

EXPLANATORY STATEMENT

Hearing Services Administration Act 1997

Hearing Services Program (Voucher) Amendment (Inclusive Employment Australia) Instrument 2025

Purpose and operation

The *Hearing Services Program (Voucher) Instrument 2019* (the Voucher Instrument) is established by the *Hearing Services Administration Act 1997* (the Act). It provides for a scheme under which hearing services are provided to voucher-holders by contracted service providers under the Hearing Services Program (the Program). The Voucher Instrument facilitates the administration of the voucher component of the Program. Among other things, it:

- determines classes of ‘eligible persons’ (i.e. persons eligible to become participants in the voucher system) in addition to those described by the Act;
- sets out rules regarding the issuing, validity and effect of vouchers for government-funded hearing services; and
- specifies hearing services that are available to voucher-holders.

The *Hearing Services Program (Voucher) Amendment (Inclusive Employment Australia) Instrument 2025* (the Instrument) amends the Voucher Instrument to reflect the commencement of the new Inclusive Employment Australia program, effective from 1 November 2025.

Section 5(2)(g) of the Act provides an eligible person is “a person referred to the Minister in connection with the provision of an employment service under Part II of, or the provision of a service under a rehabilitation program under Part III of, the former *Disability Services Act 1986*”.

In practice, this section of the Act determines that participants of the Disability Employment Services program (DES) are eligible persons. The DES is due to cease on 31 October 2025.

To maintain Hearing Services Program eligibility for persons with disability receiving employment supports or services beyond 31 October 2025, this Instrument provides for a person to be an eligible person if they are a participant in the IEA program, and if they are referred (usually by an Inclusive Employment Australia provider) to the Minister. The IEA operates under provisions set out in the *Disability Services and Inclusion Act 2023*, which commenced on 1 January 2024.

The Instrument also updates the online location of the Hearing Services Online Portal.

Background

The Hearing Services Program

The Program aims to reduce the consequences of hearing loss in the Australian community by providing access to high quality hearing services and devices. Under the Program, eligible people can receive government-funded hearing services, including a fully subsidised hearing assessment, hearing rehabilitation and, if appropriate, hearing devices.

The Program consists of two components – the voucher system, and community service obligations. This amendment relates to the voucher system component only.

Authority

The Instrument is made under the following provisions of the Act which provide that the Minister may, by legislative instrument:

- determine that a specified person is an eligible person (subsection 5(3));
- formulate rules relating to vouchers, known as the voucher rules (subsection 11(1));
- determine that each eligible person included in a specified class of eligible persons is a participant in the voucher system (section 13);
- formulate a scheme for the accreditation of entities as service providers (subsection 15(1)); and
- formulate rules of conduct relating to the provision of hearing services to voucher-holders (subsection 17(1)).

Reliance on subsection 33(3) of the *Acts Interpretation Act 1901*

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Commencement

This instrument commences on 1 November 2025, aligning with the commencement of the Inclusive Employment Australia program.

Consultation

Changes relating to amendments made by this instrument included consultation with the Disability Employment Reforms Branch, Department of Social Services.

General

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of this instrument are set out in **Attachment A**.

This instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

***Hearing Services Program (Voucher) Amendment (Inclusive Employment Australia)
Instrument 2025***

Section 1 – Name

This section provides that the name of the instrument is the *Hearing Services Program (Voucher) Amendment (Inclusive Employment Australia) Instrument 2025*.

Section 2 – Commencement

This section provides that the instrument commences on 1 November 2025.

Section 3 – Authority

This section provides that the instrument is made under subsection 5(3), subsection 11(1), section 13, subsection 15(1) and subsection 17(1) of the *Hearing Services Administration Act 1997*.

Section 4 – Schedule

This section provides that each instrument that is specified in a Schedule to the Instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Item 1 relocates the ‘Hearing Services Online Portal’ definition to appear in alphabetical order and updates reference to the online location of the Hearing Services Online Portal.

Item 2 adds a new section that defines an eligible person as a person that is an Australian citizen or permanent resident and that has attained the age of 26 years that is referred to the Minister in connection with the provision of employment supports or services to the person under the *Disability Services and Inclusion Act 2023*. In practice, this means a participant of the Inclusive Employment Australia program that is referred to the Hearing Services Program by an Inclusion Employment Australia provider is an eligible person.

Statement of Compatibility with Human Rights

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

Hearing Services Program (Voucher) Instrument 2019

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The Hearing Services Program (Voucher) Instrument 2019 (Voucher Instrument) is established by the *Hearing Services Administration Act 1997* (the Act), which provides the legislative framework for the Hearing Services Program.

The objective of the Hearing Services Program is to provide subsidised high quality hearing services, including devices, to eligible people with hearing loss.

The Voucher Instrument sets up a scheme under which hearing services are provided to voucher-holders by contracted services providers and facilitates the administration of the voucher component of the Program. Among other things, it:

- determines classes of ‘eligible persons’ (i.e., persons eligible to become participants in the voucher system) in addition to those described by the Act;
- sets out rules regarding the issuing, validity and effect of vouchers for government-funded hearing services; and
- specifies hearing services that are available to voucher-holders.

The Instrument therefore facilitates access to subsidised high quality hearing support to eligible people, supporting communication needs and engagement in the community.

Human rights implications

This legislative instrument engages the following rights:

- right to the enjoyment of the highest attainable standard of physical and mental health; and
- the rights of persons with disabilities to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.

Right to the enjoyment of the highest attainable standard of physical and mental health

The overarching purpose of the hearing services legislation is to improve the accessibility of hearing services for vulnerable Australians. The Voucher Instrument promotes the right in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to the enjoyment of the highest attainable standard of physical and mental health, as it

facilitates the provision of Government-subsidised hearing services to persons who require them.

The intent of this legislative instrument is to maintain eligibility for people receiving disability employment supports beyond 31 October 2025 when the Disability Employment Services program ceases.

Rights of persons with disabilities

The Voucher Instrument promotes the right in Article 25 of the Convention on the Rights of Persons with Disabilities for persons with disabilities to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability, as it facilitates the provision of Government-subsidised hearing services to persons living with hearing impairment. The effect of the Amending Instrument on this right is the same as its effect on the right to health in Article 12 of the ICESCR (as outlined above).

Conclusion

This disallowable legislative instrument is compatible with human rights because it promotes the right to the enjoyment of the highest attainable standard of physical and mental health.

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