



Social Security (Exemption Notices for Special Disability Trusts) (DEST) Guidelines r 2006

Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006

I, WILLIAM PETER BURMESTER, Acting Secretary to the Department of Education, Science and Training, make these Guidelines under subitem 14 (5) of Schedule 7 to the *Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006*.

Dated 20 September 2006

William Peter Burmester

Acting Secretary to the Department of Education, Science and Training

1 Name of Guidelines

These Guidelines are the *Social Security (Exemption Notices for Special Disability Trusts) (DEST) Guidelines r 2006*.

2 Commencement

These Guidelines commence on 20 September 2006.

3 Definitions

In these Guidelines:

2006 Budget and Other Measures Act means the *Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006*.

Act means the *Social Security Act 1991*.

exemption notice has the same meaning as in paragraph 14 (1) (a) of Schedule 7 to the 2006 Budget and Other Measures Act.

principal beneficiary, of a special disability trust, has the meaning given by subsection 23 (1) of the Act.

Secretary has the meaning given by subsection 23 (1) of the Act.

special disability trust has the meaning given by subsection 23 (1) of the Act.

trust means a trust, created before 20 September 2006, that can be a special disability trust despite its failure to comply with a requirement of Division 1 of Part 3.18A of the Act concerning a particular matter.

4 Whether or not to give exemption notices

The Secretary may decide to give an exemption notice to the trustees of a trust if the Secretary is satisfied of the following matters:

- (a) the trust is a protective trust;
- (b) the principal beneficiary of the trust meets the requirements of subsection 1209M (2) or (4) of the Act;
- (c) if necessary, the trust deed for the trust can be varied to comply with a determination made by the Secretary under subsection 1209P (2) of the Act.

5 Conditions to include in exemption notices

- (1) In deciding what conditions to include in an exemption notice that is to be given to the trustees of a trust, the Secretary must consider the need to include a condition requiring the trustees to ensure that the trust deed for the trust complies with a determination made by the Secretary under subsection 1209P (2) of the Act.
- (2) A condition mentioned in subsection (1) may require the trustees of the trust to take particular action in relation to the trust deed, including the following:
 - (a) varying the trust deed to provide that the beneficiary to whom subsection 1209M (2) or (4) of the Act applies is the only beneficiary of the trust, not including any residuary beneficiary;

- (b) varying the trust deed to provide that the income that the trust derives and the assets of the trust may be used only:
 - (i) to meet reasonable care and accommodation needs of the principal beneficiary; or
 - (ii) for purposes, ancillary to meeting the reasonable care and accommodation needs of the principal beneficiary, that are necessary or desirable to facilitate the meeting of those needs.

6 Periods for compliance with conditions in exemption notices

A period stated in an exemption notice for the purpose of paragraph 14 (1) (b) of Schedule 7 to the 2006 Budget and Other Measures Act may be for a period beginning on or after 20 September 2006 and, in accordance with subitem 14 (2) of Schedule 7 to that Act, ending at or before the end of 30 June 2007.