(3) provides an exception in relation to anything done by an officer acting in the exercise or performance of his or her duties, functions or powers under the Student and Youth Assistance Act. For similar reasons to those discussed above, **Item 99** amends subsection 359(3) to provide an exception in relation to anything done by an officer acting in the exercise or performance of his or her duties, functions or powers under the Social Security Act.

5. Commencement

The Act commences on the commencement of the *Commonwealth Services Delivery Agency Act 1997* (**clause 2**). (Clause 2 of the Commonwealth Services Delivery Agency Bill 1996 states that it is to commence on 1 July 1997.)