

EXPLANATORY STATEMENT

Social Security (Administration) (Schooling Requirements – Person Responsible) Specification 2014

Summary

The *Social Security (Administration) (Schooling Requirements – Person Responsible) Specification 2014* (the Specification) is made under subsection 124A(2) of the *Social Security (Administration) Act 1999* (the Act) and specifies a class of persons for the purposes of paragraph (aa) of the definition of **person responsible** in subsection 124A(1) of the Act.

The Specification is made by the Minister for Social Services.

Background

Part 3C of the Act contains the rules that give effect to the Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM). Part 3C expresses requirements for a school requirement person (certain parents and carers receiving income support payments) regarding enrolment and attendance of their compulsory school age children.

Division 3A of Part 3C addresses unsatisfactory school attendance through a structured process of conferences and the development of attendance plans. Division 3A applies if a schooling requirement person's child is enrolled at school and the **person responsible** for the operation of the school gives written notice to the Secretary that the child has unsatisfactory school attendance. If these conditions are satisfied, then Division 3A allows for a schooling requirement person to be required to attend a conference, enter into an attendance plan and comply with the requirements of the plan through the giving of various notices by the notifier. The notifier can be the Secretary (or delegate) or the **person responsible** for the operation of the school.

The concept of a **person responsible** for the operation of a school is defined in subsection 124A(1) of the Act. A **person responsible** includes the categories of person set out in subsection 124(A)(1), including a class of persons specified in an instrument made under subsection 124A(2).

The Specification, made under subsection 124A(2), revokes the *Social Security (Administration) (Schooling Requirements – Person Responsible) Specification 2012* (Revoked Specification) and amends the name of the agency contained in the Revoked Specification of which a **person responsible** is an employee. The Specification has amended the name of the agency from the "Northern Territory Department of Education and Children's Services" to the "Northern Territory department responsible for school education" to account for a change in name of the relevant agency to the "Northern Territory Department of Education". The new general description will provide flexibility to account for any future name changes of the relevant agency.

Explanation of the Provisions

Sections 1 and 2 of the Specification are mechanical provisions that provide for the name of the Specification and its commencement respectively. The Specification commences on the day after it is registered.

Section 3 revokes the *Social Security (Administration) (Schooling Requirements – Person Responsible) Specification 2012*.

Section 4 specifies persons who are employees of the Northern Territory department responsible for school education and who from time to time exercise powers and functions under sections 23A and 23B of Part 4 of the *Education Act* (NT) in relation to school enrolment, attendance or participation, as a class of persons for the purposes of paragraph (aa) of the definition of **person responsible** in subsection 124A(1) of the Act. Each person in this class of persons is a **person responsible**.

Consultation

The Department of Prime Minister and Cabinet and the Department of Education have been consulted in the preparation of the Specification given the current or recent responsibility of those departments for SEAM. The Northern Territory Department of Education was consulted as some of their employees are persons in the class of persons specified by the Minister in this Specification.

Regulatory Impact Analysis

The Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

Statement of Compatibility with Human Rights

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

Social Security (Administration) (Schooling Requirements – Person Responsible) Specification 2014

This Legislative 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 *Social Security (Administration) (Schooling Requirements – Person Responsible) Specification 2014* (the Specification) revokes and replaces the *Social Security (Administration) (Schooling Requirements – Person Responsible) Specification 2012* (the Revoked Specification) to amend the name of the agency whose employees are considered to be ‘persons responsible’ for the purposes of Part 3C of the *Social Security (Administration) Act 1999* (the Act).

The Specification specifies a class of persons for the purposes of paragraph (aa) of the definition of ‘person responsible’ in subsection 124A(1) of the Act. The Specification seeks to enhance the operation of the Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM) in the Northern Territory by prescribing employees of the Northern Territory department responsible for school education to assume the role of a ‘person responsible’ in relation to SEAM.

SEAM places certain conditions on income support payments received by parents or carers to ensure that they receive the support they need to fulfil their basic responsibilities in relation to their children’s schooling. If a child has too many unexplained absences, the child’s parent(s) or carer(s) will be asked to attend a conference with a representative from the Northern Territory Government and a Centrelink Social Worker to discuss barriers impacting their child’s attendance. The conference will agree on an attendance plan, which will specify actions to be taken by the school, Centrelink and the family, to address these barriers. Non-compliance with the conference and attendance plan may result in the suspension or cancellation of specified schooling requirement payments for the parent or carer.

Through the Specification, certain persons who are employees of the Northern Territory department responsible for school education and who from time to time exercise powers and functions under sections 23A and 23B of Part 4 of the *Education Act* (NT) in relation to school enrolment, attendance or participation are specified by the Minister to be a class of persons for the purposes of the definition of ‘person responsible’. At the time this Specification commences, the Northern Territory department responsible for school education is the Northern Territory Department of Education.

As a ‘person responsible’, a person will be able to issue notices that trigger the application of SEAM where a child is not attending school as required by law, and may direct certain parents or carers of a school-aged child to participate in a

conference, agree to an attendance plan and follow the actions of that plan in relation to SEAM.

Human rights implications

The Specification is entirely procedural in nature and does not make any substantive changes to the human rights implications of SEAM. The Specification preserves the operation of the existing system but amends the name of the relevant agency – that is, the Northern Territory department responsible for school education. As such, the Specification is compatible with human rights by preserving the current system and not substantively changing the human rights implications of SEAM.

The Hon Kevin Andrews, Minister for Social Services