

Chapter 1

Introduction

1.1 On 21 March 2013, on the recommendation of the Senate Selection of Bills Committee, the Senate referred the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 (the Bill) to the Senate Finance and Public Administration Legislation Committee for inquiry and report by 25 June 2013.¹ The reasons for referral were for the committee to consider:

- The unacceptability to Australians of the use of Medicare funding for the purpose of gender selection abortions;
- The prevalence of gender selection – with preference for a male child – amongst some ethnic groups present in Australia and the recourse to Medicare funded abortions to terminate female children;
- The use of Medicare funded gender selection abortions for the purpose of 'family-balancing';
- Support for campaigns by United Nations agencies to end the discriminatory practice of gender selection through implementing disincentives for gender-selection abortions'; and
- Concern from medical associations in first world countries about the practice of gender-selection abortion, viz. Canada, USA, UK.²

Conduct of the inquiry

1.2 The committee acknowledges that there is a wider debate within the Australian community about abortion. Notwithstanding this debate, the committee has confined its deliberations to the evidence provided about the Bill. In addition, the committee has not made a recommendation in relation to the Bill; the committee has undertaken its inquiry into the Bill in order to provide information for senators on the arguments received about the proposed amendment to Medicare funding.

1.3 The committee invited submissions from interested organisations and individuals, and government bodies. The inquiry was also advertised on the committee's website and in the *Australian* newspaper.

1.4 The committee received 919 submissions and 239 form letters. A list of individuals and organisations which made public submissions to the inquiry is at Appendix 1. Submissions may be accessed through the committee's website at www.aph.gov.au/senate_fpa. The committee thanks those organisations and the large number of individuals who made submissions.

1 *Journals of the Senate*, No. 143, 21 March 2013, pp 3864–3865.

2 *Senate Selection of Bills Committee, Report No. 4 of 2013*, Appendix 8, 21 March 2013.

Overview and provisions of the Bill

1.5 The Bill is a private Senator's bill that seeks to remove Medicare funding for abortions procured on the basis of gender.³

1.6 Schedule 1 of the Bill proposes to amend the *Health Insurance Act 1973* by inserting proposed new section 17A. Proposed new subsection 17A(1) provides that a Medicare benefit is not payable if:

- a medical practitioner performs a medically induced termination on a pregnant woman, or provides a service that relates to or is connected with performing such a medically induced termination (proposed new paragraph 17A(1)(a)); and
- the termination is carried out solely because of the gender of the foetus (proposed new paragraph 17A(1)(b)).⁴

1.7 The Explanatory Memorandum (EM) suggests that the Bill would have limited financial impacts. The EM also states that the Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.⁵

Background provided in the Explanatory Memorandum

1.8 The United Nations (UN) has drawn attention to the practice of gender selective abortion. It is noted in the EM that the 1994 Cairo Population Conference identified that gender selective abortions occur in countries such as China, India, Afghanistan, Pakistan, Taiwan, South Korea, Bangladesh, Azerbaijan, and Armenia. At the Cairo Conference a range of commitments were made to 'take the necessary measures to prevent infanticide, prenatal sex selection, trafficking in girl children'. The EM also notes that the UN Population Fund (UNFPA) has urged governments to fulfil the commitments made.⁶

1.9 In 2011, an interagency statement entitled 'Preventing gender-biased sex selection' was issued by UN agencies and the World Health Organisation (WHO). The statement:

...reaffirms the commitment of United Nations agencies to encourage and support efforts by States, international and national organizations, civil society and communities to uphold the rights of girls and women and to address the multiple manifestations of gender discrimination including the problem of imbalanced sex ratios caused by sex selection. It thus seeks to highlight the public health and human rights dimensions and implications of

3 *Explanatory Memorandum*, p. 1.

4 *Explanatory Memorandum*, p. 6.

5 *Explanatory Memorandum*, p. 3.

6 *Explanatory Memorandum*, p. 1.

the problem and to provide recommendations on how best to take effective action.⁷

1.10 The EM notes that determining the sex of a foetus may be necessary in the pre-natal diagnosing of certain gender specific disorders. If such a disorder is diagnosed, a decision may be taken to terminate the pregnancy rather than continue the pregnancy which may result in a child with a debilitating disorder. The EM goes on to state that:

The policy intent of this Bill is to provide that a termination of a pregnancy on the grounds of a gender specific disorder, and not solely for reasons of sex selection, would not fall within the ambit of this Bill.⁸

7 The Office of the United Nations High Commissioner for Human Rights (OHCHR); the UNFPA; the United Nations Children's Fund (UNICEF); the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women); and the WHO, *Preventing gender-biased sex selection*, 2011, p. vi.

8 *Explanatory Memorandum*, p. 1.

