

Chapter 1

Introduction

Referral

1.1 On 17 September 2015, the Senate referred the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015 to the Senate Community Affairs Legislation Committee for inquiry and report by 9 November 2015.¹

Conduct of the inquiry

1.2 Details of the inquiry, including a link to the Bill and associated documents, were placed on the committee's website. The committee also wrote to 31 organisations and individuals, inviting submissions by 16 October 2015.

1.3 The committee received over 2000 pieces of correspondence related to the inquiry, which included submissions, form letters and short general statements. The majority of the correspondence received was from individuals who oppose the bill.

1.4 On 28 October 2015 the committee determined to publish the following statement on the inquiry page:

The committee has received a large volume of submissions in relation to this inquiry and wishes to assure submitters that each piece of correspondence to the inquiry is being read and considered. The committee has decided to publish all submissions from organisations and a representative sample of the submissions received from individuals. Owing to the sensitive and personal nature of many submissions, the committee has decided that the representative sample will be drawn from those for which it has received clear advice from the submitter supporting publication. The committee has decided not to publish submissions comprising short or general statements, form/campaign letters and petitions, but has noted the concerns raised in them.

1.5 The committee published 550 submissions, including 25 submissions received from organisations. The committee also published two samples of form letters. The committee considered and noted all other unpublished correspondence.²

1.6 The committee held a public hearing in Brisbane on 2 November 2015.

Background

1.7 The *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act) requires that children are up to date with the National Immunisation Program Schedule in order for parents or guardians to be eligible for Family Tax Benefit Part A

1 *Journals of the Senate*, No. 118–17 September 2015, p. 3147.

2 Consistent with its resolution of 28 October 2015, the committee notes that any correspondence it did not publish as a submission is not covered by Parliamentary privilege and not listed in Appendix 1.

(FTB-A) supplement, Child Care Benefit (CCB) and Child Care Rebate (CCR).³ Legislation has linked social security payments to immunisation requirements since 1998 for child care payments and 2012 for FTB-A supplement.⁴ The Family Assistance Act provides that a child may meet the immunisation requirements despite not being immunised if they meet certain exemption categories, including where an individual or adult has a conscientious objection. Under the Act, an individual is considered to have a conscientious objection to a child being immunised if:

... the individual's objection is based on a personal, philosophical, religious or medical belief involving a conviction that vaccination under the latest edition of the standard vaccination schedule should not take place.⁵

1.8 In the 2015-16 Budget, the Government announced it would seek to introduce 'No Jab, No Pay' rules that would remove immunisation exemption categories for access to CCB, CCR and FTB-A supplement. As part of this measure, the Government announced it would provide a \$26 million boost to the Immunise Australia program 'to encourage doctors and immunisation providers to identify and vaccinate children in their practice who are overdue'.⁶

Purpose and key provisions of the Bill

1.9 This Bill seeks to amend the Family Assistance Act to tighten the immunisation requirements for children to be eligible for the CCR, CCB and FTB-A supplement payments. These changes would commence on 1 January 2016.⁷

Removal of exemption categories

1.10 The Bill proposes to remove the current exemption categories for meeting the immunisation requirement on the basis of a conscientious objection and on religious grounds.⁸ The Bill also proposes to remove the Minister's power to determine by legislative instrument a class of persons to be exempt from or meet the immunisation requirements.⁹

3 Explanatory Memorandum (EM), p. 2.

4 *Child Care Legislation Amendment Act 1998* (Cth), accessed 6 October 2015; *Family Assistance and Other Legislation Amendment Act 2012*, (Cth), accessed 6 October 2015.

5 *A New Tax System (Family Assistance) Act 1999*, s. 5.

6 Budget 2015, 'Supporting Australian Families', *Budget Paper 1: Budget Strategy and Outlook*, http://www.budget.gov.au/2015-16/content/bp1/html/bp1_bs1-04.htm (accessed 5 November 2015).

7 EM, p. 2.

8 EM, p. 2. Currently the only exemption on religious ground is given to children of members of the Church of Christ, Scientist.

9 EM, p. 2.

1.11 The Bill provides for new circumstances in which a person may meet the immunisation requirements on the basis of a medical contraindication, natural immunity or participation in a vaccine study.¹⁰

Changes to eligibility monitoring

1.12 Currently eligibility for the FTB-A supplement is checked at ages one, two and five and eligibility for child care payments is checked each year up to age seven. This Bill proposes that eligibility for all payments is checked each year until the child is 20.¹¹

Changes to the 63-day grace period

1.13 Currently when a notice is issued that a child has not met eligibility for social security payments a 63-day grace period is given for that child to commence vaccination including commencing a catch-up schedule.¹² Those who are currently registered, which includes those registered as conscientious objectors, will continue to receive the 63-day grace period.¹³

1.14 This Bill proposes to remove the grace period for new customers applying for the first time for social security payments.¹⁴ However, the Department of Human Services will advise the individual that if they visit a General Practitioner and 'commence a catch-up schedule for the child, the requirement to be immunised will be considered to be met'.¹⁵

New immunisation requirement for Special Child Care Benefit

1.15 The Bill proposes adds a requirement that children at risk of abuse and neglect need to meet the vaccination schedule for the child care provider to receive the Special Child Care Benefit.¹⁶

10 EM, p. 3.

11 EM, p [ii].

12 EM, p. 6.

13 Department of Education and Training, answer to question on notice, 5 November 2015 (received 6 November 2015).

14 Department of Education and Training, answer to question on notice, 5 November 2015 (received 6 November 2015).

15 Department of Education and Training, answer to question on notice, 5 November 2015 (received 6 November 2015).

16 EM, p. 7.

Related legislation

Federal legislation

1.16 This Bill complements two recently passed immunisation-related Bills: the Australian Immunisation Register Bill 2015 and Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015. The Bills will:

- expand the Australian Childhood Immunisation Register (ACIR) from children under seven years of age to children under 20 years of age, commencing 1 January 2016; and
- expand ACIR to become the Australian Immunisation Register to create a whole of life vaccination register, commencing from late 2016.¹⁷

1.17 The Government has also introduced legislation to the House of Representatives seeking to gradually phase out the FTB-A supplement by 2018.¹⁸

State legislation

1.18 Some state governments have recently introduced legislation to tighten immunisation requirements for child care centres – these measures are known as 'No Jab, No Play'. The Parliamentary Library's Bills Digest for the Bill outlines the status of such legislation in three states:

New South Wales

New South Wales introduced immunisation requirements for enrolment in childcare facilities from 1 January 2014. The legislation allows for conscientious objectors to still be enrolled but unvaccinated children can be excluded in the event of an outbreak of a vaccine preventable disease.

Queensland

The Queensland Government introduced legislation to Parliament in July 2015 to allow the managers of childcare services the option to refuse, cancel or place a condition on the enrolment or attendance of a child who is not vaccinated or up to date with applicable immunisation schedules. There are no exemptions for conscientious objectors.

Victoria

The Victorian Parliament is currently considering legislation which will require children to be fully immunised in order to attend childcare and kindergarten (preschool) from 1 January 2016. There will no exemptions for conscientious objectors, only for those with medical reasons and for certain

17 A Grove, *Australian Immunisation Register Bill 2015 [and] Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015*, Parliamentary Library, Bills Digest No. 25, 2015-16, 1 October 2015, p. 3.

18 Parliament of Australia, 'Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2015', Australian Parliament Website, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DID%3A%22legislation%2Fbillhome%2Fr5557%22> (accessed 4 November 2015).

disadvantaged and vulnerable children, who will be provided with 16 weeks to meet vaccination requirements.¹⁹

1.19 Submitters raised concerns that the Bill is a response to a campaign by the Daily Telegraph since 2013 petitioning state and federal governments to take action to improve vaccination rates. The campaign sought to have state governments give child care centres the power to exclude unvaccinated children from their centres and for the federal government to withhold child care rebates and family tax benefit to conscientious objectors.²⁰

1.20 Submitters to this inquiry have expressed concerns about state legislation, particularly where conscientious objection has been removed as an exemption category for the immunisation requirements.

Financial implications

1.21 The Explanatory Memorandum notes that the Bill is expected to produce savings of \$508.3 million over the forward estimates.²¹

Consideration by other committees

1.22 The Parliamentary Joint Committee on Human Rights (PJCHR) found the Bill engages and places limits on the right to freedom of thought, conscience and religion as set out in article 18 of the International Covenant on Civil and Political Rights and sought advice from the Minister on whether the measures were justifiable.²² The PJCHR had not published the Minister's response prior to the tabling of this report.

Acknowledgement

1.23 The committee thanks those individuals and organisations that made submissions and gave evidence at the public hearing.

Note on references

1.24 References to the committee *Hansard* are to the *Proof Hansard*. Page numbers may vary between the proof and official Hansard transcript.

19 M Klapdor, *Social Services Legislation Amendment (No Jab, No Pay) Bill 2015*, Parliamentary Library, Bills Digest No.36, 2015-16, 22 October 2015, p. 7.

20 <https://www.change.org/p/nsw-state-government-and-australian-federal-government-support-our-campaign-to-stop-the-spread-of-disease-by-vaccination> and <http://www.news.com.au/national/no-jab-no-play-campaign-launched-to-ban-unvaccinated-kids-from-childcare-centres-and-preschools/story-fcynjr2-1226635256015>.

21 EM, p. [ii].

22 Parliamentary Joint Committee on Human Rights, *Human Rights Scrutiny Report: Twenty-ninth report of the 44th Parliament*, 14 October 2015, pp 31–33.

