

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Social Services

Social Security (Administration) Act 1999

Social Security (Obtaining Information to Verify Claims – Income Stream Recipients)
Specification 2017

Summary

The *Social Security (Obtaining Information to Verify Claims – Income Stream Recipients) Specification 2017* is a legislative instrument made under subsection 195(3A) of the *Social Security (Administration) Act 1999* (the Act).

The purpose of the legislative instrument is to allow the Minister to specify information required to be given in relation to an income stream received by a person.

Background

Subsection 195(3A) of the Act provides that the Minister may specify information required to be given at the request of the Secretary in relation to an income stream received by a person.

The purpose of this instrument is to specify further information that the Secretary can request from a person in relation to an income stream received by the person, which is not already listed in paragraph 195(2)(ja).

Section 195 of the Act sets out when the Secretary may require a person to give information about a class of persons to the Department for various purposes. Subsection 195(2) sets out the types of information that the Secretary may require about each person in the class of persons. Recently amended paragraph 195(2)(ja) provides that the Secretary may require information in relation to income stream payments.

The recent amendments to section 195 of the Act are expected to create cost savings by reducing regulatory and compliance costs, and improving the efficiency of the Department of Human Services' (DHS) service delivery. It is also expected that the amendments will improve the accuracy of income support payments and reduce customer debts that arise when a customer fails to inform DHS of changes to their income streams, or when they do not inform DHS that they have commenced receiving an income stream payment.

Subsection 195(3A) of the Act was inserted to allow for further income stream data, where such data items were not contemplated in the drafting of the amendments, to be included in the income stream review process.

Therefore, this legislative instrument provides for the Minister to specify further information required to be given at the request of the Secretary regarding an income stream received by a person.

Commencement

This instrument commences on 1 January 2018.

Consultation

Consultation was undertaken with the Department of Human Services (DHS) and the Information Commissioner. DHS has undertaken a Privacy Impact Assessment in relation to the automation of income stream reviews.

Retrospectivity

This instrument has prospective operation.

Regulation Impact Statement (RIS)

The Instrument does not require a Regulatory Impact Statement. The Instrument is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

Explanation of provisions

Section 1 states the name of the Specification.

Section 2 provides that the Specification will commence on 1 January 2018.

Section 3 provides that the authority for making this Specification is subsection 195(3A) of the Act.

Section 4 provides definitions of terms used in the Specification.

Section 5 specifies the additional information that can be requested in relation to an income stream received by a person is as follows:

- (i) The unique data transfer identifier allocated to the income stream provider or their administrator by the Human Services Department;
- (ii) The Australian Business Number of the income stream provider, as reported on the income stream schedule;
- (iii) The name of the income stream product;
- (iv) If the owner is a revisionary beneficiary – whether they became a revisionary beneficiary in the period specified in the notice issued;
- (v) If the owner is a revisionary beneficiary - the date on which the income stream reverted to the revisionary beneficiary;

- (vi) The latest available account balance of the income stream;
- (vii) The date of the latest available account balance of the income stream;
- (viii) If the income stream is commuted – the total value of commutations since commencement of the income stream;
- (ix) If the income stream is commuted – the total number of commutations made in the period specified in the notice issued;
- (x) If the income stream is a market-linked income stream and is commuted – the reason that a commutation has been made;
- (xi) If the income stream is a market-linked income stream and is in its final year of term – the expiry date of the income stream's term;
- (xii) Whether payments from the income stream have been suspended;
- (xiii) If payments from the income stream have been suspended, the date on which payments were suspended;
- (xiv) Whether the income stream is jointly owned;
- (xv) If the income stream is jointly owned, the division of ownership of the income stream, as a percentage;
- (xvi) If the income stream is an account-based or market-linked income stream - the gross annual payment for the current financial year made under the income stream;
- (xvii) If the income stream is a defined benefit income stream – the gross fortnightly payment made under the income stream; and
- (xviii) If the income stream is a lifetime, life expectancy or term income stream – the gross amount of each payment made under the income stream and the frequency of the payment.

Statement of Compatibility with Human Rights

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

Social Security (Obtaining Information to Verify Claims – Income Stream Recipients) Specification 2017

Subsection 195(3A) of the Act allows the Minister for Social Services to specify information required to be given at the request of the Secretary of the Department of Social Services in relation to an income stream received by a person.

Human rights implications

The Specification engages the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to social security requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

Article 17 of the International Covenant on Civil and Political Rights (ICCPR) provides that no one shall be subjected to arbitrary or unlawful interference with their privacy. Privacy guarantees a right to secrecy for the public of personal information. For interference with privacy not to be arbitrary, it must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the particular circumstances. Reasonableness in this context incorporates notions of proportionality to the end sought and necessity in the circumstances. The specification will expand on the automated income stream review process by requiring income stream providers to electronically transfer a dataset to the Department of Human Services on a regular basis, instead of the information being sought via the income support recipient. The information will be solely for the purpose of administering social security payments and reduce regulatory costs for all parties.

The Specification improves cost savings by reducing regulatory and compliance costs, and improving the efficiency of DHS' service delivery. It is also expected that it will improve the accuracy of income support payments and reduce customer debts that arise when a customer fails to inform DHS of changes to their income streams, or when they do not inform DHS that they have commenced receiving an income stream payment.

The Specification is therefore consistent with the promotion of the right of social security.

Conclusion

This Specification supports a person's human right to social security and is therefore compatible with human rights.

Any interference with privacy is proportionate and necessary for the purposes of accurate administration.

The Hon Christian Porter MP, Minister for Social Services