

Chapter 1

Introduction

Purpose of the bill

1.1 The Social Services Legislation Amendment (Cashless Debit Card) Bill 2017 (bill) was introduced into the House of Representatives on 17 August 2017.¹

1.2 The bill seeks to remove section 124F of the *Social Security (Administration) Act 1999* which specifies that the cashless debit card trial will occur in up to three discrete locations, include no more than 10 000 people and end on 30 June 2018.² The removal of this section allows the cashless debit card scheme to continue in the two current sites (Ceduna and the East Kimberley) and expand to new sites which will be determined by disallowable legislative instrument.³

Financial implications

1.3 The explanatory memorandum to the bill notes that the funding associated with the bill is not for publication as negotiations with potential commercial providers are yet to be finalised.⁴

Background

1.4 The Community Affairs Legislation Committee (committee) tabled its report on the Social Security Legislation Amendment (Debit Card Trial) Bill 2015 (debit card trial bill) on 12 October 2015, recommending that the debit card trial bill be passed.⁵

1.5 The debit card trial bill introduced measures which split income support payments into restricted and unrestricted portions, with the payment of the restricted portion to a bank account which was subject to certain restrictions on access and use.⁶

1.6 Under the cashless debit card trial, 80 per cent of a recipient's income support payments would be placed in a restricted bank account which could only be accessed by a debit card and could not be used to purchase alcohol or gambling products or

1 *House of Representatives Votes and Proceedings*, No. 71, 17 August 2017, p. 1004.

2 Social Services Legislation Amendment (Cashless Debit Card) Bill 2017, Explanatory memorandum, p. 2.

3 Explanatory memorandum, p. 2.

4 Explanatory memorandum, p. 2.

5 Community Affairs Legislation Committee, *Social Security Legislation Amendment (Debit Card Trial) Bill 2015*, 12 October 2015.

6 Social Security Legislation Amendment (Debit Card Trial) Bill 2015 (debit card trial bill), Explanatory memorandum, p. 4.

withdraw cash. The remaining 20 per cent of income support payments would be available for use at the individual participant's discretion.⁷

1.7 The *Social Security (Administration) Act 1999* sets out the objective of the cashless debit card scheme is to:

- (a) reduce the amount of certain restrictable payments available to be spent on alcoholic beverages, gambling and illegal drugs; and
- (b) determine whether such a reduction decreases violence or harm in the Region; and
- (c) determine whether such arrangements are more effective when community bodies are involved; and
- (d) encourage socially responsible behaviour.⁸

1.8 The cashless debit card trial was to be introduced into a maximum of three discrete locations, with no more than 10 000 participants at any particular time, and operate between 1 February 2016 and 30 June 2018.⁹ The trial of the cashless debit card scheme commenced in Ceduna, South Australia on 15 March 2016 and in the East Kimberley region of Western Australia on 26 April 2016.¹⁰

1.9 The Government commissioned ORIMA Research to undertake an independent evaluation of the cashless debit card trial in Ceduna and the East Kimberley. The evaluation was reported in 3 stages: Initial Conditions Report, Wave 1 Interim Evaluation Report and Final Evaluation Report (Wave 2). The Final Evaluation Report was released on 1 September 2017.¹¹

1.10 In the 2017-18 Budget, the Government announced that the cashless debit card scheme would be extended in the current sites of Ceduna and the East Kimberley and that the program would be expanded to two new sites.¹²

1.11 On 1 September 2017, the Prime Minister announced the Goldfields region in Western Australia as the first new site where the cashless debit card will be introduced.¹³ The card will be rolled out in the local government areas of Kalgoorlie-Boulder, Laverton, Leonora and Coolgardie and apply to recipients of working age

7 Debit card trial bill, Explanatory memorandum, pp. 2-3.

8 *Social Security (Administration) Act 1999* s 124PC.

9 Debit card trial bill, Explanatory memorandum, p. 4.

10 Department of Social Services, *Cashless Debit Card Trial - Evaluation reports*, <https://www.dss.gov.au/families-and-children/programs-services/welfare-quarantining/cashless-debit-card-trial-evaluation-reports> (accessed 20 November 2017).

11 The Hon Alan Tudge MP, Minister for Human Services, '[Evaluation finds "considerable positive impact" from cashless debit card trial](#)', *Media release*, 1 September 2017.

12 Explanatory memorandum, p. 2.

13 The Hon Malcolm Turnbull MP, Prime Minister of Australia, '[Cashless Welfare Card for WA Goldfields](#)', *Media release*, 1 September 2017.

income support payments.¹⁴ The committee understands that negotiations are continuing with other local government areas in the region, including the Shire of Menzies.¹⁵

1.12 On 21 September 2017, the Government announced the Hinkler electorate in Queensland, which includes the towns Bundaberg, Hervey Bay, Childers and Howard, as the second new site.¹⁶ The card will apply to recipients of Newstart, Youth Allowance (Job seeker), Parenting Payment (Single) and Parenting Payment (Partnered) who are 35 and under.¹⁷

1.13 The cashless debit card will be rolled out progressively in the Goldfields region and Hinkler electorate from early 2018, dependent upon when the bill is passed by the Parliament.¹⁸

Legislative scrutiny

Senate Standing Committee for the Scrutiny of Bills

1.14 The Senate Standing Committee for the Scrutiny of Bills (scrutiny committee) noted that the effect of the bill is to convert a trial program into a program which may be expanded to apply to any site chosen by the government and determined by disallowable legislative instrument.¹⁹

1.15 The scrutiny committee commented that the legislative instruments may specify other parameters to ensure appropriate safeguards and accountability. However, the scrutiny committee pointed out that legislative instruments are not subject to the full range of parliamentary scrutiny which applies to bills.²⁰

1.16 The scrutiny committee sought advice from the Minister for Human Services in regard to why the primary legislation, the *Social Security (Administration) Act*

14 Department of Social Services, *Cashless Debit Card – Goldfields*, <https://www.dss.gov.au/families-and-children/programs-services/welfare-quarantining/cashless-debit-card-goldfields> (accessed 20 November 2017).

15 Ms Jill Dwyer, Shire President, Shire of Menzies, *Committee Hansard*, 12 October 2017, p. 10.

16 The Hon Alan Tudge MP, Minister for Human Services, '[Cashless Welfare Card for Bundaberg/Hervey Bay](#)', *Media release*, 21 September 2017.

17 Department of Social Services, *Hinkler – Cashless Debit Card*, <https://www.dss.gov.au/families-and-children/programs-services/welfare-quarantining/cashless-debit-card-overview/hinkler-cashless-debit-card> (accessed 20 November 2017).

18 Department of Social Services, *Submission 8*, [p. 3].

19 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest No. 10 of 2017](#), 6 September 2017, p. 25.

20 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest No. 10 of 2017](#), 6 September 2017, pp. 25-26.

1999, does not include more guidance and safeguards in relation to the cashless debit card scheme, such as site selection and participant criteria.²¹

1.17 The scrutiny committee noted the Minister for Human Services' advice that the bill does not indefinitely extend or expand the program, rather it removes a date beyond which the program could not continue, and that Parliament still retains the right to consider any expansion through legislative instruments.²²

1.18 The minister's response to the scrutiny committee also noted that the selection of sites for the use of the card is guided by the objectives of the primary legislation, and the use of legislative instruments to specify a location and define details of how the program can operate in each location provides the necessary flexibility to give effect to the objectives of the program in a chosen location.²³

1.19 The scrutiny committee requested that the information provided by the Minister for Human Services be incorporated into the explanatory memorandum.²⁴

Parliamentary Joint Committee on Human Rights

1.20 The Parliamentary Joint Committee on Human Rights (human rights committee) noted that the committee had considered the compatibility of the cashless debit card scheme and income management more generally in its previous reports on the debit card trial bill and the 2013 and 2016 reviews of the Stronger Future measures.²⁵

1.21 The human rights committee noted that the bill's statement of compatibility acknowledges that the right to social security, right to privacy and family and the right to equality and non-discrimination are engaged and limited by the bill and that these rights may be subject to permissible limitations where they pursue a legitimate objective and are rationally connected to, and proportionate to, that objective.²⁶

1.22 The human rights committee previously accepted that the cashless debit card scheme trial may pursue a legitimate objective but raised concerns that the measures

21 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest No. 10 of 2017*, 6 September 2017, p. 26.

22 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest No. 12 of 2017](#), 18 October 2017, p. 139.

23 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest No. 12 of 2017*, 18 October 2017, p. 139.

24 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest No. 12 of 2017*, 18 October 2017, p. 139.

25 Parliamentary Joint Committee on Human Rights (PJCHR), [Report 9 of 2017](#), 5 September 2017, p. 34. See also: PJCHR, *Twenty-seventh report of the 44th Parliament*, 8 September 2015, pp. 20-29; PJCHR, *Thirty-first report of the 44th Parliament*, 24 November 2015, pp. 21-36; PJCHR, *Eleventh Report of 2013: Stronger Futures in the Northern Territory Act 2012 and related legislation*, 27 June 2013; and PJCHR, *2016 Review of Stronger Futures measures*, 16 March 2016.

26 PJCHR, *Report 9 of 2017*, 5 September 2017, p. 35.

were not rationally connected and proportionate to the objective.²⁷ The human rights committee expressed concern that the current bill extended the trial without including a specified end date or sunset provision, without the need for adequate consultation with the affected communities, imposed the cashless debit card on individuals without assessing a participant's suitability for the scheme and that the measures may not be the least rights restrictive way to achieve the bill's stated objective.²⁸

1.23 The human rights committee sought advice from the Minister for Human Services as to:

- why it is necessary to extend and expand the cashless debit card trial;
- how the measures are effective to achieve the stated objectives;
- how the limitation on human rights is reasonable and proportionate to the stated objectives; and
- whether the cashless debit card could be restricted to instances where an individual's suitability to participate in the scheme has been assessed or on a voluntary basis.²⁹

1.24 The Minister for Human Services' response was received on 20 September 2017.³⁰ The minister's response noted that the expansion of the cashless debit card trial was necessary to allow communities to seek positive outcomes which had been demonstrated in the evaluations. The response also acknowledged that while the bill engages human rights, these rights are only limited to the extent of a participant's ability to use a proportion of their income support payment to purchase harmful goods and that this limitation was directly related to the objective of the bill.³¹

1.25 The human rights committee concluded that, based on the information provided, the measures introduced by the bill may not be a reasonable and proportionate limitation on human rights.³²

Conduct of the inquiry

1.26 On 17 August 2017, the Senate referred the provisions of the bill to the Community Affairs Legislation Committee for inquiry and report by 13 November

27 PJCHR, *Report 9 of 2017*, 5 September 2017, p. 36. See also: PJCHR, *Thirty-first report of the 44th Parliament*, 24 November 2015, p. 27.

28 PJCHR, *Report 9 of 2017*, 5 September 2017, p. 38.

29 PJCHR, *Report 9 of 2017*, 5 September 2017, pp. 39-40.

30 PJCHR, [Report 11 of 2017](#), 17 October 2017, p. 126.

31 The Hon Alan Tudge MP, Minister for Human Services, correspondence to PJCHR. See: PJCHR, *Report 11 of 2017*, 17 October 2017, Appendix 3 – Correspondence, pp. 252-256.

32 PJCHR, *Report 11 of 2017*, 17 October 2017, p. 137.

2017.³³ The committee subsequently received an extension to report by 6 December 2017.³⁴

1.27 Details of the inquiry, including a link to the bill and associated documents, were placed on the committee's website.³⁵ The committee wrote to relevant individuals and organisations inviting submissions to the inquiry by 29 September 2017. Submissions continued to be accepted after that date.

1.28 The committee received 172 submissions to the inquiry and held public hearings in Kalgoorlie on 12 October 2017 and Canberra on 2 November 2017. Submitters and witnesses are listed at Appendices 1 and 2.

1.29 The committee thanks those individuals and organisations that made submissions to the inquiry and gave evidence at its public hearings.

Note on references

1.30 References to the committee *Hansard* is to the proof transcript. Page numbers may vary between the proof and official *Hansard* transcript.

33 *Journals of the Senate*, No. 55, 17 August 2017, p. 1756.

34 *Journals of the Senate*, No. 68, 13 November 2017, p. 2190; *Journals of the Senate*, No. 72, 27 November 2017, p. 2282.

35 See: Community Affairs Legislation Committee, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/CashlessDebitCard (accessed 16 November 2017).