

Chapter 1

Referral

1.1 On 15 October 2015, the Senate referred the provisions of the Social Services Legislation Amendment (Youth Employment) Bill 2015 (Bill) to the Senate Community Affairs Legislation Committee (committee) for inquiry and report by 30 November 2015.¹

1.2 The Selection of Bills Committee noted that the reason for referral was to 'scrutinise any impact and unintended consequences to young jobseekers'.²

Conduct of the inquiry

1.3 Details of the inquiry, including a link to the Bill and associated documents, were placed on the committee's website. The committee also wrote to 30 organisations and individuals, inviting submissions by 5 November 2015.

1.4 The committee received nine submissions. Submissions are listed at Appendix 1 and published on the committee's website.

Background

1.5 The Bill seeks to reintroduce, with minor amendments, measures outlined in the 2014–15 and 2015–16 Federal Budgets (Budgets) and previously introduced in the Social Services and Other Legislation Amendment (2014 Budget Measures No. 4) Bill 2014 (the No. 4 Bill) and the Social Service Legislation Amendment (Youth Employment and Other Measures) Bill 2015 (previous Bill). The No. 4 Bill was introduced in the Senate on 28 October 2014 but has not yet been passed.³ The committee reported on its inquiry into the previous Bill on 11 August 2015.⁴ The previous Bill was negatived by the Senate at second reading on 9 September 2015.⁵

1.6 The Bill also seeks to introduce the rapid activation of young job seekers measure announced as part of the \$330 million Youth Employment Strategy outlined in the 2015–16 Budget.⁶ The 'RapidConnect Plus' rapid activation strategy would require claimants of Newstart Allowance, Youth Allowance (Other) and Special

1 *Journals of the Senate*, No. 122–15 October 2015, p. 3260.

2 Selection of Bills Committee, *Report No. 13 of 2015*, 15 October 2015, Appendix 8.

3 *Journals of the Senate*, No. 61–28 October 2014, p. 1639.

4 *Journals of the Senate*, No. 104–11 August 2015, p. 2906.

5 *Journals of the Senate*, No. 113–9 September 2015, pp 3075–3076.

6 Budget 2015, 'Growing Jobs and Small Business – Youth Employment Strategy', http://www.budget.gov.au/2015-16/content/glossy/sml_bus/html/sml_bus-14.htm (accessed 3 November 2015).

Benefits aged under 25 years old to undertake a number of additional job search activities within the first four weeks before they receive income support.⁷

1.7 In his second reading speech on the Bill, the then Minister for Social Services (Minister), the Hon Scott Morrison MP, noted that the purpose of the Bill remains the same as both the No. 4 Bill and the previous Bill:

This is about sending the right message to young people, about encouraging them and incentivising them into work together with a package of measures that is all about removing disadvantage so that young people can get into work and choose work not welfare.⁸

Purpose and key provisions of the Bill

1.8 This Bill proposes changes to the *Social Security Act 1991* (Social Security Act), *Social Security (Administration) Act 1999* and *Farm Household Support Act 2014* (Farm Household Support Act) to:

- extend the application of an ordinary waiting period of seven days to claimants of the parenting payment and Youth Allowance (Other);
- raise the eligibility age for Newstart allowance and sickness allowance from 22 to 25 years old and replace these benefits with Youth Allowance (Other);
- introduce a new four-week waiting period for new claimants of Youth Allowance (Other) and Special Benefit; and
- introduce the RapidConnect Plus job activation strategy.

1.9 The Bill contains four schedules that reintroduce measures outlined in the 2015–16 Budget and several measures from the 2014–15 Budget previously introduced in the previous Bill. The proposed measures are outlined below.

Schedule 1 – Ordinary waiting periods

1.10 An ordinary waiting period of seven days currently applies to claimants of Newstart allowance or sickness allowance.

1.11 This schedule proposes amendments to the Social Security Act to extend and simplify the ordinary waiting period for working age payments by:

- creating a new ordinary waiting period for parenting payment and youth allowance for a person who is not undertaking full-time study and is not a new apprentice;
- changing the current exemption to serve an ordinary waiting period on the basis of severe financial hardship to only apply if the person is also

7 Budget 2015, 'Growing Jobs and Small Business — Youth Employment Strategy — revised waiting period for youth income support', *Budget Paper 2: Budget Measures*, http://www.budget.gov.au/2015-16/content/bp2/html/bp2_expense-20.htm (accessed 3 November 2015).

8 The Hon. Scott Morrison MP, Minister for Social Services, *House of Representatives Hansard*, 16 September 2015, p. 10 331.

experiencing a personal financial crisis (a person will be taken to be experiencing a personal financial crisis if they have been subjected to domestic violence, incurred unavoidable or reasonable expenditure or in the circumstances prescribed by the Secretary in a legislative instrument); and

- providing that the ordinary waiting period is to be served after certain other relevant waiting periods or preclusion periods have ended.⁹

1.12 This schedule reintroduces schedule 1 of the previous Bill. This schedule would commence on a day to be fixed by Proclamation, or 12 months after the Bill receives the Royal Assent, whichever occurs first.¹⁰

Schedule 2 – Age requirements for various Commonwealth payments

1.13 This schedule proposes amendments to the Social Security Act to raise the eligibility age for Newstart allowance and sickness allowance to 25 years of age, and make youth allowance available to people aged under 25 years of age who can satisfy the activity test.¹¹

1.14 This schedule includes a grandfathering arrangement for existing newstart allowance and sickness allowance recipients who are 22, 23 or 24 years of age leading up to commencement (or people undergoing certain waiting periods or suspension periods) to remain in receipt of Newstart allowance or sickness allowance.¹²

1.15 This schedule also makes consequential amendments to the Farm Household Support Act to align rates at which farm household allowance is paid to farmers and their partners with Newstart allowance and youth allowance rates.¹³

1.16 This schedule reintroduces schedule 2 of the previous Bill. This schedule would commence on a day to be fixed by Proclamation, or 12 months after the Bill receives the Royal Assent, whichever occurs first.¹⁴

Schedule 3 – Income support waiting periods

1.17 This schedule proposes changes to the Social Services Act to introduce a four-week waiting period for job ready young people who are looking for work to receive income support payments. During the four-week period, job seekers under 25 years of age who have been classified as job ready (stream A) by the Job Seeker Classification Instrument (JSCI) would be required to complete assigned activities, through a new program, RapidConnect Plus.¹⁵

9 EM, p. 2.

10 EM, p. 2.

11 EM, p. 9.

12 EM, p. 9.

13 EM, p. 9.

14 EM, p. 9.

15 EM, p. 16.

1.18 Under proposed section 549CAB, a person would be exempt from an income support waiting period if the person:

- is a parent who has 35 per cent care of a child;
- is the principal carer of a child;
- is in State care or ceased to be in State care during the previous 12 months;
- is not required to satisfy the activity test for 15 days or more on the basis that the person has:
 - a temporary incapacity exemption;
 - a pre-natal exemption or post-natal exemption;
 - a domestic violence or other special family circumstances exemption;
 - a disabled child or other family circumstances exemption;
 - a training camp exemption; or
 - a special circumstances exemption;
- requires employment services or disability employment services of a class determined by the Minister in a legislative instrument under proposed paragraph 549CAB(2)(a); or
- is covered by an exemption determined by the Minister by legislative instrument under proposed paragraph 549CAB(2)(b).¹⁶

1.19 This schedule proposes a new special rule that was not included in the previous Bill. Under proposed subsection 549CAA(7), a person incorrectly determined to be job ready by the JSCI may be reassessed if the initial assessment was not made on the basis of all the information that applies to the person. If such persons are found to require employment services or disability employment services (stream B or C), they would be exempt from the waiting period under proposed section 549CAB (see above) and be eligible for back-pay for any of the four week period already served.¹⁷ Where a person is reassessed following a change of circumstances and found to require employment services or disability services, the person would be exempt from the remainder of the income support waiting period that would have applied, but would not be entitled to back-pay.¹⁸

1.20 This schedule reintroduces schedule 3 of the previous Bill, with the addition of the special rule under proposed subsection 549CAA(7). This schedule would commence immediately after the commencement of schedule 1.¹⁹

16 EM, pp 19–20.

17 EM, p. 18.

18 EM, pp 18–19.

19 EM, p. 16.

Schedule 4 – Other amendments

1.21 This schedule seeks to implement the rapid activation of young job seekers measure outlined in the 2015–16 Budget.

1.22 Under the proposed schedule, job seekers aged under 25 years of age who are subject to a four-week waiting period would be required to complete the new RapidConnect Plus pre-benefit activities program. Under RapidConnect Plus, pre-benefit activities could include:

- attending an interview with a jobactive provider;
- preparing a résumé;
- completing a job seeker profile;
- entering into and complying with a Job Plan (negotiated between the job seeker and their jobactive provider and intended to assist young job seekers who are job ready to prepare for and find work as soon as possible); and
- undertaking adequate job searches (taking into account the job seeker's capacity and/or the job seeker's local labour market).²⁰

1.23 This schedule proposes that a special benefit claimant could be required to enter into a Job Plan if they contact the department about a claim, or the department is contacted on their behalf.²¹

1.24 This schedule also provides that job seekers could still be eligible for income support if they can demonstrate a 'reasonable excuse' for not complying with their pre-benefit activities. Under proposed subsection 549CAC(2), the Secretary of the Department of Employment must not make a determination that youth allowance is not payable at the end of the income support waiting period where they are satisfied that the job seeker has a 'reasonable excuse' for not complying with their pre-benefit activities. The matters to be taken into account when deciding whether a person has a 'reasonable excuse' would be determined by legislative instrument under proposed subsection 549CAC(3).²²

1.25 This schedule would commence immediately after the commencement of schedule 3.²³

20 EM, p. 24.

21 EM, p. 24.

22 The Explanatory Memorandum notes that this legislative instrument is intended to combine the existing *Social Security (Reasonable Excuse–Participation Payment Obligations) DEEWR) Determination 2009 (No.1)* and the *Social Security (Reasonable Excuse—Participation Payment Obligations) (FaHCSIA) Determination 2009 (No.1)* into a new, single instrument. See: EM, p. 26.

23 EM, p. 24.

Financial implications

1.26 The Explanatory Memorandum states that the following financial impacts are expected for each of the measures over the forward estimates:

- schedule 1 – saving of \$241.0 million;
- schedule 2 – saving of \$517.0 million;
- schedule 3 – saving of \$173.3 million; and
- schedule 4 – expense of \$0.8 million.²⁴

1.27 The EM further states that these estimates are indicative only and may be subject to change, contingent on the date on which the measures commence and on the costs associated with their implementation.

Consideration by other committees

1.28 The Parliamentary Joint Committee on Human Rights (PJCHR) reiterated its comments on schedules 2 and 3 of the previous Bill and did not seek a further response from the Minister.²⁵ The PJCHR reported that the proposed income support waiting period for people aged under 25 years old outlined in schedule 3 engages and limits the right to social security, right to an adequate standard of living and the right to equality and non-discrimination. The committee was divided on whether these limitations were justified. Some members of the PJCHR considered that the measure has not been justified as a proportionate limitation. Other members of the PJCHR considered that the limitations have been justified and 'further consider that incentivising young people to find work is an important policy objective'.²⁶

1.29 The Senate Standing Committee for the Scrutiny of Bills (Scrutiny Committee) reiterated its concerns raised in relation to the Youth Employment and Other Measures Bill about provisions empowering the Secretary to prescribe, by legislative instrument, circumstances for the purpose of determining whether a person is experiencing a personal financial crisis and for the purpose of waiving the ordinary waiting period (schedule 1).²⁷ Consistent with its previous report, the Scrutiny Committee noted that while it remains 'concerned as a matter of general principle about the delegation of legislative power in such circumstances', it leaves the question of whether the proposed approach is appropriate to the Senate as a whole.²⁸

24 EM, p. iii.

25 See: Parliamentary Joint Committee on Human Rights, *Human Rights Scrutiny Report: Twenty-eighth report of the 44th Parliament*, 17 September 2015, pp 53–61.

26 Parliamentary Joint Committee on Human Rights, *Human Rights Scrutiny Report: Twenty-ninth report of the 44th Parliament*, 13 October 2015, pp 34–41.

27 See: Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 6 of 2015*, 17 June 2015, pp 55–56.

28 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 11 of 2015*, 14 October 2015, p. 34.

Acknowledgement

1.30 The committee thanks those individuals and organisations that made submissions.

