



Australian Government
Department of Social Services

Community Affairs References Committee – enhanced Income Management legislative instruments

Department of Social Services

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Introduction

The Department of Social Services (the department) welcomes the opportunity to provide a submission to the Community Affairs References Committee about the three legislative instruments made by the Minister for Social Services for the purposes of the enhanced Income Management Regime in Part 3AA of the *Social Security (Administration) Act 1999* (the Administration Act).

The three instruments referred for review on 18 October 2023 are:

- Social Security (Administration) (Enhanced Income Management Regime - Volunteers) Determination 2023
- Social Security (Administration) (Enhanced Income Management Regime - State Referrals) Determination 2023
- Social Security (Administration) (Enhanced Income Management Regime - Commonwealth Referrals and Exemptions) Determination 2023

Overview of legislative instruments

The three legislative instruments operationalise the changes to enhanced Income Management (IM) introduced on 4 September, following the commencement of the *Social Security (Administration) Amendment (Income Management Reform) Act 2023* (IM Reform Act).

Following commencement of the IM Reform Act, the Administration Act requires certain criteria to be defined in legislative instruments to ensure the enhanced IM regime can effectively operate. The legislative instruments being considered by the Committee include operational elements for:

1. voluntary enhanced IM participation,
2. state and territory-based referral measures (supporting people at risk and child protection)
3. compulsory measures (long term welfare payment recipient (LTWPR) , disengaged youth and vulnerable welfare payment recipient (VWPR) measures)

Importantly, the legislative instruments make the enhanced IM regime available in existing IM locations, which ensures all existing IM participants have the choice to access the modern technology of the SmartCard (which is available under the enhanced IM regime only) while maintaining support from Services Australia.

The subject matter of these enhanced IM instruments is consistent with instruments made for the purpose of the IM regime under Part 3B of the Act. For convenience, the enhanced IM instruments have adapted and consolidated the content of a large number of equivalent instruments into three instruments.

Further detail of each of these instruments is provided below.

Social Security (Administration) (Enhanced Income Management Regime—Volunteers) Determination 2023

The Volunteers Determination consolidates 4 instruments made under Part 3B of the Act into a single instrument for the purpose of Part 3AA. It specifies areas in which income support recipients can volunteer for enhanced IM, in line with existing voluntary IM areas.

The locations defined as voluntary enhanced IM areas by the Determination include:

- the Northern Territory
- Anangu Pitjantjatjara Yankunytjatjara lands, Greater Adelaide and Playford, South Australia
- Kimberley, Perth Metropolitan, Peel, Ngaanyatjarra Lands and Kiwirrkurra Community, Western Australia
- Bankstown, New South Wales
- Logan, Rockhampton and Livingstone, Queensland
- Greater Shepparton, Victoria.

In practical terms, combined with the provisions in the primary legislation, this determination enables:

1. existing IM volunteers to choose whether to move to enhanced IM,
2. any new volunteers to income management in these locations to access the enhanced IM program.

Existing IM volunteers that choose to stay on IM will remain subject to that program until the end of their voluntary agreement.

Social Security (Administration) (Enhanced Income Management Regime—State Referrals) Determination 2023

The State Referrals Determination enables the child protection and state/territory referral measures to operate by specifying locations in which eligible individuals must reside (for child protection) and the authorities that can refer individuals (for state/territory referrals) for purposes of Part 3AA of the Act. It consolidates 5 IM instruments made under Part 3B into a single instrument under Part 3AA.

The Determination defines existing IM areas as child protection enhanced IM areas. The areas include:

- New South Wales
- Victoria
- Queensland
- Western Australia
- South Australia
- the Northern Territory.

The State Referrals Determination also provides that the qualified portion of eligible payments for participants subject to the child protection measure of enhanced IM is 70 per cent. This is a reduction from 100 percent as specified in Part 3AA, and is consistent with the deductible portion for child protection under Part 3B.

The Determination also specifies the Department of Health of the Northern Territory as the recognised referring authority under the state/territory referral measure.

In practical terms, combined with the provisions in the primary legislation, this determination enables:

1. existing participants subject to child protection and state/territory referral measures of IM to choose whether to move to enhanced IM,
2. any new participants subject to these measures in the specified state or territory to access the enhanced IM program,
3. a lower percentage of regular payments income managed for those subject to the child protection measure of enhanced IM,
4. the Registrar of the Banned Drinkers Register to refer individuals on the banned drinkers register to enhanced IM.

Existing child protection and state/territory referral participants that chose to stay on IM will remain subject to that program until the end of their referral notice.

Social Security (Administration) (Enhanced Income Management Regime - Commonwealth Referrals and Exemptions) Determination 2023

The Commonwealth Referrals determination consolidates 8 instruments made under Part 3B into a single instrument. It provides all relevant criteria to ensure the LTWPR, disengaged youth and VWPR measures can operate as intended.

The Determination sets out decision-making principles that the Secretary must apply when deciding whether to make a determination that refers an individual to enhanced IM or to vary or revoke an existing determination under the measure.

The Determination also defines the existing VWPR IM areas as enhanced IM areas for the VWPR measure:

- the Northern Territory
- Anangu Pitjantjatjara Yankunytjatjara lands and Playford, South Australia
- Ngaanyatjarra Lands and Kiwirrkurra community, Western Australia
- Bankstown, New South Wales
- Logan, Rockhampton and Livingstone, Queensland
- Greater Shepparton, Victoria.

For the disengaged youth and LTWPR measures of enhanced IM, this instrument also specifies assessment criteria for determining exempt welfare payment recipients, such as principal carers with children participating in specified health or engagement activities. These are consistent with exemptions operating under the IM regime, and ensure individuals falling into the specified categories can easily be identified and will not become subject to enhanced IM.

In practical terms, combined with the provisions in the primary legislation, this determination enables:

1. existing participants subject to the VWPR measure of IM to choose whether to move to enhanced IM,
2. consistent decisions on referrals under the VWPR measure,
3. any new participants under the VWPR measure in the specified locations to access the enhanced IM program,
4. easy identification and exclusion of exempt welfare payment recipients.

Conclusion

The department welcomes the opportunity to provide additional assistance or information that is required by the Committee to support its deliberations.

Enhanced IM Background

The enhanced IM regime in Part 3AA was inserted into the Act by the *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Act 2022* and began operating from 6 March 2023.

The purpose of the enhanced IM regime is to ensure that income support payments are not spent on products and services that contribute to social harm and, in conjunction with a support services program, to provide budgeting support for participants.

Income support recipients who are subject to the enhanced IM regime have access to a BasicsCard bank account with an associated debit card (known as a SmartCard) that operates like a standard Visa Debit card (except that cash cannot be withdrawn). A SmartCard can be used to make purchases at most merchants who can undertake eftpos transactions unless they primarily offer excluded goods or excluded services. People subject to the enhanced IM regime are also able to access a range of mainstream banking functions including ‘Tap and Go’ payments, online shopping and BPAY. This means that the enhanced IM regime operates superior technology to that available under the income management (IM) regime in Part 3B of the Act while operating under a similar legislative framework.

The IM Reform Act expands access to enhanced IM by including all of the same measures that are in place for the IM regime in Part 3B of the Act. This allows people subject to the IM regime under Part 3B the choice to move to enhanced IM as well as allowing new entrants that meet the eligibility criteria to enter enhanced IM.

Part 3B of the Act has been operating in some form for more than 15 years, and over that time a large number of legislative instruments have been made to facilitate its operation. Similarly, Part 3AA of the Act requires legislative instruments to operate. Many of the instruments necessary to operationalise aspects of enhanced IM are equivalent to existing IM instruments. Where an instrument is required under the enhanced IM regime, the content of the equivalent IM instruments has been adapted and consolidated into a select number of enhanced IM instruments rather than replicating each instrument individually.

A full list of the locations in which enhanced IM operates is available at the department’s website:

<https://www.dss.gov.au/families-and-children-programs-services-welfare-reform-enhanced-income-management/income-management-and-enhanced-income-management-map>