

## EXPLANATORY STATEMENT

### **Social Security (Administration) (Deductible portion — section 123XPA) Specification 2009**

The *Social Security (Administration) (Deductible portion — section 123XPA) Specification 2009* (the Specification) is made under paragraph 123XPA(3)(b) of the *Social Security (Administration) Act 1999* (the Act). The Minister for Families, Housing, Community Services and Indigenous Affairs, as well as making the Specification in her own capacity, is also making it on behalf of the Minister for Education and the Minister for Employment and Workplace Relations.

#### **Background**

Part 3B of the Act establishes an income management regime that applies to recipients of certain welfare payments. If a person is subject to the income management regime under Part 3B, the Secretary must deduct amounts from the person's relevant welfare payments and credit those amounts to the person's income management account, in accordance with Part 3B, for the purpose of taking actions directed to meeting the priority needs of the person or his or her dependants.

Subdivision A of Division 2 of Part 3B sets out the various situations in which a person is subject to the income management regime. Section 123UFA, in that Subdivision, provides that a person is subject to the income management regime at a particular time if a voluntary income management agreement is in force in relation to the person. Section 123UM provides that a person may enter into a written agreement with the Secretary under which the person agrees to be voluntarily subject to the income management regime throughout the period the agreement is in force. Amongst other things, in order to be able to enter into a voluntary income management agreement, the person must be an eligible recipient of a relevant welfare payment, and their usual place of residence must be in a declared voluntary income management area. Certain areas in Western Australia have been determined to be declared voluntary income management areas in the *Social Security (Administration) (Declared voluntary income management areas — Western Australia (No. 1) Determination 2008*.

Division 5 of Part 3B sets out the amounts that are to be deducted from the prescribed welfare payments of a person who is subject to the income management regime. Subdivision DA of Division 5 applies to a person who is subject to the income management regime under section 123UFA of the Act. Section 123XPA, in that Subdivision, applies if an instalment of a category I welfare payment is payable to the person. (Section 123XPB applies if a category I welfare payment is payable to the person as a lump sum payment.) The term 'category I welfare payment' is defined in section 123TC of the Act and includes all social security benefits and social security pensions, other prescribed social security, family assistance and education payments, and some payments under the *Veterans' Entitlements Act 1986*.

Subsection 123XPA(3) of the Act sets out the amount that the Secretary must deduct from an instalment of a category I welfare payment ('the deductible portion'). Subsection 123XPA(3) specifies that the deductible portion is 70% or such other percentage as is specified in a legislative instrument made by the Minister for the purposes of paragraph 123XPA(3)(b). Subsection 123XPA(4) of the Act allows different percentages to be specified in relation to different category I welfare payments. In the *Social Security (Administration) (Deductible portion — section 123XPA) Specification 2008* ('the 2008 Specification'), the Minister specified the higher percentage of 100% in relation to baby bonus under the *A New Tax System (Family Assistance) Act 1999* ('baby bonus').

## **Purpose**

The purpose of this Specification is to specify a percentage other than the standard 70%, for the purposes of paragraph 123XPA(3)(b) of the Act, for the following three category I welfare payments: baby bonus; a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance ('ABSTUDY LA'); and a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement ('ABSTUDY PES'). Baby bonus is a category I welfare payment by virtue of paragraph (e) of the definition of 'category I welfare payment' in section 123TC of the Act; ABSTUDY PES is a category I welfare payment by virtue of paragraph (o) of that definition. ABSTUDY LA is a category H welfare payment that is also a category I welfare payment by virtue of paragraph (a) of the definition of category I welfare payment. **Section 5** specifies, for these three payments, the higher percentage of 100% (100 per cent).

The effect of the Specification is that, for the purposes of subsection 123XPA(2) of the Act, the deductible portion of an instalment of baby bonus, ABSTUDY LA or ABSTUDY PES is 100% of the net amount of the instalment (rounded down to the nearest cent). (The term 'net amount' is defined in section 123TC of the Act.) The Specification applies to each instalment of baby bonus, ABSTUDY LA or ABSTUDY PES.

The Specification also revokes the 2008 Specification. As mentioned above, the 2008 Specification specified a higher percentage only in relation to baby bonus. As discussed, this Specification changes that position. Accordingly, **section 3** of this Specification provides that the 2008 Specification is revoked, with effect from the commencement of this Specification.

The Specification is a legislative instrument. It commences on 7 March 2009.

## **Consultation**

Consultation on the Determination was undertaken with the Department of Education, Employment and Workplace Relations to ensure a co-ordinated approach in respect of welfare payments for which that Department has responsibility, which may become subject to the income management regime.

## **Regulatory Impact Analysis**

The Determination does not require a Regulatory Impact Statement or a Business Cost Calculator Figure. The Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact. It is not expected that any compliance costs will be incurred by business, as a result of the Determination, against the nine categories listed in the Business Compliance Cost Checklist contained in the Best Practice Regulation Handbook prepared by the Office of Best Practice Regulation.