

EXPLANATORY STATEMENT

Social Security (Administration) (Declared relevant Northern Territory areas — Various) Determination 2010 (No. 8)

The *Social Security (Administration) (Declared relevant Northern Territory areas — Various) Determination 2010* (No. 8) (the Determination) is made under subsections 123TE (1) and (10) of the *Social Security (Administration) Act 1999* (the Act) (as those subsections continue to apply because of subitem 23(2) of Division 2 of Part 1 of Schedule 2 to the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010*). The Minister for Families, Housing, Community Services and Indigenous Affairs, as well as making the Determination in her own capacity, is also making it on behalf of the Minister for Education and the Minister for Employment and Workplace Relations.

Background

On 21 June 2007, the Australian Government announced a number of measures in response to the national emergency confronting the welfare of Aboriginal children in the Northern Territory (the Northern Territory Emergency Response).

The income management measure that was introduced as part of the Northern Territory Emergency Response has two primary aims:

- (a) to stem the flow of cash that is expended on substance abuse and gambling; and
- (b) to ensure that funds that are provided for the welfare of children are actually expended in this way.

The *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010* (the Amending Act), which commenced on 1 July 2010, repealed the income management measure that was introduced as part of the Northern Territory Emergency Response (the NTER income management measure) and introduced three new income management measures that will operate across the whole of the Northern Territory initially, as a first step in a future national roll out of income management to disadvantaged regions across Australia.

Part 2 of Schedule 2 of the Amending Act provided for a staged transition process from the NTER income management measure to the new measures. Under Part 2 of Schedule 2 of the Amending Act, the NTER income management measure will continue to operate, to the extent provided for under the transitional arrangements, until the end of 30 June 2011.

In particular, item 23 of Schedule 2 of the Amending Act provides for the Minister to make a determination under subsection 123TE(1) of the Act (a **new determination**), for the purposes of the NTER income management measure, after 1 July 2010, provided that the new determination relates to an area that was specified in another determination that was in force on or after 1 July 2010 (an **existing determination**).

Subitem 23(2) of Schedule 2 of the Amending Act provides that a determination that was made under subsection 123TE(1) of the Act by the Minister before 1 July 2010 continues in force after 1 July 2010.

Purpose

One purpose of this Determination is to revoke a number of existing determinations that were continued in force by subitem 23(2) of Schedule 2 of the Amending Act. The names of those existing determinations are set out in section 4 of the Determination.

The other purpose of this Determination is to specify the areas that were previously specified in the existing determinations that are revoked by section 4 of this Determination. Specifying all of these areas in a single instrument will make the process of maintaining the NTER income management measure during the transitional period more streamlined. This Determination will be the only instrument that is relevant to the NTER income management measure as it continues to operate during the transitional period.

The Determination specifies that each area listed in the Schedule to the Determination (Schedule 1) is a 'declared relevant Northern Territory area' for the purposes of Part 3B of the Act. The areas listed in Schedule 1 are a more refined list of the areas (including their aliases) than were covered by the existing determinations that are revoked by section 4 of this Determination.

The effect of the Determination is that, once an area is determined to be a 'declared relevant Northern Territory area' for the purposes of Part 3B of the Act, the NTER income management regime will apply to certain people within that area, as provided for under item 23 of Schedule 2 to the Amending Act.

Section 2 of the Determination provides that it commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 of the Determination provides that it expires 364 days after it is made. This is consistent with subsections 123TE(2) and (3) of the Act, which provide that a determination made under subsection 123TE(1) must specify an expiry date that occurs in the 12-month period beginning when the determination was made.

The Determination is a legislative instrument. However, section 42 of the *Legislative Instruments Act 2003* (disallowance of legislative instruments) does not apply to the Determination (subsections 123TE (13) and (14) of the Act).

In deciding whether to make the Determination, the Minister has had regard to the matters specified in subsection 123TE (5) of the Act.

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.