



**Social Security and Other Legislation  
Amendment (Welfare Payment Reform)  
Act 2007**

**No. 130, 2007**

**An Act to amend the social security law, and for  
other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# **Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007**

**No. 130, 2007**

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**An Act to amend the social security law, and for  
other purposes**

*[Assented to 17 August 2007]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Social Security and Other Legislation  
Amendment (Welfare Payment Reform) Act 2007*.

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## 2 Commencement

This Act commences on the day after it receives the Royal Assent.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## 4 Racial Discrimination Act—Part 3B of the Social Security (Administration) Act

- (1) Subsections (2) and (3) apply to:
  - (a) the provisions of Part 3B of the *Social Security (Administration) Act 1999*; and
  - (b) any acts done under or for the purposes of:
    - (i) those provisions; or
    - (ii) the income management regime;in relation to:
  - (c) a person who is, or is potentially, subject to the income management regime under section 123UB of that Act (relevant Northern Territory area); or
  - (d) a person in the Northern Territory who is, or is potentially, subject to the income management regime under section 123UD or 123UE of that Act (school enrolment and attendance); or
  - (e) a person who is subject to the income management regime under section 123UF of that Act (Queensland Commission).
- (2) To the extent that this subsection applies, the provisions referred to in paragraph (1)(a), and any acts referred to in paragraph (1)(b), are, for the purposes of the *Racial Discrimination Act 1975*, special measures.
- (3) To the extent that this subsection applies, the provisions referred to in paragraph (1)(a), and any acts referred to in paragraph (1)(b), are excluded from the operation of Part II of the *Racial Discrimination Act 1975*.

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- (4) The following are, for the purposes of the *Racial Discrimination Act 1975*, special measures:
- (a) any acts done by the Queensland Commission in relation to the giving of:
    - (i) a notice referred to in paragraph 123UF(1)(b) or (2)(c) of the *Social Security (Administration) Act 1999*; or
    - (ii) a notice referred to in paragraph 123YM(2)(c) or 123YN(2)(c) of that Act; or
    - (iii) a direction referred to in section 123ZK of that Act;
  - (b) any provisions of any laws made by, or any acts done by, Queensland in relation to the establishment or operation of the Queensland Commission.
- (5) The following are excluded from the operation of Part II of the *Racial Discrimination Act 1975*:
- (a) any acts done by the Queensland Commission in relation to the giving of:
    - (i) a notice referred to in paragraph 123UF(1)(b) or (2)(c) of the *Social Security (Administration) Act 1999*; or
    - (ii) a notice referred to in paragraph 123YM(2)(c) or 123YN(2)(c) of that Act; or
    - (iii) a direction referred to in section 123ZK of that Act;
  - (b) any provisions of any laws made by, or any acts done by, Queensland in relation to the establishment or operation of the Queensland Commission.

*Definitions etc.*

- (6) In this section:

***Queensland Commission*** has the meaning given by section 123TC of the *Social Security (Administration) Act 1999*.

- (7) In this section, a reference to any acts done includes a reference to any failure to do an act.

## **5 Some Queensland and Northern Territory laws excluded—Part 3B of the Social Security (Administration) Act**

- (1) Subsections (2) and (3) apply to:

- 
- (a) the provisions of Part 3B of the *Social Security (Administration) Act 1999*; and
  - (b) any acts done under or for the purposes of:
    - (i) those provisions; or
    - (ii) the income management regime;
- in relation to:
- (c) a person who is, or is potentially, subject to the income management regime under section 123UB of that Act (relevant Northern Territory area); or
  - (d) a person in the Northern Territory who is, or is potentially, subject to the income management regime under section 123UD or 123UE of that Act (school enrolment and attendance); or
  - (e) a person who is subject to the income management regime under section 123UF of that Act (Queensland Commission).
- (2) To the extent that this subsection applies, the provisions referred to in paragraph (1)(a) are intended to apply to the exclusion of a law of Queensland or the Northern Territory that deals with discrimination so far as it would otherwise apply.
- (3) To the extent that this subsection applies, any acts referred to in paragraph (1)(b) have effect despite any law of Queensland or the Northern Territory that deals with discrimination.

*Queensland and Northern Territory laws that are not excluded*

- (4) However, subsections (2) and (3) do not apply to a law of Queensland or the Northern Territory so far as the Minister determines, by legislative instrument, that the law is a law to which subsections (2) and (3) do not apply.

*Reference to acts done includes failure to do an act*

- (5) In this section, a reference to any acts done includes a reference to any failure to do an act.



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## 6 Racial Discrimination Act—determining terms of relevant activity agreement for approved programs of work for income support

- (1) Subsections (2) and (3) apply in relation to the implementation of guidelines, or the doing of any other acts, for the purpose of determining the terms of a relevant activity agreement in relation to an approved program of work for income support payment, if the implementation or acts are done in the period:
  - (a) beginning on 9 July 2007; and
  - (b) ending 5 years after the commencement of section 1 of the *Northern Territory National Emergency Response Act 2007*.
- (2) Any such implementation, or other acts, are, for the purposes of the *Racial Discrimination Act 1975*, special measures.
- (3) Any such implementation, or other acts, are excluded from the operation of Part II of the *Racial Discrimination Act 1975*.

*Definitions etc.*

- (4) In this section:

***approved program of work for income support payment*** has the same meaning as in the *Social Security Act 1991*.

***relevant activity agreement*** means:

- (a) a Parenting Payment Activity Agreement (within the meaning of the *Social Security Act 1991*); or
- (b) a Youth Allowance Activity Agreement (within the meaning of that Act); or
- (c) a Newstart Activity Agreement (within the meaning of that Act); or
- (d) a Special Benefit Activity Agreement (within the meaning of that Act);

that is in force between the Secretary and a person who is ordinarily resident in a relevant Northern Territory area within the meaning of Part 3B of the *Social Security (Administration) Act 1999*.

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*Reference to acts done includes failure to do an act*

- (5) In this section, a reference to any acts done includes a reference to any failure to do an act.

**7 Some Northern Territory laws excluded—determining terms of relevant activity agreement for approved programs of work for income support**

- (1) Subsection (2) applies in relation to the implementation of guidelines, or the doing of any other acts, for the purpose of determining the terms of a relevant activity agreement in relation to an approved program of work for income support payment, if the implementation or acts are done in the period:
- (a) beginning on 9 July 2007; and
  - (b) ending 5 years after the commencement of section 1 of the *Northern Territory National Emergency Response Act 2007*.
- (2) Any such implementation, or other acts, have effect despite any law of the Northern Territory that deals with discrimination.

*Northern Territory laws that are not excluded*

- (3) However, subsection (2) does not apply to a law of the Northern Territory so far as the Minister determines, by legislative instrument, that the law is a law to which subsection (2) does not apply.

*Definitions*

- (4) In this section:

***approved program of work for income support payment*** has the same meaning as in the *Social Security Act 1991*.

***relevant activity agreement*** means:

- (a) a Parenting Payment Activity Agreement (within the meaning of the *Social Security Act 1991*); or
- (b) a Youth Allowance Activity Agreement (within the meaning of that Act); or
- (c) a Newstart Activity Agreement (within the meaning of that Act); or

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(d) a Special Benefit Activity Agreement (within the meaning of that Act);

that is in force between the Secretary and a person who is ordinarily resident in a relevant Northern Territory area within the meaning of Part 3B of the *Social Security (Administration) Act 1999*.

*Reference to acts done includes failure to do an act*

- (5) In this section, a reference to any acts done includes a reference to any failure to do an act.

## Schedule 1—Income management regime

### *A New Tax System (Family Assistance) (Administration) Act 1999*

#### **1 At the end of subsection 66(2)**

Add:

; and (g) Part 3B of the *Social Security (Administration) Act 1999*.

#### **2 After subsection 219TE(1)**

Insert:

(1A) If a person who is a nominee by virtue of an appointment under section 219TB becomes subject to the income management regime under section 123UC of the *Social Security (Administration) Act 1999*, the Secretary must, as soon as practicable, cancel the appointment.

### *Social Security Act 1991*

#### **3 Subsection 1061EK(1)**

After “238”, insert “and Part 3B”.

### *Social Security (Administration) Act 1999*

#### **4 After paragraph 60(2)(a)**

Insert:

(aa) Part 3B of this Act; and

#### **5 Subsection 67(2)**

Omit “either or both”, substitute “any or all”.

#### **6 At the end of subsection 67(2)**

Add:

; (c) give the Department a statement about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.

**7 Subsection 67(5)**

Repeal the subsection, substitute:

- (5) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might:
  - (a) affect the payment of the social security payment or the person's qualification for the concession card, as the case requires; or
  - (b) affect the operation, or prospective operation, of Part 3B in relation to the person.

**8 Subsection 68(2)**

Omit "either or both", substitute "any or all".

**9 At the end of subsection 68(2)**

Add:

- ; (c) give the Department one or more statements about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.

**10 Subsection 68(5)**

Repeal the subsection, substitute:

- (5) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might:
  - (a) affect the payment of the social security payment or the person's qualification for the concession card, as the case requires; or
  - (b) affect the operation, or prospective operation, of Part 3B in relation to the person.

**11 After section 70**

Insert:

**70A Person who is subject to the income management regime etc.**

*Scope*

- (1) This section applies to a person if:
  - (a) the person is subject to the income management regime (within the meaning of Part 3B); or
  - (b) the Secretary is satisfied that it is likely that the person will become subject to the income management regime (within the meaning of Part 3B).

*Requirement*

- (2) The Secretary may give the person a notice that requires the person to do either or both of the following:
  - (a) inform the Department if:
    - (i) a specified event or change of circumstances occurs; or
    - (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
  - (b) give the Department one or more statements about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.
- (3) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might affect the operation, or prospective operation, of Part 3B in relation to the person.

**12 At the end of subsection 72(3)**

Add:

- or (e) in the case of a notice under section 70A that requires the giving of information mentioned in paragraph 70A(2)(a)—be the period of 14 days after:
    - (i) the day on which the event or change of circumstances occurs; or
    - (ii) the day on which the person becomes aware that the event or change of circumstances is likely to occur; as the case may be; or
  - (f) in the case of a notice under section 70A that requires the giving of a statement mentioned in paragraph 70A(2)(b)—
-

end not earlier than 14 days after the day on which the notice is given.

**13 Paragraph 72(4)(a)**

Omit “or 68”, substitute “, 68 or 70A”.

**14 Subsections 72(6) and (7)**

Omit “or 68”, substitute “, 68 or 70A”.

**15 Subsection 74(1)**

Omit “or 70”, substitute “, 70 or 70A”.

**16 After subsection 123E(1)**

Insert:

- (1A) If a person who is a nominee by virtue of an appointment under section 123B becomes subject to the income management regime under section 123UC, the Secretary must, as soon as practicable, revoke the appointment.

**17 After Part 3A**

Insert:

**Part 3B—Income management regime**

**Division 1—Introduction**

**123TA Simplified outline**

The following is a simplified outline of this Part:

- |   |
|---|
| <ul style="list-style-type: none"><li>• This Part sets up an income management regime for recipients of certain welfare payments.</li><li>• A person may become subject to the income management regime because:<ul style="list-style-type: none"><li>(a) the person lives in a declared relevant Northern Territory area; or</li></ul></li></ul> |
|---|

- (b) a child protection officer of a State or Territory requires the person to be subject to the income management regime; or
  - (c) the person, or the person's partner, has a child who does not meet school enrolment requirements; or
  - (d) the person, or the person's partner, has a child who has unsatisfactory school attendance; or
  - (e) the Queensland Commission requires the person to be subject to the income management regime.
- A person who is subject to the income management regime will have an income management account.
  - Amounts will be deducted from the person's welfare payments and credited to the person's income management account.
  - Amounts will be debited from the person's income management account for the purposes of enabling the Secretary to take action directed towards meeting the priority needs of:
    - (a) the person; and
    - (b) the person's partner; and
    - (c) the person's children; and
    - (d) any other dependants of the person.

### 123TB Objects

The objects of this Part are as follows:

- (a) to promote socially responsible behaviour, particularly in relation to the care and education of children;
- (b) to set aside the whole or a part of certain welfare payments;
- (c) to ensure that the amount set aside is directed to meeting the priority needs of:



- (i) the recipient of the welfare payment; and
- (ii) the recipient's partner; and
- (iii) the recipient's children; and
- (iv) any other dependants of the recipient.

## **123TC Definitions**

In this Part:

**account statement**, in relation to an income management account, means a statement that sets out:

- (a) the amounts credited to the income management account during a particular period; and
- (b) the amounts debited from the income management account during that period; and
- (c) the balance of the income management account as at the end of that period.

**acquire** has the same meaning as in the *Trade Practices Act 1974*.

**alcoholic beverage** means a beverage that contains more than 0.1% by volume of ethyl alcohol.

**applicable school period** has the meaning given by section 123UI.

**category A welfare payment** means:

- (a) a social security benefit; or
- (b) a social security pension; or
- (c) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance.

**category B welfare payment** means:

- (a) a category A welfare payment; or
- (b) double orphan pension; or
- (c) carer allowance; or
- (d) mobility allowance; or
- (e) pensioner education supplement; or
- (f) telephone allowance under Part 2.25 of the 1991 Act; or
- (g) utilities allowance under Part 2.25A of the 1991 Act; or

- (h) family tax benefit by instalment (other than arrears of family tax benefit by instalment) under the Family Assistance Administration Act; or
- (i) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre; or
- (j) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or
- (k) a social security bereavement payment; or
- (l) a Northern Territory CDEP transition payment;

but does not include:

- (m) an advance payment under Part 2.22 of the 1991 Act; or
- (n) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
- (o) a mobility allowance advance under section 1045 of the 1991 Act.

***category C welfare payment*** means:

- (a) an advance payment under Part 2.22 of the 1991 Act; or
- (b) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
- (c) a mobility allowance advance under section 1045 of the 1991 Act; or
- (d) arrears of family tax benefit by instalment under the Family Assistance Administration Act; or
- (e) family tax benefit for a past period under the Family Assistance Administration Act; or
- (f) family tax benefit by single payment/in substitution because of the death of another individual under the Family Assistance Administration Act; or
- (g) family tax benefit advance under the Family Assistance Administration Act; or
- (h) baby bonus under the Family Assistance Act; or
- (i) maternity immunisation allowance under the Family Assistance Act.

***category D welfare payment*** means:

- (a) a service pension; or
-

- (b) income support supplement; or
- (c) Defence Force Income Support Allowance.

**category F welfare payment** means:

- (a) family tax benefit by instalment (other than arrears of family tax benefit by instalment) under the Family Assistance Administration Act; or
- (b) double orphan pension; or
- (c) carer allowance; or
- (d) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre.

**category G welfare payment** means:

- (a) arrears of family tax benefit by instalment under the Family Assistance Administration Act; or
- (b) family tax benefit for a past period under the Family Assistance Administration Act; or
- (c) family tax benefit by single payment/in substitution because of the death of another individual under the Family Assistance Administration Act; or
- (d) family tax benefit advance under the Family Assistance Administration Act; or
- (e) baby bonus under the Family Assistance Act; or
- (f) maternity immunisation allowance under the Family Assistance Act.

**category H welfare payment** means:

- (a) a social security benefit; or
- (b) a social security pension; or
- (c) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance; or
- (d) a service pension; or
- (e) income support supplement; or
- (f) Defence Force Income Support Allowance.

**category I welfare payment** means:

- (a) a category H welfare payment; or
  - (b) double orphan pension; or
-

- (c) family tax benefit under the Family Assistance Act; or
- (d) family tax benefit advance under the Family Assistance Administration Act; or
- (e) baby bonus under the Family Assistance Act; or
- (f) maternity immunisation allowance under the Family Assistance Act; or
- (g) carer allowance; or
- (h) mobility allowance; or
- (i) pensioner education supplement; or
- (j) telephone allowance under Part 2.25 of the 1991 Act; or
- (k) telephone allowance under Part VIIB of the Veterans' Entitlements Act; or
- (l) utilities allowance under Part 2.25A of the 1991 Act; or
- (m) utilities allowance under Part VIIAC of the Veterans' Entitlements Act; or
- (n) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre; or
- (o) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or
- (p) a social security bereavement payment; or
- (q) a veterans' entitlement bereavement payment; or
- (r) a Northern Territory CDEP transition payment; or
- (s) an advance payment under Part 2.22 of the 1991 Act; or
- (t) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
- (u) a mobility allowance advance under section 1045 of the 1991 Act; or
- (v) an advance payment under Part IVA or VIIA of the Veterans' Entitlements Act.

**category P welfare payment** means:

- (a) a social security benefit; or
- (b) a social security pension (other than an age pension or a carer payment); or

- (c) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance.

**category Q welfare payment** means:

- (a) a category P welfare payment; or
- (b) carer allowance; or
- (c) mobility allowance; or
- (d) pensioner education supplement; or
- (e) telephone allowance under Part 2.25 of the 1991 Act; or
- (f) utilities allowance under Part 2.25A of the 1991 Act; or
- (g) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre; or
- (h) a social security bereavement payment (other than a social security bereavement payment in relation to an age pension or a carer payment); or
- (i) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or
- (j) an advance payment under Part 2.22 of the 1991 Act (other than an advance payment of an age pension or a carer payment); or
- (k) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act (other than an advance pharmaceutical allowance in relation to an age pension or a carer payment); or
- (l) a mobility allowance advance under section 1045 of the 1991 Act; or
- (m) double orphan pension; or
- (n) family tax benefit under the Family Assistance Act; or
- (o) family tax benefit advance under the Family Assistance Administration Act; or
- (p) baby bonus under the Family Assistance Act; or
- (q) maternity immunisation allowance under the Family Assistance Act.

**category R welfare payment** means:

- (a) age pension; or
-

- (b) carer payment; or
- (c) a service pension; or
- (d) income support supplement; or
- (e) Defence Force Income Support Allowance.

**category S welfare payment** means:

- (a) family tax benefit under the Family Assistance Act; or
- (b) family tax benefit advance under the Family Assistance Administration Act; or
- (c) baby bonus under the Family Assistance Act; or
- (d) maternity immunisation allowance under the Family Assistance Act; or
- (e) double orphan pension; or
- (f) carer allowance; or
- (g) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre.

**Centrelink** means the Commonwealth Services Delivery Agency.

**child** of a person means:

- (a) a dependent child of the person; or
- (b) an FTB child of the person; or
- (c) on or after 1 July 2008—a regular care child of the person.

This definition does not apply to:

- (d) the definition of **child protection officer** in this section; or
- (e) Division 2; or
- (f) subsection 123ZE(2); or
- (g) section 123ZEB.

**child protection officer** means an officer or employee of a State or Territory who has functions, powers or duties in relation to the care, protection or welfare of children.

**declared child protection State or Territory** has the meaning given by section 123TF.

**declared primary school area** has the meaning given by subsection 123TG(1).

***declared relevant Northern Territory area*** has the meaning given by section 123TE.

***declared secondary school area*** has the meaning given by subsection 123TG(3).

***designated nominee*** of a person (the ***first person***) means:

- (a) a payment nominee of the first person; or
- (b) a person to whom instalments of youth allowance of the first person are to be paid in accordance with subsection 45(1).

***eligible care child*** has the meaning given by section 123UH.

***eligible care period*** has the meaning given by section 123UJ.

***eligible recipient*** has the meaning given by section 123TK.

***excluded goods*** has the meaning given by subsection 123TI(1).

***excluded payment nominee*** means:

- (a) the Public Trustee (however described) of a State or Territory; or
- (b) a payment nominee who is not subject to the income management regime.

***excluded service*** has the meaning given by subsection 123TI(2).

***exempt Northern Territory person*** has the meaning given by section 123UG.

***family law order*** means:

- (a) a parenting order within the meaning of section 64B of the *Family Law Act 1975*; or
- (b) a family violence order within the meaning of section 4 of that Act; or
- (c) a State child order registered under section 70D of that Act; or
- (d) an overseas child order registered under section 70G of that Act.

***Finance Minister*** has the same meaning as in the *Financial Management and Accountability Act 1997*.

**gambling** means a service provided to a person in the capacity of a customer of a gambling service (within the meaning of the *Interactive Gambling Act 2001*).

**goods** has the same meaning as in the *Trade Practices Act 1974*.

**income management account** means a notional account kept in accordance with section 123WA.

**income tax law** has the same meaning as in the *Income Tax Assessment Act 1997*.

**net amount** of an instalment or payment means:

- (a) if a deduction is made from, or an amount is set off against, the instalment or payment under:
  - (i) section 61 or 238 of this Act; or
  - (ii) section 1231 of the 1991 Act; or
  - (iii) section 84, 84A, 92, 92A, 225, 226 or 227 of the Family Assistance Administration Act; or
  - (iv) section 50A, 50B, 58J, 79L, 122B, 122D, 205 or 205AA of the Veterans' Entitlements Act;so much of the instalment or payment as remains after the deduction is made or the set-off occurs, as the case may be; or
- (b) in any other case—the amount of the instalment or payment.

**non-alcoholic beverage** means a beverage other than an alcoholic beverage.

**parenting plan** has the same meaning as in the *Family Law Act 1975*.

**payment nominee** means:

- (a) a person who is, by virtue of an appointment in force under section 123B of this Act or section 219TB of the Family Assistance Administration Act, the payment nominee of another person; or
- (b) a person to whom payment of another person's service pension is made by virtue of an approval in force under section 58D of the Veterans' Entitlements Act; or



- (c) a person to whom payment of another person's service pension is made by virtue of an appointment in force under section 202 of the Veterans' Entitlements Act.

***pornographic material*** has the meaning given by section 123TJ.

***priority needs*** has the meaning given by section 123TH.

***quarter*** means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

***Queensland Commission*** means a body or agency that:

- (a) is established by a law of Queensland; and
- (b) is specified in a legislative instrument made by the Minister for the purposes of this paragraph.

***registered parenting plan*** has the same meaning as in the *Family Law Act 1975*.

***relevant Northern Territory area*** has the meaning given by section 123TD.

***service*** has the same meaning as in the *Trade Practices Act 1974*.

***social security bereavement payment*** means a payment under any of the following provisions of the 1991 Act:

- (a) Division 9 of Part 2.2;
- (b) Division 10 of Part 2.3;
- (c) Subdivision B of Division 9 of Part 2.4;
- (d) Subdivision B or D of Division 9 of Part 2.5;
- (e) Division 9 of Part 2.7;
- (f) Division 9 of Part 2.8;
- (g) Subdivision B or C of Division 9 of Part 2.10;
- (h) Subdivision A of Division 10 of Part 2.11;
- (i) Division 10 of Part 2.11A;
- (j) Subdivision AA of Division 9 of Part 2.12;
- (k) Subdivision C of Division 11 of Part 2.12B;
- (l) Division 9 of Part 2.14;
- (m) Division 9 of Part 2.15;
- (n) Subdivision C of Division 9 of Part 2.15A;
- (o) Division 10 of Part 2.16;

- (p) Subdivision C of Division 10 of Part 2.19;
- (q) Subdivision B of Division 10 of Part 2.20.

**Special Account** means the Income Management Special Account established by section 123VA.

**stored value card** includes a portable device that is:

- (a) capable of storing monetary value in a form other than physical currency; and
- (b) of a kind specified in a legislative instrument made by the Minister for the purposes of this paragraph.

**subject to the income management regime** has the meaning given by section 123UB, 123UC, 123UD, 123UE or 123UF.

**supply** has the same meaning as in the *Trade Practices Act 1974*.

**tobacco product** has the same meaning as in the *Tobacco Advertising Prohibition Act 1992*.

**unsatisfactory school attendance situation** has the meaning given by section 123UK.

**veterans' entitlement bereavement payment** means:

- (a) a bereavement payment within the meaning of subsection 53K(3) of the Veterans' Entitlements Act; or
- (b) a bereavement payment paid under subsection 53L(4) of that Act; or
- (c) an amount paid under subsection 53Q(1) of that Act; or
- (d) a bereavement payment within the meaning of subsection 53T(1) of that Act.

### **123TD Relevant Northern Territory area**

For the purposes of this Part, each of the following areas in the Northern Territory is a **relevant Northern Territory area**:

- (a) each prescribed area within the meaning of the *Northern Territory National Emergency Response Act 2007*;
- (b) the place known as Finke or Aputula;
- (c) the place known as Kalkarindji or Wave Hill.

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**123TE Declared relevant Northern Territory area**

- (1) The Minister may, by writing, determine that a specified relevant Northern Territory area is a *declared relevant Northern Territory area* for the purposes of this Part.
- (2) A determination under subsection (1) must specify an expiry date for the determination.
- (3) An expiry date must occur in the 12-month period beginning when the determination was made.
- (4) Subsection (3) has effect subject to subsection (7).
- (5) In deciding whether to make a determination under subsection (1), the Minister must have regard to the following matters:
  - (a) the availability in the relevant Northern Territory area of information setting out:
    - (i) the proposal to make the determination; and
    - (ii) an explanation, in summary form, of the consequences of the making of the determination for people who may become subject to the income management regime under section 123UB;
  - (b) the opportunities that have been made available to people in the area to discuss:
    - (i) the proposal to make the determination; and
    - (ii) the consequences of the making of the determination for people who may become subject to the income management regime under section 123UB;with employees or officers of the Commonwealth;
  - (c) the opportunities that have been made available to potentially affected people in the area to:
    - (i) discuss their circumstances with officers of Centrelink; and
    - (ii) give Centrelink information about their expenditure;
  - (d) the extent to which it will be feasible for the Secretary to take action under Division 6 in relation to people who may become subject to the income management regime under section 123UB;
  - (e) such other matters (if any) as the Minister considers relevant.

- (6) A contravention of subsection (5) does not affect the validity of a determination under subsection (1).

*Extension of expiry date*

- (7) The Minister may, by writing, extend or further extend the expiry date of a specified determination made under subsection (1), so long as the extension or further extension is for a period of not more than 12 months.

*Duration of determination*

- (8) Unless sooner revoked, a determination under subsection (1) ceases to be in force on the expiry date of the determination.

*Fresh determination*

- (9) If a determination under subsection (1) expires, this Act does not prevent the Minister from making a fresh determination under subsection (1) relating to the same relevant Northern Territory area as the expired determination.

*Revocation*

- (10) If a determination is in force under subsection (1), the Minister may, by writing, revoke the determination.
- (11) Subsection (10) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.

*Interlocutory orders*

- (12) A court must not make an interlocutory order suspending the operation of a decision under this section unless the court is satisfied that there are exceptional circumstances.

*Legislative instrument*

- (13) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

- (14) An instrument under subsection (7) or (10) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the instrument.

**123TF Declared child protection State or Territory**

The Minister may, by legislative instrument, determine that a specified State or Territory is a ***declared child protection State or Territory*** for the purposes of this Part.

**123TG Declared primary school area and declared secondary school area**

*Declared primary school area*

- (1) The Minister may, by legislative instrument, determine that:
- (a) a specified State; or
  - (b) a specified Territory; or
  - (c) a specified area;
- is a ***declared primary school area*** for the purposes of this Part.
- (2) This Part does not prevent an area specified under paragraph (1)(c) from being described as the area within the boundary of premises occupied by a particular primary school.

*Declared secondary school area*

- (3) The Minister may, by legislative instrument, determine that:
- (a) a specified State; or
  - (b) a specified Territory; or
  - (c) a specified area;
- is a ***declared secondary school area*** for the purposes of this Part.
- (4) This Part does not prevent an area specified under paragraph (3)(c) from being described as the area within the boundary of premises occupied by a particular secondary school.

**123TH Priority needs**

- (1) For the purposes of this Part, a person's ***priority needs*** are as follows:
- (a) food;

- (b) non-alcoholic beverages;
  - (c) clothing;
  - (d) footwear;
  - (e) basic personal hygiene items;
  - (f) basic household items;
  - (g) housing, including:
    - (i) rent; and
    - (ii) home loan repayments; and
    - (iii) repairs; and
    - (iv) maintenance;
  - (h) household utilities, including:
    - (i) electricity; and
    - (ii) gas; and
    - (iii) water; and
    - (iv) sewerage; and
    - (v) garbage collection; and
    - (vi) fixed-line telephone;
  - (i) rates and land tax;
  - (j) health, including:
    - (i) medical, nursing, dental or other health services; and
    - (ii) pharmacy items; and
    - (iii) the supply, alteration or repair of artificial teeth; and
    - (iv) the supply, alteration or repair of an artificial limb (or part of a limb), artificial eye or hearing aid; and
    - (v) the supply, alteration or repair of a medical or surgical appliance; and
    - (vi) the testing of eyes; and
    - (vii) the prescribing of spectacles or contact lenses; and
    - (viii) the supply of spectacles or contact lenses; and
    - (ix) the management of a disability;
  - (k) child care and development;
  - (l) education and training;
  - (m) items required for the purposes of the person's employment, including:
    - (i) a uniform or other occupational clothing; and
    - (ii) protective footwear; and
    - (iii) tools of trade;
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- (n) funerals;
  - (o) public transport services, where the services are used wholly or partly for purposes in connection with any of the above needs;
  - (p) the acquisition, repair, maintenance or operation of:
    - (i) a motor vehicle; or
    - (ii) a motor cycle; or
    - (iii) a bicycle;that is used wholly or partly for purposes in connection with any of the above needs;
  - (q) any thing specified in a legislative instrument made by the Minister for the purposes of this paragraph.
- (2) For the purposes of this Part, excluded goods or excluded services are not *priority needs*.

### **123TI Excluded goods and excluded services**

#### *Excluded goods*

- (1) Each of the following goods are *excluded goods* for the purposes of this Part:
- (a) alcoholic beverages;
  - (b) tobacco products;
  - (c) pornographic material;
  - (d) goods specified in a legislative instrument made by the Minister for the purposes of this paragraph.

#### *Excluded services*

- (2) Each of the following services is an *excluded service* for the purposes of this Part:
- (a) gambling;
  - (b) a service specified in a legislative instrument made by the Minister for the purposes of this paragraph.

### **123TJ Pornographic material**

- (1) For the purposes of this Part, *pornographic material* is:
- (a) a publication, film or computer game classified RC; or

- (b) an unclassified publication, film or computer game that contains material that would be likely to cause it to be classified RC; or
  - (c) a publication classified Category 1 restricted or Category 2 restricted; or
  - (d) an unclassified publication that contains material that would be likely to cause it to be classified Category 1 restricted or Category 2 restricted; or
  - (e) a film classified X 18+; or
  - (f) an unclassified film that contains material that would be likely to cause it to be classified X 18+.
- (2) An expression used in subsection (1) and in the *Classification (Publications, Films and Computer Games) Act 1995* has the same meaning in subsection (1) as it has in that Act.

### **123TK Eligible recipient**

For the purposes of this Part, if a claim by a person for a particular payment is granted, the person is an *eligible recipient* of the payment during the period:

- (a) beginning on:
  - (i) if the payment is in relation to a service pension, income support supplement or Defence Force Income Support Allowance—the provisional commencement day (within the meaning of the Veterans' Entitlements Act) for the payment; or
  - (ii) in any other case—the start day for the payment; and
- (b) ending when the payment is cancelled.

## **Division 2—Persons subject to the income management regime**

### **Subdivision A—Situations in which a person is subject to the income management regime**

#### **123UA Persons subject to the income management regime**

This Subdivision sets out the various situations in which a person is *subject to the income management regime*.

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**123UB Persons subject to the income management regime—relevant Northern Territory area**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, the person, or the person's partner, is an eligible recipient of a category A welfare payment; and
  - (b) the person was physically present overnight in a relevant Northern Territory area at any time during the period:
    - (i) beginning at the start of 21 June 2007; and
    - (ii) ending at the end of the most recent instalment period in relation to the category A welfare payment or payments; and
  - (c) at the test time, the relevant Northern Territory area is a declared relevant Northern Territory area; and
  - (d) at the test time, the person is not an exempt Northern Territory person in relation to the relevant Northern Territory area (see section 123UG); and
  - (e) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
  - (f) at the test time, the person is not subject to the income management regime under section 123UC, 123UD, 123UE or 123UF; and
  - (g) the test time occurs in the 5-year period that began at the commencement of this section.
- (2) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, neither the person, nor the person's partner, is an eligible recipient of a category A welfare payment; and
  - (b) at the test time, the person, or the person's partner, is an eligible recipient of a category D welfare payment; and
  - (c) the person, or the person's partner, is entitled to be paid family tax benefit under the Family Assistance Act; and
  - (d) the person was physically present overnight in a relevant Northern Territory area at any time during the period:
    - (i) beginning at the start of 21 June 2007; and
    - (ii) ending at the end of the most recent instalment period in relation to the category D welfare payment or payments; and

- (e) at the test time, the relevant Northern Territory area is a declared relevant Northern Territory area; and
  - (f) at the test time, the person is not an exempt Northern Territory person in relation to the relevant Northern Territory area (see section 123UG); and
  - (g) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
  - (h) at the test time, the person is not subject to the income management regime under section 123UC, 123UD, 123UE or 123UF; and
  - (i) the test time occurs in the 5-year period that began at the commencement of this section.
- (3) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a payment nominee; and
  - (c) at the test time, the payment nominee is subject to the income management regime under subsection (1) or (2).

### **123UC Persons subject to the income management regime—child protection**

For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:

- (a) at the test time, the person, or the person's partner, is an eligible recipient of a category H welfare payment; and
- (b) before the test time, a child protection officer of a State or Territory gave the Secretary a written notice requiring that the person be subject to the income management regime under this section; and
- (c) the notice was given:
  - (i) under a law (whether written or unwritten) in force in a State or Territory (other than a law of the Commonwealth); or
  - (ii) in the exercise of the executive power of a State or Territory; and

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- (d) at the test time, the notice had not been withdrawn or revoked; and
  - (e) at the test time, the State or Territory is a declared child protection State or Territory; and
  - (f) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
  - (g) at the test time, the person is not subject to the income management regime under section 123UF.

**123UD Persons subject to the income management regime—school enrolment**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, the person, or the person’s partner, is an eligible recipient of a category H welfare payment; and
  - (b) at the test time, the person, or the person’s partner, has an eligible care child; and
  - (c) under a law of a State or Territory, the eligible care child is required to be enrolled at school; and
  - (d) the Secretary is satisfied that it is appropriate for the eligible care child to be enrolled at:
    - (i) a primary school in a declared primary school area; or
    - (ii) a secondary school in a declared secondary school area; and
  - (e) at the test time, the eligible care child is not enrolled at:
    - (i) if subparagraph (d)(i) applies—a primary school in the declared primary school area; or
    - (ii) if subparagraph (d)(ii) applies—a secondary school in the declared secondary school area; and
  - (f) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
  - (g) at the test time, the person is not subject to the income management regime under section 123UC or 123UF; and
  - (h) at the test time, a determination under subsection (2) is not in force in relation to the person; and
  - (i) such other conditions (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph are satisfied.

- (2) The Secretary may, by writing, determine that a person is exempt from subsection (1).
- (3) In making a determination under subsection (2), the Secretary must comply with any principles set out in a legislative instrument made by the Minister for the purposes of this subsection.
- (4) For the purposes of this Part, a person is ***subject to the income management regime*** at a particular time (the ***test time***) if:
  - (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a payment nominee; and
  - (c) at the test time, the payment nominee is subject to the income management regime under subsection (1).

*Documentary evidence*

- (5) If a person, or the person's partner, has an eligible care child, the Secretary may, by written notice given to the person, request the person to give the Secretary, within a period (the ***compliance period***) specified in the notice, documentary evidence of the eligible care child's enrolment at a school during a specified applicable school period.
  - (6) A notice under subsection (5) must set out the effect of subsection (9).
  - (7) The compliance period specified in a notice under subsection (5) must not be shorter than 7 days.
  - (8) The Secretary may extend the compliance period specified in a notice under subsection (5).
  - (9) If:
    - (a) a person is given a notice under subsection (5); and
    - (b) the person does not comply with the notice;the Secretary may determine that subsection (1) has effect as if the eligible care child was not enrolled at any school at any time during the applicable school period specified in the notice.
  - (10) This Part does not prevent a notice from being characterised as:
    - (a) a notice under subsection (5); and
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- (b) a notice under another provision of a law of the Commonwealth.

**123UE Persons subject to the income management regime—school attendance**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, the person, or the person's partner, is an eligible recipient of a category H welfare payment; and
  - (b) at the test time, an unsatisfactory school attendance situation exists in relation to a child; and
  - (c) throughout a period that ended before the unsatisfactory school attendance situation came into existence, the child was an eligible care child of:
    - (i) the person; or
    - (ii) the person's partner; and
  - (d) at the test time, the child is enrolled at a school; and
  - (e) if the school is a primary school—at the test time, the school is in a declared primary school area; and
  - (f) if the school is a secondary school—at the test time, the school is in a declared secondary school area; and
  - (g) before the test time, the person, or the person's partner, had been given a formal warning under section 123UL; and
  - (h) the whole or a part of an applicable school period in relation to the child occurred in the period:
    - (i) beginning when the formal warning was given; and
    - (ii) ending at the test time; and
  - (i) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
  - (j) at the test time, the person is not subject to the income management regime under section 123UC or 123UF; and
  - (k) at the test time, a determination under subsection (2) is not in force in relation to the person; and
  - (l) such other conditions (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph are satisfied.
- (2) The Secretary may, by writing, determine that a person is exempt from subsection (1).
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- (3) In making a determination under subsection (2), the Secretary must comply with any principles set out in a legislative instrument made by the Minister for the purposes of this subsection.
- (4) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a payment nominee; and
  - (c) at the test time, the payment nominee is subject to the income management regime under subsection (1).

**123UF Persons subject to the income management regime—  
Queensland Commission**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, the person, or the person's partner, is an eligible recipient of a category P welfare payment; and
  - (b) before the test time, the Queensland Commission gave the Secretary a written notice requiring that the person be subject to the income management regime under this subsection; and
  - (c) the notice was given under a law of Queensland; and
  - (d) the notice was not given in such circumstances (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
  - (e) at the test time, the notice had not been withdrawn or revoked; and
  - (f) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
  - (g) the test time occurs before 1 January 2012.
- (2) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, neither the person, nor the person's partner, is an eligible recipient of a category P welfare payment; and
  - (b) at the test time, the person, or the person's partner, is an eligible recipient of a category R welfare payment; and

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- (c) before the test time, the Queensland Commission gave the Secretary a written notice requiring that the person be subject to the income management regime under this subsection; and
  - (d) the notice was given under a law of Queensland; and
  - (e) the notice was not given in such circumstances (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
  - (f) at the test time, the notice had not been withdrawn or revoked; and
  - (g) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
  - (h) the test time occurs before 1 January 2012.
- (3) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a payment nominee; and
  - (c) at the test time, the payment nominee is subject to the income management regime under subsection (1) or (2).

## **Subdivision B—Exempt Northern Territory persons**

### **123UG Exempt Northern Territory persons**

*Each relevant Northern Territory area*

- (1) The Secretary may, by written notice given to a person, determine that the person is an *exempt Northern Territory person* in relation to each relevant Northern Territory area for the purposes of this Part.
  - (2) In deciding whether to make a determination under subsection (1), the Secretary must have regard to the following matters:
    - (a) the person's family and kinship relationships;
    - (b) the area in which the person is usually physically present overnight;
    - (c) the area or areas in which the person's assets are located;
    - (d) if the person has travelled outside the relevant Northern Territory areas:
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- (i) the frequency of that travel; and
  - (ii) the duration of that travel; and
  - (iii) the reason for that travel;
  - (e) the address of the place of residence of the person last known to the Secretary;
  - (f) the postal address of the person last known to the Secretary;
  - (g) whether the person has been physically present in any of the relevant Northern Territory areas on a temporary basis;
  - (h) if the person has been physically present in any of the relevant Northern Territory areas on a temporary basis—the circumstances that resulted in the person being so physically present in the area concerned.
- (3) A determination under subsection (1) is not a legislative instrument.
- (4) The Minister may, by legislative instrument, determine that a specified person is an ***exempt Northern Territory person*** in relation to each relevant Northern Territory area for the purposes of this Part.
- Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.
- (5) Subsections (1) and (4) do not limit each other.

*Specific relevant Northern Territory area*

- (6) The Secretary may, by written notice given to a person, determine that the person is an ***exempt Northern Territory person*** in relation to a specified relevant Northern Territory area for the purposes of this Part.
- (7) In deciding whether to make a determination under subsection (6), the Secretary must have regard to the following matters:
- (a) the person's family and kinship relationships;
  - (b) the area in which the person is usually physically present overnight;
  - (c) the area or areas in which the person's assets are located;
  - (d) if the person has travelled outside the relevant Northern Territory area:
    - (i) the frequency of that travel; and



- (ii) the duration of that travel; and
  - (iii) the reason for that travel;
  - (e) the address of the place of residence of the person last known to the Secretary;
  - (f) the postal address of the person last known to the Secretary;
  - (g) whether the person has been physically present in the relevant Northern Territory area on a temporary basis;
  - (h) if the person has been physically present in the relevant Northern Territory area on a temporary basis—the circumstances that resulted in the person being so physically present in that area.
- (8) A determination under subsection (6) is not a legislative instrument.

### **Subdivision C—Additional provisions relating to school enrolment and attendance**

#### **123UH Eligible care child**

For the purposes of this Part, a person (the *first person*) is an *eligible care child* of another person at a particular time if, and only if:

- (a) at that time, the first person is a dependent child of the other person; or
- (b) all of the following conditions are satisfied:
  - (i) that time occurs during an eligible care period;
  - (ii) under a family law order, registered parenting plan or parenting plan that is in force during the eligible care period, the first person is supposed to live or spend time with the other person;
  - (iii) assuming the family law order, registered parenting plan or parenting plan were complied with during the eligible care period, the first person would have been in the other person's care for at least 14% of that period.

#### **123UI Applicable school period**

- (1) For the purposes of this Part, an *applicable school period* in relation to a child is a period ascertained in accordance with a

legislative instrument made by the Minister for the purposes of this subsection.

- (2) A period ascertained under subsection (1) may be a recurring period.
- (3) A period may be ascertained under subsection (1) by reference to a term of the school attended by the child.
- (4) For the purposes of this Part, it is immaterial whether an applicable school period begins before or after the commencement of this section.

### **123UJ Eligible care period**

- (1) For the purposes of this Part, an *eligible care period* is a period ascertained in accordance with a legislative instrument made by the Minister for the purposes of this subsection.
- (2) A period ascertained under subsection (1) may be a recurring period (for example, a fortnight).
- (3) For the purposes of this Part, it is immaterial whether an eligible care period begins before or after the commencement of this section.

### **123UK Unsatisfactory school attendance situation**

- (1) For the purposes of this Part, the question whether an *unsatisfactory school attendance situation* exists, or has existed, in relation to a child is to be ascertained in accordance with a legislative instrument made by the Minister for the purposes of this subsection.
- (2) However, an *unsatisfactory school attendance situation* does not exist in relation to a child if the child is not required, under a law of a State or Territory, to attend school in a State or Territory.
- (3) For the purposes of this Part, it is immaterial whether an unsatisfactory school attendance situation exists or has existed before or after the commencement of this section.

**123UL Formal warning—unsatisfactory school attendance situation**

If:

- (a) a person is not subject to the income management regime under section 123UE; and
- (b) the person, or the person’s partner, has an eligible care child; and
- (c) an unsatisfactory school attendance situation exists, or has existed, in relation to the eligible care child;

the Secretary may give the person a formal warning that the person, or the person’s partner, could become subject to the income management regime under section 123UE if an unsatisfactory school attendance situation exists in relation to the eligible care child.

**Division 3—Establishment of the Income Management Special Account**

**123VA Establishment of the Income Management Special Account**

- (1) The Income Management Special Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

**123VB Special Account not held on trust etc.**

An amount standing to the credit of the Special Account:

- (a) is not held on trust; and
- (b) is special public money for the purposes of section 16 of the *Financial Management and Accountability Act 1997*.

**123VC Bank account**

Amounts standing to the credit of the Special Account may be kept in a single bank account.

## **Division 4—Income management accounts**

### **Subdivision A—Income management accounts**

#### **123WA Income management accounts**

*Income management accounts to be kept*

- (1) Separate notional accounts are to be kept within the Special Account in the names of particular persons.

*Person's income management account*

- (2) An account kept in the name of a person is to be known as the person's *income management account*.

Note: Section 123TC provides that *income management account* means a notional account kept in accordance with this section.

#### **123WB Opening of income management accounts**

*Power*

- (1) The Secretary may open an income management account in the name of a particular person.
- (2) The Secretary may open the income management account even if the person is not subject to the income management regime.

*Duty*

- (3) The Secretary must open an income management account in the name of a particular person if:
  - (a) the person does not already have an income management account; and
  - (b) the person is subject to the income management regime.

#### **123WC Closing of income management accounts**

The Secretary may close a person's income management account if the balance of the income management account is nil, and:

- (a) the person is not subject to the income management regime;  
or

- (b) the person has died.

**123WD Income management accounts may have a nil balance**

*Nil balance*

- (1) A person's income management account may have a nil balance.

*Examples*

- (2) The following are examples of cases where an income management account might have a nil balance:
  - (a) no amount has been credited to the income management account;
  - (b) the balance of the income management account has been debited under section 123WJ;
  - (c) the balance of the income management account has been debited under section 123WL;
  - (d) the balance of the income management account has been debited under Division 6.

**123WE One income management account per person**

*Only one income management account*

- (1) Only one income management account may be kept in respect of a particular person.
- (2) A contravention of subsection (1) does not affect the validity of an income management account.

*Amalgamation*

- (3) If the Secretary becomes aware that 2 or more income management accounts are being kept in respect of the same person, the Secretary must amalgamate the accounts into a single account.

**123WF Credits to, and debits from, a person's income management account**

An amount must not be credited to, or debited from, a person's income management account except as provided by this Part.

## **Subdivision B—Account statements**

### **123WG Internet and telephone access to account statements etc.**

*Scope*

- (1) This section applies if an income management account is kept in the name of a person.

*Internet and telephone access to account statements etc.*

- (2) The Secretary may issue the person with a means of identification (for example, a personal identification number) that enables the person to do either or both of the following:
  - (a) to access on the Internet electronic versions of account statements for the person's income management account;
  - (b) to be told the balance of the person's income management account using an automated telephone answering system.

### **123WH Person may request account statements**

*Scope*

- (1) This section applies if an income management account is kept in the name of a person.

*Account statement may be requested*

- (2) The person may request the Secretary to give the person a written account statement for the income management account.
- (3) The Secretary must comply with the request.
- (4) However, the Secretary may refuse to comply with the request if the person has made a previous request at any time during the preceding period of 30 days.

### **123WI Account statements to be given**

*Scope*

- (1) This section applies if an income management account is kept in the name of a person.
-

*Account statement to be given*

- (2) At least once each quarter, the Secretary must give the person a written account statement for the income management account.
- (3) However, the Secretary is not required to give the person a written account statement relating to a particular period unless:
  - (a) an amount has been credited to, or debited from, the income management account during that period; or
  - (b) the income management account has a credit balance as at the end of that period.

**Subdivision C—Miscellaneous**

**123WJ Payment of credit balances of income management accounts—person ceases to be subject to the income management regime**

*Scope*

- (1) This section applies if:
  - (a) at a particular time, a person (the *first person*) ceases to be subject to the income management regime; and
  - (b) the first person's income management account has a credit balance at that time; and
  - (c) the Secretary is satisfied that the first person is not likely to become subject to the income management regime within 60 days after the cessation.

*Residual amount*

- (2) For the purposes of this section, the *residual amount* is an amount equal to the credit balance of the first person's income management account.
- (3) The residual amount is payable to the first person in accordance with this section.

*Payment by instalments*

- (4) The Secretary may determine that the whole or a part of the residual amount is to be paid to the first person by instalments. The

instalments are to be paid on the days specified in a determination made by the Secretary.

- (5) The days specified in the determination must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.
- (6) If an instalment is paid under subsection (4):
  - (a) the Special Account is debited by an amount equal to the amount of the instalment; and
  - (b) the first person's income management account is debited by an amount equal to the amount of the instalment.

*Lump sum payment*

- (7) The Secretary may determine that the whole or a part of the residual amount is to be paid to the first person as a single lump sum on a day determined by the Secretary.
- (8) The day specified in the determination must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.
- (9) The Secretary must not make a determination under subsection (7) unless:
  - (a) the lump sum is \$200 or less; or
  - (b) the Secretary is satisfied that there are special circumstances that warrant the making of the determination.
- (10) If a lump sum is paid under subsection (7):
  - (a) the Special Account is debited by an amount equal to the lump sum; and
  - (b) the first person's income management account is debited by an amount equal to the lump sum.

*Expense payment*

- (11) The Secretary may, on behalf of the Commonwealth:
  - (a) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person; or



- (b) make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person;  
so long as:
  - (c) the payment is made with the consent of the first person; and
  - (d) the amount paid by the Secretary does not exceed the residual amount.
- (12) The payment under subsection (11) must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.
- (13) If the Secretary makes a payment under subsection (11):
  - (a) the Special Account is debited by an amount equal to the amount paid under subsection (11); and
  - (b) the first person's income management account is debited by an amount equal to the amount paid under subsection (11); and
  - (c) the Secretary is taken to have paid the first person so much of the residual amount as equals the amount paid under subsection (11).

*Set-off*

- (14) If the first person owes an amount (the *debt amount*) to the Commonwealth, the Secretary may, with the consent of the first person, set off the whole or part of the residual amount against the whole or a part of the debt amount.
- (15) The set-off under subsection (14) must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.
- (16) If the Secretary sets off an amount under subsection (14):
  - (a) the Special Account is debited by an amount equal to the amount set off; and
  - (b) the first person's income management account is debited by an amount equal to the amount set off; and
  - (c) the Secretary is taken to have paid the first person so much of the residual amount as equals the amount set off.

*Tax consequences*

- (17) If a payment is made under subsection (4), (7) or (11), the payment does not have consequences under the income tax law for the first person.
- (18) If the Secretary sets off an amount under subsection (14), the set-off does not have consequences under the income tax law for the first person.

**123WK Payment into bank account etc. of credit balances of income management accounts—person ceases to be subject to the income management regime**

*Scope*

- (1) This section applies to an amount that is to be paid to a person as:
  - (a) an instalment under subsection 123WJ(4); or
  - (b) a lump sum under subsection 123WJ(7).

*Payment into bank account etc.*

- (2) The amount is to be paid to the credit of a bank account kept by the person.
- (3) The bank account may be kept by the person either alone or jointly or in common with another person.
- (4) The Secretary may direct that the whole or a part of the amount be paid to the person in a different way from that provided for by subsection (2).
- (5) If the Secretary gives a direction under subsection (4), the amount is to be paid in accordance with the direction.

**123WL Payment of credit balances of income management accounts—person dies**

*Scope*

- (1) This section applies if:
    - (a) an income management account is kept in the name of a person; and
-

- (b) the person dies; and
- (c) at the time of the person's death, the person's income management account has a credit balance.

*Residual amount*

- (2) For the purposes of this section, the **residual amount** is an amount equal to the credit balance of the person's income management account.

*Lump sum payment*

- (3) The residual amount is to be paid to the legal personal representative of the person as a single lump sum on a day determined by the Secretary.
- (4) The day specified in the determination must occur within the 12-month period beginning on the day of the person's death.
- (5) If a lump sum is paid under subsection (3):
  - (a) the Special Account is debited by an amount equal to the lump sum; and
  - (b) the person's income management account is debited by an amount equal to the lump sum.

*Tax consequences*

- (6) If a payment is made under subsection (3), the payment does not have consequences under the income tax law for the person's estate.

**123WM Payment into bank account etc. of credit balances of income management accounts—person dies**

*Scope*

- (1) This section applies to an amount that is to be paid to the legal personal representative of a person under subsection 123WL(3).

*Payment into bank account etc.*

- (2) The amount is to be paid to the credit of a bank account kept by the legal personal representative of the person.

- (3) The bank account may be kept by the legal personal representative of the person either alone or jointly or in common with another person.
- (4) The Secretary may direct that the whole or a part of the amount be paid to the legal personal representative of the person in a different way from that provided for by subsection (2).
- (5) If the Secretary gives a direction under subsection (4), the amount is to be paid in accordance with the direction.

**123WN Crediting of amounts to income management accounts—  
Ministerial rules**

The Minister and the Finance Minister may, by legislative instrument, make rules providing that an amount ascertained in accordance with the rules is to be credited to:

- (a) the Special Account; and
  - (b) a person's income management account;
- in the circumstances specified in the rules.

**Division 5—Deductions from welfare payments**

**Subdivision A—Relevant Northern Territory area**

**123XA Deductions from category B welfare payments—instalments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UB(1) or (3); and
  - (b) an instalment of a category B welfare payment is payable to the person.

*Deductions from category B welfare payments—instalments*

- (2) The following provisions have effect:
    - (a) the Secretary must deduct from the instalment of the category B welfare payment the deductible portion of the instalment;
    - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
-

- (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category B welfare payment is 50% of the net amount of the instalment (rounded down to the nearest cent).

### **123XB Deductions from category B welfare payments—lump sums**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UB(1) or (3); and
  - (b) a category B welfare payment is payable to the person otherwise than by instalments.

#### *Deductions from category B welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category B welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of a category B welfare payment is 50% of the net amount of the payment (rounded down to the nearest cent).

### **123XC Deductions from category C welfare payments—instalments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UB(1) or (3); and
  - (b) an instalment of a category C welfare payment is payable to the person.

*Deductions from category C welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category C welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category C welfare payment is 100% of the net amount of the instalment (rounded down to the nearest cent).

**123XD Deductions from category C welfare payments—lump sums**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UB(1) or (3); and
  - (b) a category C welfare payment is payable to the person otherwise than by instalments.

*Deductions from category C welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category C welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of a category C welfare payment is 100% of the net amount of the payment (rounded down to the nearest cent).

### **123XE Deductions from category F welfare payments—instalments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UB(2); and
  - (b) an instalment of a category F welfare payment is payable to the person.

*Deductions from category F welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category F welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category F welfare payment is 50% of the net amount of the instalment (rounded down to the nearest cent).

### **123XF Deductions from category F welfare payments—lump sums**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UB(2); and
  - (b) a category F welfare payment is payable to the person otherwise than by instalments.

*Deductions from category F welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category F welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;

- (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the *deductible portion* of a category F welfare payment is 50% of the net amount of the payment (rounded down to the nearest cent).

### **123XG Deductions from category G welfare payments—instalments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UB(2); and
  - (b) an instalment of a category G welfare payment is payable to the person.

#### *Deductions from category G welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category G welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the *deductible portion* of an instalment of a category G welfare payment is 100% of the net amount of the instalment (rounded down to the nearest cent).

### **123XH Deductions from category G welfare payments—lump sums**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UB(2); and
  - (b) a category G welfare payment is payable to the person otherwise than by instalments.



*Deductions from category G welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category G welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the **deductible portion** of a category G welfare payment is 100% of the net amount of the payment (rounded down to the nearest cent).

**Subdivision B—Child protection**

**123XI Deductions from category I welfare payments—instalments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UC; and
  - (b) an instalment of a category I welfare payment is payable to the person.

*Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the **deductible portion** of an instalment of a category I welfare payment is:
  - (a) 100%; or

- (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;  
of the net amount of the instalment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

### **123XJ Deductions from category I welfare payments—lump sums**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UC; and
  - (b) a category I welfare payment is payable to the person otherwise than by instalments.

#### *Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

#### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category I welfare payment is:
    - (a) 100%; or
    - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;  
of the net amount of the payment (rounded down to the nearest cent).
  - (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.
-

## **Subdivision C—School enrolment and attendance**

### **123XK Deductions from category I welfare payments—instalments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UD or 123UE; and
  - (b) an instalment of a category I welfare payment is payable to the person.

#### *Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

#### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category I welfare payment is:
  - (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;of the net amount of the instalment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

### **123XL Deductions from category I welfare payments—lump sums**

#### *Scope*

- (1) This section applies if:
-

- (a) a person is subject to the income management regime under section 123UD or 123UE; and
- (b) a category I welfare payment is payable to the person otherwise than by instalments.

*Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the **deductible portion** of a category I welfare payment is:
  - (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;of the net amount of the payment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

## **Subdivision D—Queensland Commission**

### **123XM Deductions from category Q welfare payments—instalments**

*Scope*

- (1) This section applies if:
    - (a) a person is subject to the income management regime under subsection 123UF(1) or (3); and
    - (b) an instalment of a category Q welfare payment is payable to the person.
-

*Deductions from category Q welfare payments—instalments*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the instalment of the category Q welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the **deductible portion** of an instalment of a category Q welfare payment is the percentage of the net amount of the instalment determined by the Secretary in relation to the instalment (rounded down to the nearest cent).
- (4) The percentage specified in the determination must not exceed 100%.

**123XN Deductions from category Q welfare payments—lump sums**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under subsection 123UF(1) or (3); and
  - (b) a category Q welfare payment is payable to the person otherwise than by instalments.

*Deductions from category Q welfare payments—lump sums*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the category Q welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category Q welfare payment is the percentage of the net amount of the payment determined by the Secretary in relation to the payment (rounded down to the nearest cent).
- (4) The percentage specified in the determination must not exceed 100%.

**123XO Deductions from category S welfare payments—instalments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UF(2); and
  - (b) an instalment of a category S welfare payment is payable to the person.

*Deductions from category S welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category S welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category S welfare payment is the percentage of the net amount of the instalment determined by the Secretary in relation to the instalment (rounded down to the nearest cent).
- (4) The percentage specified in the determination must not exceed 100%.

## **123XP Deductions from category S welfare payments—lump sums**

### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UF(2); and
  - (b) a category S welfare payment is payable to the person otherwise than by instalments.

### *Deductions from category S welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category S welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

### *Deductible portion*

- (3) For the purposes of subsection (2), the **deductible portion** of a category S welfare payment is the percentage of the net amount of the payment determined by the Secretary in relation to the payment (rounded down to the nearest cent).
- (4) The percentage specified in the determination must not exceed 100%.

## **Subdivision E—Deducted amount taken to have been paid**

### **123XQ Deducted amount taken to have been paid**

#### *Scope*

- (1) This section applies if an amount is deducted under this Division from an instalment or payment that is payable to a person.

#### *Deducted amount taken to have been paid*

- (2) The deducted amount is taken, for the purposes of:
    - (a) the income tax law; and
-

- (b) this Act (other than this Part); and
- (c) the 1991 Act; and
- (d) the Family Assistance Act; and
- (e) the Family Assistance Administration Act; and
- (f) the *Student Assistance Act 1973*; and
- (g) the Veterans' Entitlements Act; and
- (h) the *Child Support (Assessment) Act 1989*;

to have been paid to the person at whichever of the following times is applicable:

- (i) if the deducted amount was equal to 100% of the net amount of the instalment or payment—when the instalment or payment would have been paid if the deduction had not been made;
- (j) otherwise—when the instalment or payment was paid.

## **Division 6—Debits from income management accounts**

### **Subdivision A—General**

#### **123YA Priority needs—application of income management account**

##### *Scope*

- (1) This section applies if:
  - (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance.

##### *Priority needs*

- (2) If the Secretary is aware of any unmet priority needs of:
  - (a) the first person; or
  - (b) the first person's partner (if any); or
  - (c) the first person's children (if any); or
  - (d) any other dependants of the first person;the Secretary must, within a reasonable period after becoming aware of those priority needs, take appropriate action under Subdivision B directed towards meeting those priority needs.



- (3) If:
- (a) the Secretary is satisfied that the current or future balance of the first person's income management account exceeds what is reasonably required to meet the current, and reasonably foreseeable, priority needs of:
    - (i) the first person; and
    - (ii) the first person's partner (if any); and
    - (iii) the first person's children (if any); and
    - (iv) any other dependants of the first person; and
  - (b) the first person requests the Secretary to take action under this Division that:
    - (i) is not directed towards meeting the current, and reasonably foreseeable, priority needs mentioned in paragraph (a); and
    - (ii) would result in the first person's income management account being debited by a particular amount; and
  - (c) the Secretary is satisfied that the debit would not result in the current or future balance of the first person's income management account falling below what is reasonably required to meet the current, and reasonably foreseeable, priority needs mentioned in paragraph (a);
- the Secretary must not unreasonably refuse the request.

**123YB Secretary must have regard to the best interests of children**

*Scope*

- (1) This section applies if:
- (a) a person (the ***first person***) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the person has one or more children.

*Secretary must have regard to the best interests of children*

- (2) In deciding whether to take action under this Division that results in an amount being debited from the first person's income management account, the Secretary must have regard to:
- (a) the best interests of the first person's children; and

- (b) such other matters (if any) as the Secretary considers relevant.

## **Subdivision B—Restricted debits**

### **123YC Vouchers—general**

#### *Scope*

- (1) This section applies if:
  - (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a designated nominee.

#### *Vouchers*

- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) give the first person a voucher that:
    - (i) has a face value of a particular amount; and
    - (ii) enables the first person to acquire goods or services; or
  - (b) with the consent of the first person, give a third person a voucher that:
    - (i) has a face value of a particular amount; and
    - (ii) enables the third person to acquire goods or services;so long as the face value of the voucher does not exceed the credit balance of the first person's income management account.
- (3) A voucher may be for limited goods or services.

#### *Special Account to be debited*

- (4) If the first person or a third person is given a voucher under subsection (2), the Special Account is debited by an amount equal to the face value of the voucher.

#### *First person's income management account to be debited*

- (5) If the first person or a third person is given a voucher under subsection (2), the first person's income management account is debited by an amount equal to the face value of the voucher.
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*Criteria*

- (6) The Secretary must not give the first person or a third person a voucher under subsection (2) if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If the first person or a third person is given a voucher under subsection (2), the giving of the voucher does not have any consequences under the income tax law for the first person or the third person, as the case may be.

**123YD Vouchers—designated nominee**

*Scope*

- (1) This section applies if:
  - (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a designated nominee.

*Vouchers*

- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) give the designated nominee a voucher that:
    - (i) has a face value of a particular amount; and
    - (ii) enables the designated nominee to acquire goods or services; or
  - (b) with the consent of the designated nominee, give a third person a voucher that:
    - (i) has a face value of a particular amount; and
    - (ii) enables the third person to acquire goods or services;so long as the face value of the voucher does not exceed the credit balance of the first person's income management account.
- (3) A voucher may be for limited goods or services.

*Special Account to be debited*

- (4) If the designated nominee or a third person is given a voucher under subsection (2), the Special Account is debited by an amount equal to the face value of the voucher.

*First person's income management account to be debited*

- (5) If the designated nominee or a third person is given a voucher under subsection (2), the first person's income management account is debited by an amount equal to the face value of the voucher.

*Criteria*

- (6) The Secretary must not give the designated nominee or a third person a voucher under subsection (2) if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If the designated nominee or a third person is given a voucher under subsection (2), the giving of the voucher does not have any consequences under the income tax law for the designated nominee, the first person or the third person.

**123YE Stored value cards—general**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a designated nominee.

*Stored value cards*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) give the first person a stored value card that enables the first person to acquire goods or services, so long as no part of the
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monetary value stored on the card may be withdrawn in cash;  
or

- (b) with the consent of the first person, give a third person a stored value card that enables the third person to acquire goods or services, so long as no part of the monetary value stored on the card may be withdrawn in cash; or
- (c) increase the monetary value stored on a stored value card held by the first person, so long as:
  - (i) no part of the monetary value stored on the card may be withdrawn in cash; and
  - (ii) the stored value card enables the first person to acquire goods or services; or
- (d) with the consent of the first person, increase the monetary value stored on a stored value card held by a third person, so long as:
  - (i) no part of the monetary value stored on the card may be withdrawn in cash; and
  - (ii) the stored value card enables the third person to acquire goods or services;

so long as:

- (e) if paragraph (a) or (b) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account; or
  - (f) if paragraph (c) or (d) applies—the increase in monetary value does not exceed the credit balance of the first person’s income management account.
- (3) A stored value card may be for limited goods or services.

*Special Account to be debited*

- (4) If, under subsection (2), the Secretary gives the first person or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.
- (5) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the first person or a third person, the Special Account is debited by an amount equal to the increase in the monetary value.

*First person's income management account to be debited*

- (6) If, under subsection (2), the Secretary gives the first person or a third person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.
- (7) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the first person or a third person, the first person's income management account is debited by an amount equal to the increase in the monetary value.

*Criteria*

- (8) The Secretary must not, under subsection (2):
  - (a) give the first person or a third person a stored value card; or
  - (b) increase the monetary value stored on a stored value card;if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (9) If, under subsection (2), the Secretary gives the first person or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the first person or the third person, as the case may be.
- (10) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the first person or a third person, the increase does not have consequences under the income tax law for the first person or the third person, as the case may be.

**123YF Stored value cards—designated nominee**

*Scope*

- (1) This section applies if:
  - (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a designated nominee.

*Stored value cards*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) give the designated nominee a stored value card that enables the designated nominee to acquire goods or services, so long as no part of the monetary value stored on the card may be withdrawn in cash; or
  - (b) with the consent of the designated nominee, give a third person a stored value card that enables the third person to acquire goods or services, so long as no part of the monetary value stored on the card may be withdrawn in cash; or
  - (c) increase the monetary value stored on a stored value card held by the designated nominee, so long as:
    - (i) no part of the monetary value stored on the card may be withdrawn in cash; and
    - (ii) the stored value card enables the designated nominee to acquire goods or services; or
  - (d) with the consent of the designated nominee, increase the monetary value stored on a stored value card held by a third person, so long as:
    - (i) no part of the monetary value stored on the card may be withdrawn in cash; and
    - (ii) the stored value card enables the third person to acquire goods or services;
- so long as:
- (e) if paragraph (a) or (b) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account; or
  - (f) if paragraph (c) or (d) applies—the increase in the monetary value does not exceed the credit balance of the first person’s income management account.
- (3) A stored value card may be for limited goods or services.

*Special Account to be debited*

- (4) If, under subsection (2), the Secretary gives the designated nominee or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

- (5) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the designated nominee or a third person, the Special Account is debited by an amount equal to the increase in the monetary value.

*First person's income management account to be debited*

- (6) If, under subsection (2), the Secretary gives the designated nominee or a third person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.
- (7) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the designated nominee or a third person, the first person's income management account is debited by an amount equal to the increase in the monetary value.

*Criteria*

- (8) The Secretary must not, under subsection (2):
- (a) give the designated nominee or a third person a stored value card; or
  - (b) increase the monetary value stored on a stored value card; if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (9) If, under subsection (2), the Secretary gives the designated nominee or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the designated nominee, the first person or the third person.
- (10) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the designated nominee or a third person, the increase does not have consequences under the income tax law for the designated nominee, the first person or the third person.



## **123YG Expense payment—general**

### *Scope*

- (1) This section applies if:
  - (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a designated nominee.

### *Expense payment*

- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person in respect of expenditure incurred by the first person in relation to goods or services; or
  - (b) with the consent of the first person, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person in respect of expenditure incurred by the third person in relation to goods or services; or
  - (c) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount by way of rates or land tax; or
  - (d) with the consent of the first person, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount by way of rates or land tax;so long as the amount paid does not exceed the credit balance of the first person's income management account.

### *Special Account to be debited*

- (3) If the Secretary makes a payment under subsection (2), the Special Account is debited by an amount equal to the amount paid.

### *First person's income management account to be debited*

- (4) If the Secretary makes a payment under subsection (2), the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (5) The Secretary must not make a payment under paragraph (2)(a) or (b) if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (6) If the Secretary makes a payment under subsection (2), the payment does not have consequences under the income tax law for the first person.

**123YH Expense payment—designated nominee**

*Scope*

- (1) This section applies if:
  - (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a designated nominee.

*Expense payment*

- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) make a payment in discharge, in whole or in part, of an obligation of the designated nominee to pay an amount to a third person in respect of expenditure incurred by the designated nominee in relation to goods or services; or
  - (b) with the consent of the designated nominee, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person in respect of expenditure incurred by the third person in relation to goods or services; or
  - (c) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person in respect of expenditure incurred by the first person in relation to goods or services;so long as the amount paid does not exceed the credit balance of the first person's income management account.

*Special Account to be debited*

- (3) If the Secretary makes a payment under subsection (2), the Special Account is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (4) If the Secretary makes a payment under subsection (2), the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (5) The Secretary must not make a payment under subsection (2) if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (6) If the Secretary makes a payment under subsection (2), the payment does not have consequences under the income tax law for the designated nominee or the first person.

**123YI Crediting of account—general**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a designated nominee.

*Crediting of accounts*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by the first person with the third person; and
    - (ii) not allow the first person to debit the account except for the purposes of acquiring goods or services; and

- (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the first person for the purposes of the acquisition of goods or services; or
  - (b) with the consent of the first person, pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by a fourth person with the third person; and
    - (ii) not allow the fourth person to debit the account except for the purposes of acquiring goods or services; and
    - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the fourth person for the purposes of the acquisition of goods or services;so long as the amount paid by the Secretary does not exceed the credit balance of the first person's income management account.
- (3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

*Special Account to be debited*

- (4) If the Secretary pays an amount to a third person under subsection (2), the Special Account is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (5) If the Secretary pays an amount to a third person under subsection (2), the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (6) The Secretary must not, under subsection (2), pay an amount to a third person if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If the Secretary pays an amount to a third person under subsection (2), the payment does not have consequences under the income tax law for the first person.

**123YJ Crediting of account—designated nominee***Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a designated nominee.

*Crediting of accounts*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by the designated nominee with the third person; and
    - (ii) not allow the designated nominee to debit the account except for the purposes of acquiring goods or services; and
    - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the designated nominee for the purposes of the acquisition of goods or services; or
  - (b) with the consent of the designated nominee, pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by a fourth person with the third person; and
    - (ii) not allow the fourth person to debit the account except for the purposes of acquiring goods or services; and
    - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the fourth person

for the purposes of the acquisition of goods or services;  
or

- (c) pay an amount to a third person on condition that the third person will:
  - (i) credit the amount to an account held by the first person with the third person; and
  - (ii) not allow the first person to debit the account except for the purposes of acquiring goods or services; and
  - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the first person for the purposes of the acquisition of goods or services;so long as the amount paid by the Secretary does not exceed the credit balance of the first person's income management account.
- (3) The goods or services referred to in paragraph (2)(a), (b) or (c) may be limited to such goods or services as are determined by the Secretary.

*Special Account to be debited*

- (4) If the Secretary pays an amount to a third person under subsection (2), the Special Account is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (5) If the Secretary pays an amount to a third person under subsection (2), the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (6) The Secretary must not, under subsection (2), pay an amount to a third person if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If the Secretary pays an amount to a third person under subsection (2), the payment does not have consequences under the income tax law for the designated nominee or the first person.

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**123YK Transfers to accounts—general***Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a designated nominee.

*Transfers*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of an account held by the first person with:
    - (i) a bank; or
    - (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;  
so long as money standing to the credit of the account cannot be debited except for the purposes of:
      - (iii) acquiring goods or services; or
      - (iv) paying account-related fees or charges; or
  - (b) with the consent of the first person, pay an amount to the credit of an account held by a third person with:
    - (i) a bank; or
    - (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;  
so long as money standing to the credit of the account cannot be debited except for the purposes of:
      - (iii) acquiring goods or services; or
      - (iv) paying account-related fees or charges;  
so long as the amount paid by the Secretary does not exceed the credit balance of the first person's income management account.
- (3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

*Special Account to be debited*

- (4) If, under subsection (2), the Secretary pays an amount to the credit of an account, the Special Account is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (5) If, under subsection (2), the Secretary pays an amount to the credit of an account, the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (6) The Secretary must not, under subsection (2), pay an amount to the credit of an account if the Secretary is satisfied that any of relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If, under subsection (2), the Secretary pays an amount to the credit of an account, the payment does not have any consequences under the income tax law for the first person.

**123YL Transfers to accounts—designated nominee**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a designated nominee.

*Transfers*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of an account held by the designated nominee with:
    - (i) a bank; or
    - (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;
-



so long as money standing to the credit of the account cannot be debited except for the purposes of:

- (iii) acquiring goods or services; or
  - (iv) paying account-related fees or charges; or
- (b) with the consent of the designated nominee, pay an amount to the credit of an account held by a third person with:
- (i) a bank; or
  - (ii) a person specified in a legislative instrument made by the Minister for the purposes of this subparagraph;

so long as money standing to the credit of the account cannot be debited except for the purposes of:

- (iii) acquiring goods or services; or
- (iv) paying account-related fees or charges;

so long as the amount paid by the Secretary does not exceed the credit balance of the first person's income management account.

- (3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

*Special Account to be debited*

- (4) If, under subsection (2), the Secretary pays an amount to the credit of an account, the Special Account is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (5) If, under subsection (2), the Secretary pays an amount to the credit of an account, the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (6) The Secretary must not, under subsection (2), pay an amount to the credit of an account if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If, under subsection (2), the Secretary pays an amount to the credit of an account, the payment does not have consequences under the income tax law for the designated nominee or the first person.

**123YM Restricted direct payment—general**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a designated nominee.

*Direct payment*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of a bank account held by the first person (whether alone or jointly or in common with another person); or
  - (b) with the consent of the first person, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
  - (c) if:
    - (i) the first person is subject to the income management regime under section 123UF; and
    - (ii) under a law of Queensland, the Queensland Commission gave the Secretary a written notice stating that a specified bank account held by a third person is a nominated third party account in relation to the first person; and
    - (iii) the notice has not been withdrawn or revoked;pay the amount to the credit of that bank account; or
  - (d) pay an amount to the first person by way of a cheque; or
  - (e) with the consent of the first person, pay an amount to a third person by way of a cheque; or
  - (f) pay an amount to the first person by way of cash; or

- (g) with the consent of the first person, pay an amount to a third person by way of cash; or
- (h) give the first person a stored value card that enables the first person to withdraw cash; or
- (i) with the consent of the first person, give a third person a stored value card that enables the third person to withdraw cash;

so long as:

- (j) if paragraph (a), (b), (c), (d), (e), (f) or (g) applies—the amount paid does not exceed the credit balance of the first person's income management account; or
- (k) if paragraph (h) or (i) applies—the monetary value stored on the card does not exceed the credit balance of the first person's income management account.

*Special Account to be debited*

- (3) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the Special Account is debited by an amount equal to the amount paid.
- (4) If, under paragraph (2)(h) or (i), the Secretary gives the first person or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

*First person's income management account to be debited*

- (5) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the first person's income management account is debited by an amount equal to the amount paid.
- (6) If, under paragraph (2)(h) or (i), the Secretary gives the first person or a third person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.

*Criteria*

- (7) The Secretary must not pay an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g) if the Secretary has reasonable grounds to believe that the whole or a part of the amount paid will be used to acquire excluded goods or excluded services.

- (8) The Secretary must not give the first person or a third person a stored value card under paragraph (2)(h) or (i) if the Secretary has reasonable grounds to believe that the whole or a part of the monetary value stored on the card will be used to acquire excluded goods or excluded services.

*Tax consequences*

- (9) If the Secretary makes a payment under paragraph (2)(a), (d) or (f) the payment does not have consequences under the income tax law for the first person.
- (10) If the Secretary makes a payment under paragraph (2)(b), (c), (e) or (g), the payment does not have consequences under the income tax law for the first person or the third person.
- (11) If, under paragraph (2)(h) or (i), the Secretary gives the first person or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the first person or the third person, as the case may be.

**123YN Restricted direct payment—designated nominee**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a designated nominee.

*Direct payment*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of a bank account held by the designated nominee (whether alone or jointly or in common with another person); or
  - (b) with the consent of the designated nominee, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
  - (c) if:

- (i) the first person is subject to the income management regime under section 123UF; and
  - (ii) under a law of Queensland, the Queensland Commission gave the Secretary a written notice stating that a specified bank account held by a third person is a nominated third party account in relation to the first person; and
  - (iii) the notice has not been withdrawn or revoked;
- pay the amount to the credit of that bank account; or
- (d) pay an amount to the designated nominee by way of a cheque; or
  - (e) with the consent of the designated nominee, pay an amount to a third person by way of a cheque; or
  - (f) pay an amount to the designated nominee by way of cash; or
  - (g) with the consent of the designated nominee, pay an amount to a third person by way of cash; or
  - (h) give the designated nominee a stored value card that enables the designated nominee to withdraw cash; or
  - (i) with the consent of the designated nominee, give a third person a stored value card that enables the third person to withdraw cash;
- so long as:
- (j) if paragraph (a), (b), (c), (d), (e), (f) or (g) applies—the amount paid does not exceed the credit balance of the first person’s income management account; or
  - (k) if paragraph (h) or (i) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account.

*Special Account to be debited*

- (3) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the Special Account is debited by an amount equal to the amount paid.
- (4) If, under paragraph (2)(h) or (i), the Secretary gives the designated nominee or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

*First person's income management account to be debited*

- (5) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the first person's income management account is debited by an amount equal to the amount paid.
- (6) If, under paragraph (2)(h) or (i), the Secretary gives the designated nominee or a third person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.

*Criteria*

- (7) The Secretary must not pay an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g) if the Secretary has reasonable grounds to believe that the whole or a part of the amount paid will be used to acquire excluded goods or excluded services.
- (8) The Secretary must not give the designated nominee a stored value card under paragraph (2)(h) or (i) if the Secretary has reasonable grounds to believe that the whole or a part of the monetary value stored on the card will be used to acquire excluded goods or excluded services.

*Tax consequences*

- (9) If the Secretary makes a payment under paragraph (2)(a), (d) or (f), the payment does not have consequences under the income tax law for the designated nominee or the first person.
- (10) If the Secretary makes a payment under paragraph (2) (b), (c), (e) or (g), the payment does not have consequences under the income tax law for the designated nominee, the first person or the third person.
- (11) If, under paragraph (2)(h) or (i), the Secretary gives the designated nominee or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the designated nominee, the first person or the third person.

## **Subdivision C—Unrestricted debits**

### **123YO Unrestricted direct payment—general**

#### *Scope*

- (1) This section applies if:
  - (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a designated nominee.

#### *Direct payment*

- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) pay an amount to the credit of a bank account held by the first person (whether alone or jointly or in common with another person); or
  - (b) with the consent of the first person, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
  - (c) pay an amount to the first person by way of a cheque; or
  - (d) with the consent of the first person, pay an amount to a third person by way of a cheque; or
  - (e) pay an amount to the first person by way of cash; or
  - (f) with the consent of the first person, pay an amount to a third person by way of cash; or
  - (g) give the first person a stored value card that enables the first person to withdraw cash; or
  - (h) with the consent of the first person, give a third person a stored value card that enables the third person to withdraw cash;so long as:
  - (i) if paragraph (a), (b), (c), (d), (e) or (f) applies—the amount paid does not exceed the credit balance of the first person's income management account; or
  - (j) if paragraph (g) or (h) applies—the monetary value stored on the card does not exceed the credit balance of the first person's income management account.

- (3) In deciding whether to take action under subsection (2), the Secretary must have regard to:
- (a) such matters (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
  - (b) such other matters (if any) as the Secretary considers relevant.

*Special Account to be debited*

- (4) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the Special Account is debited by an amount equal to the amount paid.
- (5) If, under paragraph (2)(g) or (h), the Secretary gives the first person or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

*First person's income management account to be debited*

- (6) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the first person's income management account is debited by an amount equal to the amount paid.
- (7) If, under paragraph (2)(g) or (h), the Secretary gives the first person or a third person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.

*Tax consequences*

- (8) If the Secretary makes a payment under paragraph (2)(a), (c) or (e), the payment does not have consequences under the income tax law for the first person.
- (9) If the Secretary makes a payment under paragraph (2)(b), (d) or (f), the payment does not have consequences under the income tax law for the first person or the third person.
- (10) If, under paragraph (2)(g) or (h), the Secretary gives the first person or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the first person or the third person, as the case may be.
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**123YP Unrestricted direct payment—designated nominee***Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a designated nominee.

*Direct payment*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of a bank account held by the designated nominee (whether alone or jointly or in common with another person); or
  - (b) with the consent of the designated nominee, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
  - (c) pay an amount to the designated nominee by way of a cheque; or
  - (d) with the consent of the designated nominee, pay an amount to a third person by way of a cheque; or
  - (e) pay an amount to the designated nominee by way of cash; or
  - (f) with the consent of the designated nominee, pay an amount to a third person by way of cash; or
  - (g) give the designated nominee a stored value card that enables the designated nominee to withdraw cash; or
  - (h) with the consent of the designated nominee, give a third person a stored value card that enables the third person to withdraw cash;
- so long as:
- (i) if paragraph (a), (b), (c), (d), (e) or (f) applies—the amount paid does not exceed the credit balance of the first person's income management account; or
  - (j) if paragraph (g) or (h) applies—the monetary value stored on the card does not exceed the credit balance of the first person's income management account.

- (3) In deciding whether to take action under subsection (2), the Secretary must have regard to:
- (a) such matters (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
  - (b) such other matters (if any) as the Secretary considers relevant.

*Special Account to be debited*

- (4) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the Special Account is debited by an amount equal to the amount paid.
- (5) If, under paragraph (2)(g) or (h), the Secretary gives the designated nominee or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

*First person's income management account to be debited*

- (6) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the first person's income management account is debited by an amount equal to the amount paid.
- (7) If, under paragraph (2)(g) or (h), the Secretary gives the designated nominee or a third person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.

*Tax consequences*

- (8) If the Secretary makes a payment under paragraph (2)(a), (c) or (e), the payment does not have consequences under the income tax law for the designated nominee or the first person.
- (9) If the Secretary makes a payment under paragraph (2)(b), (d) or (f), the payment does not have consequences under the income tax law for the designated nominee, the first person or the third person.
- (10) If, under paragraph (2)(g) or (h), the Secretary gives the designated nominee or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the designated nominee, the first person or the third person.
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## **Subdivision D—Miscellaneous action**

### **123YQ Miscellaneous action**

#### *Scope*

- (1) This section applies if:
  - (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance.

#### *Miscellaneous action*

- (2) The Secretary may, on behalf of the Commonwealth, take an action specified in a legislative instrument made by the Minister for the purposes of this subsection, so long as the non-administrative expenses paid by the Commonwealth in relation to the taking of the action do not exceed the credit balance of the first person's income management account.

#### *Special Account to be debited*

- (3) If the Secretary takes action under subsection (2), the Special Account is debited by an amount equal to the non-administrative expenses paid by the Commonwealth in relation to the taking of the action.

#### *First person's income management account to be debited*

- (4) If the Secretary takes action under subsection (2), the first person's income management account is debited by an amount equal to the non-administrative expenses paid by the Commonwealth in relation to the taking of the action.

#### *Criteria*

- (5) The Secretary must not take action under subsection (2) unless the Secretary is satisfied that the action:
  - (a) will benefit any or all of the following:
    - (i) the first person;
    - (ii) the first person's partner (if any);

- (iii) the first person's children (if any);
  - (iv) any other dependants of the first person; and
- (b) will not result in the acquisition of any excluded goods or excluded services.

*Tax consequences*

- (6) If the Secretary takes action under subsection (2), the taking of the action does not have consequences under the income tax law for:
- (a) the first person; or
  - (b) any other person for whose benefit the action was taken.

## **Division 7—Information**

### **123ZA Information-gathering powers—Northern Territory**

In determining the scope of the power conferred on the Secretary by section 192 or 195 to require the giving of information, or the production of a document, it is to be assumed that each reference in this Part to a declared relevant Northern Territory area included a reference to a proposed declared relevant Northern Territory area.

### **123ZB Information-gathering powers—school enrolment and attendance**

In determining the scope of the power conferred on the Secretary by section 192 or 195 to require the giving of information, or the production of a document, it is to be assumed that:

- (a) each reference in this Part to a declared primary school area were a reference to a State or Territory; and
- (b) each reference in this Part to a declared secondary school area were a reference to a State or Territory.

### **123ZC Child protection—notice of cancellation of category H welfare payments**

*Scope*

- (1) This section applies if:
- (a) a person ceases to be subject to the income management regime under section 123UC because of the cancellation of a

category H welfare payment of the person or the person's partner; and

- (b) immediately before the cancellation, the relevant notice referred to in paragraph 123UC(b) had not been withdrawn or revoked.

*Notice*

- (2) As soon as practicable after the cancellation, the Secretary must give a child protection officer of the State or Territory written notice of the cancellation.

**123ZD Queensland Commission—notice of cancellation of welfare payments**

*Scope*

- (1) This section applies if:
  - (a) a person ceases to be subject to the income management regime under section 123UF because of the cancellation of:
    - (i) a category P welfare payment of the person or the person's partner; or
    - (ii) a category R welfare payment of the person or the person's partner; and
  - (b) immediately before the cancellation, the relevant notice referred to in paragraph 123UF(1)(b) or (2)(c) had not been withdrawn or revoked.

*Notice*

- (2) As soon as practicable after the cancellation, the Secretary must give the Queensland Commission written notice of the cancellation.

**123ZE Disclosure of information to the Secretary—child protection**

- (1) Despite any law (whether written or unwritten) in force in a State or Territory, a child protection officer of a State or Territory may give the Secretary information about a person if:
    - (a) either:
      - (i) the person is subject to the income management regime under section 123UC; or
-

- (ii) the child protection officer is considering whether to give a notice of the kind referred to in paragraph 123UC(b) in relation to the person; and
  - (b) the disclosed information is relevant to the operation of this Part.
- (2) If information about a person is disclosed by a child protection officer of a State or Territory as mentioned in subsection (1), the Secretary may disclose information about the person to a child protection officer of the State or Territory for the purposes of the performance of the functions and duties, or the exercise of the powers, of the child protection officer in relation to the care, protection or welfare of children.

**123ZEA Disclosure of information to the Secretary—Queensland Commission**

- (1) Despite any law (whether written or unwritten) in force in Queensland, the Queensland Commission may give the Secretary information about a person if:
- (a) either:
    - (i) the person is subject to the income management regime under section 123UF; or
    - (ii) the Queensland Commission is considering whether to give a notice of the kind referred to in paragraph 123UF(1)(b) or (2)(c) in relation to the person; and
  - (b) the disclosed information is relevant to the operation of this Part.
- (2) If information about a person is disclosed by the Queensland Commission as mentioned in subsection (1), the Secretary may disclose information about the person to the Queensland Commission for the purposes of the performance of the functions, or the exercise of the powers, of the Queensland Commission.

**123ZEB Disclosure of information to the Secretary—school enrolment and attendance**

- (1) Despite any law (whether written or unwritten) in force in a State or Territory:
- (a) a State or Territory; or
-

- (b) a non-government school authority; or
  - (c) any other person who is responsible for the operation of one or more schools;
- may give the Secretary information about the enrolment, or non-enrolment, of children at school.
- (2) Despite any law (whether written or unwritten) in force in a State or Territory:
- (a) a State or Territory; or
  - (b) a non-government school authority; or
  - (c) any other person who is responsible for the operation of one or more schools;
- may give the Secretary information about the attendance, or non-attendance, of children at school.

## **Division 8—Debt recovery etc.**

### **123ZF Person other than payee obtaining payment of a cheque**

#### *Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) an amount is paid by cheque under section 123YM, 123YN, 123YO or 123YP; and
  - (c) the payment resulted in the first person's income management account being debited by an amount equal to the amount paid; and
  - (d) a person (the *second person*) other than the payee of the cheque obtains possession of the cheque from the payee; and
  - (e) the cheque is not endorsed by the payee to the second person; and
  - (f) the second person obtains value for the cheque.

#### *Recovery*

- (2) The amount of the cheque is a debt due by the second person to the Commonwealth.

*Special Account to be credited*

- (3) If an amount is received by the Commonwealth under subsection (2), an amount equal to the amount received is credited to the Special Account.

*First person's income management account to be credited*

- (4) If an amount is received by the Commonwealth under subsection (2), the first person's income management account is credited by an amount equal to the amount received.

**123ZG Misuse of vouchers and stored value cards**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) either:
    - (i) the Secretary has given the first person or another person a voucher under subsection 123YC(2) or 123YD(2); or
    - (ii) the Secretary has given the first person or another person a stored value card under subsection 123YE(2), 123YF(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and
  - (c) the Secretary's action resulted in the first person's income management account being debited; and
  - (d) a person (the *unauthorised person*) other than the person to whom the voucher or stored value card was given:
    - (i) obtains possession of the voucher or stored value card from the person to whom the voucher or stored value card was given; and
    - (ii) uses the voucher or stored value card to acquire goods or services or to obtain cash; and
  - (e) the unauthorised person does so without the consent of the person to whom the voucher or stored value card was given.



*Recovery*

- (2) In the case of the use of a voucher, an amount equal to the face value of the voucher is a debt due by the unauthorised person to the Commonwealth.
- (3) In the case of the use of a stored value card, an amount equal to the monetary value involved in the use is a debt due by the unauthorised person to the Commonwealth.

*Special Account to be credited*

- (4) If an amount is received by the Commonwealth under subsection (2) or (3), an amount equal to the amount received is credited to the Special Account.

*First person's income management account to be credited*

- (5) If an amount is received by the Commonwealth under subsection (2) or (3), the first person's income management account is credited by an amount equal to the amount received.

**123ZH Repayment of money credited to an account**

*Scope*

- (1) This section applies if:
  - (a) a person (the *first person*) is subject to the income management regime; and
  - (b) under section 123YI or 123YJ, the Secretary has paid an amount to a third person; and
  - (c) the payment resulted in the first person's income management account being debited by an amount equal to the amount paid.

*Repayment*

- (2) The Secretary may, by written notice given to the third person, require the third person to repay to the Commonwealth so much of the amount paid as has not been applied by the relevant account holder for the purposes of the acquisition of goods or services.

*Special Account to be credited*

- (3) If an amount is received by the Commonwealth in compliance with a notice under subsection (2), an amount equal to the amount received is credited to the Special Account.

*First person's income management account to be credited*

- (4) If an amount is received by the Commonwealth in compliance with a notice under subsection (2), the first person's income management account is credited by an amount equal to the amount received.

**123ZI Breach of condition relating to crediting of account**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) under section 123YI or 123YJ, the Secretary has paid an amount to a third person; and
  - (c) the payment resulted in the first person's income management account being debited by an amount equal to the amount paid; and
  - (d) the third person has breached a condition of the payment.

*Recovery*

- (2) So much of the amount paid as has not been applied by the relevant account holder for the purposes of the acquisition of goods or services is a debt due by the third person to the Commonwealth.

*Special Account to be credited*

- (3) If an amount is received by the Commonwealth under subsection (2), an amount equal to the amount received is credited to the Special Account.

*First person's income management account to be credited*

- (4) If an amount is received by the Commonwealth under subsection (2), the first person's income management account is credited by an amount equal to the amount received.

**123ZJ Value of action taken under Division 6 exceeds credit balance of income management account**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the Secretary purports to take action under Division 6; and
  - (c) apart from this section, the action is invalid because of a breach of whichever of the following requirements is applicable under Division 6:
    - (i) in the case of giving a voucher—the requirement that the face value of the voucher must not exceed the credit balance of the first person's income management account;
    - (ii) in the case of giving a stored value card—the requirement that the monetary value stored on the card must not exceed the credit balance of the first person's income management account;
    - (iii) in the case of increasing the monetary value stored on a stored value card—the requirement that the increase in the monetary value must not exceed the credit balance of the first person's income management account;
    - (iv) in the case of paying an amount—the requirement that the amount paid must not exceed the credit balance of the first person's income management account;
    - (v) in the case of taking an action under subsection 123YQ(2)—the requirement that the non-administrative expenses paid by the Commonwealth in relation to the taking of the action must not exceed the credit balance of the first person's income management account; and
  - (d) the breach was the result of an administrative error or oversight.

*Validation*

- (2) Both:
- (a) the action taken by the Secretary; and
  - (b) the resulting debit from the first person's income management account;
- are as valid as they would have been if:
- (c) the requirement mentioned in paragraph (1)(c) were not applicable to the action; and
  - (d) this Part had allowed the first person's income management account to have a debit balance.

*Relevant excess*

- (3) For the purposes of this section, the **relevant excess** is:
- (a) in the case of giving a voucher—the amount by which the face value of the voucher exceeds the credit balance of the first person's income management account; or
  - (b) in the case of giving a stored value card—the amount by which the monetary value stored on the card exceeds the credit balance of the first person's income management account; or
  - (c) in the case of increasing the monetary value stored on a stored value card—the amount by which the increase in the monetary value exceeds the credit balance of the first person's income management account; or
  - (d) in the case of paying an amount—the amount by which the amount paid exceeds the credit balance of the first person's income management account; or
  - (e) in the case of taking an action under subsection 123YQ(2)—the amount by which the non-administrative expenses paid by the Commonwealth in relation to the taking of the action exceeds the credit balance of the first person's income management account.

*Special Account to be credited*

- (4) An amount equal to the relevant excess is credited to the Special Account.

*Recovery*

- (5) An amount equal to the relevant excess is a debt due by the first person to the Commonwealth.
- (6) If an amount is received by the Commonwealth under subsection (5):
  - (a) an amount equal to the amount received is credited to the Special Account; and
  - (b) an amount equal to the amount received is debited from the Special Account.
- (7) If an amount is received by the Commonwealth under subsection (5), the first person's income management account is credited by an amount equal to the amount received.

**Division 9—Miscellaneous**

**123ZK Secretary must comply with certain directions given by the Queensland Commission**

*Deductible portion*

- (1) If:
  - (a) a person is subject to the income management regime under section 123UF; and
  - (b) under a law of Queensland, the Queensland Commission gives the Secretary a written direction about the exercise of a power of the Secretary under subsection 123XM(3), 123XN(3), 123XO(3) or 123XP(3) in relation to the person; the Secretary must comply with the direction.

*Debits from income management accounts*

- (2) If:
  - (a) a person is subject to the income management regime under section 123UF; and
  - (b) under a law of Queensland, the Queensland Commission gives the Secretary a written direction about the exercise of a power of the Secretary under Division 6 that results in a debit from the person's income management account; the Secretary must comply with the direction.

## 123ZL Surrender of unused vouchers and unused stored value cards

### *Scope*

- (1) This section applies if:
  - (a) a person (the **first person**) is subject to the income management regime; and
  - (b) either:
    - (i) the Secretary has given the first person or another person a voucher under subsection 123YC(2) or 123YD(2); or
    - (ii) the Secretary has given the first person or another person a stored value card under subsection 123YE(2), 123YF(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and
  - (c) as a result of the taking of the action referred to in paragraph (b), the first person's income management account has been debited by a particular amount (the **debited amount**); and
  - (d) the voucher or stored value card has not been used.

### *Surrender of voucher or stored value card*

- (2) The voucher or stored value card may be surrendered to the Secretary.

### *Special Account to be credited*

- (3) If, under subsection (2), the voucher or stored value card is surrendered to the Secretary, an amount equal to the debited amount is credited to the Special Account.

### *First person's income management account to be credited*

- (4) If, under subsection (2), the voucher or stored value card is surrendered to the Secretary, an amount equal to the debited amount is credited to the first person's income management account.

### **123ZM Vouchers**

- (1) The Secretary may, on behalf of the Commonwealth, purchase vouchers to be given under subsection 123YC(2) or 123YD(2).
- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) issue vouchers to be given under subsection 123YC(2) or 123YD(2); and
  - (b) enter into agreements with the suppliers of goods or services under which the suppliers undertake to accept those vouchers in consideration for the supply of goods or services.
- (3) Subsections (1) and (2) do not limit the executive power of the Commonwealth.
- (4) To the extent to which:
  - (a) the issue of vouchers under paragraph (2)(a); or
  - (b) an agreement entered into under paragraph (2)(b);involves a borrowing of money by the Commonwealth, that borrowing is authorised by this subsection.

Note: Section 37 of the *Financial Management and Accountability Act 1997* provides that an agreement for the borrowing of money by the Commonwealth is of no effect unless the borrowing is authorised by an Act.

### **123ZN Appropriation**

- (1) The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of:
  - (a) making payments under subsection 123WJ(4), (7) or (11) or 123WL(3); and
  - (b) enabling the Secretary to set off an amount under subsection 123WJ(14); and
  - (c) making a purchase mentioned in subsection 123ZM(1); and
  - (d) making a payment of an amount payable by the Commonwealth under an agreement mentioned in paragraph 123ZM(2)(b); and
  - (e) enabling the Secretary to give a stored value card under subsection 123YE(2), 123YF(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and

- (f) enabling the Secretary to increase, under subsection 123YE(2) or 123YF(2), the monetary value stored on a stored value card; and
  - (g) enabling the Secretary to pay an amount under subsection 123YG(2), 123YH(2), 123YI(2), 123YJ(2), 123YK(2), 123YL(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and
  - (h) paying or discharging expenses incurred by the Commonwealth in relation to action taken by the Secretary under subsection 123YQ(2).
- (2) To avoid doubt, subsection (1) is the only provision of this Part that appropriates the Consolidated Revenue Fund.

**123ZO This Part has effect despite other provisions etc.**

This Part has effect despite anything in:

- (a) any other provision of this Act; or
- (b) the 1991 Act; or
- (c) the Family Assistance Act; or
- (d) the Family Assistance Administration Act; or
- (e) the *Student Assistance Act 1973*; or
- (f) the Veterans' Entitlements Act.

**18 After paragraph 144(k)**

Insert:

- (ka) a decision under Part 3B of this Act that relates to a person who is subject to the income management regime under section 123UB;

**19 After paragraph 192(da)**

Insert:

- (db) the operation of Part 3B;

**20 After paragraph 195(1)(c)**

Insert:

- (ca) to facilitate the administration of Part 3B;

**21 At the end of section 202**

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Add:

- (6) A person may disclose protected information to another person who is responsible for the operation of a school if the protected information relates to the enrolment, or non-enrolment, of children at the school.
- (7) A person may disclose protected information to another person who is responsible for the operation of a school if the protected information relates to the attendance, or non-attendance, of children at the school.

### ***Veterans' Entitlements Act 1986***

#### **22 Section 125**

After “to this Act”, insert “and Part 3B of the *Social Security (Administration) Act 1999*”.

## Schedule 2—Baby bonus

### *A New Tax System (Family Assistance) Act 1999*

#### **1 Subparagraph 38(c)(ii)**

Omit “47(2)”, substitute “47(1A), (2)”.

### *A New Tax System (Family Assistance) (Administration) Act 1999*

#### **2 After subsection 47(1)**

Insert:

*Payment of baby bonus by instalment for those 18 and over*

(1A) Despite subsection (1), if:

- (a) the claimant has turned 18 on the day on which the claimant makes a claim for payment of baby bonus; and
- (b) the claimant is entitled to be paid baby bonus in respect of a child; and
- (c) on the day on which the determination granting the claim is made:
  - (i) the claimant is subject to the income management regime (within the meaning of Part 3B of the *Social Security (Administration) Act 1999*); or
  - (ii) the claimant is included in a class of individuals specified in a legislative instrument made by the Minister for the purposes of this subparagraph;

the Secretary must, after each of the first 13 instalment periods that end after the determination granting the claim is made, pay to the claimant  $\frac{1}{13}$  of the amount of baby bonus that the claimant is entitled to be paid. The Secretary must pay it at such time as the Secretary considers appropriate and to the credit of a bank account nominated and maintained by the claimant.

(1B) However, the Secretary may direct that the whole or a part of an amount which is to be paid for the purposes of subsection (1A) is to be paid in a manner other than by payment to the credit of a

bank account nominated and maintained by the claimant. If the Secretary gives the direction, the amount is to be paid in accordance with the direction (despite that subsection).

### **3 Subsection 47(2)**

Omit “However”, substitute “Despite subsection (1)”.

Note: The heading to subsection 47(2) is deleted.

### **4 After paragraph 47(2)(a)**

Insert:

(ab) subsection (1A) does not apply to the claimant; and

### **5 Subsection 47(3)**

Omit “If”, substitute “Despite subsection (1), if”.

### **6 Subsections 47(4) and (6)**

Before “(2)”, insert “(1A),”.

### **7 Application**

The amendments made by this Schedule apply to claims for payment of baby bonus made after this item commences.

## Schedule 3—Northern Territory CDEP transition payment

### *Income Tax Assessment Act 1936*

#### **1 Subsection 160AAA(1) (after paragraph (c) of the definition of *rebatable benefit*)**

Insert:

(d) paid by way of Northern Territory CDEP transition payment under Part 2.27 of the *Social Security Act 1991*; or

### *Social Security Act 1991*

#### **2 Subsection 23(1)**

Insert:

*CDEPManager* means the computer system known as CDEPManager.

#### **3 Subsection 23(1)**

Insert:

*CDEP Scheme provider* means a person or organisation that is a party to a Programme Funding Agreement with the Commonwealth under which the person or organisation receives Commonwealth funding to deliver the CDEP Scheme.

#### **4 Subsection 23(1)**

Insert:

*Northern Territory CDEP transition payment* means a Northern Territory CDEP transition payment under Part 2.27.

#### **5 Subsection 23(1)**

Insert:

*transition day*, for a person affected by Part 2.27 (Northern Territory CDEP transition payment), has the meaning given by section 1061ZAAM.

**6 At the end of Chapter 2**

Add:

**Part 2.27—Northern Territory CDEP transition payment**

**Division 1—Qualification for and payability of Northern Territory CDEP transition payment**

**Subdivision A—Qualification for Northern Territory CDEP transition payment**

**1061ZAAL Qualification for Northern Territory CDEP transition payment**

- (1) A person is qualified for Northern Territory CDEP transition payment if:
  - (a) on 23 July 2007, the person was eligible to participate in the CDEP Scheme under the criteria set out in paragraphs 6.1, 6.2 and 6.3 of CDEP Annexure B (see subsection (2)); and
  - (b) on 23 July 2007, the person was recorded as active in CDEPManager; and
  - (c) there is a transition day for the person (see section 1061ZAAM); and
  - (d) during the period starting on 23 July 2007 and ending on the transition day for the person, the person did not cease to participate in the CDEP Scheme for a period of more than 12 consecutive weeks (disregarding any period during which the person was taking paid or unpaid leave approved by a CDEP Scheme provider); and
  - (e) the person meets any other conditions specified in rules made for the purposes of this paragraph under section 1061ZAAW.
- (2) The reference in paragraph (1)(a) to CDEP Annexure B is a reference to Annexure B to the CDEP Schedule of the 2007/2008 Commonwealth Programme Funding Agreement as in force on 23 July 2007.

Note: In 2007, the text of the annexure as in force on 23 July 2007 was accessible through the Australian Government Internet site at [www.workplace.gov.au](http://www.workplace.gov.au).

### **1061ZAAM Northern Territory CDEP transition day**

- (1) The Secretary may give a CDEP Scheme provider a written notice specifying the day on which the provider must stop making CDEP Scheme payments to or on behalf of persons participating in the CDEP Scheme in the Northern Territory.
- (2) A notice under subsection (1) is not a legislative instrument.
- (3) If the Secretary has given a CDEP Scheme provider a notice under subsection (1), the Secretary may, before the day specified in that notice, vary that notice by further written notice to the provider.
- (4) The *transition day* for a person is the day specified in a notice given to a CDEP Scheme provider under this section, if:
  - (a) at any time before the specified day, the person has been registered as active in CDEPManager so far as that system is maintained by that provider; and
  - (b) between that time and the specified day, the person has not been registered as active in CDEPManager so far as that system is maintained by any other provider.
- (5) However, if, apart from this subsection, a person would have more than one transition day, the *transition day* for the person is the earliest of the days that would otherwise have been transition days.

### **Subdivision B—Payability of Northern Territory CDEP transition payment**

#### **1061ZAAN Northern Territory CDEP transition payment only payable if certain claim criteria met**

Northern Territory CDEP transition payment is not payable to a person unless one of the following applies:

- (a) a claim made by the person for a social security benefit or a social security pension was granted before the transition day for the person and the benefit or pension had not been cancelled by the transition day;

- (b) a claim made by the person for a social security benefit or a social security pension before the transition day for the person had not been determined by the transition day;
- (c) on or after the transition day for the person, the person has made a claim for a social security benefit or a social security pension.

**1061ZAAO Northern Territory CDEP transition payment not payable while CDEP Scheme payments being received**

Northern Territory CDEP transition payment is not payable to a person in respect of any period for which the person is receiving CDEP Scheme payments.

**1061ZAAP Northern Territory CDEP transition payment not payable if rate too low**

Northern Territory CDEP transition payment is not payable to a person if the person's fortnightly rate of Northern Territory CDEP transition payment under subsection 1061ZAAS(2) would be less than \$5.

**1061ZAAQ Northern Territory CDEP transition payment not payable if compliance penalty period applies**

Northern Territory CDEP transition payment is not payable to a person if a compliance penalty period applies in relation to the person.

Note: For *compliance penalty period* see subsection 23(1).

**1061ZAAR Northern Territory CDEP transition payment not payable from 1 July 2008**

Northern Territory CDEP transition payment is not payable:

- (a) for a period that includes 1 July 2008—in respect of so much of the period as occurs on or after 1 July 2008; and
- (b) in respect of any period starting on or after 1 July 2008.

## **Division 2—Rate of Northern Territory CDEP transition payment**

### **1061ZAAS Rate of Northern Territory CDEP transition payment**

- (1) The rate of a person's Northern Territory CDEP transition payment is a daily rate, worked out by dividing the person's fortnightly rate worked out under subsection (2) by 14.
- (2) The person's fortnightly rate is:
  - (a) the excess (if any) of the amount in subparagraph (i) over the amount in subparagraph (ii):
    - (i) the person's pre-transition fortnightly income worked out under section 1061ZAAT; and
    - (ii) the person's post-transition fortnightly income worked out under section 1061ZAAU; or
  - (b) if the Secretary considers that a person's rate worked out under paragraph (a) is not appropriate in the person's circumstances—the rate determined by the Secretary.
- (3) In making a determination under this section, the Secretary must have regard to the guidelines (if any) set out in rules made for the purposes of this section under section 1061ZAAW.

### **1061ZAAT Pre-transition fortnightly income**

- (1) For the purposes of subparagraph 1061ZAAS(2)(a)(i), a person's *pre-transition fortnightly income* is the sum of:
  - (a) the person's average fortnightly income from CDEP Scheme payments during the period determined for the person by the Secretary under subsection (2); and
  - (b) if the person was receiving a social security benefit on 23 July 2007—the person's provisional fortnightly payment rate for the benefit; and
  - (c) if the person was receiving a social security pension on 23 July 2007—the person's provisional annual payment rate for the pension, expressed as a fortnightly rate; and
  - (d) if the person received remote area allowance in respect of a fortnight that included 23 July 2007—the person's remote area allowance for the fortnight; and



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- (e) if the person received CDEP Scheme Participant Supplement under Division 3 of Part 3.15A in respect of a period that included 23 July 2007—\$20.80.
- (2) The Secretary must determine a period for a person for the purposes of paragraph (1)(a). The period must not be more than 13 weeks and must end on 23 July 2007.
- (3) Despite subsection (1), if the Secretary considers that a person's pre-transition fortnightly income as worked out under that subsection would not be appropriate in the person's circumstances, the person's *pre-transition fortnightly income* is the amount determined by the Secretary (having regard to the person's income as at 23 July 2007 from CDEP Scheme payments and any social security benefit or social security pension).
- (4) In making a determination under this section, the Secretary must have regard to the guidelines (if any) set out in rules made for the purposes of this section under section 1061ZAAW.

#### **1061ZAAU Post-transition fortnightly income**

- (1) For the purposes of subparagraph 1061ZAAS(2)(a)(ii), a person's *post-transition fortnightly income* is the sum of:
- (a) if the person is receiving a social security benefit on the relevant day—the person's provisional fortnightly payment rate for the benefit; and
  - (b) if the person is receiving a social security pension on the relevant day—the person's provisional annual payment rate for the pension, expressed as a fortnightly rate; and
  - (c) if the person is receiving remote area allowance in respect of a period that includes the relevant day—the person's remote area allowance for the period.
- (2) The *relevant day* for the purposes of subsection (1) is:
- (a) the start day for the person's Northern Territory CDEP transition payment; or
  - (b) a later day determined by the Secretary.
- (3) Despite subsection (1), if the Secretary considers that a person's post-transition fortnightly income as worked out under that subsection would not be appropriate in the person's circumstances,

the person's *post-transition fortnightly income* is the amount determined by the Secretary.

- (4) In making a determination under this section, the Secretary must have regard to the guidelines (if any) set out in rules made for the purposes of this section under section 1061ZAAW.

**1061ZAAV Maximum rate of Northern Territory CDEP transition payment**

The maximum fortnightly rate of Northern Territory CDEP transition payment under subsection 1061ZAAS(2) is \$794.80.

**Division 3—Miscellaneous**

**1061ZAAW Northern Territory CDEP transition payment rules**

- (1) The Secretary may, by legislative instrument, make rules in relation to any or all of the following:
- (a) any matters required or permitted by this Part to be set out in rules;
  - (b) qualification for, and payability and rate of, Northern Territory CDEP transition payment;
  - (c) any other matters in relation to Northern Territory CDEP transition payment.
- (2) Rules made for the purposes of paragraph (1)(b) may impose requirements or limitations additional to the requirements or limitations imposed under this Part.

**7 After subsection 1188B(2)**

Insert:

- (2A) Without limiting persons who are not CDEP Scheme participants, a person who is undertaking an activity approved by the Secretary under section 1188BA as a Northern Territory CDEP transitional activity is not a *CDEP Scheme participant*.

**8 At the end of Division 1 of Part 3.15A**

Add:

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**1188BA Approval of Northern Territory CDEP transitional activities**

- (1) The Secretary may, in writing, approve an activity as a Northern Territory CDEP transitional activity for the purposes of this Act.
- (2) An approval under subsection (1) is not a legislative instrument.

**1188BB Effect of undertaking Northern Territory CDEP transitional activities**

A person is not taken to be:

- (a) an employee within the meaning of section 9 of the *Occupational Health and Safety Act 1991*; or
- (b) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*; or
- (c) an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*; or
- (d) an employee for the purposes of the *Workplace Relations Act 1996*;

merely by undertaking an activity approved by the Secretary under section 1188BA as a Northern Territory CDEP transitional activity for the purposes of this Act.

***Social Security (Administration) Act 1999***

**9 At the end of subsection 52(1)**

Add:

- ; (l) Northern Territory CDEP transition payment.

**10 At the end of section 138**

Add:

- (3) Paragraphs (1)(a) and (c) do not apply in relation to a decision that is not reviewable by the Social Security Appeals Tribunal (see section 144).

**11 After paragraph 144(d)**

Insert:

(daa) a decision under the 1991 Act or this Act in relation to Part 2.27 of the 1991 Act (Northern Territory CDEP transition payment);

**12 Subclause 1(1) of Schedule 1 (at the end of the definition of social security periodic payment)**

Insert:

; or (j) Northern Territory CDEP transition payment.

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*[Minister's second reading speech made in—  
House of Representatives on 7 August 2007  
Senate on 8 August 2007]*

(143/07)

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