Submission by the Australian Catholic Council for Employment Relations to

THE SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

inquiry concerning the

Social Services legislation Amendment (Family Payments Structural reform and participation Measures) Bill 2015

18 November 2015

A. Introduction: the Bill is unjust in principle and in its operation

1. The Bill which is the subject of this inquiry proposes the greatest cuts in the living standards of Australian families of all the legislation ever considered by this Parliament.
2. The scope of the Bill is evident from the *Explanatory Memorandum*: over the forward estimates it is expected to save $4,840.9 million; see *Explanatory Memorandum*, page 1. The Bill seeks to deliver these savings under the misleading rubric of "structural reform" and "workforce participation". The Bill uses these terms as a cover for cuts in family incomes and for the removal of family payments, including payments that have been made for many decades. No one should take seriously the claims in the title of this Bill. It is a cost-saving measure that it unjust in principle and unjust in its operation.
3. The Bill has four significant features which will impact on low and middle income families, three of which have a very detrimental effect for working families and those families who rely on unemployment benefits. The fourth is of relatively limited value for those families.

Family Tax Benefit, Part A supplement

4. First, the Bill proposes the removal of the Family Tax Benefit, Part A (FTB A) annual supplement, currently $736.35 per year, which is made to parents of dependent children, including children up to the age of 18 who are in secondary education. This is to be done over two years: from 1 July 2016 the payment will be reduced to $602.25 and from 1 July 2017 it will be reduced to $302.95. When the transition is completed on 1 July 2018 the accumulated loss will have been $567.30 for each child. From 1 July 2018 the loss of $736.35 per year for each child will be partially offset by an increase in FTA A of $5.04 per week, or $262.80 per year, but only from 1 July 2018. Over the three year period from 1 July 2016, ie. over the "forward estimates", the loss per child will be $1,040.75. This is just part of the costs to families in the forward estimates set out in the *Explanatory Memorandum*. In a two child family this will be a loss of $2,081.50 over the three years. The weekly loss from 1 July 2018 will be $9.08 per week, per child.

Family Tax Benefit, Part B supplement

5. Second, the Bill proposes the removal of the Family Tax Benefit, Part B (FTB B) annual supplement which is made to parents who have the principal care of their children: “stay-at-home” parents, sole parents and grandparents who care for their

grandchildren following some kind of parental difficulty. This is to be done by reducing the current payment of $354.05 per year to $302.95 from 1 July 2016 and to $153.30 1 July 2017. When fully implemented in July 2016, this will amount to a loss of $6.79 per week.

6. As a result of the removal of both supplements, families with two children and eligible for FTB B, will suffer an ongoing loss from 1 July 2018 of $24.95 per week.

Eligibility for Family Tax Benefit, Part B

7. Third, the Bill proposes substantial changes to the eligibility for FTB B. The Bill proposes:
   - The removal of the FTB B payment from "stay-at-home" parents in couple parent families once their youngest child turns 13 years of age, in lieu of 18 years (and the requirement to be in secondary education) as is currently provided. This payment is currently $53.41 per week, or $2,784.80 per year.
   - The reduction of FTB B payments to sole parents from $2,874.80 per year to $1,000.10 per year over the period from when their youngest child turns 13 to when the child turns 16, with no payments made thereafter. Grandparents who have the care of their grandchildren will be treated in the same way. The Bill proposes that the payment continue until the end of the calendar year in which the youngest child turns 16.

8. The Bill proposes that these changes take effect from 1 July 2016. Added to the transitional and ongoing losses referred to above, this would be a loss for "stay-at-home" parents, sole parents and grandparents of $53.41 per week over the period of the youngest child's secondary schooling, once that child turned 13, subject to the proviso that sole parents and grandparents would receive $1,000.10 per year, or $19.18 per week as the principal carers of children.

9. In the case of couple parent families, the loss of eligibility for FTB B on 1 July 2016 would also result in the immediate loss of the annual supplement of $6.79 per week, bringing the total loss in respect of FTB B to $60.20 per week, plus, of course, the losses from the changes to the FTB A supplement.

10. On the basis that the youngest child turns 13 at the end of year 7, turns 16 at the end of year 10 and turns 18 at the end of year 12, the loss for the couple family would be $2,784.80 per year over five years, a total of $13,924.00. For other families it would be three years at a loss of $1,784.70 per year and two years at a loss of $2,784.80 per

year; a total loss over the five years of $10,923.70, which equates to $41.90 per week. This is $11.50 per week less than the loss suffered by couple parent families. The access to that annual payment provides only limited relief from the very large cuts proposed by the Bill. We argue later that the provision that seeks to exclude couple parents from the payment of $1,000.10 per year is discriminatory and contrary to relevant human rights obligations of the Commonwealth.

11. Fourth, the Bill proposes that the maximum FTB B standard rate be increased by $1,000.10 per year for families with a youngest child aged under one. This amounts to an extra $19.18 per week. In relative terms this is quite minor across the years in which children will be dependent on their parents.

These are additional to the loss of the Schoolkids Bonus

12. These proposals come on top of legislation introduced by the May 2014 Budget to abolish the Schoolkids Bonus. These payments, of $400 per year for primary students and $800 per year for secondary students, will cease at the end of 2016. These amount to weekly losses of $7.67 and $15.34, respectively. Unlike the Schoolkids Bonus, the changes proposed by the Bill were not foreshadowed in the last election.

13. The losses outlined above will be felt in a wide range of families, with incomes of up to $100,000 per year, but the results will be severe for low income families, including families reliant on low minimum wage rates, families relying on part time, insecure and casual work and unemployed families. Many low income working families are already living in poverty. The proposal would put more families into poverty; and those already in poverty would be in deeper poverty. Priority needs to be given to protecting children against poverty.

The proposals are unjust and contrary to human rights protections

14. The Australian Catholic Council for Employment Relations (ACCER), which is an agency of the Australian Catholic Bishops Conference, makes these submissions because, in its view, the substantive provisions of the Bill are unjust, both in principle and in effect. The deleterious effect on the living standards of families, many of whom are already living in poverty, is manifest. There is a general principle raised by the Bill in regard to the imposition of Budget savings on the low income families. Low income families are not protected and, at least in respect of this cohort, the Bill is contrary to Australia's human rights obligations. There is a more particular question arising from item 4 of Schedule 2 which "sets out the general rule that an individual cannot access family tax benefit Part B if the individual is a member of a couple and their youngest

FTB child has turned 13"; see *Explanatory Memorandum*, Notes on Clause., page 2. ACCER contends that this provision is discriminatory and contrary to Australia's human rights obligations. We will return to these matters later when discussing the requirements of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

B. Family Tax Benefit Part B: its origins and purposes

15. FTB B is payable to the primary carer of children. In couple parent families it is usually the mother, but sometimes the father, who is entitled to and claims the payment. A sole parent is also entitled to the payment if he or she is the primary carer of the children. Special provisions are made for grandparents who are the primary carers of their grandchildren.

16. The primary carer in a couple parent family needs to have an income of less than $5,402 per year in order to claim the full amount of FTB, B. Above that income level the payment reduces by 20 cents for each additional dollar of income. However, there is no entitlement to FTB B where the principal breadwinner earns in excess of $100,000 per year. A sole parent who is a primary carer is entitled to FTB B whether he or she is employed and is entitled to the full payment if earning up to $100,000 per year.

17. The rate of payment under FTB A and FTB B is the same for a single breadwinner couple parent family and a sole parent family where the number and ages of their children are the same. It also means that where the single breadwinner in a couple parent is paid the same wage as the sole parent and the number and ages of their children are the same, the disposable incomes of both households will be the same. It might be thought that the sole parent family has a higher standard of living than the couple parent family, but that view does not take into account the costs of child care that are generally required in sole parent families. Child care costs can force sole parent families into poverty.

The impact on families

18. The previous section details the economic losses that would be suffered by the enactment of the legislation. It is important, however, to appreciate the personal and family consequences proposed by the Bill and how the lives of many children would be affected. For both couple parent and sole parent families, and for grandparents who have the care of a grandchild, the Bill proposes the withdrawal of support when their children are in the final and critically important years of their schooling. For middle income earners, this might be sustainable, but for low income families could be devastating. The family support, especially through a parent who can be at home

during the day, is especially important in low income families. The provisions of the Bill would have a substantial impact on the lives of children in low income families and would jeopardise their education and their future prospects.

The origins of Family Tax Benefit Part B

19. In order to appreciate the nature and the magnitude of the changes proposed by the Bill, it is necessary to understand and appreciate the origins and purposes of the payments that are now threatened.

20. The legislation proposes dramatic changes to long-established entitlements. FTB B is the successor of the dependent spouse with children tax rebate. For decades, Australian taxation law provided a rebate for taxpayers supporting a dependent spouse and children. Australian taxation laws have not permitted the splitting of income and taxation obligations between single breadwinner couples (except for those who have access to business and family trust opportunities to do so) and the dependent spouse rebate was one small way in which families, and particularly low income single breadwinner families, could receive monetary recognition for the care and support of their children. By 1993 the tax rebate was worth up to $27.40 per week for the mostly male breadwinners.

21. The events since then have reinforced and clarified this benefit, but in a different form of payment. In summary, the history of changes since 1993 to which we will refer show that:

    - FTB B is a payment, in the nature of a wage, made to those who care for their own children in their own homes. It was intended, and is, paid in recognition of the value of the work that they do.
    - FTB B helps parents make an effective choice as to how they will balance work and family responsibilities. If implemented, the proposal in the Bill would place economic pressure on couple parent families to abandon plans to have one of them stay at home to care for their children. In sole parent families, it would place more financial pressure on the parent to work more hours than they have had to in the past.
    - FTB B is paid mainly to women. This proposal is inherently discriminatory against women because it would deprive them of income while they are absent from the workforce and raising children. It would exacerbate the lifetime

discrimination that leaves women, on average, with substantially less income and assets than men.

Prime Minister Keating and Labor Policy

22. The dependent spouse with children rebate was replaced in 1994 by the Home Child Care Allowance (HCCA), which after some name changes in the following years, became FTB B in 2000. The 1994 change came about as a result of a policy announced by the Australian Labor Party in the 1993 Federal Election. It is important that we know and consider the policy that underlies FTB B. This can be seen in Mr Keating's policy speech and in his launch of the International Year of the Family in December 1993.

23. In his Policy Speech on 24 February 1993 Prime Minister Keating said:

> "Our recently announced child care policy recognises that the future growth of the Australian economy and the living standards of Australians need women's participation in the workforce.
> We recognise that child care is essential if women are to take a job, undertake training or study or look for work.
> Our commitment to meet total demand for work-related child care by 2001 will aid women's participation in the economy, as our 30 per cent cash rebate on fees will make child care more affordable - especially for middle income earners.
> *It is not good enough to say that a woman is either in the paid workforce or in the home. Chances are these days, in the course of their lifetimes, most women will spend periods of time doing both.*
> *The needs of mothers caring for children at home are often overlooked in the child care debate.*
> *But we have not forgotten them.*
> *I recognise and appreciate the important role played by women who choose to stay at home while their children are growing up.*
> We propose to introduce a new cash payment of $60 each fortnight to be called the Home Child Care Allowance.
> *This allowance is more generous than the Dependent Spouse Rebate it will replace, and has the added advantage of being paid directly to the mother at home. This will provide a source of independent income for women while they are out of the paid workforce caring for children.*
> In a further measure to meet the needs of women at home caring for children, we will extend fee relief to occasional care. This is in addition to my earlier announcement that we will double the funding for playgroups.
> *Labor's child care policies recognise the reality that different families choose to deal with the responsibilities of work and family in different ways*."
> (*http://pmtranscripts.dpmc.gov.au/browse.php?did=8827*, emphasis added)

24. In a speech on 6 December 1993 to launch the International Year of the Family, Prime Minister Keating said:

> "*Our policies must address the diverse nature of Australian families, and the diverse nature or their employment and assistance needs.*

A major issue to address in this context is how families balance the responsibilities of work and family life.
Governments should, I believe, promote policies which recognise and support choices families are making in combining paid work and family care.
We have to make these aspects of peoples' lives fit more harmoniously together.
We have to keep pressing for more "family-friendly" workplaces.....
We recognise that childcare needs are neither uniform or identical.
We recognise that women, throughout their lives, have a range of equally legitimate choices about being in the workforce or being at home.
We appreciate the value of caring and nurturing provided by women who do choose to stay at home while their children are growing up, and the value of the unpaid work they carry out both in the household and in the community.
That is why we have introduced the Home Care Child Allowance for supporting parents caring for their children full time at home.
By paying the allowance directly to the caring parent, usually the mother, we have provided many women at home with a source of independent income which otherwise they would not have."
(*http://pmtranscripts.dpmc.gov.au/browse.php?did=9071*, emphasis added)

25. The Second Reading of the *Social Security (Home Child Care And Partner Allowances) Legislation Amendment Bill 1993* occurred shortly afterwards, on 15 December 1993. The Second Reading speech included the following:

"The home child-care allowance reform consolidates the government's provisions that assist families with children. *It provides more direct recognition of the considerable time, energy and personal support devoted to children by parents, generally mothers, who decide to stay at home to raise their children.* For the first time, this support will be provided directly to the parent caring for children, rather than to the other partner as a tax concession.
The allowance will replace the dependent spouse rebate currently available to couples with dependent children and will be paid at a higher maximum rate of $60 a fortnight." (*Hansard*, House of Representatives, pages 4090-1, emphasis added.)

26. In July 1995 the HCCA was amalgamated with the Partner Allowance to become the Parenting Allowance. In May 1998, the Howard Government rolled the Parenting Allowance into the Parenting Payment. FTB B emerged from the Parenting Payment as part of the reforms associated with the introduction of the Goods and Services Tax in 2000. FTB B is the successor to the HCCA and the earlier dependent spouse with children rebate, and extended to sole parents. Over the six years from 1994 to 2000 the payments to the principal carer had grown from $30.00 to $34.79 per week, very close to the rate of inflation over those years.

Prime Minister Howard and Coalition Policy

27. The proposal to switch from the taxation rebate to a payment provided to the principal carer met with widespread support. We submit, without fear of serious contradiction,

that the views expressed by Mr Keating were views held across the major parties, at least.

28. The bi-partisanship of this matter is evident from the circumstances surrounding the introduction of the FTB B annual supplement. By way of introduction we refer first to the earlier introduction of the FTB A annual supplement, which is also under threat by this Bill.

FTB A annual supplement

29. The FTB A annual supplement was introduced by the May 2004 Budget. In his Budget speech on 11 May 2004, the Treasurer, Mr Costello, announced a *More help for families* plan:

> "Our plan: *More help for families* has five interwoven components:
>
> - a $600 increase in the level of payment per child under the Family Tax Benefit Part A;
> - relaxing the income test for this benefit which will give more families access at higher rates;
> - a change in the income test for the single income family benefit — FTB (B) — which will allow more mothers to access this payment while in part-time work;
> - a new maternity payment — without qualification — for every mother on the birth of a child;
> - a very substantial increase in childcare places.
>
> The Family Tax payment, FTB (A), is paid to around two million Australian families. Tonight I am announcing an increase of $600 in all levels of this payment. The base payment, per child, will increase from $1,095 to $1,695.
>
> This new level is, in real terms, more than 100 per cent higher than the amount paid before this Government was elected in 1996.
>
> This increase of $600 will be available as a lump sum to families upon reconciliation of their 2003-04 entitlement, that is, when they file their tax return after 30 June this year and in every subsequent year."
>
> (http://www.budget.gov.au/2004-05/speech/html/speech.htm)

30. This annual supplement sum was indexed until 2010 when, from July 2010 it was $726.35 per year, but it has not increased since then as a result of a budgetary decision of the Rudd Government.

FTB B annual supplement

31. In his 2004 election policy speech on 26 September 2004, Prime Minister Howard said:

> "*We have brought the principle of choice to all of our policies and importantly, I bring a new dimension to our policies today in relation to childcare*. We have spent more than $8 billion on childcare in the six years from 1996 to 2002, more than double that in the last six years of the Labor Government.
>
> Our policies have seen an 84 per cent increase in the number of childcare places and as part of our ongoing commitment to supporting parental choice in relation

to childcare, I announce today that if the Coalition is re-elected, we will introduce a new taxation rebate of 30 per cent on parents out of pocket childcare expenses. This new rebate recognises that childcare costs faced by families vary enormously across the country, and providing a rebate on the out of pocket cost, supports families choosing the childcare service which best suits their needs.

At the same time, to ensure complete fairness of treatment for families where one parent makes the choice to stay at home full time, we will provide an appropriate increase in the rate of Family Tax Benefit B. That is the benefit paid to parents who are at home full time caring for their children.

We also, I believe, need these days to be more responsive as a society to the special needs of grandparents who are called increasingly to look after grandchildren as a result of family breakdowns. They are heroic people. They've spent their lives raising their own children and suddenly they find they must do the same thing again for their grandchildren. And they do it out of the love they naturally have for those children."
(http://electionspeeches.moadoph.gov.au/speeches/2004-john-howard, emphasis added.)

32. On 9 February 2005 the Minister for Families and Community Services, Senator Hon Kay Patterson addressed the conference held by the Australian Institute of Family Studies Conference, "Families Matter" on, among other topics, the FTB B annual payment:

"Government philosophy: choice
Having talked about some of the priorities common to families now is an appropriate point to talk about the priorities common to the Howard Government's approach to supporting families. *One of the elements of our approach that is central to our philosophy and common across a range of policy areas is our desire as a Government to help families exercise choice in how they live their lives.*
As the Prime Minister has said, choice is the golden thread that flows through many of our policies. Choice about whether to stay at home and care for the children or return to work; choice about childcare; choice about schooling, and choice about healthcare.
As our families become more diverse, it will be important that we ensure our responses continue to support and strengthen families, providing them with the choices that promote wellbeing and encourage self-reliance.
Government Action: Direct and Indirect
I talked a moment ago about the importance of putting children first. This is a key policy priority of the Coalition Government's approach to family policy – giving children the best start in life. While many of our policies are delivered to parents, they are actually targeted at children.
Family payments such as the Family Tax Benefit and the $3000 Maternity Payment are two important forms of assistance delivered to parents in the interests of children.
Family Tax Benefit is now a central feature of our family policy.

> Eight in ten Australian families receive a payment, which averages $7,000 per year.
> *During the election campaign the Government committed to a $300 increase in the Family Tax Benefit Part B payment. This payment, which assists parents who choose to stay at home to care for their children,* is now a maximum of almost $3,000 per year for children under 5 years and over $2,000 for children aged 5 to 15 years.
> I am announcing today that the Government has decided to bring forward by six months the $300 increase to the annual rate of Family Tax Benefit Part B.
> *Recognising the overwhelmingly positive reception to our decision last year to pay the $600 per child increase to Family Tax Benefit Part A as a lump sum this $300 increase will also be paid as a lump sum*.
> The decision to provide a six-month advance will mean that families receiving Family Tax Benefit Part B will be eligible for a lump sum payment of up to $150 from 1 July 2005 after they lodge their tax return. Every year thereafter families will be eligible for the $300 annual increase after they lodge their tax return.
> *Increasing this payment for stay at home parents, usually mothers, is just another example of how the Howard Government seeks to improve the choices available to families in how they arrange their lives according to their personal circumstances.*
> *We know that many parents choose to stay at home and we want to support that choice as far as possible. Similarly many other parents want to remain engaged in the workforce, sometimes for more than just monetary reasons. As a government we want to support that choice as well. Hence our heavy investment in child care*."
> (http://www.formerministers.dss.gov.au/2927/australian-institute-of-family-studies-conference-families-matter/, emphasis added.)

33. On the same day the Minister issued a media release, *Extra assistance for 1.3 million Australian families*, which referred to the decision to provide the increase by way of a lump sum:

> "Increasing this payment for stay-at-home mums and dads, is just another example of how the Howard Government is seeking to *improve the choices available to families in how they arrange their lives according to their personal circumstances*."
> "Following the positive response I received from parents who received the lump sum payments last year, I have decided to deliver this commitment in a lump sum also. Parents have told me the lump sum allowed them to purchase items such as school uniforms, replace household goods, pay for a special sporting activity and provide a boost to saving for their children's future."
> (http://www.formerministers.dss.gov.au/6606/extra_assistance_9feb05/, emphasis added.)

34. Like the FTB A annual supplement, this sum was indexed until 2010, to $354.05 per year, but has not been increased since.

Bi-partisan support for family policy based on a sound principle

35. We can see from this history that it was common ground between successive governments that parents should be assisted through family payments to exercise a

choice as to how they will care for their children. It was common ground that parents should have an effective choice as to how they would exercise their parental responsibilities and that the work of parents in the fulltime care of their children was of value to them, their children and the community as a whole. Any desire for increased workforce participation was subject to those fundamental values and principles concerning the exercise of family responsibilities and the care of children.

The Bill strikes at sound public policy

36. These views did not develop out of the political process. The politicians were responding to what was, and remains, a sense of fairness within the community about how parents should be able to make decisions regarding the care of their children. What Prime Ministers Keating and Howard said at critical times in the framing of important public policy represented a community consensus, not merely a political consensus.

37. The need for families to have an effective choice as to how they balance their work and family responsibilities is discussed in the following extract from the report of a national Commission of Inquiry into Poverty (Poverty Commission). The Poverty Commission was established in 1972 to inquire into poverty and propose responses to it. Its report was a significant cause of the increases in the social safety net in subsequent years. The report included:

> "A further way in which many low income families are often placed under great stress is in relation to the freedom parents have to decide how they will divide their time between working, looking after children, and other activities. Because of financial pressures some parents are confronted with the choice of spending more time earning money and less time at home or struggling on an income below the poverty line….
>
> Some fathers compensate for their low wages by working more hours or working two jobs. In many instances this may create considerable pressure on parents and their children…. Inadequate wages and pensions place considerable pressure on mothers to work…The mere fact of a mother working is not necessarily detrimental to the family. The relationship between a mother working and child development has been hotly debated in recent years, but the research on the subject has been inconclusive. The pertinent issue is the freedom of mothers to choose whether or not to work, so that each family can reach a solution which is satisfactory for its members. The pressure to work created by an inadequate income means that some mothers are less free to choose." (*First Main Report, April 1975*, volume 1, page 204. Footnote omitted and emphasis added.)

38. The Poverty Commission was the result of widespread concern about the fact that families with a single full time breadwinner were living in poverty. The passage notes that low wages were being compensated for by fathers working overtime or taking a

second job and that there was pressure on women to take up paid employment. Its point was that these responses to poverty were not acceptable. The breadwinner should not have to undertake extra work for the family to escape poverty; nor should the parent who is the primary carer have to take paid employment in order for the family to escape poverty.

39. The Poverty Commission proposed substantial changes to government policies to lift these families above the poverty line. The policy objective was to have an acceptable disposable income for families without the need for the breadwinner to work overtime or take a second job or for the other parent to undertake, or apply for, paid employment.

40. It should be stressed that the principle which underpins these policies does not raise any gender-specific issue. The principle applies whether the breadwinner, or principal breadwinner, is male or female. Parents should be able to choose which one of them will be the breadwinner and which one of them will stay out of the employed workforce in order to care for their children. Parents may decide that the interests of the family, and those of the children in particular, would be best served by both of them being employed. Whether the second parent takes a job will depend on a variety of factors, including the availability and cost of good child care. Where parents are out of the employed workforce for a substantial period of time in order to raise children there should be various kinds of training programs and other educational support to assist them to return to the workforce when they choose to do so.

41. The position articulated by the Poverty Commission 40 years ago has been an underlying principle of national budgetary support for families. It has been a principle that, until the May 2014 Budget, commanded support from both sides of Parliament for decades and remains just as relevant now as it was when articulated. The substantive point made in the quoted passage from the Productivity Commission remains true: parents should have the ability to choose that one of them will stay at home and care for the children and not engage in employment. It concerns the capacity of families to choose how best they care for their children. The passage is just as relevant today as it was 40 years ago.

42. There are a number of options for parents who have their incomes cut in the expectation that it will, euphemistically, "increase work incentives". More parents may be forced into the search for employment and employment itself. However, parents may take the decision, as the Poverty Commission noted, that the breadwinner would seek another

job or over time. If that is not possible, they may tighten their belts in the interests of their children. For a middle income family (and the FTB B is paid to families where the single breadwinner can earn up to $100,000 per year), this might not be a great burden, but for low income families it can mean living in poverty, or in deeper poverty.

43. A policy to economically coerce stay-at-home mothers and, less frequently, stay-at-home fathers in couple parent families to give up their preferred care of their children and undertake paid work in the workforce may work in some cases, but it is contrary to the history of family support in this country. We do not have to go back more than a century, to the *Harvester Case*, which recognised the need for a wage packet to support a family, to see the recognition of the value of in-home care for children: we need only look at contemporary values pre-dating the May 2014 budget. The coercive approach fails to recognise the value of work caring for children in the home.

44. For the reasons discussed above, there is a substantial argument in support of the view that FTB B should not be means-tested. However, because the policy objective is to support parents having an effective or reasonable choice as to how they will exercise their family responsibilities, we accept that the Parliament might impose a means test on the eligibility for this kind of payment. The means test should be reasonable and proportionate having regard to the circumstances in which families find themselves. Furthermore, any limitation of existing benefits should make out a case based on relevant facts consistent with that principle; ie by a consideration of the support that families need to exercise the choice. There is, we submit an overriding obligation to ensure that families, and children in particular, are provided with an adequate standard of living and that legislative changes do not prejudice the attainment of that objective. We return to this in the discussion of the Bill's compliance with Australia's international obligations.

The increases in FTB B have been very modest

45. Over the 21 years since its effective commencement with the introduction of the HCCA, FTB B, including the annual supplement, has doubled: from $30.00 to $60.20 per week, or 101.0%. That is in excess of the rate of inflation, but not in excess of other indicators. For example:

    - From June 1994 to June 2015, Household Disposable Income, per head and seasonally adjusted, increased from $318.38 per week to $822.84 per week; see *Poverty Lines: Australia, June Quarter 2015*, Melbourne Institute of Applied

Economic and Social Research. On this broad measure of increasing national income, the increase was 158.4%.

- Pensions have increased at a greater rate. On the 1 July 1994 the maximum base rate of pension for a single pensioner was $8,270.60 per year (see *Guide to Social Security Law*, 5.2.2.05) and it is currently $20,553.59 per year (calculated from data on Department of Human Services website, using an annual calculation of 52.14 weeks). This is an increase of 148.5%. The increase in the partnered rate for pensioner couples has been 131.1% (ibid.)
- In May 1994 the measure of Average Weekly Ordinary Time Earnings for full-time adults was $616.00 per week and by May 2015 this figure had increased to $1,484.50; see *Average Weekly Earnings, States and Australia, May 1994* and *Average Weekly Earnings, Australia, May 2015*, both published by the Australian Bureau of Statistics in catalogue series 6302.0. This is an increase of 140.1%

46. Over the 21 years to July 2015 the National Minimum Wage (NMW), and its predecessors, increased from $333.40 per week to $656.90 per week, or 97.0%, only slightly less than the increase in FTB B and its predecessors. (For 1983, see Cowie and Jefferson, *Minimum wage estimates and adjustments in Australia since 1983*, Curtin University, Graduate School of Business, 2010). This is a matter of some concern to ACCER and is a reason for its participation in national annual wage reviews. Low income safety-net dependent workers and their families are relatively worse off now than they were in 1994. However, that comparison needs to take into account a factor that can justify a small degree of this shortfall: increases in the social safety net that protects families can be a legitimate factor in restraining safety net wage growth. As we explain later, part of the reason wages have lagged community wage movements over the past three to four decades has been the increase in family support payments.

47. The proposal to remove FTB B from parents in the manner set out in the Bill is a proposal to remove a benefit that has been in a similar form since 1994, with its antecedents going back decades earlier. In 1994 the payment was $30.00 per week. The Bill seeks to remove that benefit and its legitimate increases since that time. It seeks to do so for the alleged purpose of increasing workforce participation. Over the decades, the possibility that the payment may limit workforce participation has not been a factor in the setting of this benefit; nor should it now. Nothing relevant has changed.

Furthermore, the payment and its current level are not relevant to any claim that budgetary increases since 2000 have been unsustainable. Claims that past budgetary decisions are unsustainable cannot justify any interference with the FTB B provisions, including the FTB B annual supplement.

C. The impact of the Bill on minimum wages

48. Over the past 21 years the increases in the NMW and its predecessors have been of a similar size to the increases in FTB B and its predecessors. The NMW has lagged behind increases in other indicators of increasing community wealth and income partly because of the improvements in the social safety net, especially because of increases in family payments. This reflects a long-term trend in public support for families, principally initiated by the Poverty Commission. It was accompanied by the view that increases in targeted financial support of families from the public purse could also limit wage increases; and do so without doing substantial injustice to those workers without family responsibilities.

49. This has helped us deal with a reality our times: a decent standard of living for workers with family responsibilities cannot be supplied by wages alone in a contemporary globalised economy. Families must be supported by strong social safety nets.

50. In January 2015 a NMW-dependent single breadwinner family of a couple with two children (aged 8 and 12) living in rented premises had a disposable income of $961.70 per week; see Table 2 in the Attachment hereto, which reproduces Table 28 of *Working Australia, 2015: wages, families and poverty*. (*Working Australia, 2015* is an ebook available, free of charge, on ACCER's website: www.accer.asn.au.)

51. The family's disposable income of $961.70 in January 2015 included Government transfer payments of $380.59 per week, which was equal to 39.6% of their disposable income. By contrast, in August 1973 the same kind of family received only 7.7% of its disposable income from Government transfers; *Working Australia, 2015*, Table 11.

52. This large increase has had an impact on the Federal Budget and on minimum wage decisions. An example of the modifying impact of changes in the taxation and transfer arrangements is found in the *Safety Net Review Case 2005*, where the Australian Industrial Relations Commission said:

> [353] We also acknowledge that some of the changes to the income tax and tax transfer system identified by AiG [the Australian Industry Group] have had a beneficial impact on the disposable income of some low-paid employees. We have taken these changes into account in deciding the amount of the safety net adjustment….Consistent with AiG's submission we have not

> taken a mechanistic approach to this issue. Rather, *the social safety net changes have formed part of the broad exercise of judgment we have undertaken to determine the quantum of the safety net adjustment*...." ((*Safety Net Review Case, 2005*, PR002005, emphasis added)

53. The very substantial increase in family payments was not intended to do away with the need for the wage packet to provide support for low income families. Substantial as they are, family transfers do not cover the costs of dependants in these, or any other, households. No government had adopted a policy to cover these costs. The Treasurer, Mr. Hockey, said in his Budget Speech on 13 May 2014:

> "Unlike pensions, which are an income replacement payment, family payments are an income supplement to help with *some* of the costs of raising a family." (Emphasis added)

54. The Bill now before the Parliament seeks to turn back the level of public support for families, with the inevitable result that, if passed, it will put pressure on wages.

55. There is an economic case in support of an increase in family transfers. It keeps down the costs of employment and promotes employment to the extent that employment is responsive to rises or falls in wage costs. Absent family transfers, the costs of family support are imposed on the community through the wages system. Wages impose costs on employers, which are passed on to the community through the price of goods and services. In an economy protected by a tariff system this might occur without undue impact on employment levels. Where an economy is globalised, to some extent or another, wage costs might affect the capacity of individual firms to operate and employ. In these circumstances there is good reason to transfer the costs of family support that is carried by the community through the costs of goods and services to the government's taxes and transfers systems. A moral consequence of the application of the *law of comparative advantage*, which is used to justify increasing trade between countries, is that the benefits of a change in policy and trading relations should be used to support those who are disadvantaged by the changes.

56. Despite the increase in transfer payments over recent decades wage increases have failed to protect many workers and their families against poverty. Section 284(1) of the *Fair Work Act 2009*, provides that the Fair Work Commission (FWC) "must establish and maintain a safety net of fair minimum wages, taking into account [among others] .... relative living standards and the needs of the low paid ....". In its decision of June 2014, the FWC said:

> "Single-earner families that receive the NMW or a low award rate have had declines in their equivalent real disposable income, to the point where today a couple with two children would be in poverty as conventionally measured. Households that rely on earnings as their principal source of income comprise about one-third of all families below a 60 per cent median poverty line." (*Annual Wage Review 2013-14*, paragraph [399])

57. Poverty and its conventional measure, the 60% relative poverty line, had been referred to in the FWC's June 2013 decision in the context of a reference to the statutory obligation on the tribunal to take into account "the needs of the low paid". The FWC said:

> “We accept the point that if the low paid are forced to live in poverty then their needs are not being met. We also accept that our consideration of the needs of the low paid is not limited to those in poverty, as conventionally measured. Those in full-time employment can reasonably expect a standard of living that exceeds poverty levels.” (*Annual Wage Review 2012-13*, paragraph [33], emphasis added.)

58. The FWC accepted that the needs of the low paid are not limited to those in poverty, as conventionally measured. Regrettably, the fact of the matter is that many families in the Australian community are living in poverty has not caused the FWC to target poverty and to do so as a priority. Our criticisms in this regard are set out in *Working Australia, 2015*, especially at Chapter 10, which is a commentary on the FWC's June 2015 decision.

59. There are some who argue that in-work poverty is primarily the responsibility of the social welfare system. ACCER has argued that the terms of the *Fair Work Act* require the FWC to set wages after taking into account the actual level of government support, rather than some desired level of public support for families.

60. There has been no serious discussion within the annual wage review process, or more generally in the community, about the appropriate contributions that should be made by the public purse and the wage packet. The proper integration of the wages and welfare system requires some serious discussion about the respective contributions to be made to the support of low income families; and, crucially, on a better understanding of the income needed to provide workers and their families with a decent standard of living. It is clear that the Bill is not based on any understanding of the incomes that are needed by families in order to achieve an adequate standard of living.

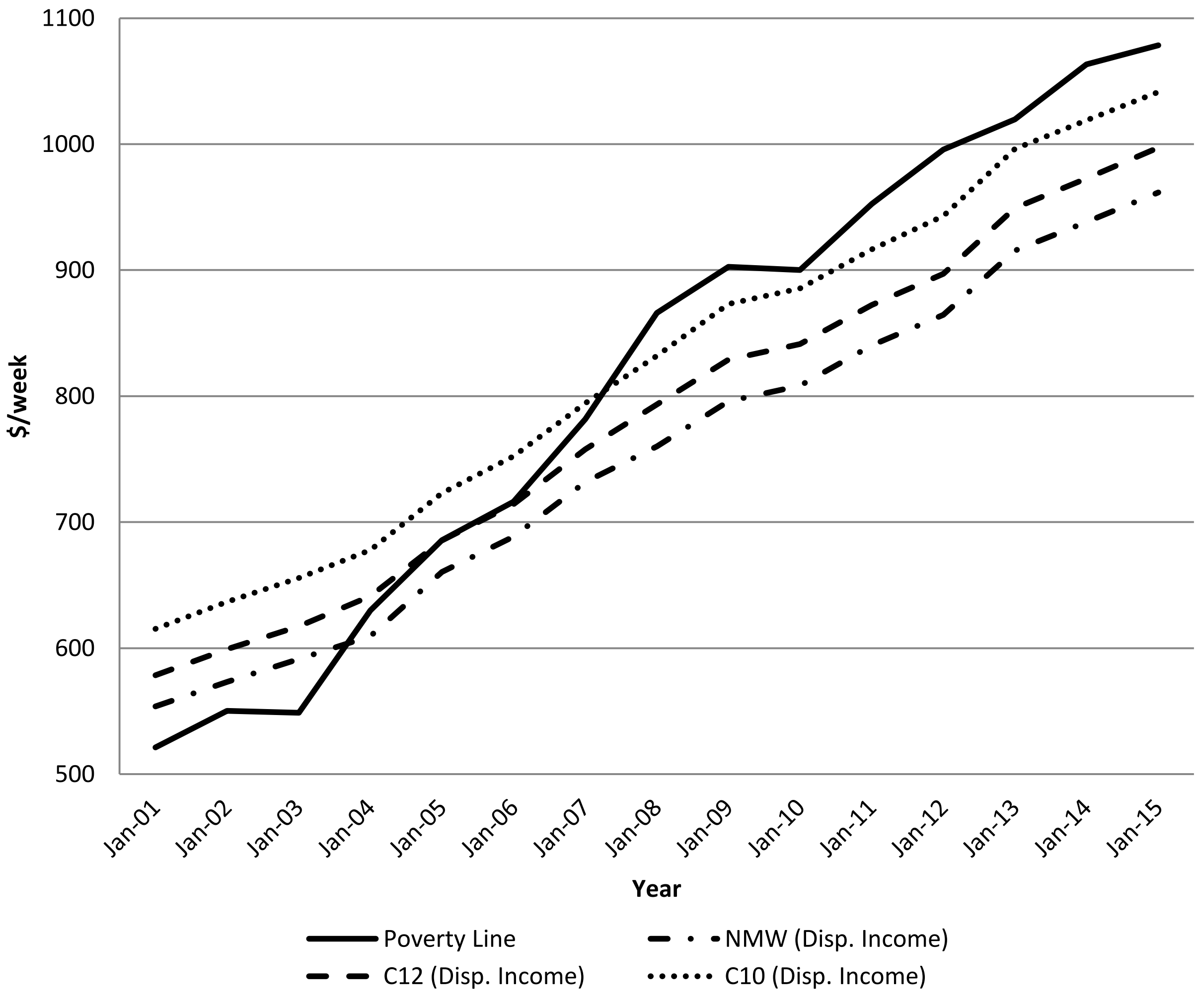
61. The cuts proposed in the Bill, if implemented, would have a significant impact on family living standards and place pressure on the wages system to compensate for those

changes. In the wage bargaining sector, the outcomes would vary. How the FWC should respond in the setting of minimum wage rates would be a matter of debate between the parties in the annual wage reviews. However, what is clear is that the Bill, if enacted, would have the effect increasing poverty levels and lowering the living standards of Australian families.

D. The Bill threatens to increase poverty among low income families

62. The family payments issue raised by the Bill is not just about the recognition of the value of in-home care for children and the provision of choice to parents about how they exercise their parental responsibilities. The Bill threatens to increase poverty levels, not only in families which rely on FTB B but in families generally

Figure 1
Disposable Incomes of Safety Net-dependent Families Relative to Poverty Line
(Couple and two children)
January 2001 – January 2015



63. In Figure 1 we show the relationship between the disposable incomes of three low income single breadwinner couple families, with two children aged 8 and 12, and the 60% relative poverty line over the period January 2001 and January 2015. Although based on children aged 8 and 12, it is also relevant to the impact of the proposal to remove FTB B from couple families where the youngest child is 13 years of age or older.

64. The relative poverty line is based on the data in Table 1 in the Attachment hereto. Table 1 is in similar form to Table 27 in *Working Australia, 2015*, but it has been updated to reflect the more recent data published by the Australian Bureau of Statistics (ABS) on 4 September 2015 in *Household Income and Distribution, 2013-14*, catalogue no. 6523.0. The figures are at 1 January of each year. Table 1 shows the poverty lines for single workers, couples with two children and sole parents with two children. This table uses the modified OECD equivalence scale used by the ABS, which sets the single person at 1.0, a second adult at 0.5 and each child at 0.3. In January 2015 the 60% poverty line for a single adult was calculated on a median equivalised disposable household income of $855.92 per week and was $513.55 per week. For a family of two adults and two children the 60% poverty line was $1,078.46 per week, or 2.1 times the poverty line of the single adult. The 60% poverty line for the sole parent and two children was $821.68 per week, or 1.6 times the single person's.

65. The disposable incomes are set out in Tables 2, 3 and 4 of the Attachment and represent three different minimum wage rates. Those tables reproduce Tables 28, 29 and 30 in *Working Australia, 2015*, where details are given regarding the sources of the data. The figures are at 1 January of each year. The tables provide the detail of the various kinds of family transfers, with the total disposable income calculated for each year. The disposable incomes of single workers are those in the "net" columns. The breadwinner in each family is employed full time and is paid the safety net rate. The family comprises a couple where one parent stays at home to care for two children or a working sole parent with two children. It applies to both kinds of families becuse the transfer payments are the same. The calculations are based on the children being aged 8 to 12. (These are the ages used by the FWC in its Statistical Reports.) In each case the Schoolkids Bonus is included in the FTB A figure on the basis that one child is in primary school and the second child is in secondary school.

66. Because of changes in methodology over the years since this kind of data was first collected in 1994-95, the ABS has advised that earlier years should be used with caution; see *Household Income and Distribution, 2013-14,* Explanatory Notes, paragraph 8, and Working Australia, 2015, paragraph 606. For this reason we have made limited our comparisons in *Working Australia, 2015* to the period January 2004 to January 2015.

67. Using the updated figures published by the ABS in September 2015, we find:
    - the NMW-dependent family of four fell further into poverty: from 3.2% below the poverty line to 10.8% below it, with a poverty gap in January 2015 of $116.76 per week;
    - the C12-dependent family of four fell into poverty: from 1.8% above the poverty line to 7.5% below it, with a poverty gap in January 2015 of $81.29 per week; and
    - the C10-dependent family of four fell into poverty: from 7.6% above the poverty line to 3.4% below it, with a poverty gap in January 2015 of $37.05 per week.

68. The C10 rate in this comparison is significant. It is the rate set for trade-qualified workers. How has it come to be that a skilled worker in Australia is not able to maintain a family at a standard of living in excess of poverty? The Bill proposes to make this situation worse.

69. We can use the figures at January 2015 to provide a guide as to the impact that the Bill would have if it were passed. The figures were set out in section A. The removal of the FTB A annual supplement, partly offset by an increase in the periodic payments, would amount to a loss from 1July 2018 of $9.08 per week for each child, following substantial losses over the two years from 1 July 2016. For the two child family the loss will be $18.16 per week from 1 July 2018. These losses will not be limited to the single breadwinner families represented in Tables 2, 3 and 4. They will be general losses and impact on dual income households, unemployed families, sole parent families and families in which grandparents have the care of their grandchildren.

70. In addition, all families in receipt of FTB B (couples, sole parents and grandparents) will lose $6.79 per week as a result of the removal of the FTB B annual supplement on 1 July 2018, following smaller cuts over the transitional period. This would bring their

total losses to $15.87 per week in the case of one child and $24.95 per week where there are two children.

71. For the families covered by Tables 2, 3 and 4, the effect of these cuts would be a reduction in disposable incomes of $24.95 per week. Those figures would push all families further into poverty. The poverty gap for the NMW-dependent family would rise to $141.71 per week, or 13.1% below the poverty line. For the C12-dependent family, the poverty gap would rise to $106.24 per week (9.9% below the poverty line); and for the C10-dependent family it would rise to $62.00 per week (5.7% below the poverty line).

72. The positions of these families once the youngest child turns 13, and from the end of the year in which the child has turned 13, will deteriorate further. The further loss will be $53.41 per week for the rest of the time that the child attends secondary school. As a consequence the weekly poverty gaps mentioned earlier will increase to $195.12, $159.65 and $115.41, respectively.

73. These figures assume that the breadwinner is employed full time. That is an unrealistic assumption for many Australian families.

Pensions

74. We accept that there is some contention about the use of the 60% relative poverty line as a measure of poverty. A person or a household may fall under the poverty line without being, or appearing to be, in poverty. Having regard to the reasonable expectation that full time workers can expect a standard of living for themselves and their families, the 60% relative poverty line has utility.

75. We should note that rates set for pensioners have them below the 60% relative poverty level. We refer to this at Chapter 8D of Working Australia, 2015. In January 2015, the single pensioner had a disposable income of $493.03 per week. The poverty line for the single person at this time was $513.55 per week (see Table 1), ie the single pensioner was 4.0% below the poverty line. At the same time the couple pensioner had an income of $707.20 per week and a poverty line of 770.32 per week (1.5 times a single person's). This had the couple pensioner at 8.2% below the poverty line. The equivalence scales do not take into account the situations where the costs of work, if any, vary. When one takes into account the costs of work borne by working households and the need to provide some recognition for the performance of work, working families should have a substantial margin above these figures. Currently, they do not, and the position would worsen with the passing of the Bill.

76. We submit that a comparison between the living standards of pensioners and low income families is an important factor in determining what is an adequate living standard for low income families in the Australian context. Those relying on the social welfare safety net should have similar living standards as those who rely on the pension safety net.

77. As a result of review of pensions, new arrangements were introduced in 2009 for the setting and adjustment of pensions. The Commonwealth Government's *Secure and Sustainable Pension Reform* followed the *Pension Review* conducted by Dr Jeff Harmer, the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs. A central part of that review was to identify a pension rate that provides "a basic acceptable standard of living" for those who are rely on it. While there may be debate in the community about whether or not the current pension safety net leaves pensioners in poverty, the assessment by the Government in 2009 of what is a basic acceptable standard of living for pensioners is relevant to the estimation of a basic acceptable standard of living for low income working families, and the family payments that are needed to achieve that standard. The ABS has substantial expertise in these matters and is one of the world's leading authorities on the measurement of living standards, including the estimation of relative living standards between different groups. This is a matter on which advice could be sought.

78. Even without further material on these matters, we know that, by reference to the living standards set for pensioners, many low income working families do not have a basic acceptable standard of living. The Bill would worsen that situation; and its proposals to cut current living standards should be rejected.

E. Has society changed: do more parents choose to work?

79. It is sometimes said that our society has changed and that the single breadwinner family is not as common as it was a generation or two ago. The implication of this argument is that because more couple families chose to have both of them working that the principle of choice as to how parents exercise their parental responsibilities is qualified. It is implied in this argument that it is now permissible to withdraw traditional supports for families and place some economic coercion on all couple families, and especially low income couple families, for both of them to work. If the principle is correct, as we say it is, it does not matter if, for example, the proportion of single breadwinner families has fallen from 70% to 60% of couple families since Prime Minister Keating's

launch of the International Year of the Family in December 1993 or since Prime Minister Howard announced his families policy in September 2004.

80. Workforce participation has become a golden calf for some public policy advocates and a cover for those who simply want to cut government expenditure, especially on the neediest sections of the community. The advocacy for greater workforce participation often contains the notion that employment "would be good for them". This "we know best" kind of thinking is inconsistent with the rights of parents to make their own decisions.

81. The current provisions of FTB B recognise that principal carers will want to or need to work. They do not inhibit workforce participation. In fact , they provide some support for those who are considering taking up paid employment. The fact that a principal carer can earn $5,402 per annum without a cut to the benefit and lose the benefit only at the rate of 20 cents for each dollar earned over that figure is evidence that FTB B operates quite consistently with any changes in the views of parents regarding both of them being employed and changing workforce patterns. The scheme does not inhibit significant part time work. Indeed, the 20% rate of deduction provides incentive for those who want to work more hours having regard to their family circumstances and future job prospects. These provisions encourage, and not discourage, parents who wish to return to the paid workforce when family circumstances permit. If there is a need for further workforce participation, and not simply a wish to cut expenditure, the first consideration should be increasing the amount at which FTB B payments will be reduced. If there is a genuine desire for increased workforce participation, carrots and not sticks should be used.

82. The extent to which changes in family working arrangements have occurred may vary significantly across the income groups. There is no doubt that among families where both parents work in order to maintain their longer term job prospects, and do so in the best interests of the family. But in other families, low income families, paid work by the second parent is regarded a necessity in order to provide basic needs for children to avoid poverty.

83. What we do know, however, is that there is substantial pressure on low income families for the principal carer to seek employment. Tables 1 to 4 and Figure 1 demonstrate this. Over the last decade, at least, it has been getting harder for families to maintain their living standards. It is apparent that many families have two breadwinners because wages and family payments are insufficient.

The predominance of single breadwinner families

84. Despite these economic pressures on families single breadwinner families are much more common among low income families. In the Table 5 we have reproduced Table 32 of *Working Australia, 2015*. The sources and context of this data is explained in Chapter 5F of the book. Table 5 provides evidence about the extent of poverty among low income working families and an employment profile of those families. It draws a distinction between those with incomes of less than $1,000 per week and those with incomes of $1,000 or more per week. For reasons given in the book, all of the people covered by the "less than $1000.00" column in the table were in households under the 60% relative poverty line, subject, of course, to the accuracy of the individual returns.

85. Table 5 in the Attachment hereto shows that 106,223 families, or 13.5% of all families, were living in poverty. This amounts to almost 424,892 people, half of them children. The number with at least one full time breadwinner was 55,020. This means that just over 110,000 children were living in poverty even though there was a full time worker in the home. In addition, there were 25,094 families where one or both of the parents worked part time (and disregarding part time employment where there was one parent working full time). In contemporary Australia, full time work is not necessarily a path out of poverty; but it should be.

86. The second purpose of Table 5 is to provide evidence of the working profiles of low income families. It shows the number of single breadwinner families living in poverty and classifies the total number according to the working arrangements of the parents in families with two children.

87. Table 5 shows that 39.7% were single breadwinner families. If the number of families in which the single breadwinner was unemployed or "away from work", is added that percentage rises to 47.4%. By comparison, 20.3% of the families had more than one full time worker. If one adds in families where the second breadwinner was unemployed or away from work, that figure rises to 25.2%. In 13.4% of the households both parents were not in the labour force. In 6.3% both parents worked part time.

88. Among couple parent families with two children living in poverty the number of single full time breadwinner families out-number the families with more than a full time breadwinner by almost two to one: 39.7% to 20.3%; or, on the broader classification, 47.4% to 25.2%.

89. We can see from these figures that the majority of low income families living in poverty are entitled to FTB B under the current arrangements. It has to be 60.8%

(47.4% and 13.4%), but it would not be more that 79.7% because in 20.3% of households both parents worked full time. The rest is uncertain because the relevant categories cover part time employees who may qualify for the full FTB B payment, a partial FTB B payment, or no FTB B payment. The figures do not disclose how many families have the younger student aged over 13, but over the years, this will occur in all families. We explained earlier how the proposed exclusion of couple parent families would exclude them from FTB B for the last five years of secondary school. An even distribution of ages over the eighteen years to the end of secondary school would exclude a large proportion of these families from the FTB B benefits.

Sole parents

90. It will be apparent from Tables 1 and 2 that the sole parent family has a higher standard of living than the couple parent family by virtue of the same level of family payments being paid to both households. If we use the equivalence scales used by the OECD, and by the FWC, the sole parent family is 17.0% above the poverty line, compared to the family of four being 10.8% below the poverty line. However, the equivalence scales do not take into account child care costs, which must be borne by the sole parent. Even with government subsidies for childcare, child care expenses can drive sole parents into poverty and/or inadequate childcare arrangements. This is a point that we have made in successive annual wage reviews, with no apparent response. The figures show that there is no reason to deny couple parent families the limited FTB B support proposed for sole parents while the youngest child is aged 13 to 16.

F. Human Rights Issues

91. The Parliamentary Joint Committee on Human Rights (Committee) delivered the *Thirtieth Report of the 44th Parliament* on 10 November 2010, a human rights scrutiny report made pursuant to the *Human Rights (Parliamentary Scrutiny) Act 2011*. Included in the report is a consideration of the provisions of the *Social Services legislation Amendment (Family Payments Structural reform and participation Measures) Bill 2015*; see pages 53-60. The Committee considered the terms of the Bill under two headings: the reduced rate of FTB B, at 1.260 to 1.279, and the removal of family tax benefit supplements, at 1.280 to 1.297. In both sections particular emphasis was given to the terms of the *International Covenant on Economic, Social and Cultural Rights* (Covenant). After considering these instruments and the terms of the Bill, the Committee has identified serious shortcomings in the statements of compatibility with human rights included in the *Explanatory Memorandum*.

92. In regard to FTB B the Committee considered the application of the terms of Articles 2(1), 9 and 11(1) of the Covenant. Included in Article 2(1) is the obligation to ensure that the right to social security is "made available in a non-discriminatory way" (paragraph 1.264). The substantive right to social security is found in Article 9. Article 11 concerns "the right of everyone to an adequate standard of living for himself and his family". The committee formed a view:

> "The committee considers that these changes to FTB Part B engages and limits the right to social security and right to an adequate standard of living." (1.261)

93. After expressing this view the Committee set out its reasoning. The discussion of the right to social security included references to the right to have social security made available in a non-discriminatory way and the inclusion of family and child support in the right to social security. In regard to the right to social security the Committee has sought the advice of the Minister for Social Service (Minister) on several matters that would justify the limit on the right to social security (1.271). In relation to the right to an adequate standard of living, further advice is also sought from the Minister (1.279).

94. In regard to the FTB A and FTB B supplements, the Committee considered the application of the terms of Articles 9 and 11(1), ie the right to social security and the right to an adequate standard of living. It concluded that "the removal of family tax benefit supplements engages and limits the right to social security" and that the "statement of compatibility [included in the *Explanatory Memorandum*] does not sufficiently justify that limitation for the purposes of international human rights law". Further advice has been sought from the Minister. A similar conclusion was expressed in relation to the assessment by reference to the right to an adequate standard of living: and, again, a request for advice from the Minister.

Discrimination in the Bill

95. The Committee reference to the non-discriminatory provisions of the Article 9 appears to relate to the provisions that limit the amount payable and the ages at which the reduced amount is to be paid and the exclusion of couple families from even those limited benefits. The request for advice from the Minister covers both aspects.

96. The Bill discriminates against couple families and the children of couple families as a result of their exclusion from the provision of benefits that apply to sole parents and grandparents. There is a reference to the differential treatment of the couple parent families and sole parent families in the Minister's second reading speech. The basis on

which sole parents are provided with a benefit not provided to couple parents is in this passage in the second reading speech:

> "...we also recognise that sometimes it is difficult for single parents to transition to work, even when their youngest children are into secondary school, and this is why we are applying different payment assistance for these categories once the relevant children turns 13, providing them with some additional appropriate assistance while they prepare to re-enter the workforce."

97. This cannot be a proper basis for the discrimination against couple parent families. The Committee has provided the Minister with an opportunity to respond to explain and elaborate these matters. If there is a response it should explain the difficulties to which the Minister refers and what is meant by "sometimes". In the event that the Community Affairs Legislation Committee is still considering these issues following the Minister's response, ACCER will seek the opportunity to respond to the advice from the Minister on these and the other matters raised in the Committee's report.

98. Any attempt to justify the differential treatment of parents and their children should be by reference to living standards and measures by which relative living standards can be assessed in the case of sole parent and couple parent families. We expect that an objective assessment of the living standards of low income couple parent and sole parent families will demonstrate that, by reference to similar measures of community living standards, both kinds of families are not provided with an adequate standard of living at present and that both will be substantially worse off if the legislation is enacted.

Convention on the Rights of the Child

99. ACCER also relies on several provisions in the *Convention on the Rights of the Child* (Convention) in regard to the discrimination in the Bill against parents with older children and the children themselves and the particular discrimination against couple parents and their children.

100. The Convention is relevant to the issues raised by the Bill because what is proposed by the withdrawal of FTB B from the families by reference to the age of their children is discrimination against children on the basis of age and, in regard to the differential treatment of couple parent and sole parent families, is discrimination against children on the basis of the parent's status.

101. Under Article 1 of the Convention "a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier".

The children intended to be excluded from the benefits of FTB B, which enable a parent to provide care to the children, are excluded by reason of their age.

102. Article 2 protects a child against discrimination on the basis the status of his or her parents.

> 1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
> 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

103. Article 26 gives a right to every child to the right to benefit from social security. Australia is obliged to into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child. To deny the child a benefit generally available other children is, *prima facie*, contrary to Article 26. There may be a justification for differential treatment according to age, but the relevant grounds would need to be demonstrated. Article 26 provides:

> "1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
> 2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child."

104. Article 27 recognises the right of a child an adequate standard of living, the responsibilities of parents and the obligation on States Parties to take appropriate measures to assist parents and others responsible for the child to implement the right to an adequate standard of living. The adoption of an arbitrary age, which excludes children from the supports conducive to the attainment of this outcome is inconsistent with the Convention. Article 27 includes:

> "1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
> 2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
> 3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance

> and support programmes, particularly with regard to nutrition, clothing and housing."

105. ACCER submits that the terms of the Covenant and the Convention make it clear that the changes proposed by the Bill to limit eligibility to FTB B and to remove the FTB A and FTB B supplements are inconsistent with Australia's obligations under those instruments.

Attachment

Table 1

Poverty lines for workers and families

January 2001 – January 2015

($ per week)

	Median equivalised disposable household income	Poverty Line Single	Poverty Line Couple and 2 children	Poverty Line Sole parent and 2 children
January 2001	413.59	248.15	521.16	397.04
January 2002	436.58	261.95	550.09	419.12
January 2003	435.48	261.29	548.70	418.06
January 2004	499.98	299.99	629.97	479.98
January 2005	544.20	326.52	685.69	522.43
January 2006	568.43	341.06	716.22	545.69
January 2007	620.43	372.26	781.74	595.61
January 2008	687.42	412.45	866.15	659.92
January 2009	716.28	429.77	902.51	687.63
January 2010	714.27	428.56	899.98	685.70
January 2011	756.09	453.65	952.67	725.85
January 2012	790.16	474.10	995.60	758.55
January 2013	809.30	485.58	1,019.72	776.93
January 2014	844.00	506.40	1,063.44	810.24
January 2015	855.92	513.55	1,078.46	821.68

Table 2
Wages, taxes and family payments for NMW-dependent workers and families
January 2001 –January 2015
($ per week)

Year	NMW Per week	NMW Per year	NMW Net, per week	Medicare exemption	FTB A	FTB B	FTB A Supp.	FTB B Supp.	Rental assist. max.	Disposable income
2001	400.40	20,893	346.38	6.00	116.20	34.79	-	-	50.43	553.80
2002	413.40	21,571	354.76	6.20	122.92	36.82	-	-	52.46	573.16
2003	431.40	22,510	366.37	6.47	126.70	37.94	-	-	53.93	591.41
2004	448.40	23,397	377.93	6.73	130.48	39.06	-	-	55.40	609.60
2005	467.40	24,389	396.78	7.01	133.56	39.97	23.50	2.87	56.80	660.49
2006	484.40	25,276	412.84	7.27	139.06	41.02	24.06	5.88	58.27	688.40
2007	511.86	26,709	449.93	7.68	140.84	42.14	24.76	6.02	60.58	731.95
2008	522.12	27,244	467.59	7.83	147.46	43.54	25.60	6.23	61.84	760.09
2009	543.78	28,374	494.29	8.16	151.34	44.87	26.20	6.44	64.63	795.93
2010	543.78	28,374	497.17	8.16	156.94	46.55	27.28	6.65	65.61	808.36
2011	569.90	29,737	521.86	8.55	160.30	47.53	27.84	6.79	67.57	840.44
2012	589.30	30,750	537.49	8.84	164.64	48.79	27.84	6.79	70.02	864.41
2013	606.40	31,642	556.87	9.10	193.25	50.53	27.84	6.79	71.16	915.54
2014	622.20	32,466	569.44	9.33	199.74	52.26	27.84	6.79	72.84	938.24
2015	640.90	33,442	581.11	12.82	204.51	53.66	27.84	6.79	74.97	961.70

Table 3
Wages, taxes and family payments for C12-dependent workers and families
January 2001 – January 2015
($ per week)

Year	C12	C12 per	C12 net	Medicare exemptio	FTB A	FTB B	FTB A Supp.	FTB B Supp.	Renta l assist	Disposable income
2001	439.60	22,938	370.50	6.59	116.20	34.79	-	-	50.43	578.51
2002	452.60	23,617	380.05	6.79	122.92	36.82	-	-	52.46	599.04
2003	470.60	24,556	391.74	7.06	126.70	37.94	-	-	53.93	617.37
2004	487.60	25,443	408.93	7.31	130.48	39.06	-	-	55.40	641.18
2005	506.60	26,434	421.18	7.60	133.56	39.97	23.50	2.87	56.80	685.48
2006	523.60	27,321	438.14	7.85	139.06	41.02	24.06	5.88	58.27	714.28
2007	551.00	28,751	475.17	8.26	140.84	42.14	24.76	6.02	60.58	757.77
2008	561.26	29,287	500.28	8.42	147.46	43.54	25.60	6.23	61.84	793.37
2009	582.92	30,417	526.67	8.74	151.34	44.87	26.20	6.44	64.63	828.89
2010	582.92	30,417	529.54	8.74	156.94	46.55	27.28	6.65	65.61	841.31
2011	609.00	31,778	553.15	9.14	160.30	47.53	27.84	6.79	67.57	872.32
2012	629.70	32,857	569.59	9.45	164.64	48.79	27.84	6.79	70.02	897.12
2013	648.00	33,813	589.96	9.72	193.25	50.53	27.84	6.79	71.16	949.25
2014	664.80	34,689	603.31	9.97	199.74	52.56	27.84	6.79	72.84	972.75
2015	684.70	35,727	615.71	13.69	204.51	53.66	27.84	6.79	74.97	997.17

Table 4
Wages, taxes and family payments for C10-dependent workers and families
January 2001 – January 2015
($ per week)

Year	C10	C10 per	C10 net	Medicare exemption	FTB A	FTB B	FTB A Supp.	FTB B Supp.	Rental assist. max	Disposable income
2001	492.20	25,683	406.53	7.38	116.20	34.79	-	-	50.43	615.33
2002	507.20	26,466	416.81	7.61	122.92	36.82	-	-	52.46	636.62
2003	525.20	27,405	429.14	7.88	126.70	37.94	-	-	53.93	655.59
2004	542.20	28,292	444.77	8.13	130.48	39.06	-	-	55.40	677.84
2005	561.20	29,283	457.78	8.42	133.56	39.97	23.50	2.87	56.80	722.90
2006	578.20	30,170	475.40	8.67	139.06	41.02	24.06	5.88	58.27	752.36
2007	605.56	31,598	510.94	9.08	140.84	42.14	24.76	6.02	60.58	794.36
2008	615.82	32,133	538.06	9.24	147.46	43.54	25.60	6.23	61.84	831.97
2009	637.48	33,263	570.03	9.56	151.34	44.87	26.20	6.44	64.63	873.07
2010	637.48	33,263	572.90	9.56	156.94	46.55	27.28	6.65	65.61	885.49
2011	663.60	34,627	596.56	9.95	160.30	47.53	27.84	6.79	67.57	916.54
2012	686.20	35,806	614.52	10.29	164.64	48.79	27.84	6.79	70.02	942.89
2013	706.10	36,844	636.14	10.59	193.25	50.53	27.84	6.79	71.16	996.30
2014	724.50	37,804	648.47	10.87	199.74	52.56	27.84	6.79	72.84	1018.81
2015	746.20	38,936	658.72	14.92	204.51	53.66	27.84	6.79	74.97	1041.41

Table 5

Working arrangements of couple parent families with two dependent children August 2011

		Total income less than $1000.00 per week	Total income $1,000.00 per week or more	Total families
1	One full time and other not in labour force	28,300 (26.6%)	130,757 (19.2%)	159,057 (20.2%)
2	One part time and other not in labour force	13,942 (13.1%)	12,095 (1.8%)	26,037 (3.3%)
3	One away from work and other not in labour force	3,038 (2.9%)	5,621 (0.8%)	8,659 (1.3%)
4	One unemployed and other not in labour force	5,061 (4.8%)	1,774 (0.3%)	6,835 (0.9%)
5	Both not in labour force	14,197 (13.4%)	5,937 (0.9%)	20,134 (2.6%)
6	Both full time	5,937 (5.6%)	162,074 (23.7%)	168,011 (21.3%)
7	One full time and other part time	15,580 (14.7%)	274,579 (40.2%)	290,159 (36.8%)
8	Both part time	6,712 (6.3%)	22,376 (3.3%)	29,088 (3.7%)
9	Both (employed and) away from work	731 (0.7%)	7,024 (1.0%)	7,755 (1.0%)
10	One away from work and other unemployed	431 (0.4%)	774 (0.1%)	1,205 (0.2%)
11	One part time and other away from work	1,276 (1.2%)	10,151 (1.5%)	11,427 1.4(%)
12	One full time and other away from work	1,407 (1.3%)	27,136 (4.0%)	28,543 (%)
13	One full time and other unemployed	3,796 (3.6%)	16,018 (2.3%)	19,814 (2.5%)
14	One part time and other unemployed	3,164 (3.0%)	2,809 (0.4%)	5,973 (0.8%)
15	Both unemployed	1,794 (1.7%)	547 (0.1%)	2,341 (0.3%)
16	Status of one or both not stated	857 (0.8%)	1,262 (0.2%)	2,119 (0.3%)
Total		106,223 (100%)	680,914 (100%)	787,137 (100%)