

Chapter 1

Introduction

Referral

1.1 On 3 December 2015, the Senate referred the provisions of the Social Services Legislation Amendment (Family Measures) Bill 2015 (Bill) to the Community Affairs Legislation Committee (committee) for inquiry and report by 22 February 2016.¹

Background

1.2 Family Tax Benefit (FTB) is a two part payment from the Australian Government to help families with the cost of raising children. FTB Part A is paid for each child and is income tested. There are a range of FTB Part A supplement payments, including the Large Family Supplement which is an additional payment for the fourth child and each subsequent child in a family receiving FTB Part A payments. FTB Part B, which remains unchanged by this Bill, gives extra help to single parents and families with one main income and is also income tested.²

1.3 The length of time for which FTB Part A is paid to recipients in respect of an 'FTB child' or a 'regular care child'³ who is outside Australia (known as portability) is currently 56 weeks. There is a capacity to extend the 56-week period in certain circumstances, such as where an individual cannot return to Australia because of illness or they have been deployed overseas as a member of the Defence Force. The 56-week portability period is not reset if the FTB child or regular care child returns to Australia for a period of less than six weeks and then leaves again.⁴

Key provisions and purpose of the Bill

1.4 The Bill is comprised of two schedules and seeks to amend the *A New Tax System (Family Assistance) Act 1999* in order to:

- reduce the duration of portability of FTB; and
- cease the large family supplement payment.

1 *Journals of the Senate*, No. 134—3 December 2015, p. 3625.

http://www.aph.gov.au/Parliamentary_Business/Chamber_documents/Senate_chamber_documents/Journals_of_the_Senate/2015

2 Department of Human Services website, *Family Tax Benefit*,

<http://www.humanservices.gov.au/customer/services/centrelink/family-tax-benefit-part-a-part-b> (accessed 12 January 2016).

3 These terms are defined in subsection 3(1) of the *A New Tax System (Family Assistance) Act 1999*.

4 Social Services Legislation Amendment (Family Measures) Bill 2015, *Explanatory Memorandum* (EM), p. [4]. Current provisions around the extension of portability are in section 24 of the *Family Assistance Act*.

1.5 In his second reading speech, the Minister for Social Services, the Hon. Christian Porter MP (Minister), outlined the overarching purpose of the Bill:

These two budget measures, along with the reform package introduced recently by the Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2015, will improve the sustainability of family payments, while providing continued support to those most in need of assistance.

In 2015-16, the government will provide around \$20 billion in family tax benefit payments the second-biggest item of expenditure within the Social Services portfolio, and the fourth-biggest item of expenditure in the Commonwealth budget. A modest save of \$177.3 million is a reasonable and prudent measure to help ensure family tax benefit remains affordable and the government can continue to assist families in raising their children.⁵

Schedule 1—Portability of family tax benefit

1.6 The length of time for which FTB Part A is paid to recipients who are outside Australia is currently 56 weeks. The Bill seeks to reduce the portability time to six weeks.⁶

1.7 The Minister has stated:

This measure will align the portability rules for family tax benefit part A with those for family tax benefit part B and most other income support payments. It is a move consistent with the principle that the primary purpose of family assistance payments, which is to assist Australian families with the costs of raising children in Australia.⁷

1.8 The key amendments to the Bill will:

- reduce from 56 weeks to six weeks, the period during which FTB can be paid to an individual who is outside Australia or in respect of a child who is outside Australia;
- retain capacity to extend the portability period, modified as necessary to take account of the reduced portability period;
- retain the short return rules, such that the portability period will not reset if an individual, an FTB child or a regular care child returns to Australia for a period of less than six weeks and then leaves again; and
- ensure that where an individual returns to Australia within 13 weeks of the end of the portability period, their FTB will be restarted where appropriate without the need for a new claim.⁸

5 The Hon. Christian Porter, Minister for Social Services (Minister), [*House of Representatives Hansard*](#), 2 December 2015, p. 14 422.

6 EM, pp [2, 4].

7 *House of Representatives Hansard*, 2 December 2015, p. 14 422.

8 EM, p. [4].

1.9 Due to the links between FTB and other payments, this amendment will, in turn, affect eligibility for other payments, including child care benefit, child care rebate, double orphan pension, schoolkid bonus and single income family supplement if the family is outside the portability period.⁹

1.10 Items 1 to 26 provides for amendments to be made to the *A New Tax System (Family Assistance) Act 1999*:

- Item 1 repeals certain definitions from subsection 3(1) that will no longer be referenced in the Act due to the amendment made by Item 25. Items 2, 20, 21, 22, 23 and 26 then omit references to other definitions in various provisions on the *A New Tax System (Family Assistance) Act 1999*.
- Items 3, 4 and 6 amend subsections 24(1) and (4) to reduce the current 56-week portability period to six weeks.
- Items 5 and 7 repeal the return rules in subsections 24(2) and (5) as they are no longer required.
- Items 8 to 19 amend other provisions in subsection 24 to reflect the reduced portability period introduced in Items 3, 4 and 6.
- Item 24 makes a consequential amendment to subsection 58(1) to reflect the amendments made in Item 25.
- Item 25 repeals sections 62 to 63A, which are made redundant by the reduction in portability period from 56 weeks to six weeks contained in Items 3, 4 and 6.¹⁰

1.11 Items 27 to 29 provides for amendments to be made to the *A New Tax System (Family Assistance) (Administration) Act 1999*:

- Items 27 and 28 make consequential amendments to Sections 30A and 30B to reflect the reduced portability period introduced in Items 3, 4 and 6.
- Item 29 amends section 31 to insert new subsections 31(1C), (1D) and (1E):
 - New subsections 31(1C) and (1D) have the effect of ensuring that if an individual or FTB child or a regular care child returns to Australia within 13 weeks after the end of the six week portability period, and the Secretary is satisfied the individual is eligible for FTB, then the family tax payments would restart from the date of return to Australia without requiring a new claim to be submitted.
 - New subsection 31(1E) makes it clear these new provisions do not limit any later application of subsections 31(1) in relation to entitlement determination.¹¹

9 *House of Representatives Hansard*, 2 December 2015, p. 14423.

10 EM, pp [5-6].

11 EM, pp [6-7].

- Item 30 inserts new subsections 65(3), (4) and (5):
 - New subsections 65(3) and (4) have the effect of ensuring that if an individual or an FTB child or a regular care child returns to Australia within 13 weeks after the end of the six week portability period, and the Secretary is satisfied the individual is conditionally eligible for child care benefit by fee relief, then the benefit of fee reductions would restart from the date of return to Australia without requiring a new claim to be submitted.
 - New subsection 65(5) makes it clear these new provisions do not limit any later application of subsections 65(1) if the child or the individual is again absent from Australia for longer than six weeks.¹²
- Item 31 contains relevant application and savings provisions:
 - Subitem 31(1) provides a rule that these amendments apply to absences from Australia starting on or after 1 January 2016.
 - Subitems 31(2) and (3) provide further detail to this rule, by ensuring that if the portability period for an individual, FTB child or regular care child commenced before 1 January 2016 and that person returns to Australia on or after 1 January 2016 and then leaves again within 6 weeks, the current rules continue to apply in relation to the subsequent absence.¹³

Schedule 2—Large family supplement payment

1.12 The Bill also seeks to cease the large family supplement which is paid for the fourth and each subsequent child in the family.¹⁴

Ceasing the large family supplement delivers on the recommendations of [the Henry Tax and the National Commission of Audit] reviews and the change therefore achieves a legitimate objective of better targeting family payments to those most in need of assistance by removing a non-essential component of FTB Part A.¹⁵

1.13 Items 1 to 8 provide for amendments to be made to the *A New Tax System (Family Assistance) Act 1999*:

- Items 1 and 4 repeal the large family supplement component from the FTB Part A calculation process contained in clauses 3 and 25 of the *A New Tax System (Family Assistance) Act 1999*.
- Items 2 and 3 make consequential amendments to remove the large family supplement from the maintenance income test.

12 EM, p. [7].

13 EM, p. [7].

14 EM, p. [2].

15 *House of Representatives Hansard*, 2 December 2015, p. 14424.

- Item 5 repeals clause 34 and 35 within Schedule 1 of the *A New Tax System (Family Assistance) Act 1999* (Division 1 of Part 5 of Schedule 1) which contains the eligibility and rate rules for the large family supplement.
- Items 6 and 7 repeal relevant indexation provisions that reference large family supplement in Schedule 4 of the *A New Tax System (Family Assistance) Act 1999*.
- Item 8 provides that the amendments to cease large family supplement apply for days on and after commencement of 1 July 2016.¹⁶

Statement of compatibility with human rights

1.14 The statement of compatibility with human rights (statement) included in the Explanatory Memorandum (EM) to the Bill, states that while the reduced rate of portability of FTB Part A engages the human right to social security, it is compatible with that right because the new six week period continues to allow families to access family payments for a reasonable period of time while overseas.

1.15 The statement also reviewed the ceasing of the large family supplement against the right to social security and the rights of the child and concluded that the amendment is compatible with relevant human rights because families will still be eligible for the per child payment of FTB Part A.

1.16 The Parliamentary Joint Committee on Human Rights (Human Rights committee) reviewed the statement contained in the EM in its report of 2 February 2016, and listed this Bill with others the Human Rights Committee considered:

...either do not raise human rights concerns; or they do not require additional comment as they promote human rights or contain justifiable limitations on human rights.¹⁷

Financial impact

1.17 The measures are expected to generate savings of \$219.4 million over the forward estimates. This will be comprised of \$42.1 million in savings from the changes to portability of FTB and \$177.3 million in savings from ceasing the large family supplement. The EM does not indicate how many people are expected to be affected by the changes.¹⁸

Consideration of the Bill by other committees

1.18 The Senate Standing Committee for the Scrutiny of Bills considered the Bill on 3 February 2016, and made no comments on the Bill.¹⁹

16 EM, pp [8-9].

17 Parliamentary Joint Committee on Human Rights, [Human Rights Scrutiny Report](#), 2 February 2016, p. 2.

18 EM, p. [2].

19 Senate Standing Committee for the Scrutiny of Bills, [Alert Digest No. 1 of 2016](#), 3 February 2016, p. 39.

Conduct of the Inquiry

1.19 In accordance with its usual practice, the committee advertised the inquiry on its website, and wrote to 170 organisations, inviting submissions to the inquiry by 5 February 2016. The committee received 10 submissions, all of which were published on the committee's website.²⁰ These submissions are listed at Appendix 1. The committee thanks those organisations who assisted with the inquiry.

Note on references

1.20 Pages numbers vary between proof and official Hansard. Any reference to proof Hansard is marked as such.

20 See: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Family_Measures.