

CHAPTER 1

Reference

1.1 On 26 June 2014 the Senate referred the provisions of the Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2) 2014 (the bill) to the Senate Education and Employment Legislation Committee (committee) for inquiry and report by 28 August 2014.¹

Conduct of inquiry

1.2 Details of the inquiry were made available on the committee's website.² The committee also contacted a number of organisations inviting submissions to the inquiry. Submissions were received from nine organisations, as detailed in Appendix 1.

1.3 A public hearing was held in Canberra on 25 August 2014. The witness list for the hearing is available in Appendix 2.

Background

1.4 The bill proposes to amend the *A New Tax System (Family Assistance) Act 1999* (Cth) (New Tax Act) to give effect to the government's budget measure that would deliver net savings of \$230.4 million over four years.³ The bill would achieve this goal by extending the Child Care Benefit (CCB) income thresholds for those using approved childcare services, for a further three years.⁴

1.5 The bill follows the Family Assistance Legislation Amendment (Child Care Measures) Bill 2014 (the former bill) that proposed changes to both the Child Care Rebate (CCR) and the CCB. The committee inquired into the former bill and tabled its report on 16 June 2014.⁵ Submissions were received from 16 organisations in this former bill inquiry, as detailed in Appendix 3.

1 *Journals of the Senate*, No. 37, 26 June 2014, pp 1013–1017.

2 Parliament of Australia, Senate Committees, Senate Standing Committee on Education and Employment, Family Assistance Legislations Amendment (Child Care Measures) Bill (No. 2) 2014. http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/Family_Bill_2 (accessed 28 July 2014).

3 Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2) 2014, *Explanatory Memorandum*, p. 2.

4 Approved childcare services must meet the requirements set out in *A New Tax System (Family Assistance) (Administration) Act 1999* and other relevant family assistance laws and instruments. Most long day care, family day care and outside school-hours care services offer approved care. See Department of Parliamentary Services, *Bills Digest No. 92, 2013–14*, Family Assistance Legislation Amendment (Child Care Measures) Bill 2014, p. 2.

5 Senate Education and Employment Legislation Committee, *Family Assistance Legislation Amendment (Child Care Measures) Bill 2014*, June 2014.

1.6 On 23 June 2014 the Senate amended the former bill to exclude those provisions which sought to extend the CCB income thresholds for a further three years⁶ and the House of Representatives agreed to this amendment.⁷

1.7 On 26 June 2014 the bill was introduced in the House of Representatives, effectively, 'reintroducing the child care benefit measure contained in the former bill.'⁸

1.8 The proposed changes to the CCB income thresholds are a part of a broader 2014–15 Budget measure to maintain eligibility thresholds for major government payments for three years from 1 July 2014.⁹

Overview of the Bill

1.9 The bill would maintain the current CCB income test thresholds for approved childcare services at their current level for three years from 1 July 2014.

1.10 Currently the CCB income test thresholds are indexed at the beginning of each financial year and adjusted pursuant to the movement in the Consumer Price Index (CPI) over the year to the preceding December quarter.¹⁰

1.11 Presently under the New Tax Act and relevant instruments, CCB is payable for approved care to eligible parents/carers for between 24–50 hours of care per child per week providing the following requirements are satisfied:¹¹

- parents/carers are responsible for paying the relevant child care fees;
- the child receiving the care is immunised or is exempt from the immunisation requirements;
- parents/carers meet the residency requirements; and
- parents/carers meet the income test.¹²

1.12 Under the current income test, the maximum CCB rate is payable for parents/carers with an annual adjusted taxable income under \$42 997.¹³ The current

6 *Senate Hansard*, 23 June 2014, p. 25.

7 *House of Representatives Hansard*, 23 June 2014, p. 93.

8 The Hon. Sussan Ley, Assistant Minister for Education, *House of Representatives Hansard*, 25 June 2014, p. 10.

9 Australian Government, *Budget Measures: Budget Paper No. 2 2014–15*, p. 204.

10 *A New Tax System (Family Assistance) Act 1999*, Schedule 4.

11 Department of Human Services, *Child Care Benefit*, 1 July 2014, <http://www.humanservices.gov.au/customer/services/centrelink/child-care-benefit> (accessed 9 July 2014).

12 Department of Human Services, *Child Care Benefit*, 1 July 2014, <http://www.humanservices.gov.au/customer/services/centrelink/child-care-benefit> (accessed 9 July 2014).

13 Department of Human Services, *Child Care Benefit*, 1 July 2014, <http://www.humanservices.gov.au/customer/services/centrelink/child-care-benefit> (accessed 9 July 2014).

maximum CCB rate for approved care for a non-school aged child is \$4.10 per hour, or \$205 for a 50 hour week.¹⁴

1.13 Currently CCB is not payable to parents/carers with income above the income limit. The current income limit for one child in care is \$149 597; for two children in care it is \$155 013; and for three or more children in care it is \$175 041 plus \$33 106 for each child after the third.¹⁵

Human Rights Implications

1.14 The explanatory memorandum details the bill's engagement of the following human rights instruments:

- the rights of the child, under Article 3 of the *Convention of the Rights of the Child* (CRC); and
- the right to social security, under Article 9 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and Article 26 of the CRC.¹⁶

1.15 The explanatory memorandum states that the bill is compatible with human rights because:

To the extent that the Bill engages the rights of the child and to the extent it engages and places any limitation on the right to social security, such limitation is reasonable, necessary and proportionate to achieving a legitimate aim.¹⁷

1.16 The Parliamentary Joint Committee on Human Rights (Human Rights committee) examined the bill in its Ninth report, tabled in the Senate on 15 July 2014.¹⁸

1.17 The Human Rights committee expressed concerns that the statement of compatibility included in the explanatory memorandum:

- addressed the bill's 'impact on the amount of the benefit rather than its impact on the entitlement to the benefit based on family income'¹⁹ in the context of

14 Department of Human Services, *Child Care Benefit*, 1 July 2014, <http://www.humanservices.gov.au/customer/services/centrelink/child-care-benefit> (accessed 9 July 2014).

15 Department of Human Services, *Child Care Benefit*, 1 July 2014, <http://www.humanservices.gov.au/customer/services/centrelink/child-care-benefit> (accessed 9 July 2014).

16 Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2), *Explanatory Memorandum*, p. 3–4.

17 Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2), *Explanatory Memorandum*, p. 4.

18 Parliamentary Joint Committee on Human Rights, *Ninth Report of the 44th Parliament; Bills introduced 23 – 26 June 2014; Legislative Instruments received 7 June – 20 June 2014*.

19 Parliamentary Joint Committee on Human Rights, *Ninth Report of the 44th Parliament; Bills introduced 23 – 26 June 2014; Legislative Instruments received 7 June – 20 June 2014*, p. 31.

the right to social security under ICESCR and CRC and the right to an adequate standard of living;²⁰ and

- did not provide an assessment of the impact of the measures on the right to work under Article 2(1) of ICESCR and the Convention on the Elimination of All Forms of Discrimination against Women.²¹

1.18 The Human Rights committee sought clarification from the Minister for Education as to whether:

- pausing the indexation of the income thresholds for entitlement to CCB is compatible with the right to social security and the right to an adequate standard of living;²² and
- the bill is compatible with the right to work.²³

1.19 The Minister is yet to provide a response.

Financial Impact Statement

1.20 The explanatory memorandum submits that the bill would have a financial impact, resulting in net savings of \$230.4 million over four years.²⁴

Acknowledgement

1.21 The committee thanks those individuals and organisations who contributed to the inquiry by preparing written submissions and giving evidence at the hearing.

Notes on References

1.22 In this report the committee references submissions made to the inquiry into the Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2) 2014, as detailed in Appendix 1; as well as submissions made to the inquiry into the Family Assistance Legislation Amendment (Child Care Measures) Bill 2014 (former bill), as detailed in Appendix 3.

20 The right to an adequate standard of living requires that the state take steps to ensure the availability, adequacy and accessibility of food, clothing, water and housing for all people in Australia. See Parliamentary Joint Committee on Human Rights, *Ninth Report of the 44th Parliament; Bills introduced 23 – 26 June 2014; Legislative Instruments received 7 June – 20 June 2014*, p. 30.

21 Parliamentary Joint Committee on Human Rights, *Ninth Report of the 44th Parliament; Bills introduced 23 – 26 June 2014; Legislative Instruments received 7 June – 20 June 2014*, pp. 31–32. The Convention on the Elimination of All Forms of Discrimination Against Women recognises that the availability of child care is a critical component of the right to work.

22 Parliamentary Joint Committee on Human Rights, *Ninth Report of the 44th Parliament; Bills introduced 23 – 26 June 2014; Legislative Instruments received 7 June – 20 June 2014*, p. 31.

23 Parliamentary Joint Committee on Human Rights, *Ninth Report of the 44th Parliament; Bills introduced 23 – 26 June 2014; Legislative Instruments received 7 June – 20 June 2014*, p. 33.

24 Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2), *Explanatory Memorandum*, p. 2.

1.23 References in this report to the Hansard for the public hearing are to the Proof Hansard. Please note that page number may vary between the Proof Hansard and the official transcripts.