

CHAPTER 1

Reference

1.1 On 5 December 2013 the Senate referred Schedules 6 and 9 of the Social Services and Other Legislation Amendment Bill 2013 for inquiry and report by 12 December 2013.¹

Conduct of inquiry

1.2 The committee contacted a number of organisations inviting submissions to the inquiry. Submissions were received from 5 organisations, as detailed in Appendix 1.

1.3 A public hearing was held in Canberra on 9 December 2013. The witness list for the hearing is at Appendix 2.

Background

1.4 Broadly, Schedules 6 and 9 propose to:

- Establish student start-up loans of up to \$1 025, repayable under similar arrangements to Higher Education Loan Program (HELP) debts; and
- Continue indexation pauses on family tax benefits, parental leave pay, and Dad and Partner pay; and
- Extend the annual child care rebate limit at \$7 500 for three years from 1 July 2014.

Overview of the bill

1.5 The bill was introduced in the House of Representatives by the Hon Kevin Andrews MP, on 20 November 2013.² The bill proposes to implement government commitments with respect to gambling reform as well as payments made by the Commonwealth to parents, families, students and overseas residents.³

Schedule 6

1.6 The Schedule proposes to amend the *Social Security Act 1991* and the *Student Assistance Act 1973* to provide for student start up loans from 1 January 2014⁴ to replace the existing start-up scholarships, originally introduced in 2010.⁵ The total

1 *Journals of the Senate*, 2013, pp 245–246.

2 *Votes and Proceedings*, 2013, p. 106.

3 House of Representatives, *Hansard*, 20 November 2013, p. 8.

4 Revised Explanatory Memorandum, p. 26.

5 Bills digest *Social Security and Other Legislation Amendment Bill 2013*, p. 28.

amount payable is \$2 050 per year, in two half yearly instalments⁶ and as at 31 August 2012, 180 872 students had received both payments for 2012, and a further 56 580 had received one.⁷

1.7 The loans proposed in the bill would be income contingent and would also be repayable under similar arrangements to HELP debts.⁸ Students would repay the student start up loans once their HELP debt has been repaid in full.⁹

1.8 The Schedule proposes that administration and eligibility would be consistent between the scholarship and the loans, through the use of provisions otherwise contained in the *Social Security Act*, and the *Student Assistance Act*.¹⁰ With respect to repayments, consistency with HELP repayments is ensured through the use of similar provisions to those found in the *Higher Education Support Act 2002*.

Schedule 9

1.9 Schedule 9 would extend indexation pauses on higher income limits for three additional years, until 30 June 2017.¹¹

1.10 The Schedule affects eligibility for the primary earner income limit for family tax benefits Parts A and B, parental leave and dad and partner pay.¹² The Schedule also would maintain the annual child care rebate at \$7 500 for an additional three income years starting from 1 July 2014.¹³

Compatibility with human rights

1.11 The Statement of Compatibility with Human Rights (the Statement) states that there is limited engagement of human rights as set out in Schedules 6 and 9:¹⁴

- The right to equality and non-discrimination;
- The rights of the child; and
- The rights to social security.

6 Department of Human Services, *Student start-up scholarship*, <http://www.humanservices.gov.au/customer/services/centrelink/student-start-up-scholarship>, (accessed 10 November 2013).

7 Senate Economics Legislation Committee, Answers to Questions on Notice, Industry, Innovation, Science, Research and Tertiary Education Portfolio, Supplementary Budget Estimates 2012-13, Question SI-127, 17 October 2012

8 Revised Explanatory Memorandum, p. 26.

9 Revised Explanatory Memorandum, p. 26.

10 Revised Explanatory Memorandum, p. 26.

11 Revised Explanatory Memorandum, p. 63.

12 Revised Explanatory Memorandum, p. 63.

13 Revised Explanatory Memorandum, p. 63.

14 Statement of Compatibility with Human Rights, p. 15.

Right to equality and non-discrimination

1.12 The Explanatory Memorandum maintains that while Schedule 6 establishes an ABSTUDY start-up loan (to recipients of Aboriginal and Torres Strait Islander descent) an equivalent loan will be established to non-indigenous recipients of Austudy and youth allowance.¹⁵ As discussed previously, the provisions in the Schedule mirror those found in existing legislation.

1.13 The Statement contends that Schedule 6, if enacted, would result in 'no effective distinction between Indigenous and non-Indigenous recipients of the loans.'¹⁶

1.14 The Statement also submits that:

To the extent that they may have limited adverse impact on a person's access to education, social security, an adequate standard of living or the right to equality and non-discrimination, the limitation is reasonable, proportionate to the policy objective and for legitimate reasons.¹⁷

Rights of the child

1.15 The Statement also notes that the rights of the Child, contained in the Convention on the Rights of the Child require that the best interests of the child shall be a primary consideration.¹⁸ The Statement suggests that Schedule 9 does not limit those rights as it would maintain the provision of payments to assist in child care affordability, if enacted.¹⁹

Right to social security

1.16 Schedule 9 also engages the right to social security, as contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child, recognising requirements for families and children to benefit from social security.²⁰ Any removals of social security entitlements must be justified, and persons may not be subject to arbitrary and unreasonable restrictions of existing social security coverage.²¹

1.17 The Statement submits that the government considers that the continuation of the previous government's cap on child care rebate payments and the indexation pause is reasonable,²² necessary and appropriate as the measure is 'in the interest of the general public and Australia's economic position.'²³

15 Statement of Compatibility with Human Rights, p. 20.

16 Statement of Compatibility with Human Rights, p. 15.

17 Statement of Compatibility with Human Rights, p. 15.

18 Statement of Compatibility with Human Rights, pp 20–21.

19 Statement of Compatibility with Human Rights, pp 20–21.

20 Statement of Compatibility with Human Rights, pp 20–21.

21 Statement of Compatibility with Human Rights, pp 20–21.

22 Statement of Compatibility with Human Rights, pp 20–21.

23 Statement of Compatibility with Human Rights, pp 20–21.

1.18 With respect to Schedule 9, the Statement submits that the engagement of the rights of the child and social security are 'reasonable, necessary and appropriate to achieving a legitimate aim.'²⁴

Committee view

1.19 The committee accepts the detail of the Statement of Compatibility with Human Rights, and agrees that the engagement of the rights is appropriate, and the limitations are reasonable, necessary and proportionate.

Financial Impact Statement

1.20 The Explanatory Memorandum submits that the Schedules 6 and 9 will have a financial impact, resulting in savings of \$1, 214 million over five years and \$105.8 million over three years respectively.²⁵

Consideration by the human rights and scrutiny committees

1.21 The bill has been considered by the Parliamentary Joint Committee on Human Rights. The Senate Standing Committee for the Scrutiny of Bills has considered the bill and did have one comment in relation Schedule 5.²⁶

Acknowledgement

1.22 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

1.24 References in this report to the *Hansard* for the public hearing are to the *Proof Hansard*. Please note that page numbers may vary between the proof and the official transcripts.

24 Statement of Compatibility with Human Rights, pp 20–21.

25 Explanatory Memorandum, Social Security and Other Legislation Amendment Bill 2013, p. 5.

26 Standing Committee for the Scrutiny of Bills, Alert Digest 8/13, p. 47.