Australian Government

Australian Government response to the
Senate Community Affairs Legislation Committee report:

Inquiry into the Social Services Legislation Amendment (Payment Integrity) Bill 2017

March 2018

Introduction

The Australian Government welcomes the Senate Community Affairs Legislation Committee (the Committee's) report to the Inquiry into the Social Services Legislation Amendment (Payment Integrity) Bill 2017 (the Bill).

The Bill implements changes to:

- **Schedule 1**: Enhanced residency requirements for pensioners
- **Schedule 2**: Stopping the payment of pension supplement after 6 weeks overseas
- **Schedule 3**: Taper rate for Part A rate of family tax benefit (Method 2)
- **Schedule 4**: Liquid assets test waiting period

On 22 June 2017 the Senate referred the Bill to the Committee for inquiry with the report tabled on 7 September 2017. The Committee received 14 submissions and held public hearings in Sydney on 30 August 2017 and Melbourne on 31 August 2017.

Submitters provided feedback in written submissions and in oral evidence to the Committee covering all measures.

The Committee recommended that the Bill be passed. The Australian Government supports this position. Dissenting Reports by Australian Labor Party Senators and the Australian Greens recommended that the Bill not be passed. Further detail is provided on the following pages.

Inquiry into the Social Services Legislation Amendment (Payment Integrity) Bill 2017 (the Bill)

Recommendations made by the Committee

1. The Committee recommends the information regarding the Bill provided by the Minister to the Senate Standing Committee for the Scrutiny of Bills be included in the Explanatory Memorandum to assist in interpretation of the Bill

Government Response: Supported

The Government thanks the Senate Community Affairs Legislation Committee for its report on the Bill and its recommendations that the Bill be passed and that the Explanatory Memorandum to the Bill be updated to include information provided to the Senate Standing Committee for the Scrutiny of Bills.

An addendum to the Explanatory Memorandum relating to Schedules 1 and 2 of the Bill is being progressed. The addendum responds to comments raised by the Senate Standing Committee for the Scrutiny of Bills in Scrutiny Digest No. 8, dated 9 August 2017 and addresses dissenting reports from the Australian Labor Party and the Australian Greens who recommended that the Senate not pass the Bill.

The Government noted the dissenting reports from the Australian Labor Party and the Australian Greens who recommended that the Senate not pass the Bill. However, the Government considers that the four measures introduced by this Bill are essential to improving the sustainability of the Australian welfare system.

2. The Committee recommends the Bill be passed

Government Response: Supported

The Bill introduces four measures designed to improve the integrity and sustainability of the welfare payments system by reinforcing the residency based nature of Australia's welfare system and encouraging greater self-reliance where it is fair and reasonable to do so.

The Government is committed to ensuring our welfare system is fair and sustainable so that we can continue to support those who need it most both now and into the future. Together the measures in this Bill are estimated to improve the Budget bottom line by around $800 million over the forward estimates, and contribute to the Government restricting real growth in Government payments to 1.9 per cent.

While Australia's welfare system is already highly targeted, prudent changes, such as those contained in this Bill, are required to maintain the sustainability of the system in the longer-term. Without sensible decisions to keep spending under control, the next generation of Australians will be left with more debt to repay and higher taxes.

These measures include:

- **Schedule 1: Enhanced residency requirements for pensioners**

  From 1 July 2018, the first measure in this Bill will strengthen the residency requirements for the Age Pension and Disability Support Pension (DSP).

  Currently, to qualify for the Age Pension or DSP, a person must be an Australian resident for a total of 10 years, with at least five of those years being continuous.

  However, there is no requirement for those 10 years to be during a person's working life – that is, between 16 years of age and Age Pension age – or for a person to demonstrate self-sufficiency during that time.

  The current residency requirements are generous when compared to the qualifying contribution periods required to receive a pension in other countries. There are examples of OECD countries requiring greater than 10-years' contributions in order to receive a part pension.

  Under this measure, a person who qualifies for the Age Pension or DSP will be required to have 10 years continuous Australian residence and either:

  - five years of this residence during their working life; or
  - greater than five cumulative years residence while not in receipt of an activity tested income support payment.

  Where a person does not meet either of these requirements, they will need to have 15 years continuous Australian residence.

  Australia's social security system is based on the principles of need and residency. This measure reinforces and strengthens the residence connection required before a person can qualify for the Age Pension or DSP by increasing the continuous period a person must be an Australian resident.

  This measure strengthens the notion that the retirement costs of a person should be fairly distributed between countries where the person has lived and worked during their working life. The Age Pension and DSP are payments made for the long-term and once granted are generally paid for the remainder of a person's life. This measure ensures that these long term payments are linked to a period of ongoing connection to Australia through residence.

  In addition, this measure addresses concerns raised by the Productivity Commission (Report No. 77, 13 April 2016, Migrant Intake into Australia) regarding the cost of parent migrants who have not resided in Australia during any part of their working lives and who subsequently receive Australian social security payments to financially support themselves in their retirement.

  The community reasonably expects that those choosing to migrate to Australia should be self sufficient to the greatest extent possible. Currently parent migration requires sponsorship by a person residing in Australia through the Assurance of Support program.

The measure also contains provisions that will ensure migrants subject to an Assurance of Support can access the Age Pension or DSP. An Assurance of Support is given for migrants who enter Australia under certain visa types. It is a commitment by an Australian resident to repay certain social security payments that have been paid to migrants during their Assurance of Support period. Under this measure, where an individual receives an income support payment while under an Assurance of Support, the time spent in receipt of that payment will not be included as time in receipt of an income tested income support program.

There are also 31 International Social Security Agreements which allow people to combine periods of residence in Australia with eligible overseas residence, for the purposes of meeting pension residence requirements in Australia.

Existing exemptions to the residency requirements for Age Pension and DSP will remain, such as for humanitarian and refugee entrants or, in relation to DSP, where a person incurs a continuing inability to work after arrival in Australia.

Around 98 per cent of people applying for the Age Pension or DSP will be unaffected by this measure. Most people claiming Age Pension will already have sufficient residency because they were born in Australia and/or lived here for many years prior to reaching Age Pension age.

In relation to DSP, the vast majority of recipients are eligible for an exemption from the residence requirements due to suffering their continuing inability to work after migrating to Australia.

- **Schedule 2: Stopping the payment of pension supplement after 6 weeks overseas**

  The second measure in the Bill will cease payment of the Basic Amount of the Pension Supplement for recipients outside of Australia after six weeks for temporary absences from Australia or immediately if the recipient has permanently departed Australia.

  As part of the Pension Reform Package in September 2009, the Pension Supplement combined into a single payment the value of Telephone Allowance, Utilities Allowance, Pharmaceutical Allowance and the GST Supplement.

  The Basic Amount of the Pension Supplement is equivalent to the former GST Supplement which was introduced in 2000 to compensate recipients for increases in the costs of living as a result of the GST.

  The Basic Amount of the Pension Supplement is currently $23.10 per fortnight for singles and $38.00 per fortnight combined for couples (as at 20 September 2017).

  Currently, if a recipient goes overseas, their Pension Supplement is reduced to the Basic Amount after six weeks temporary absence from Australia, or immediately for permanent departures.

  Under this measure, no Pension Supplement will be paid if a recipient has been overseas temporarily for six weeks or has permanently left Australia.

It is important to note that Age Pension recipients, and a small number of pension recipients with indefinite portability will continue to receive their pension overseas indefinitely. Their basic rate of pension, which does not include Pension Supplement, will continue to be paid up to 26 weeks temporary absence after which it may be adjusted to reflect their working life residence.

The Basic Amount of the Pension Supplement generally represents only a small proportion of a person's full rate of income support and was designed to assist with the cost of living in Australia. There is no economic reason to continue to compensate recipients for the impact of the GST while they are overseas for anytime longer than a short term absence.

Income support recipients who are outside of Australia for more than six weeks, or who leave Australia permanently, are not likely to be impacted by the Australian GST and therefore it is no longer appropriate to continue to provide them with the Pension Supplement Basic Amount.

This measure reinforces the residence based nature of the Australian social security system and contributes to the ongoing sustainability of the social welfare system.

It is recognised that recipients who travel overseas for short periods may have ongoing financial commitments in Australia; however, six weeks is considered a reasonable period of time for these costs to be partially offset by the Australian taxpayer. This change will align the Pension Supplement with the portability arrangements for most other income support payments, which cease at six weeks. On 1 January 2013 portability periods for most working age payments reduced from 13 to six weeks and Family Tax Benefit Part A portability was reduced to six weeks on 1 July 2016.

- **Schedule 3: Taper rate for Part A rate of family tax benefit (Method 2)**

From 1 July 2018, the third measure in the Bill will introduce more consistent income testing of Family Tax Benefit Part A payments for higher income families. This will help to ensure that these payments are targeted to those families most in need.

Currently, there are two different approaches to income testing for higher income families receiving Family Tax Benefit Part A, with the test that results in the higher rate applied.

The first test, known as the maximum rate income test, reduces (tapers) the maximum rate by 20 cents for each dollar over the Lower Income Free Area (currently $52,706).

The second test, known as the base rate income test, reduces the base rate by 30 cents for each dollar over the Higher Income Free Area (currently $94,316). This applies until the payment is nil.

From 1 July 2018, the income test taper for the first test (the maximum rate income test) will increase from 20 to 30 cents for each dollar beyond the Higher Income Free Area (currently $94,316). This will bring it into line with families assessed under the base rate income test, who are already subject to a 30 cent taper. This means that the amount of Family Tax Benefit Part A payable will reduce by 30 cents for every dollar above $94,316, irrespective of which test a family is assessed under.

The maximum rate income test taper will remain at 20 cents in the dollar for the assessment of all income between the Lower Income Free Area ($52,706) and the Higher Income Free Area.

This change will ensure that all families, whether they are assessed under the base rate or maximum rate test and regardless of how many children they have, are treated the same once their income exceeds $94,316.

The Government remains committed to helping parents balance their work and family responsibilities through a range of programs and payments but this must necessarily be balanced with the responsibility to ensure family assistance and social security payments are well targeted and sustainable into the future.

This change will only affect higher income families, who receive a lower rate of payment than lower income families, and are better equipped to absorb the effects of the changes.

This measure will improve the sustainability of the family payments system over the long term, while continuing to provide assistance to families in need.

The Government's commitment to improved child care, in conjunction with the Paid Parental Leave Scheme and Family Tax Benefit payments, ensures that parents with young children receive support to care for and raise their children. The Government's $37 billion investment in child care support over the next four years will provide genuine and much needed reform to make child care more affordable, accessible and flexible and the majority of Australian families balancing work and parenting responsibilities will benefit from the new system.

We will continue to support Australian families, but will do so in a way that is fiscally responsible, by ensuring financial assistance is provided to those most in need while also encouraging self-provision.

- **Schedule 4: Liquid Assets Test Waiting Period**

  The final measure in this Bill will increase the maximum Liquid Assets Waiting Period from 13 weeks to 26 weeks for new income support claimants from 20 September 2018.

  This measure does not apply to people with low or modest amounts of liquid assets. The extended Liquid Assets Waiting Period will only apply to those whose liquid assets are significant enough that they would serve the maximum waiting period under current rules.

  Under this change, the new maximum 26 week Liquid Assets Waiting Period will apply to:

  - a single person with more than $18,000 in liquid assets, and
  - a partnered person or a single person with dependent children with more than $36,000.

  In 2016-17, the liquid assets held on average by a person serving the maximum 13 week Liquid Assets Waiting Period was in the order of $67,000. This indicates that many claimants have greater capacity to support themselves than the current Liquid Assets Waiting Period recognises.

The Liquid Assets Waiting Period is a long-standing feature of the payments system. It helps to ensure that people with the means to support themselves do so for a period, before relying on tax-payer funded income support.

The Liquid Assets Waiting Period is the period of time that a person claiming Newstart Allowance, Sickness Allowance, Youth Allowance or Austudy is expected to use their liquid assets – such as cash, bank deposits and shares – for self-support before they can begin receiving payment. Liquid assets do not include superannuation or termination payments that have or will be rolled over. Contrary to claims made by the Australian Labor Party and The Australian Greens, where a person has not been paid payments owed to them by their former employer, they are not treated as a liquid asset.

A Liquid Assets Waiting Period applies if a person's liquid assets are equal to or exceed:

- $5,500 for single people with no dependent children, or
- $11,000 for couples and people with dependent children.

Currently, the Liquid Assets Waiting Period may be between one and 13 weeks, depending on the amount of cash or other liquid assets the person has. The length of the waiting period increases by one week for every $500 held above the threshold for single people with no children or $1,000 for couples and people with children

For example, a single person with no children and $5,500 in liquid assets would serve a one week Liquid Assets Waiting Period; a person with $6,000 would serve two weeks.

Currently, the maximum Liquid Assets Waiting Period is capped at 13 weeks. The maximum waiting period applies if a person's liquid assets are equal to or above $11,500 if they are single with no children; or $23,000 if they are partnered or have children.

The maximum length of the Liquid Assets Waiting Period was set at 13 weeks in 1997, and has not changed since then. By contrast, the average level of liquid assets held by claimants has risen considerably.

Under this measure, the maximum length of the Liquid Assets Waiting Period will now be capped at 26 weeks. This is designed to encourage those with greater means, to support themselves for longer before receiving payment. It ensures that the Liquid Assets Waiting Period better reflects the current profile of claimants and their capacity to support themselves. It also better targets access to payment to those who have limited other means of support and are more in need of immediate assistance.

Claimants serving a Liquid Assets Waiting period may be eligible for certain employment services program, including jobactive. Job seekers entitled to work in Australia are able to access help from a jobactive provider, as a volunteer, for up to six months. This ensures that claimants have access to help to find sustainable work.

Claims lodged on or after 20 September 2018, will be subject to the new maximum length for the Liquid Assets Waiting Period. Claimants already serving a Liquid Assets Waiting Period on 20 September 2018 will not have their Liquid Assets Waiting Period extended.

Only the maximum length of the Liquid Assets Waiting Period is changing. The thresholds at which the Liquid Assets Waiting Period applies will stay the same at $5,500 for singles with no children and $11,000 for others. These thresholds ensure that people are able to retain an appropriate level of savings to meet the costs of finding and securing work, as well as any unexpected expenses that may arise.

The existing range of exemptions from the Liquid Assets Waiting Period will also remain in place, including for people who experience severe financial hardship through having incurred reasonable or unavoidable expenditure. This ensures that people can still access income support if their financial circumstances change and they are no longer able to support themselves.

The definition of unavoidable and reasonable expenditure will remain unchanged. Unexpected expenses include things like replacing essential white goods, funeral expenses, essential repairs to car or home, medical expenses, school expenses and motor vehicle registration.

As students often work for a period before commencing study to earn money which is saved for use during the semester on major expenses, full-time students claiming Youth Allowance or Austudy will still be able to reduce their liquid assets by certain allowable deductions directly related to their course of study. This ensures that students are able to retain the savings they need to pay for their studies.

It is also important to note that superannuation assets are exempt from the Liquid Assets Waiting Period and therefore these changes will not impact the resources of older Australians set aside to support them during retirement.

Dissenting Reports

1. Dissenting Reports by the Australian Labor Party and The Australian Greens' Senators recommended that the Bill not be passed

Government Response: Noted.

The following addresses key concerns raised in the dissenting reports.

- **Schedule 1: Enhanced residency requirements for pensioners**

  The dissenting reports expressed concern that this measure targets older migrants.

  The dissenting report from the Australian Greens expressed concern that Special Benefit is being used to fill perceived gaps in this measure instead of being a discretionary payment of last resort. A person who doesn't qualify for Age Pension or Disability Support Pension because of the tighter residency rules could still qualify for Special Benefit.

  The Government responds that access to Special Benefit remains as a safeguard for those people who experience financial hardship to ensure individuals can maintain an adequate standard of living. Special Benefit is an income support payment that provides financial assistance to people who, due to reasons beyond their control, are in financial hardship and unable to earn a sufficient livelihood for themselves and their dependants. A person who is likely to require Special Benefit for less than three months is considered to be in financial hardship if their available funds are not more than two weeks payment. A person who is likely to require Special Benefit for three months or more is considered to be in financial hardship if their available funds are not more than $5,000. The base rate of Special Benefit is the same as Newstart Allowance. However, Special Benefit has a different income test whereby any income or in-kind support, such as free board and lodgings, is directly deducted from the amount otherwise payable. There is no allowable income free area and no graduated taper. Recipients of Special Benefit may also be entitled to supplementary payments such as Rent Assistance, and the Pension Supplement, if over age pension age.

The Australian Labor Party's dissenting report raised concern about inconsistencies in the application of grandfathering provisions. Those people who qualify for the Age Pension or DSP on or after 1 July 2018 will need to meet the new residency rules. However, people granted Age Pension or DSP prior to 1 July 2018 who subsequently lose payment will not be affected by this measure if they later seek to return to payment. They will continue to be assessed under the pre-July 2018 residence qualification rules. Grandfathering of certain payment recipients is designed to ensure people already in receipt of payment under the rules at the time of claim are not disadvantaged.

This measure is compatible with the right to social security, the right to an adequate standard of living and to the right to equality and non-discrimination.

This is because any limitation is proportionate to the policy objective of ensuring a payments system that is well-targeted and sustainable in the context of broader, necessary Budget repair, and ensuring permanent pension recipients have an ongoing connection to Australia.

Schedule 2: Stopping the payment of pension supplement after 6 weeks overseas

Public submissions as well as the Australian Labor Party and The Australian Greens' dissenting reports claim the measure disadvantages pensioners. Concerns were also raised that there is no provision for grandfathering of the Pension Supplement.

The Government responds that it is unfair to expect the Australian taxpayer to subsidise overseas travel via the Pension Supplement. The Pension Supplement is designed to alleviate the cost of living pressures for income support recipients living in Australia, not to meet the costs of traveling overseas.

- **Schedule 3: Taper rate for Part A rate of family tax benefit (Method 2)**

Both the Australian Labor Party and The Australian Greens dissenting reports stated that the measure will predominantly impact large families and exacerbate existing cost of living pressures.

The Government remains committed to helping parents balance their work and family responsibilities through a range of programs and payments but it is necessary that this be balanced with the responsibility to ensure family assistance and social security payments are well targeted and sustainable into the future.

This measure will only affect higher income families, who receive a lower rate of payment than lower income families, and are better equipped to absorb the effects of the changes.

- **Schedule 4: Liquid assets test waiting period**

  The Australian Labor Party and The Australian Greens have claimed that this measure would push vulnerable Australians further into financial hardship.

  The Government responds that this measure will only affect those with greater reserves of liquid assets to draw on to support themselves, those claimants with liquid assets above $11,500 (if single with no dependents) or $23,000 (if partnered or has dependents).

  Those with low to modest levels of liquid assets below these amounts who either are not subject to a Liquid Assets Waiting Period or have a Liquid Assets Waiting Period of 13 weeks or less will not be affected by this measure.

  The existing range of exemptions will also remain in place, including for people who experience severe financial hardship because they have incurred reasonable or unavoidable expenditure. Also, full-time tertiary students claiming Youth Allowance or Austudy are able to reduce their liquid assets by certain allowable deductions directly related to their course of study, such as up front course fees, HECS-HELP payments, student union fees, and the cost of text books, tools or equipment required to undertake the course.