EXPLANATORY STATEMENT

Social Security (Partially Asset-test Exempt Income Stream – Exemption) (FaHCSIA) Amendment Principles 2010 (No. 1)

Summary

The Social Security (Partially Asset-test Exempt Income Stream – Exemption) (FaHCSIA) Amendment Principles 2010 (No. 1) (the Amendment Principles) are made by the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs (the Department) under subsection 1118(1A) of the Social Security Act 1991 (the Act).

The purpose of the Amendment Principles is to amend the Social Security (Partially Asset-test Exempt Income Stream – Exemption) (FACS) Principles 2005 (the 2005 Principles) to incorporate amendments to the 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 any possible discrimination against same-sex couples.

Background

The 2005 Principles specify circumstances in which certain income streams are fully (100%) exempt from the assets test under the Act.

Explanation of provisions

Amendment Principles

Section 1 provides that the name of the Amendment Principles is the Social Security (Partially Asset-test Exempt Income Stream – Exemption) (FaHCSIA) Amendment Principles 2010 (No. 1).

Section 2 provides that the Amendment Principles commence on the day after they are registered.

Section 3 provides that the 2005 Principles are amended as set out in Schedule 1 to the Amendment Principles.

Schedule 1 of the Amendment Principles

Item 1 substitutes the name of the 2005 Principles with the Social Security (Partially Asset-test Exempt Income Stream – Exemption) (FaHCSIA) Principles 2005. This change is to take account of the change to the Department’s name since the 2005 Principles were made.

Item 2 inserts the definition of partner into the 2005 Principles. The term partner takes its meaning from subsection 4(1) of the Act.
Items 3 and 5 omits the words ‘primary beneficiary’s spouse (or former spouse)’ from paragraphs 7(b) and 8(b) of the 2005 Principles and inserts the words ‘primary beneficiary’s partner (or former partner)’. This amendment ensures that the 2005 Principles are consistent with amendments made to Commonwealth primary legislation by the Same-Sex Act to eliminate discrimination against same-sex couples.

Item 4 omits the words ‘spouse (or former spouse)’ from paragraph 7(c) of the 2005 Principles and inserts the words ‘partner (or former partner)’. As with items 3 and 5, this amendment ensures consistency with Commonwealth primary legislation due to the Same-Sex Act.

Consultation

No public consultation was considered necessary as these amendments are consequential to the amendments made to Commonwealth primary legislation by the Same-Sex Act.

Regulatory Impact Statement

This instrument does not require a Regulatory Impact Statement and/or a Business Cost Calculator Figure. This instrument is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.