





**Social Security and Other Legislation  
Amendment (Welfare Reform and  
Reinstatement of Racial Discrimination  
Act) Act 2010**

**No. 93, 2010**

**An Act to amend legislation relating to the  
Northern Territory National Emergency Response  
and to provide for matters relating to income  
management, and for related 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 Reform and Reinstatement of Racial Discrimination Act) Act 2010**

**No. 93, 2010**

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**An Act to amend legislation relating to the  
Northern Territory National Emergency Response  
and to provide for matters relating to income  
management, and for related purposes**

*[Assented to 29 June 2010]*

**The Parliament of Australia enacts:**

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## 1 Short title

This Act may be cited as the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 June 2010
2. Schedule 1	The end of 31 December 2010.	31 December 2010
3. Schedule 2	1 July 2010.	1 July 2010
4. Schedule 3	1 July 2010.	1 July 2010
5. Schedule 4	1 July 2010.	1 July 2010
6. Schedule 5, items 1 and 2	1 July 2010.	1 July 2010
7. Schedule 5, items 3 and 4	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
8. Schedule 5, items 5 to 7	1 July 2010.	1 July 2010
9. Schedule 6, items 1 to 49	1 July 2010.	1 July 2010
10. Schedule 6,	The later of:	27 July 2010

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
item 50	(a) 1 July 2010; and (b) the 28th day after this Act receives the Royal Assent.	
11. Schedule 6, items 51 to 67	1 July 2010.	1 July 2010
12. Schedule 7	1 July 2010.	1 July 2010

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### **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 Transitional regulations**

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by this Act.

## **Schedule 1—Repeal of laws limiting anti-discrimination laws**

### ***Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007***

#### **1 Sections 4 and 5**

Repeal the sections.

### ***Northern Territory National Emergency Response Act 2007***

#### **2 Sections 132 and 133**

Repeal the sections.

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

#### **3 Sections 4, 5, 6 and 7**

Repeal the sections.

#### **4 Effect of repeal of sections of Acts by this Schedule**

To avoid doubt:

- (a) the repeal of sections of an Act by this Schedule does not have retrospective effect; and
- (b) section 8 of the *Acts Interpretation Act 1901* applies to the repeal (unaffected by any contrary intention).

## **Schedule 2—Income management regime**

### **Part 1—Relevant Northern Territory area**

#### **Division 1—Amendments**

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

**1 Section 123TC (definition of *category A welfare payment*)**

Repeal the definition.

**2 Section 123TC (definition of *category B welfare payment*)**

Repeal the definition.

**3 Section 123TC (definition of *category C welfare payment*)**

Repeal the definition.

**4 Section 123TC (definition of *category D welfare payment*)**

Repeal the definition.

**5 Section 123TC (definition of *category F welfare payment*)**

Repeal the definition.

**6 Section 123TC (definition of *category G welfare payment*)**

Repeal the definition.

**7 Section 123TC (definition of *declared relevant Northern Territory area*)**

Repeal the definition.

**8 Section 123TC (definition of *exempt Northern Territory person*)**

Repeal the definition.

**9 Section 123TC (definition of *relevant Northern Territory area*)**

Repeal the definition.

**10 Section 123TC (definition of *subject to the income management regime*)**

Omit “123UB,”.

**11 Sections 123TD and 123TE**

Repeal the sections.

**12 Section 123UB**

Repeal the section.

**13 Subdivision B of Division 2 of Part 3B**

Repeal the Subdivision.

**14 Paragraph 123UM(5)(a)**

Omit “123UB,”.

**15 Subparagraph 123UN(1)(a)(v)**

Omit “123UB,”.

**16 Subparagraph 123UO(3)(b)(v)**

Omit “123UB,”.

**17 Paragraph 123WJ(1)(c)**

Omit “123UB,”.

**18 Paragraph 123WJ(1)(d)**

Omit “123UB,”.

**19 Subdivision A of Division 5 of Part 3B**

Repeal the Subdivision.

**20 Subsection 123XPC(2)**

Omit “123UB or”.

**21 Section 123ZA**

Repeal the section.

## **Division 2—Saving and transitional provisions**

### **22 Definitions**

In this Division:

*Administration Act* means the *Social Security (Administration) Act 1999*.

*commencement time* means the time when this Part commences.

*transition period* means the period of 12 months beginning at the commencement time.

### **23 Persons subject to the income management regime—relevant Northern Territory area**

- (1) This item applies in relation to a person if the person was subject to the income management regime under section 123UB of the Administration Act immediately before the commencement time.
- (2) Despite the amendments and repeals made by items 1 to 7, 9 to 12 and 17, 19 and 20 of this Part and subject to subitems (3), (4), (5) and (6):
  - (a) a determination that was in force under subsection 123TE(1) of the Administration Act immediately before the commencement time continues in force after that time in relation to the person; and
  - (b) the person continues to be subject to the income management regime under section 123UB of the Administration Act after the commencement time; and
  - (c) Part 3B of the Administration Act applies in relation to the person after the commencement time;as if those amendments and repeals had not happened.
- (3) The Minister must not make a determination under subsection 123TE(1) of the Administration Act (as it continues to apply because of subitem (2)) unless the determination relates to a relevant Northern Territory area to which a determination that was in force under that subsection after the commencement time relates.
- (4) Section 123UB of the Administration Act (*continuing section 123UB*) continues to apply in relation to the person as if paragraphs (1)(d), (f) and (g), (2)(f), (h) and (i) and (3)(a) of that section were omitted.

- (5) The person ceases to be subject to the income management regime under continuing section 123UB if:
- (a) the person ceases to meet the criteria set out in subsection (1), (2) or (3) of that section; or
  - (b) the Secretary determines, in writing, that the person should not continue to be subject to the income management regime under that section; or
  - (c) the person becomes subject to the income management regime under section 123UC, 123UCA, 123UCB, 123UCC, 123UD, 123UE, 123UF or 123UFA of the Administration Act, as in force after the commencement time.
- (6) If the person has not ceased to be subject to the income management regime under continuing section 123UB before the end of the transition period, the person ceases to be subject to the income management regime under that section at the end of that period.
- (7) The Secretary must not determine, under paragraph (5)(b), that the person should not continue to be subject to the income management regime under continuing section 123UB unless the person's usual place of residence is within a declared income management area (as defined in Part 3B of the Administration Act as in force after the commencement time).
- (8) Part 4 of the Administration Act (which deals with review of decisions) applies in relation to a decision made under paragraph (5)(b) as if it were a decision under the social security law.
- (9) Subsections 234(1), (2) and (7) of the Administration Act (which deal with delegation) apply in relation to the power of the Secretary under paragraph (5)(b) as if it were a power of the Secretary under the social security law.

## **24 Application of other laws**

- (1) This item applies in relation to a person who is subject to the income management regime under section 123UB of the Administration Act (*continuing section 123UB*) as that section applies in relation to the person because of item 23 of this Part.
- (2) A reference in the Administration Act or any other law of the Commonwealth to Part 3B of the Administration Act has effect in relation to the person as if it were a reference to Part 3B of the
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Administration Act as that Part applies in relation to the person because of item 23 of this Part.

- (3) A reference in the Administration Act or any other law of the Commonwealth to section 123UB of the Administration Act has effect in relation to the person as if it were a reference to continuing section 123UB of that Act.

## Part 2—New income management measures

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

**25 Section 123TA (paragraphs (a) to (f) of the dot-point beginning with “A person may become subject to the income management regime”)**

Repeal the paragraphs, substitute:

- (a) a child protection officer of a State or Territory requires the person to be subject to the income management regime; or
- (b) the Secretary has determined that the person is a vulnerable welfare payment recipient; or
- (c) the person meets the criteria relating to disengaged youth; or
- (d) the person meets the criteria relating to long-term welfare payment recipients; or
- (e) the person, or the person’s partner, has a child who does not meet school enrolment requirements; or
- (f) the person, or the person’s partner, has a child who has unsatisfactory school attendance; or
- (g) the Queensland Commission requires the person to be subject to the income management regime; or
- (h) the person voluntarily agrees to be subject to the income management regime.

**26 Section 123TA (paragraphs (b) and (c) of the dot-point beginning with “Amounts will be debited from the person’s income management account”)**

Repeal the paragraphs, substitute:

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|--|
| <p>(b) the person's children (if any); and</p> <p>(c) the person's partner (if any); and</p> |
|--|

## **27 Section 123TB**

Repeal the section, substitute:

### **123TB Objects**

The objects of this Part are as follows:

- (a) to reduce immediate hardship and deprivation by ensuring that the whole or part of certain welfare payments is directed to meeting the priority needs of:
  - (i) the recipient of the welfare payment; and
  - (ii) the recipient's children (if any); and
  - (iii) the recipient's partner (if any); and
  - (iv) any other dependants of the recipient;
- (b) to ensure that recipients of certain welfare payments are given support in budgeting to meet priority needs;
- (c) to reduce the amount of certain welfare payments available to be spent on alcoholic beverages, gambling, tobacco products and pornographic material;
- (d) to reduce the likelihood that recipients of welfare payments will be subject to harassment and abuse in relation to their welfare payments;
- (e) to encourage socially responsible behaviour, including in relation to the care and education of children;
- (f) to improve the level of protection afforded to welfare recipients and their families.

## **28 Section 123TC**

Insert:

*category E welfare payment* means:

- (a) youth allowance; or
- (b) newstart allowance; or
- (c) special benefit; or
- (d) pension PP (single); or

(e) benefit PP (partnered).

**29 Section 123TC**

Insert:

*declared income management area* has the meaning given by section 123TFA.

**30 Section 123TC**

Insert:

*exempt welfare payment recipient* has the meaning given by section 123UGB, 123UGC or 123UGD.

**31 Section 123TC**

Insert:

*full-time student* has the meaning given by section 123UGF.

**32 Section 123TC**

Insert:

*school age child* has the meaning given by section 123UGG.

**33 Section 123TC (definition of *subject to the income management regime*)**

After “123UC,”, insert “123UCA, 123UCB, 123UCC,”.

**34 Section 123TC**

Insert:

*vulnerable welfare payment recipient* has the meaning given by section 123UGA.

**35 After section 123TF**

Insert:

**123TFA Declared income management area**

The Minister may, by legislative instrument, determine that:

(a) a specified State; or

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- (b) a specified Territory; or
  - (c) a specified area;
- is a *declared income management area* for the purposes of this Part.

### **36 After section 123UC**

Insert:

#### **123UCA Persons subject to the income management regime— vulnerable welfare payment recipients**

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 an eligible recipient of a category H welfare payment; and
- (b) at the test time, the person's usual place of residence is within a declared income management area; and
- (c) at the test time, the person is a vulnerable welfare payment recipient; and
- (d) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
- (e) at the test time, the person is not subject to the income management regime under section 123UC, 123UD, 123UE or 123UF.

#### **123UCB Persons subject to the income management regime— disengaged youth**

- (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 is an eligible recipient of a category E welfare payment; and
    - (b) at the test time, the person is at least 15 years of age and under 25 years of age; and
    - (c) at the test time, the person's usual place of residence is within a declared income management area; and
    - (d) at the test time, the person is not an exempt welfare payment recipient; 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, 123UCA, 123UD, 123UE or 123UF; and
  - (g) the person was an eligible recipient of a category E welfare payment for at least 13 weeks during the 26-week period ending immediately before the test time.
- (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, 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).

**123UCC Persons subject to the income management regime—  
long-term welfare payment recipients**

- (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 is an eligible recipient of a category E welfare payment; and
  - (b) at the test time, the person is at least 25 years of age but has not reached pension age; and
  - (c) at the test time, the person's usual place of residence is within a declared income management area; and
  - (d) at the test time, the person is not an exempt welfare payment recipient; 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, 123UCA, 123UD, 123UE or 123UF; and
  - (g) the person was an eligible recipient of a category E welfare payment for at least 52 weeks during the 104-week period ending immediately before the test time.
- (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, 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).

### **37 Before Subdivision C of Division 2 of Part 3B**

Insert:

### **Subdivision BA—Additional provisions relating to vulnerable welfare payment recipients**

#### **123UGA Vulnerable welfare payment recipients**

##### *Determination by Secretary*

- (1) The Secretary may, by writing, determine that a person is a **vulnerable welfare payment recipient** for the purposes of this Part.
- (2) In making a determination under subsection (1), the Secretary must comply with any decision-making principles set out in a legislative instrument made by the Minister for the purposes of this subsection.

##### *Duration of determination*

- (3) A determination made under subsection (1):
  - (a) comes into force:
    - (i) on the day on which it is made; or
    - (ii) if a later day is specified in the determination—on that later day; and
  - (b) remains in force (unless earlier revoked):
    - (i) for 12 months; or
    - (ii) if a shorter period is specified in the determination—for that shorter period.

##### *New determinations*

- (4) If a determination made under subsection (1) is, or has been, in force in relation to a person, subsection (3) does not prevent the

Secretary from making a new determination under subsection (1) in relation to that person.

*Variation and revocation*

- (5) The Secretary may, by writing, vary or revoke a determination made under subsection (1):
  - (a) on his or her own initiative; or
  - (b) on request made under subsection (8).
- (6) In deciding whether to vary or revoke a determination made under subsection (1), the Secretary must comply with any decision-making principles set out in an instrument made for the purposes of subsection (2).
- (7) Subsection (5) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.

*Request to reconsider circumstances*

- (8) Subject to subsection (9), if a determination made under subsection (1) is in force in relation to a person, the person may request the Secretary to:
  - (a) reconsider the person's circumstances; and
  - (b) vary, or revoke, the determination.
- (9) A person must not make a request under subsection (8) in relation to a determination if, at any time during the preceding period of 90 days, the person has made a request under that subsection in relation to the same determination.
- (10) If a person makes a request under subsection (8), the Secretary must reconsider the person's circumstances unless the request was made in contravention of subsection (9).

*Determination not a legislative instrument*

- (11) A determination made under subsection (1) is not a legislative instrument.

**Subdivision BB—Additional provisions relating to disengaged youth and long-term welfare payment recipients**

**123UGB Exempt welfare payment recipient—inclusion in specified class**

- (1) The Secretary may, by writing, determine that a person is an *exempt welfare payment recipient* if the Secretary is satisfied that the person is included in a class of persons specified in an instrument made by the Minister under subsection (2).
- (2) The Minister may, by legislative instrument, specify a class of persons to be exempt welfare payment recipients for the purposes of this section.
- (3) A determination made by the Secretary under subsection (1) is not a legislative instrument.

**123UGC Exempt welfare payment recipient—persons without dependent children**

- (1) The Secretary may, by writing, determine that a person is an *exempt welfare payment recipient* at a particular time (the *test time*) if:
  - (a) the person has no dependent children at the test time; and
  - (b) the Secretary is satisfied that one of the following applies:
    - (i) the person is a full-time student or a new apprentice at the test time;
    - (ii) during the 12-month period ending immediately before the test time, the person worked for at least 15 hours per week for at least 26 weeks on wages that were at or above the relevant minimum wage;
    - (iii) at the test time, the person is undertaking an activity specified in an instrument made by the Minister under subsection (2).

Note: A child can be a dependent child of only one person at a time: see section 123UGE.

- (2) The Minister may, by legislative instrument, specify activities for the purpose of subparagraph (1)(b)(iii). The activities may be specified by reference to a class of persons undertaking the activities.

- (3) A determination made by the Secretary under subsection (1) is not a legislative instrument.
- (4) In this section:

***dependent child*** means a dependent child who is a school age child or younger.

Note: For ***dependent child***, see section 5 of the 1991 Act.

### **123UGD Exempt welfare payment recipient—persons with dependent children**

- (1) The Secretary may, by writing, determine that a person is an ***exempt welfare payment recipient*** at a particular time (the ***test time***) if:
- (a) the person has one or more dependent children at the test time; and
  - (b) in relation to each dependent child who is a school age child—the Secretary is satisfied that:
    - (i) at the test time, the child is enrolled at a school, and the child has had no more than 5 unexplained absences in each of the 2 school terms ending immediately before that time; or
    - (ii) at the test time, the child is covered by a schooling arrangement that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to enrol at, or attend, a school (for example, the child is home-schooled), and the child's schooling is progressing satisfactorily; or
    - (iii) at the test time, the child is participating in an activity specified in an instrument made by the Minister under subsection (2); and
  - (c) in relation to each other dependent child—the Secretary is satisfied that, at the test time, the person or the child is participating in the required number and kind of activities specified in an instrument made by the Minister under subsection (3); and
  - (d) the Secretary is satisfied that there were no indications of financial vulnerability in relation to the person during the 12-month period ending immediately before the test time.

Note 1: A child can be a dependent child of only one person at a time: see section 123UGE.

Note 2: In deciding whether he or she is satisfied as mentioned in paragraph (1)(d), the Secretary must comply with decision-making principles: see subsection (5).

*Alternative activities for school age children*

- (2) The Minister may, by legislative instrument, specify activities for the purpose of subparagraph (1)(b)(iii).

*Activities relating to dependent children (other than school age children)*

- (3) The Minister must, by legislative instrument, specify the number and kind of activities that a person, or the person's dependent child (other than a school age child), may participate in for the purposes of paragraph (1)(c).
- (4) The activities that may be specified under subsection (3) may relate to a child's intellectual, physical or social development.

*Decision-making principles relating to financial vulnerability*

- (5) In deciding whether he or she is satisfied as mentioned in paragraph (1)(d), the Secretary must comply with any decision-making principles set out in a legislative instrument made by the Minister for the purposes of this subsection.

*Determination not a legislative instrument*

- (6) A determination made by the Secretary under subsection (1) is not a legislative instrument.

*Definition*

- (7) In this section:

*dependent child* has the same meaning as in section 123UGC.

**123UGE Child can be dependent child of only one person at a time**

- (1) For the purposes of sections 123UGC and 123UGD, a child can be a dependent child of only one person at a time.

- (2) If the Secretary is satisfied that, but for subsection (1), a child would be a dependent child of 2 or more persons, the Secretary must determine in relation to which of those persons the child is a dependent child.

### **123UGF Full-time student**

A person is a *full-time student* for the purposes of this Part if the person:

- (a) is an eligible recipient of youth allowance; and
- (b) is undertaking full-time study (as defined by section 541B of the 1991 Act).

### **123UGG School age child**

- (1) For the purposes of this Part, a child is a *school age child* if the child is required, under a law of a State or Territory:
- (a) to be enrolled at a school; or
  - (b) to attend a school at times required under that law.

- (2) For the purposes of this section:

*attendance*, at a school, includes attendance at a place, for the purpose of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to attend a school.

*enrolment*, at a school, includes anything, for the purposes of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to enrol at a school.

### **38 Paragraph 123UM(5)(a)**

After “123UC,”, insert “123UCA, 123UCB, 123UCC,”.

### **39 Subparagraph 123UN(1)(a)(v)**

After “123UC,”, insert “123UCA, 123UCB, 123UCC,”.

### **40 Subparagraph 123UO(3)(b)(v)**

After “123UC,”, insert “123UCA, 123UCB, 123UCC,”.

### **41 Paragraphs 123WJ(1)(c) and (d)**

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After “123UC,”, insert “123UCA, 123UCB, 123UCC,”.

## **42 After Subdivision B of Division 5 of Part 3B**

Insert:

### **Subdivision BA—Vulnerable welfare payment recipients**

#### **123XJA 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 123UCA; and
  - (b) an instalment of 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—instalments of baby bonus*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of baby bonus under the Family Assistance Act 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).

*Deductible portion—instalments of other category I welfare payments*

- (4) For the purposes of subsection (2), the **deductible portion** of an instalment of a category I welfare payment (other than baby bonus under the Family Assistance Act) is:
  - (a) 50%; or
  - (b) if another percentage (not exceeding 100%) is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the other percentage;of the net amount of the instalment (rounded down to the nearest cent).
- (5) An instrument under paragraph (4)(b) may specify different percentages in relation to different category I welfare payments.
- (6) An instrument under paragraph (4)(b) may specify a percentage that is higher than 50% only if the Minister considers the higher percentage is necessary to promote the objects of this Part.

**123XJB 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 123UCA; 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 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.

**Subdivision BB—Disengaged youth and long-term welfare payment recipients**

**123XJC 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 123UCB or 123UCC; and
  - (b) an instalment of 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—instalments of baby bonus*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of baby bonus under the Family Assistance Act 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).

*Deductible portion—instalments of other category I welfare payments*

- (4) For the purposes of subsection (2), the **deductible portion** of an instalment of a category I welfare payment (other than baby bonus under the Family Assistance Act) is:
- (a) 50%; or
  - (b) if another percentage (not exceeding 100%) is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the other percentage;  
of the net amount of the instalment (rounded down to the nearest cent).
- (5) An instrument under paragraph (4)(b) may specify different percentages in relation to different category I welfare payments.
- (6) An instrument under paragraph (4)(b) may specify a percentage that is higher than 50% only if the Minister considers the higher percentage is necessary to promote the objects of this Part.

**123XJD 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 123UCB or 123UCC; 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 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.

**43 Paragraphs 123YA(2)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) the first person's children (if any); or
- (c) the first person's partner (if any); or

**44 Subparagraphs 123YA(3)(a)(ii) and (iii)**

Repeal the subparagraphs, substitute:

- (ii) the first person's children (if any); and
- (iii) the first person's partner (if any); and

**45 Subparagraphs 123YQ(5)(a)(ii) and (iii)**

Repeal the subparagraphs, substitute:

- (ii) the first person's children (if any);
- (iii) the first person's partner (if any);

## **Part 3—Voluntary income management agreements**

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

#### **46 Paragraph 123UM(5)(b)**

Omit “2 or more”, substitute “4”.

#### **47 Paragraph 123UN(1)(b)**

Repeal the paragraph, substitute:

(b) remains in force until:

- (i) it is terminated under section 123UO; or
- (ii) if the agreement specifies a period (which must be at least 13 weeks) during which it is to remain in force, and the agreement has not been terminated under section 123UO before the end of that period—the end of that period.

#### **48 Subsection 123UN(2)**

Repeal the subsection.

#### **49 After subsection 123UO(1)**

Insert:

- (1A) However, a person must not make a request under subsection (1) unless the voluntary income management agreement to which the request relates has been in force for at least 13 weeks.

#### **50 At the end of subsection 123UO(2)**

Add “, unless the request relates to a voluntary income management agreement that, on the day the request is received, has not been in force for at least 13 weeks”.

#### **51 Application of items 47 to 50**

The amendments made by items 47 to 50 of this Part apply in relation to a voluntary income management agreement that is entered into after the commencement of this Part.

**52 Subsection 123UO(4)**

Omit “60 days”, substitute “21 days”.

**53 Application of item 52**

The amendment made by item 52 of this Part applies in relation to a person if a voluntary income management agreement relating to the person is terminated under section 123UO of the *Social Security (Administration) Act 1999* after the commencement of this Part (whether the agreement was entered into before or after that commencement).

## Part 4—New social security payments

### *Income Tax Assessment Act 1997*

#### **54 Section 11-15 (table item headed “social security or like payments”)**

After:

lump sum payment under section 198N of the *Veterans’ Entitlements Act 1986* ..... 52-65

insert:

matched savings scheme (income management) payment under the *Social Security Act 1991* ..... 52-10

#### **55 Section 11-15 (table item headed “social security or like payments”)**

After:

veteran, payment to ..... Subdivisions 52-B and 52-C

insert:

voluntary income management incentive payment under the *Social Security Act 1991* ..... 52-10

#### **56 After paragraph 52-10(1)(w)**

Insert:

(wa) payments under the *Social Security Act 1991* referred to in subsection (1EA); or

#### **57 After subsection 52-10(1E)**

Insert:

(1EA) The following payments under the *Social Security Act 1991* are exempt from income tax:

- (a) voluntary income management incentive payment (see Part 2.25D of that Act);
- (b) matched savings scheme (income management) payment (see Part 2.25E of that Act).

## *Social Security Act 1991*

### **58 Subsection 23(1)**

Insert:

*matched savings scheme (income management) payment* means a matched savings scheme (income management) payment under Part 2.25E.

### **59 Subsection 23(1)**

Insert:

*voluntary income management agreement* has the meaning given by Part 3B of the Administration Act.

### **60 Subsection 23(1)**

Insert:

*voluntary income management incentive payment* means a voluntary income management incentive payment under Part 2.25D.

### **61 After Part 2.25C**

Insert:

## **Part 2.25D—Voluntary income management incentive payment**

### **1061W Qualification for a voluntary income management incentive payment**

- (1) A person is qualified for a voluntary income management incentive payment if the person has accrued a qualifying incentive payment period.
- (2) A person accrues a *qualifying incentive payment period* if a voluntary income management agreement relating to the person has been in force for a period of 26 consecutive weeks.

- (3) A person may accrue more than one qualifying incentive payment period. However, a week during which a voluntary income management agreement relating to the person is in force cannot be counted towards more than one qualifying incentive payment period.

**1061WA When a voluntary income management incentive payment is payable**

A voluntary income management incentive payment is payable to a person in relation to each qualifying incentive payment period accrued by the person.

**1061WB Amount of a voluntary income management incentive payment**

The amount of a voluntary income management incentive payment is \$250.

**Part 2.25E—Matched savings scheme (income management) payment**

**1061WG Qualification for matched savings scheme (income management) payment**

- (1) A person is qualified for a matched savings scheme (income management) payment if:
- (a) the person has completed an approved course; and
  - (b) the Secretary is satisfied that:
    - (i) the person has maintained a pattern of regular savings throughout a period (the *qualifying savings period*) of at least 13 consecutive weeks beginning after the person commenced the approved course; and
    - (ii) the person has a qualifying savings amount; and
  - (c) the person is subject to the income management regime under section 123UC, 123UCA, 123UCB, 123UCC, 123UD or 123UE of the Administration Act, and was subject to the income management regime under one of those sections throughout the qualifying savings period.

- (2) For the purposes of paragraph (1)(a), a course is an ***approved course*** if it is a course approved by the Secretary, by legislative instrument, for the purposes of this subsection.
- (3) In deciding whether he or she is satisfied as mentioned in paragraph (1)(b), the Secretary must comply with any decision-making principles set out in a legislative instrument made by the Minister for the purposes of this subsection.
- (4) A person has a qualifying savings amount if the amount (the ***second amount***) of the person's savings at the end of the qualifying savings period is greater than the amount (if any) (the ***first amount***) of the person's savings at the beginning of that period. The difference between the second amount and the first amount is the person's ***qualifying savings amount***.
- (5) For the purposes of subsection (4), a person's qualifying savings amount does not include any amount credited to the person's income management account (within the meaning of Part 3B of the Administration Act) during the qualifying savings period.

#### **1061WH Amount of a matched savings scheme (income management) payment**

- (1) The amount of a matched savings scheme (income management) payment payable to a person is:
  - (a) the person's qualifying savings amount (as defined by section 1061WG); or
  - (b) if the person's qualifying savings amount is more than \$500—\$500.
- (2) A matched savings scheme (income management) payment is to be paid as a single lump sum.
- (3) A person may receive one matched savings scheme (income management) payment under this Part, regardless of how many times the person qualifies for the payment.

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

#### **62 Before section 13**

Insert:

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### **12J Voluntary income management incentive payment**

A claim is not required for a voluntary income management incentive payment.

### **63 Subsection 47(1) (after paragraph (f) of the definition of *lump sum benefit*)**

Insert:

- (fa) voluntary income management incentive payment; or
- (fb) matched savings scheme (income management) payment; or

### **64 Before Subdivision E of Division 5 of Part 3B**

Insert:

### **Subdivision DD—Voluntary income management incentive payments and matched savings scheme (income management) payments**

### **123XPH Deductions from voluntary income management incentive payments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) a voluntary income management incentive payment is payable to the person.

#### *Deductions from payments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the voluntary income management incentive 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 voluntary income management incentive payment is 100% of the amount of the payment.

**123XPI Deductions from matched savings scheme (income management) payments**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime; and
  - (b) a matched savings scheme (income management) payment is payable to the person.

*Deductions from payments*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the matched savings scheme (income management) 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 the matched savings scheme (income management) payment is 100% of the amount of the payment.

**65 Application**

- (1) Part 2.25D of the *Social Security Act 1991* (as inserted by item 61 of this Part) applies in relation to a qualifying incentive payment period that commences after the commencement of this Part.
- (2) Part 2.25E of the *Social Security Act 1991* (as inserted by item 61 of this Part) applies in relation to a qualifying savings period that commences after the commencement of this Part.

## Schedule 3—Alcohol

### *Northern Territory National Emergency Response Act 2007*

#### **1 Before section 7**

Insert:

#### **6A Object of Part**

The object of this Part is to enable special measures to be taken to reduce alcohol-related harm in Indigenous communities in the Northern Territory.

#### **2 Subsection 11(1)**

Omit “must, if it is practicable to do so, take all such steps as are, in its opinion, necessary to”, substitute “may”.

#### **3 Paragraph 11(1)(d)**

Repeal the paragraph, substitute:

(d) setting out any other information that the Commission considers appropriate.

#### **4 Subsection 11(2)**

Omit “must also”, substitute “may”.

#### **5 Paragraph 11(2)(c)**

Repeal the paragraph, substitute:

(c) setting out any other information that the Commission considers appropriate.

#### **6 Subsection 11(3)**

Repeal the subsection, substitute:

(3) The Commission may, before exercising a power under subsection (1) or (2), consult people living in the prescribed area on the content of the notice.

#### **7 Subsection 12(10)**

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Omit “must, if it is practicable to do so, take all such steps as are, in its opinion, necessary to”, substitute “may”.

### **8 Subsection 12(11)**

Omit “must also”, substitute “may”.

### **9 Subsection 12(12)**

Repeal the subsection.

### **10 Section 18**

Repeal the section, substitute:

### **18 Application of Police Administration Act**

- (1) The Commonwealth Minister may, by legislative instrument, declare that Division 4 of Part VII of the Police Administration Act applies to a specified prescribed area or a specified part of a prescribed area as if the area or part were a public place.

Note: The reference to the *Police Administration Act* of the Northern Territory is to be construed as a reference to that Act as originally enacted and as amended from time to time: see section 10A of the *Acts Interpretation Act 1901* of the Commonwealth.

- (2) The Commonwealth Minister must not make a declaration under subsection (1) in relation to a prescribed area or a part of a prescribed area unless a request is made to the Commonwealth Minister to do so by, or on behalf of, a person who is ordinarily resident in the prescribed area or in the part of the prescribed area.

#### *Community consultation*

- (3) Before making a declaration under subsection (1) in relation to a prescribed area or a part of a prescribed area, the Commonwealth Minister must ensure that:
- (a) information setting out:
- (i) the proposal to make the declaration; and
  - (ii) an explanation, in summary form, of the consequences of the making of the declaration;
- has been made available in the prescribed area or the part of the prescribed area; and

- (b) people in the prescribed area or the part of the prescribed area have been given a reasonable opportunity to discuss:
  - (i) the proposal to make the declaration; and
  - (ii) the consequences of the making of the declaration; and
  - (iii) their circumstances, concerns and views, so far as they relate to the proposal;with employees of the Commonwealth or such other persons as the Commonwealth Minister thinks appropriate.
- (4) A failure to comply with subsection (3) does not affect the validity of a declaration under subsection (1).

*Criteria for making a declaration*

- (5) In making a declaration under subsection (1) in relation to a prescribed area or a part of a prescribed area, the Commonwealth Minister must have regard to the following matters:
  - (a) the well-being of people living in the prescribed area or the part of the prescribed area;
  - (b) whether there is reason to believe that people living in the prescribed area or the part of the prescribed area have been the victims of alcohol-related harm during a period the Commonwealth Minister considers appropriate;
  - (c) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Commonwealth Minister considers appropriate, expressed their concerns about being at risk of alcohol-related harm;
  - (d) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Commonwealth Minister considers appropriate, expressed the view that their well-being will be improved if Division 4 of Part VII of the Police Administration Act applies in relation to the prescribed area or the part of the prescribed area in accordance with this section;
  - (e) whether there is an alcohol management plan in relation to a community or communities in the prescribed area or the part of the prescribed area;
  - (f) any discussions of the kind referred to in paragraph (3)(b);
  - (g) any other matter that the Commonwealth Minister considers relevant.

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**11 At the end of section 19**

Add:

- (3) The Commonwealth Minister may make a declaration under paragraph (1)(b) in relation to a prescribed area or a part of a prescribed area:
  - (a) on the Commonwealth Minister's own initiative; or
  - (b) following a request made to the Commonwealth Minister by, or on behalf of, a person who is ordinarily resident in the prescribed area or in the part of the prescribed area.
- (4) If the Commonwealth Minister makes a declaration under paragraph (1)(b) in relation to a prescribed area or a part of a prescribed area, this Division continues to apply, or the specified provisions of this Division continue to apply, in relation to that area or part after the declaration takes effect in relation to things done, or omitted to be done, before the declaration takes effect.

*Community consultation*

- (5) Before making a declaration under paragraph (1)(b) in relation to a prescribed area or a part of a prescribed area, the Commonwealth Minister must ensure that:
  - (a) information setting out:
    - (i) the proposal to make the declaration; and
    - (ii) an explanation, in summary form, of the consequences of the making of the declaration;has been made available in the prescribed area or the part of the prescribed area; and
  - (b) people in the prescribed area or the part of the prescribed area have been given a reasonable opportunity to discuss:
    - (i) the proposal to make the declaration; and
    - (ii) the consequences of the making of the declaration; and
    - (iii) their circumstances, concerns and views, so far as they relate to the proposal;with employees of the Commonwealth or such other persons as the Commonwealth Minister thinks appropriate.
- (6) A failure to comply with subsection (5) does not affect the validity of a declaration under paragraph (1)(b).

*Criteria for making a declaration*

- (7) In making a declaration under paragraph (1)(b) in relation to a prescribed area or a part of a prescribed area, the Commonwealth Minister must have regard to the following matters:
- (a) the well-being of people living in the prescribed area or the part of the prescribed area;
  - (b) whether there is reason to believe that people living in the prescribed area or the part of the prescribed area have been the victims of alcohol-related harm during a period the Commonwealth Minister considers appropriate;
  - (c) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Commonwealth Minister considers appropriate, expressed their concerns about being at risk of alcohol-related harm;
  - (d) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Commonwealth Minister considers appropriate, expressed the view that their well-being will be improved if this Division continues to apply, or particular provisions of this Division continue to apply, in relation to the prescribed area or the part of the prescribed area;
  - (e) whether there is an alcohol management plan in relation to a community or communities in the prescribed area or the part of the prescribed area;
  - (f) any discussions of the kind referred to in paragraph (5)(b);
  - (g) any other matter that the Commonwealth Minister considers relevant.

**12 At the end of Division 2 of Part 2**

Add:

**19A Reapplication of the provisions of this Division**

- (1) The Commonwealth Minister may, by legislative instrument, revoke a declaration made under paragraph 19(1)(b) in relation to a prescribed area or a part of a prescribed area.
- (2) At and after the time the instrument made under subsection (1) takes effect:

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- (a) subject to paragraph (b), this Division again has effect, or the provisions of this Division specified in the declaration referred to in subsection (1) again have effect, in relation to the prescribed area or the part of the prescribed area; or
  - (b) if, in the instrument made under subsection (1), the Commonwealth Minister declares that specified provisions of this Division again have effect in relation to the prescribed area or the part of the prescribed area—only those provisions again have effect in relation to the prescribed area or the part of the prescribed area.
- (3) The Commonwealth Minister may make a legislative instrument under this section:
- (a) on the Commonwealth Minister's own initiative; or
  - (b) following a request made to the Commonwealth Minister by, or on behalf of, a person who is ordinarily resident in the prescribed area or in the part of the prescribed area.

*Community consultation*

- (4) Before making a legislative instrument under this section, the Commonwealth Minister must ensure that:
- (a) information setting out:
    - (i) the proposal to make the instrument; and
    - (ii) an explanation, in summary form, of the consequences of the making of the instrument;has been made available in the prescribed area or the part of the prescribed area; and
  - (b) people in the prescribed area or the part of the prescribed area have been given a reasonable opportunity to discuss:
    - (i) the proposal to make the instrument; and
    - (ii) the consequences of the making of the instrument; and
    - (iii) their circumstances, concerns and views, so far as they relate to the instrument;with employees of the Commonwealth or such other persons as the Commonwealth Minister thinks appropriate.
- (5) A failure to comply with subsection (4) does not affect the validity of a legislative instrument under this section.

*Criteria for making legislative instrument*

- (6) In making a legislative instrument under this section, the Commonwealth Minister must have regard to the following matters:
- (a) the well-being of people living in the prescribed area or the part of the prescribed area;
  - (b) whether there is reason to believe that people living in the prescribed area or the part of the prescribed area have been the victims of alcohol-related harm during a period the Commonwealth Minister considers appropriate;
  - (c) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Commonwealth Minister considers appropriate, expressed their concerns about being at risk of alcohol-related harm;
  - (d) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Commonwealth Minister considers appropriate, expressed the view that their well-being will be improved if this Division applies, or particular provisions of this Division apply, in relation to the prescribed area or the part of the prescribed area;
  - (e) whether there is an alcohol management plan in relation to a community or communities in the prescribed area or the part of the prescribed area;
  - (f) any discussions of the kind referred to in paragraph (4)(b);
  - (g) any other matter that the Commonwealth Minister considers relevant.

**13 Division 3A of Part 2**

Repeal the Division.

## **Schedule 4—Prohibited material**

### ***Classification (Publications, Films and Computer Games) Act 1995***

#### **1 Before section 99**

Insert:

#### **98A Main object of Part**

The main object of this Part is to enable special measures to be taken to protect children living in Indigenous communities in the Northern Territory from being exposed to prohibited material.

#### **2 Section 99**

Insert:

*child* means a person who is under 18 years of age.

#### **3 Section 99**

Insert:

*Indigenous Affairs Minister* means the Minister administering the *Aboriginal Land Rights (Northern Territory) Act 1976*.

#### **4 Section 99**

Insert:

*Indigenous Affairs Secretary* means the Secretary of the Department administered by the Minister who administers the *Aboriginal Land Rights (Northern Territory) Act 1976*.

#### **5 At the end of Division 1 of Part 10**

Add:

### **100A Declarations by Indigenous Affairs Minister**

- (1) The Indigenous Affairs Minister may, by legislative instrument, declare that this Part ceases to have effect in relation to a specified prescribed area or a specified part of a prescribed area.
- (2) The Indigenous Affairs Minister must not make a declaration under subsection (1) in relation to a prescribed area or a part of a prescribed area unless a request is made to the Indigenous Affairs Minister to do so by, or on behalf of, a person who is ordinarily resident in the prescribed area or in the part of the prescribed area.
- (3) If the Indigenous Affairs Minister makes a declaration under subsection (1) in relation to a prescribed area or a part of a prescribed area, this Part continues to apply in relation to that area or part after the declaration takes effect in relation to things done, or omitted to be done, before the declaration takes effect.

#### *Community consultation*

- (4) Before making a declaration under subsection (1) in relation to a prescribed area or a part of a prescribed area, the Indigenous Affairs Minister must ensure that:
  - (a) information setting out:
    - (i) the proposal to make the declaration; and
    - (ii) an explanation, in summary form, of the consequences of the making of the declaration;has been made available in the prescribed area or the part of the prescribed area; and
  - (b) people in the prescribed area or the part of the prescribed area have been given a reasonable opportunity to discuss:
    - (i) the proposal to make the declaration; and
    - (ii) the consequences of the making of the declaration; and
    - (iii) their circumstances, concerns and views, so far as they relate to the proposal;with employees of the Commonwealth or such other persons as the Indigenous Affairs Minister thinks appropriate.
- (5) A failure to comply with subsection (4) does not affect the validity of a declaration under subsection (1).

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*Criteria for making a declaration*

- (6) In making a declaration under subsection (1) in relation to a prescribed area or a part of a prescribed area, the Indigenous Affairs Minister must have regard to the following matters:
- (a) the well-being of people living in the prescribed area or the part of the prescribed area;
  - (b) whether there is reason to believe that people living in the prescribed area or the part of the prescribed area have been the victims of violence or sexual abuse during a period the Indigenous Affairs Minister considers appropriate;
  - (c) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Indigenous Affairs Minister considers appropriate, expressed their concerns about being at risk of violence or sexual abuse;
  - (d) whether there is reason to believe that children living in the prescribed area or the part of the prescribed area have been exposed to prohibited material during a period the Indigenous Affairs Minister considers appropriate;
  - (e) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Indigenous Affairs Minister considers appropriate, expressed the view that their well-being will be improved if this Part continues to apply in relation to the prescribed area or the part of the prescribed area;
  - (f) any discussions of the kind referred to in paragraph (4)(b);
  - (g) the views of relevant law enforcement authorities;
  - (h) any other matter that the Indigenous Affairs Minister considers relevant.

**100B Reapplication of this Part**

- (1) The Indigenous Affairs Minister may, by legislative instrument, revoke a declaration made under subsection 100A(1) in relation to a prescribed area or a part of a prescribed area.
  - (2) At and after the time the revocation takes effect, this Part again has effect in relation to the prescribed area or the part of the prescribed area.
  - (3) The Indigenous Affairs Minister may make a revocation under subsection (1):
-

- (a) on the Indigenous Affairs Minister's own initiative; or
- (b) following a request made to the Indigenous Affairs Minister by, or on behalf of, a person who is ordinarily resident in the prescribed area or in the part of the prescribed area.

*Community consultation*

- (4) Before making a revocation under subsection (1), the Indigenous Affairs Minister must ensure that:
  - (a) information setting out:
    - (i) the proposal to make the revocation; and
    - (ii) an explanation, in summary form, of the consequences of the making of the revocation;has been made available in the prescribed area or the part of the prescribed area; and
  - (b) people in the prescribed area or the part of the prescribed area have been given a reasonable opportunity to discuss:
    - (i) the proposal to make the revocation; and
    - (ii) the consequences of the making of the revocation; and
    - (iii) their circumstances, concerns and views, so far as they relate to the proposal;with employees of the Commonwealth or such other persons as the Indigenous Affairs Minister thinks appropriate.
- (5) A failure to comply with subsection (4) does not affect the validity of a revocation under subsection (1).

*Criteria for making a revocation*

- (6) In making a revocation under subsection (1), the Indigenous Affairs Minister must have regard to the following matters:
    - (a) the well-being of people living in the prescribed area or the part of the prescribed area;
    - (b) whether there is reason to believe that people living in the prescribed area or the part of the prescribed area have been the victims of violence or sexual abuse during a period the Indigenous Affairs Minister considers appropriate;
    - (c) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Indigenous Affairs Minister considers appropriate, expressed their concerns about being at risk of violence or sexual abuse;
-

- (d) whether there is reason to believe that children living in the prescribed area or the part of the prescribed area have been exposed to prohibited material during a period the Indigenous Affairs Minister considers appropriate;
- (e) the extent to which people living in the prescribed area or the part of the prescribed area have, during a period the Indigenous Affairs Minister considers appropriate, expressed the view that their well-being will be improved if this Part applies in relation to the prescribed area or the part of the prescribed area;
- (f) any discussions of the kind referred to in paragraph (4)(b);
- (g) the views of relevant law enforcement authorities;
- (h) any other matter that the Indigenous Affairs Minister considers relevant.

### **100C Delegation by Indigenous Affairs Minister**

The Indigenous Affairs Minister may, by writing, delegate any or all of his or her powers and functions under sections 100A and 100B to the Indigenous Affairs Secretary.

## Schedule 5—Acquisition of rights, titles and interests in land

### *Northern Territory National Emergency Response Act 2007*

#### 1 Before Division 1 of Part 4

Insert:

#### Division 1A—Preliminary

##### 30A Object of Part

The object of this Part is to enable special measures to be taken to:

- (a) improve the delivery of services in Indigenous communities in the Northern Territory; and
- (b) promote economic and social development in those communities.

#### 2 After subsection 35(2)

Insert:

- (2A) Subject to subsection (2D), the Commonwealth is entitled to use, and to permit the use of, land covered by a lease granted under section 31 for any use the Commonwealth considers is consistent with the fulfilment of the object of this Part and is not entitled to use, or to permit the use of, the land for any other use.
- (2B) Subject to subsection (2D), subsection (2A) does not entitle the Commonwealth to engage in, or to permit, exploration or mining in respect of land covered by a lease granted under section 31.
- (2C) For the purposes of subsection (2B), *exploration* and *mining* have the same meanings as in the *Mining Act* of the Northern Territory.

Note: The reference to the *Mining Act* of the Northern Territory is to be construed as a reference to that Act as originally enacted and as amended from time to time: see section 10A of the *Acts Interpretation Act 1901* of the Commonwealth.

- (2D) Subsections (2A) and (2B) do not limit Part IV of the *Aboriginal Land Rights (Northern Territory) Act 1976*.
-

### **3 At the end of subsection 35(5)**

Add:

Note: The Commonwealth must have regard to the matters specified in the guidelines in force under subsection 35A(2) in exercising a power under this subsection.

### **4 After section 35**

Insert:

#### **35A Guidelines for exercise of powers under subsection 35(5)**

- (1) In exercising a power under subsection 35(5), the Commonwealth must have regard to the matters specified in the guidelines in force under subsection (2) of this section.
- (2) The Minister must, by legislative instrument, make guidelines specifying matters for the purposes of subsection (1).
- (3) Subsection (1) does not prevent the Commonwealth from having regard to other matters in exercising a power under subsection 35(5).

### **5 After section 36**

Insert:

#### **36A Administering leases**

- (1) In administering a lease granted under section 31, regard must be had to the body of traditions, observances, customs and beliefs of Indigenous persons generally, or of a particular group of Indigenous persons, as those traditions, observances, customs and beliefs apply in relation to the land covered by the lease.
- (2) Subsection (1) does not prevent regard being had to other matters in administering a lease granted under section 31.
- (3) In this section:  
*administering* a lease includes exercising a power under subsection 35(5) in relation to the lease.

### **6 At the end of Subdivision A of Division 1 of Part 4**

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Add:

### **37A Negotiations on terms and conditions of another lease**

- (1) The relevant owner of land leased under section 31 may request the Commonwealth to enter into negotiations with the relevant owner on the terms and conditions of another lease covering all or a part of that land.
- (2) If the relevant owner makes a request under subsection (1), then, while the Commonwealth considers that the Commonwealth may be the lessee of that other lease, the Commonwealth must engage in negotiations in good faith with the relevant owner on those terms and conditions.
- (3) The Commonwealth may invite one or more of the following to participate in those negotiations:
  - (a) the Northern Territory;
  - (b) an authority of the Commonwealth;
  - (c) an authority of the Northern Territory;
  - (d) any other person or body.

The Commonwealth may invite a person or body under this subsection only if the Commonwealth considers that the person or body may be the lessee of that other lease.

Note 1: Subsections 37(7) and (8) and subsection 52(3) deal with the termination or variation of a lease of land granted under section 31 if a lease of all or a part of the land is granted under section 19 or 19A of the *Aboriginal Land Rights (Northern Territory) Act 1976*.

Note 2: Subsections 35(6) and (7) allow the Commonwealth to vary or terminate a lease of land granted under section 31. One of those provisions could be used if another lease is granted.

## **7 Application**

- (1) Subsection 35(2A) of the *Northern Territory National Emergency Response Act 2007*, as inserted by this Schedule, applies in relation to the use of land on or after the commencement of this item (whether the leases were granted under section 31 of that Act before, on or after that commencement).
  - (2) Section 35A of the *Northern Territory National Emergency Response Act 2007*, as inserted by this Schedule, applies in relation to the exercise of powers on or after the commencement of that section (whether the
-

leases were granted under section 31 of that Act before, on or after that commencement).

- (3) Section 36A of the *Northern Territory National Emergency Response Act 2007*, as inserted by this Schedule, applies in relation to the administering of leases on or after the commencement of this item (whether the leases were granted under section 31 of that Act before, on or after that commencement).
- (4) Section 37A of the *Northern Territory National Emergency Response Act 2007*, as inserted by this Schedule, applies in relation to requests made on or after the commencement of this item (whether the leases were granted under section 31 of that Act before, on or after that commencement).

## Schedule 6—Licensing of community stores

### Part 1—Amendment of Acts

#### *Northern Territory National Emergency Response Act 2007*

##### **1 Section 3 (definition of *community store licence*)**

Omit “to operate a community store”, substitute “granted under section 97”.

##### **2 Section 3**

Insert:

*food security* has the meaning given by section 91B.

##### **3 Section 3**

Insert:

*manager*, in relation to a community store, has the meaning given by subsection 93A(2).

##### **4 Section 3 (definition of *operator*)**

Repeal the definition.

##### **5 Section 3**

Insert:

*owner*, in relation to a community store, has the meaning given by subsection 93A(1).

##### **6 Section 3**

Insert:

*Registrar* has the same meaning as in the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

##### **7 Before Division 1 of Part 7**

Insert:

## **Division 1A—Object of Part**

### **91A Object of Part**

- (1) The object of this Part is to enable special measures to be taken for the purpose of promoting food security for certain Indigenous communities in the Northern Territory.
- (2) In particular, this Part is intended to enhance the contribution made by community stores in the Northern Territory to achieving food security for certain Indigenous communities.

### **8 Before section 92**

Insert:

### **91B Meaning of *food security***

For the purposes of this Act, *food security* means a reasonable ongoing level of access to a range of food, drink and grocery items that is reasonably priced, safe and of sufficient quantity and quality to meet nutritional and related household needs.

### **9 Paragraph 92(1)(a)**

Repeal the paragraph, substitute:

- (a) the Secretary is satisfied that the business is a key source of food, drink and grocery items for an Indigenous community;
- and

### **10 Subparagraphs 92(1)(b)(ii) and (iii)**

Omit “paragraph”, substitute “subparagraph”.

### **11 Paragraphs 92(2)(a) and (b)**

Repeal the paragraphs.

### **12 Subsection 93(1)**

Repeal the subsection, substitute:

- (1) The *assessable matters*, in relation to a community store, are the following:
  - (a) whether the community store makes, or will make, available a sufficient quantity and range of safe and good quality food,

- drink and grocery items to meet the nutritional and related household needs of each Indigenous community it services or may service;
- (b) the capacity of the manager to promote, and the manager's promotion of, better nutritional outcomes through methods including, but not limited to:
    - (i) stock placement and store layout; and
    - (ii) nutritional displays and demonstrations;
  - (c) the quality of the retail management practices of the manager in relation to matters including, but not limited to, the following:
    - (i) stock management;
    - (ii) adequacy of stock storage;
    - (iii) stock pricing methodology;
    - (iv) sustainable management of store infrastructure;
    - (v) point of sale management;
    - (vi) the practices of the store in relation to maintaining cleanliness and hygiene;
    - (vii) the practices of the store in relation to ensuring the safety of its customers and employees;
    - (viii) freight arrangements;
  - (d) whether the financial practices of the owner and manager of the community store support the sustainable operation of the store including, but not limited to, in relation to the following:
    - (i) financial accounting practices;
    - (ii) budgeting procedures;
    - (iii) creditor and debtor management;
    - (iv) cash and assets management;
    - (v) procurement practices;
    - (vi) insurance arrangements;
    - (vii) management of employment arrangements;
  - (e) the character of the manager, employees and other persons associated with carrying on the business of the community store, including, but not limited to, whether the manager, employees or other persons have a criminal history;
  - (f) the business structure and governance practices of the community store;
-

- (g) the community store's capacity to participate in, and (if applicable) the community store's record of compliance with the requirements of, the income management regime;
- (h) matters relating to food security specified by the Minister under subsection 125(2);
- (i) any other matter relating to food security that the Secretary considers relevant.

### **13 Subsection 93(2)**

Omit all the words and paragraphs after "assessable", substitute "matters as they apply to a community store at the time of the consideration or as the person proposes they will apply in future in relation to a community store."

### **14 Subsection 93(3)**

Omit ", transfer".

### **15 At the end of section 93**

Add:

- (4) The Secretary may, by written notice given to:
  - (a) an individual who is the manager or an employee of a community store; or
  - (b) another person associated with the carrying on of the business of a community store;request the individual to give to the Secretary any written consent that the Secretary requires to enable criminal records to be checked for the purposes of this Part.
- (5) This section does not affect the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

### **16 At the end of Division 1 of Part 7**

Add:

### 93A Meanings of *owner* and *manager*

- (1) For the purposes of this Act, the *owner* of a community store is the person who has overall ownership of the community store business and is entitled to the profits (if any), and liable for the debts (if any), of the community store.
- (2) For the purposes of this Act, the *manager* of a community store is the person who is responsible for the day to day management of the community store.
- (3) To avoid doubt:
  - (a) the same person can be both the owner and manager of a community store; and
  - (b) more than one person can be:
    - (i) the owner of a community store; or
    - (ii) the manager of a community store.

### 93B Unincorporated associations and partnerships

- (1) For the purposes of the definition of *owner* of a community store in subsection 93A(1), an unincorporated association or a partnership:
  - (a) is taken to be a person; and
  - (b) is taken to have overall ownership of the community store business and to be entitled to the profits (if any), and liable for the debts (if any), of the community store, if:
    - (i) in the case of an unincorporated association—one or more members of the unincorporated association, have overall ownership of the community store business and are entitled to those profits and liable for those debts; or
    - (ii) in the case of a partnership—one or more partners in the partnership have overall ownership of the community store business and are entitled to those profits and liable for those debts.
- (2) If, because of subsection (1), an unincorporated association or a partnership is the owner of a community store, this Part applies as follows in relation to the unincorporated association or partnership:
  - (a) if a provision of this Part requires or permits a notice to be given to the owner of the community store, the notice may be given to the following:

- (i) in the case of an unincorporated association—any of the members of the committee of management from time to time;
    - (ii) in the case of a partnership—any of the partners from time to time;
  - (b) anything done, or not done, by a member of the committee of management or a partner, in relation to the community store, is taken to have been done, or not done, by the unincorporated association or the partnership;
  - (c) the obligations, requirements and restrictions imposed, and the rights conferred, under this Part upon the owner of the community store are taken to be imposed or conferred upon the members of the committee of management, or the partners, from time to time.
- (3) For the purposes of this Part, a change in the composition of an unincorporated association or a partnership does not affect the continuity of the unincorporated association or partnership.
- (4) In this section:

*committee of management* of an unincorporated association means a body (however described) that governs, manages or conducts the affairs of the association.

### **93C More than one owner or manager of a community store**

If more than one person is the owner or the manager of a community store, this Part applies as follows:

- (a) if a provision of this Part requires or permits a notice to be given to the owner of the community store the notice may be given to any of the owners;
- (b) if a provision of this Part requires or permits a notice to be given to the manager of the community store, the notice may be given to any of the managers;
- (c) the obligations, requirements and restrictions imposed, and rights conferred, under this Part upon the owner of the community store are taken to be imposed or conferred upon each owner;
- (d) the obligations, requirements and restrictions imposed, and rights conferred, under this Part upon the manager of the

community store are taken to be imposed or conferred upon each manager.

### **17 Subsections 94(1) and (2)**

Repeal the subsections, substitute:

- (1) The Secretary may, on the Secretary's own initiative, require an authorised officer to assess a community store for one or more of the following purposes:
  - (a) deciding whether or not a community store licence is required to be held in relation to a community store (see Division 2A);
  - (b) deciding whether to grant, revoke, vary or impose conditions upon a community store licence (see Division 3).
- (2) In assessing a community store, an authorised officer must have regard to the following:
  - (a) in the case of an assessment referred to in paragraph (1)(a)—the general objective of promoting food security in an Indigenous community the community store services or may service;
  - (b) in the case of an assessment referred to in paragraph (1)(b)—the assessable matters (see section 93).

### **18 Subsection 94(4)**

Omit "whether or not the operator has made an application under section 96", substitute "whether or not an application under section 96 has been made in relation to the community store".

### **19 Section 95**

Repeal the section, substitute:

### **95 Notice in relation to assessments**

- (1) This section applies if an assessment of a community store is to be, or is being, conducted.
- (2) The Secretary, or the authorised officer responsible for conducting the assessment, must give a written notice to the owner and the manager of the community store that specifies the following:
  - (a) that the assessment is to be, or is being, conducted;

- (b) the name of the authorised officer or authorised officers who are conducting, or will conduct, the assessment;
  - (c) the purpose of the assessment;
  - (d) the matters to which the authorised officer is to have regard in conducting the assessment (see subsection 94(2)).
- (3) If entry to the community store, or access to material or documents, is required for the purposes of the assessment, written notice of the requirement must be given (whether in the notice under subsection (2) or in another notice) at least 7 working days before the entry or access is required, unless a shorter period is agreed with the owner or manager.
- (4) To avoid doubt, nothing in this section requires that a store be visited or entered for the purposes of conducting an assessment.

## **20 After Division 2 of Part 7**

Insert:

### **Division 2A—Secretary may require community store licences**

#### **95A Secretary may decide whether a community store licence is required**

- (1) The Secretary may, at any time, consider whether a community store licence is required to be held by the owner of a community store.
- (2) If the Secretary decides that a community store licence is or is not required to be held by the owner of a community store, the Secretary must give written notice of the decision to the owner and the manager of the community store.

Note: Under subsection 33(3) of the *Acts Interpretation Act 1901*, the Secretary may vary or revoke a notice.

- (3) The Secretary must not decide that a community store licence is required to be held by the owner of a community store unless the Secretary is satisfied that to do so is reasonably likely to promote food security for an Indigenous community that the community store services or may service.

- (4) In making a decision under this section, the Secretary must have regard to:
- (a) the circumstances, concerns and views of people who are being serviced by the community store; and
  - (b) the object of this Part (see section 91A).

## **21 Subsection 96(1)**

Repeal the subsection, substitute:

- (1) The owner of a community store, or a person acting on the owner's behalf, may apply for a community store licence in relation to the community store.

Note: The heading to section 96 is altered by omitting “**licence to operate a community store**”, and substituting “**community store licence**”.

## **22 Subsection 97(1)**

Repeal the subsection, substitute:

- (1) The Secretary must decide whether to grant a community store licence to the owner of a community store if:
- (a) an application for the community store licence has been made under section 96; or
  - (b) a notice under section 95A that a community store licence is required to be held by the owner of the community store is in effect, and such a licence was not in effect at the time the notice was given.

## **23 Subsections 97(2) and (3)**

Omit “to a person”, substitute “to the owner of a community store”.

## **24 Paragraph 97(3)(b)**

Repeal the paragraph, substitute:

- (b) any assessment of the community store or stores under section 94; and

## **25 Paragraph 97(4)(a)**

Omit “in the case of a person who is an operator of a community store—the person”, substitute “the person or another person”.

## **26 At the end of section 97**

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Add:

- (5) In making a decision under this section, the Secretary must have regard to:
  - (a) the circumstances, concerns and views of people who are being serviced by the community store; and
  - (b) the object of this Part (see section 91A).

## **27 Section 98**

Omit all the words and paragraphs after “relate”, substitute “to a specified community store or specified community stores.”.

## **28 Section 99**

Repeal the section, substitute:

## **99 Procedure before refusing to grant a community store licence**

- (1) If the Secretary proposes to refuse to grant a community store licence, the Secretary must give written notice of the proposed refusal to the owner and the manager of the community store.
- (2) The notice must:
  - (a) specify the reasons for the proposed refusal; and
  - (b) invite written responses, from the owner and manager of the community store, to the matters specified in the notice; and
  - (c) specify the day (the *response day*) by which responses are to be received; and
  - (d) specify the address where written responses are to be lodged.
- (3) The response day must not be less than 7 working days after the day on which the notice is given.
- (4) If:
  - (a) the community store has been assessed for the purpose of deciding whether to grant the licence; and
  - (b) a notice under section 95A that a community store licence is required to be held by the owner of the store is in effect;the notice under subsection (1) must advise that, if a community store licence is not held by the owner of the community store by the day specified in the notice, or by a later day agreed to by the

Secretary, the community store will not be eligible to participate in the income management regime after that day.

- (5) The Secretary must not refuse to grant a community store licence unless:
- (a) each person required to be given a notice under subsection (1) has been given such a notice; and
  - (b) the Secretary has considered all written responses received by the response day.

**29 Subparagraph 100(b)(iii)**

Repeal the subparagraph.

**30 Paragraph 101(1)(a)**

Omit “the person who will be the holder of the licence”, substitute “the owner and the manager of the community store”.

**31 Subsection 101(2)**

Omit all the words and paragraphs after “decision”, substitute “to the owner and the manager of the community store.”.

**32 Paragraph 102(a)**

Omit “, 105 (monitoring and audits) and 110 (transfer)”, substitute “and 105 (monitoring and audits)”.

**33 Subsection 103(1)**

Omit “(1)”.

**34 After paragraph 103(1)(b)**

Insert:

- (ba) notifying a change of manager or owner (whether permanent or temporary);
- (bb) notifying a change in the composition or structure of the owner;

**35 Subsection 103(2)**

Repeal the subsection.

**36 Section 104**

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Omit “holder of the licence must operate the store”, substitute “owner of the community store must ensure the store is operated”.

**37 Subsection 105(1)**

Omit “holder of the licence”, substitute “owner and the manager of the community store in relation to which a licence is in effect”.

**38 Subsection 106(1)**

Omit “holder of a community store licence”, substitute “owner and the manager of a community store”.

**39 Paragraph 106(1)(b)**

Omit “licence holder”, substitute “owner or the manager”.

**40 At the end of subsection 106(1)**

Add:

Note: A community store licence can also be revoked under section 111 (which relates to registration under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*).

**41 Subsection 107(1)**

Omit “licence holder” (first occurring), substitute “owner and the manager of the community store”.

**42 Paragraph 107(1)(b)**

Omit “licence holder”, substitute “owner, or a person acting on the owner’s behalf”.

**43 Paragraph 107(3)(c)**

After “extend”, insert “or shorten”.

**44 After subsection 107(4)**

Insert:

(4A) Subsection (4) does not apply to an application for a variation that would have the effect of shortening the period of effect of a licence.

**45 Subsection 107(6)**

After “extend”, insert “or shorten”.

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**46 Paragraph 107(7)(b)**

Omit “holder of the licence”, substitute “owner or manager of the community store”.

**47 Section 108**

Repeal the section, substitute:

**108 Notice to be given before varying, revoking or refusing to vary a community store licence**

- (1) This section applies if:
  - (a) the Secretary proposes to vary a community store licence; or
  - (b) the Secretary proposes to revoke a community store licence under section 106; or
  - (c) an application under paragraph 107(1)(b) has been made for a community store licence to be varied, and the Secretary proposes to refuse to vary the licence in accordance with the application.
- (2) The Secretary must give written notice of the proposed variation, revocation or refusal to vary to the owner and the manager of the community store.

**108A Requirements for notices relating to varying, revoking or refusing to vary a community store licence**

- (1) A notice under subsection 108(2) in relation to a proposed variation or revocation of, or a proposed refusal to vary, a community store licence must:
  - (a) specify the reasons for the proposed variation, revocation or refusal to vary; and
  - (b) invite written responses in relation to the matters specified in the notice; and
  - (c) specify the day (the *response day*) by which written responses are to be received; and
  - (d) specify the address where written responses are to be lodged.
- (2) The response day must not be less than 7 working days after the day on which the notice is given.
- (3) If:

- (a) an application is made for a variation that would, if the variation were made, extend the period of effect of the community store licence; and
  - (b) the community store has been assessed for the purpose of deciding whether to vary the licence as mentioned in paragraph (a);
- the notice must advise that, if the period of effect of the licence is not extended, the community store will not be eligible to participate in the income management regime after the licence ceases to be in effect.
- (4) If:
- (a) the Secretary proposes to revoke the community store licence; and
  - (b) the community store has been assessed for the purposes of deciding whether to revoke the community store licence;
- the notice must advise that, if the licence is revoked, the community store will not be eligible to participate in the income management regime after the revocation takes effect.
- (5) The Secretary must not vary, revoke or refuse to vary a community store licence unless:
- (a) the persons required to be given a notice under subsection 108(2) have been given such a notice; and
  - (b) the Secretary has considered all written responses received by the response day.

#### **48 Subdivision D of Division 3 of Part 7**

Repeal the Subdivision.

#### **49 Division 4 of Part 7**

Repeal the Division, substitute:

## **Division 4—Requirement to register under the Corporations (Aboriginal and Torres Strait Islander) Act 2006**

### **110 Secretary may require registration under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006***

- (1) The Secretary may give a written notice to the owner and the manager of a community store requiring the owner to become registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* by the day specified in the notice.
  - (2) The Secretary must not give a notice under subsection (1) to the owner and the manager of a community store unless, at the time the notice is given:
    - (a) a community store licence is in effect in relation to the store; and
    - (b) the owner of the community store is incorporated under the Associations Act.
  - (3) The notice must:
    - (a) advise the owner that if the owner does not become registered by the day specified in the notice (the **registration day**):
      - (i) the Secretary may revoke the community store licence; and
      - (ii) the community store will not be eligible to participate in the income management regime after the revocation takes effect; and
    - (b) invite written responses from the owner and the manager of the community store in relation to the requirement to become registered by the day (the **response day**) specified in the notice.
- Note: Under subsection 33(3) of the *Acts Interpretation Act 1901*, the Secretary may vary or revoke a notice.
- (4) The response day must not be earlier than 4 weeks before the registration day.
  - (5) A notice under subsection (1) is not a legislative instrument.

### **111 Secretary may revoke licence if owner does not become registered**

- (1) The Secretary may, by notice given in writing to the owner and the manager of a community store, revoke a community store licence in relation to the store, if:
  - (a) the Secretary has given the owner and the manager of the community store a notice under subsection 110(1) requiring the owner to become registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* by the registration day referred to in paragraph 110(3)(a); and
  - (b) the owner has not become registered under that Act as at the registration day, or such later day as is agreed by the Secretary.
- (2) The revocation takes effect on the day on which the notice under subsection (1) is given, or on a later day specified in the notice.
- (3) The Secretary must not revoke a licence under subsection (1) unless the Secretary has considered all written responses made by the response day referred to in paragraph 110(3)(b).
- (4) The Secretary must not revoke a licence under subsection (1) if the Secretary is satisfied that it was not reasonably practicable in the circumstances for the owner to become registered by the day specified in the notice, or the later day agreed to by the Secretary, having regard to the following:
  - (a) any responses received from the owner by the response day;
  - (b) any views expressed by the Registrar;
  - (c) any other matter the Secretary considers relevant.

### **Division 4A—Certain community stores not eligible to participate in income management**

#### **112 Community stores not eligible to participate in income management—failure to hold a licence**

- (1) This section applies to a community store if:
  - (a) both:
    - (i) a notice has been given as mentioned in subsection 99(4), advising that if a community store licence is not

- in effect in relation to the community store by a specified day, the community store will not be eligible to participate in the income management regime after that day; and
- (ii) as at the specified day, or such later day as agreed in writing by the Secretary, such a licence is not in effect; or
- (b) both:
- (i) a notice has been given as mentioned in subsection 108A(3), advising that if the period of effect of the community store licence held in relation to the community store is not extended, the community store will not be eligible to participate in the income management regime; and
- (ii) the community store licence subsequently ceases to be in effect because the licence was not extended; or
- (c) both:
- (i) a notice has been given as mentioned in subsection 108A(4) or 110(1), advising that if the community store licence held in relation to the community store is revoked, the community store will not be eligible to participate in the income management regime; and
- (ii) the licence is subsequently revoked.
- (2) The community store is not eligible to participate in the income management regime during the period:
- (a) beginning on whichever of the following days is applicable:
- (i) in the case of a community store referred to in paragraph (1)(a)—the day specified in the notice or the later day referred to in subparagraph (1)(a)(ii);
- (ii) in the case of a community store referred to in paragraph (1)(b)—the day on which the community store licence ceases to be in effect;
- (iii) in the case of a community store referred to in paragraph (1)(c)—the day on which the revocation takes effect; and
- (b) ending on the earlier of the following days:
- (i) the day on which a community store licence comes into effect in relation to the community store;

- (ii) the day on which the Secretary gives a notice under section 95A stating that a community store licence is not required in relation to the community store.

Note: The consequences of not being eligible to participate in the income management regime are dealt with in section 113.

### **113 Consequences of community store not being eligible to participate in income management regime**

- (1) This section sets out the consequences for a community store if it is not eligible to participate in the income management regime during a period referred to in subsection 112(2).
- (2) The Secretary must take reasonable steps to ensure that a stored value card given to a person under section 123YE or 123YF of the *Social Security (Administration) Act 1999* cannot be used to acquire goods or services from the community store during the period.
- (3) The Secretary must not make a payment under section 123YI or 123YJ of the *Social Security (Administration) Act 1999* to the owner or manager of the community store during the period.
- (4) If, before the beginning of the period, the Secretary had made a payment under section 123YI or 123YJ of the *Social Security (Administration) Act 1999* to the owner or manager of the community store, the Secretary must give the owner or manager a notice under section 123ZH of that Act requiring the owner or manager to repay 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.

### **50 Subsections 119(2) and (3)**

Omit “The operator of the community store, the occupier of premises of the store,”, substitute “The owner of the community store, the manager of the store, the occupier of premises of the store”.

### **51 Subparagraph 122(2)(h)(iii)**

Omit “or (ii); or”, substitute “or (ii).”.

### **52 Paragraph 122(2)(i)**

Repeal the paragraph.

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### 53 After section 123

Insert:

#### 123A Community consultation

- (1) Before making a legislative instrument under section 123 in relation to an area, a place or premises, the Minister must ensure that:
  - (a) information setting out:
    - (i) the proposal to make the legislative instrument; and
    - (ii) an explanation, in summary form, of the consequences of the making of the legislative instrument;has been made reasonably available to people who are being, or would be, serviced by each business that may be a community store if the instrument were made; and
  - (b) such people have been given a reasonable opportunity to discuss:
    - (i) the proposal to make the legislative instrument; and
    - (ii) the consequences of the making of the legislative instrument; and
    - (iii) their circumstances, concerns and views, so far as they relate to the proposal;with employees of the Commonwealth or such other persons as the Minister thinks appropriate.
- (2) A failure to comply with subsection (1) does not affect the validity of an instrument under section 123.

#### 123B Criteria for making legislative instrument

In making a legislative instrument under section 123 in relation to an area, a place or premises, the Minister must have regard to the following matters:

- (a) the number and geographic distribution of the Indigenous people that are being, or would be, serviced by each business that may be a community store if the instrument were made;
  - (b) access for such people to alternative sources of food security;
  - (c) whether there is evidence that existing arrangements have resulted in, may have led to or may lead to, unacceptable risks to food security for such people;
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- (d) any discussions of the kind referred to in paragraph 123A(1)(b);
- (e) any other matter that the Minister considers relevant.

**54 Paragraph 125(1)(b)**

Omit “, transfer”.

**55 Subsection 125(2)**

Omit all the words after “matters” (first occurring), substitute “relating to food security to be assessable matters for the purposes of paragraph 93(1)(h)”.

**56 Subsections 125(3) and (4)**

Omit “, transfer”.

**57 Section 126**

Repeal the section.

**58 At the end of Division 6 of Part 7**

Add:

**127A Review of decisions**

An application may be made to the Administrative Appeals Tribunal for review of the following decisions of the Secretary:

- (a) a decision under section 95A that a community store licence is required in relation to a community store;
- (b) a decision under section 97 to refuse to grant a community store licence;
- (c) a decision under section 106 or 111 to revoke a community store licence;
- (d) a decision under section 107 to refuse to vary a community store licence;
- (e) a decision under section 107 to vary a community store licence on the Secretary’s own initiative.

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

**59 At the end of subsection 123YE(2)**

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Add:

Note: The Secretary must take reasonable steps to ensure a stored value card given under this section cannot be used to acquire goods or services from a community store during any period when, under the *Northern Territory National Emergency Response Act 2007*, the community store is not eligible to participate in the income management regime (see subsection 113(2) of that Act).

**60 At the end of subsection 123YF(2)**

Add:

Note: The Secretary must take reasonable steps to ensure a stored value card given under this section cannot be used to acquire goods or services from a community store during any period when, under the *Northern Territory National Emergency Response Act 2007*, the community store is not eligible to participate in the income management regime (see subsection 113(2) of that Act).

**61 At the end of subsection 123YI(2)**

Add:

Note: The Secretary must not make a payment under this section to the owner or manager of a community store during any period when, under the *Northern Territory National Emergency Response Act 2007*, the community store is not eligible to participate in the income management regime (see subsection 113(3) of that Act).

**62 At the end of subsection 123YJ(2)**

Add:

Note: The Secretary must not make a payment under this section to the owner or manager of a community store during any period when, under the *Northern Territory National Emergency Response Act 2007*, the community store is not eligible to participate in the income management regime (see subsection 113(3) of that Act).

**63 At the end of subsection 123ZH(2)**

Add:

Note: The Secretary must give a notice under this section to the owner or manager of a community store if an amount was paid to the manager or owner under section 123YI or 123YJ of this Act before the beginning of a period when, under the *Northern Territory National Emergency Response Act 2007*, the community store is not eligible to participate in the income management regime (see subsection 113(4) of that Act).

## **Part 2—Transitional provisions**

### **64 Application of Part**

This Part applies to a community store licence (the *preserved licence*) that is in effect on commencement.

### **65 Preserved licences continue under the new law**

- (1) The preserved licence is taken, on and from commencement, to have been granted under section 97 of the new law.
- (2) If, before commencement:
  - (a) an application was made for a variation of the preserved licence under section 107 of the old law; or
  - (b) notice of a proposed variation or revocation of the preserved licence was given under section 108 of the old law;

the old law continues to apply after commencement, in relation to that variation or revocation, as if the amendments and repeals made by Part 1 of this Schedule had not happened.

- (3) If the preserved licence does not cease to be in effect during the period of 12 months beginning on commencement (whether because of subitem 66(5) or otherwise under the new law), the preserved licence ceases to be in effect at the end of that period.

### **66 Preserved licences held by a person other than the owner**

- (1) This item applies if the preserved licence is held by a person who is not the owner of the community store.
- (2) The owner of the community store, or a person acting on the owner's behalf, may apply for a community store licence under subsection 96(1) of the new law.
- (3) The Secretary may consider under section 95A of the new law whether a community store licence is required to be held by the owner of the community store.

- (4) The Secretary may, on the Secretary's own initiative, grant a licence to the owner of the community store under subsection 97(2) of the new law.
- (5) If a community store licence (the *new licence*) is granted under section 97 of the new law to the owner of the community store, the preserved licence ceases to be in effect when the new licence takes effect.

## **67 Definitions**

In this Part:

*commencement* means the commencement of this item.

*new law* means the *Northern Territory National Emergency Response Act 2007* as in force immediately after the commencement of this item.

*old law* means the *Northern Territory National Emergency Response Act 2007* as in force immediately before the commencement of this item.

## **Schedule 7—Powers of Australian Crime Commission**

### *Australian Crime Commission Act 2002*

#### **1 Subsection 4(1) (definition of *Indigenous violence or child abuse*)**

Repeal the definition, substitute:

*Indigenous violence or child abuse* means serious violence or child abuse committed against an Indigenous person.

#### **2 Application**

The amendment made by item 1 applies in relation to an ACC operation/investigation begun on or after the commencement of this item.

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*[Minister's second reading speech made in—  
House of Representatives on 25 November 2009  
Senate on 25 February 2010]*

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(251/09)