

EXPLANATORY STATEMENT

Social Security (Satisfaction of the Activity Test – Classes of Persons) (FaHCSIA) Amendment Specification 2010 (No. 1)

Summary

The *Social Security (Satisfaction of the Activity Test – Classes of Persons) (FaHCSIA) Amendment Specification 2010 (No. 1)* (the Amendment Specification) is made by the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs under subsection 731A(11A) of the *Social Security Act 1991* (the Act).

The purpose of the Amendment Specification is to amend the *Social Security (Satisfaction of the Activity Test – Classes of Persons) (FaHCSIA) Specification 2009 (No. 1)* (the Principal Specification) to include principal carers of one or more children as a class of persons who are taken to be satisfying the activity test for special benefit by complying with the terms of their employment pathway plan (EPP).

Background

Certain provisions of the Act require some recipients of special benefit to satisfy the activity test to remain qualified for their social security payment. In general terms, to satisfy the activity test a special benefit recipient must be actively seeking and willing to undertake paid work in Australia other than unsuitable paid work within the meaning of section 731B of the Act. However, subsection 731A(11) of the Act provides that a person is taken to satisfy the activity test if he or she is complying with the terms of an EPP in force for him or her, and the person is in a class of persons specified in an instrument made under subsection 731A(11A) of the Act.

The Amendment Specification will allow principal carers of one or more children to be taken to satisfy the activity test by complying with their EPPs. That is, principal carers will not be required to be actively seeking and willing to undertake paid work in addition to the requirements of their EPPs.

This instrument, together with the *Social Security Amendment (Flexible Participation Requirements for Principal Carers) Act 2010* is a result of the 2009-10 Budget measure 'More Flexible Participation Requirements for Parents'. This measure responds to the report made to Government by the Participation Review Taskforce, which was asked by Government to consider ways to achieve sustainable employment outcomes for parents, including how to make participation requirements more flexible.

Explanation of provisions

Section 1 provides that the name of the Amendment Specification is the *Social Security (Satisfaction of the Activity Test – Classes of Persons) (FaHCSIA) Amendment Specification 2010 (No. 1)*.

Section 2 states that the Amendment Specification commences on 1 July 2010. This is consistent with the commencement of the amendments made to the social security law by the *Social Security Amendment (Flexible Participation Requirements for Principal Carers) Act 2010*, which enables other components of the 'More Flexible Participation Requirements for Parents' 2009-10 Budget measure.

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

Schedule 1

Item 1 inserts the words 'persons who are the principal carers of one or more children' as new paragraph 4(c). This specifies that persons who are the principal carers of one or more children should be taken to satisfy the activity test if they comply with the requirements of their EPPs. The meaning of the term 'principal carer' can be found in subsections 5(15) to (24) of the Act.

Consultation

The Amendment Specification is based on the *Social Security (Satisfaction of the Activity Test – Classes of Persons) (DEEWR) Amendment Specification 2010 (No.1)* prepared by the Department of Education, Employment and Workplace Relations (DEEWR). In developing their instrument, DEEWR had regard to the findings of the Participation Review Taskforce.

The Participation Review Taskforce was established in 2008 and reported to Government in August 2008. Taskforce members held consultations with key stakeholders in parent participation policy. This Amendment Specification implements the recommendations in the Taskforce report that relate to flexible activities. Taskforce members and consultation included:

- Business Council of Australia
- Australian Council of Trade Unions
- National Welfare Rights Network
- Australian Council of Social Services
- Australian National University

In light of the consultation undertaken by DEEWR, further consultation by the department of Families, Housing, Community Services and Indigenous Affairs was considered unnecessary.

Regulatory Impact Statement

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