

Social Security (Administration) (Recognised State/Territory Authority – Qld Family Responsibilities Commission Determination 2013

FRLI: F2013L02153

Portfolio: Social Services

Tabled: Scheduled for House of Representatives and Senate, 11 February 2014

Summary of committee concerns

2.203 The committee has deferred its consideration of this instrument while it considers its predecessor committee's recommendation that a 12-month review be undertaken in the 44th Parliament to evaluate the latest evidence in order to test the continuing necessity for the Stronger Futures measures.

Overview

2.204 This instrument determines that the Queensland Family Responsibilities Commission is a recognised State or Territory authority for the purposes of Part 3B of the Social Security (Administration) Act 1999.

2.205 The determination also determines that Queensland is a recognised State or Territory, such that a Queensland authority may be recognised under section 123TGAA of the Act, and determines that the deductible portion of an instalment of a category I welfare payment is 60, 75 or 90 per cent, in order to match deductions from welfare payments that would otherwise apply under the Cape York measure of income management.

2.206 The explanatory statement states that Cape York welfare reform is a partnership between the communities of Aurukun, Coen, Hope Vale and Mossman Gorge, the Australian government, the Queensland government and the Cape York Institute for Policy and Leadership.

2.207 The explanatory statement clarifies that:

Currently, a person can be subject to income management under Cape York Welfare Reform only until 1 January 2014 after a decision by the Commission. Legislative amendments proposed in the Social Services and Other Legislation Amendment Bill 2013 currently before parliament propose extending this timeframe to 1 January 2016. However, pending passage of that measure, income management under the Cape York welfare reform measure of income management provided for by section 123UF of the Act must cease from 1 January 2014, including under the Commission's decision, a person would otherwise have continued to be subject to income management beyond this date.¹

1 Explanatory statement, p 2.

2.208 The purpose of the instrument is to avoid ending the income management of a number of persons by providing an alternative basis for income management. The explanatory statement states that

[I]t is possible for a person to be subject to the income management regime where a State or Territory authority recognised by the relevant Minister gives a written notice to the Secretary requiring that the person be subject to income management under section 123UFAA of the Act.

Compatibility with human rights

Statement of compatibility

2.209 The instrument is accompanied by a statement of compatibility that states that the instrument engages the right to social security², the right to an adequate standard of living³, the rights of children⁴, the right to self-determination⁵, the right to privacy⁶, and the right to non-discrimination of persons of a particular race or ethnic origin⁷. The statement concludes that the instrument 'only limits a person's freedom of expenditure where it is reasonable, necessary and proportionate to achieving a legitimate objective'⁸.

Committee view on compatibility

2.210 In its *Eleventh Report of 2013* the predecessor to this committee considered the *Stronger Futures in the Northern Territory Act 2012* and related legislation. The committee wrote to the then Minister on 26 June 2013 inviting a response to the report. The committee notes that a Ministerial response has not yet been received.

2.211 The former committee concluded its report by noting the importance of continuing close evaluation of measures within the legislation. The committee considered that the PJCHR could usefully perform an ongoing oversight role in this regard and recommended that in the 44th Parliament the committee should undertake a 12-month review to evaluate the latest evidence in order to test the continuing necessity for the Stronger Futures measures.

2.212 The committee intends to defer its detailed consideration of this regulation, while it considers its predecessor committee's recommendation.

2 Article 9 of the ICESCR.

3 Article 11 of the ICESCR.

4 Article 24(1) and article 14(4) of the ICCPR.

5 Article 1 of the ICESCR.

6 Article 17 of the ICCPR.

7 Article 1 of the International Convention on the Elimination of all Forms of Racial Discrimination.

8 Statement of compatibility, p 9.