EXPLANATORY STATEMENT

Social Security (Public Interest Certificate Guidelines) (DEEWR) Amendment Determination 2009 (No. 1)

Summary
The Social Security (Public Interest Certificate Guidelines) (DEEWR) Amendment Determination 2009 (No. 1) (the Amendment Determination) is made by the Minister for Education and Minister for Employment and Workplace Relations under paragraph 209 (b) of the Social Security (Administration) Act 1999.

The purpose of the Amendment Determination is to amend the Social Security (Public Interest Certificate Guidelines) (DEEWR) Determination 2008 (the Principal Determination) to incorporate amendments to social security law made by the Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Act 2008 (the Same-Sex Act) to eliminate discrimination against same-sex couples and the children of same-sex relationships in Commonwealth legislation.

Background
The Principal Determination specifies guidelines for the exercise of the power of the Secretary of the Department of Education, Employment and Workplace Relations (DEEWR), or the Secretary’s delegate, to disclose information acquired for the purposes of the social security law if it is in the public interest to do so.

Explanation of provisions
Amendment Determination
Section 1 provides that the name of the Amendment Determination is the Social Security (Public Interest Certificate Guidelines) (DEEWR) Amendment Determination 2009 (No. 1).

Section 2 states that the Amendment Determination commences on 1 July 2009. This is consistent with the commencement of the amendments made to the social security law by the Same-Sex Act.

Section 3 provides that the Principal Determination is amended as set out in Schedule 1 to the Amendment Determination.

Schedule 1 to the Amendment Determination
Item 1 omits the words ‘natural or adoptive parent’ from paragraph (a) of the definition of parent in subsection 17 (2) of the Principal Determination and inserts the words ‘natural parent, adoptive parent or relationship parent’. The Same-Sex Act extends the definition of parent to include the additional term, ‘relationship parent.’ A person is a relationship parent to a child who is not a biological or adopted child of the person and who is the product of a relationship the person has had as a couple with another person, whether of the same sex or a different sex. The child must be the biological child of at least one of the persons in the relationship or have been born to a woman in the relationship.
Formal matters

Consultation
The Amendment Determination ensures existing guidelines are consistent with amendments to Commonwealth primary legislation made by the Same-Sex Act, and are consequential to those amendments. No public consultation was considered necessary.

Regulatory Impact Statement
The Amendment Determination does not require a Regulatory Impact Statement (RIS) nor a Business Cost Calculator Figure. The Amendment Determination is not regulatory in nature, will not impact on business activity and will have no compliance costs or competition impact.

Authority
Paragraph 209 (b) of the Social Security (Administration) Act 1999. No preconditions need to be satisfied for the making of this instrument.