

Chapter 1

Introduction

Background

1.1 The Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017 (Omnibus Bill) seeks to reintroduce measures in the Jobs for Families Child Care Package, from the Education and Training portfolio, and a range of new and previously introduced social services measures to improve the fairness and sustainability of government payments from the Social Services portfolio.¹

1.2 The current measures and their previous iterations in various bills are outlined below.

Key provisions and purpose of the bill

1.3 The Omnibus Bill is comprised of 18 schedules and seeks to amend the *A New Tax System (Family Assistance) Act 1999*, *A New Tax System (Family Assistance) (Administration) Act 1999*, *Social Security Act 1991* (SS Act), *Social Security (Administration) Act 1991* (SS Admin Act), *Paid Parental Leave Act 2010* (PPL Act) and various other Acts.

Schedules 1-3 – Family Payments

1.4 Schedules 1 to 3 of the Omnibus Bill propose to:

- increase the fortnightly rates for Family Tax Benefit (FTB)² Part A by \$20.02 for each FTB child in the family aged up to 19 years. An equivalent rate of increase of around \$19.37 would apply to youth allowance and disability support pension recipients aged under 18 and living at home.
- remove entitlement to FTB Part B for single parents under 60 years of age, or grandparents or great-grandparents from the start of the calendar year their youngest child reaches age 17;
- phase out FTB Part A supplement by reducing it to \$692.25 per year from 1 July 2016, and to \$302.95 per year from 1 July 2017;
- phase out FTB Part B supplement by reducing it to \$302.95 per year from 1 July 2016, and to \$153.30 per year from 1 July 2017; and

1 The Hon Christian Porter MP, Minister for Social Services, [House of Representatives Hansard](#), 8 February 2017, p. 213.

2 Family Tax Benefit (FTB) is an income tested two part payment made to families to assist with the cost of raising children. Part A is a per child payment which is made to eligible families, while Part B payments provide added assistance to single parents and families with one main income. See Department of Social Services, '*Family Assistance Guide*', <http://guides.dss.gov.au/family-assistance-guide/1/2/1> (accessed 17 March 2017).

- remove FTB Part A and FTB Part B supplements completely from 1 July 2018.³

Previous consideration of the measures

1.5 The Community Affairs Legislation Committee (committee) notes that Schedules 1 to 3 reintroduce measures previously introduced in the Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill (No.2) 2015 (Family Payments Bill 2015), and the Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2016 (Family Payments Bill 2016).

1.6 The Family Payments Bill 2015 was referred to the committee on 3 December 2015 for inquiry and report by 1 March 2016.⁴

1.7 Due to the prorogation of Parliament, the Family Payments Bill 2015 lapsed on 17 April 2016 and its provisions were reintroduced into the 45th Parliament by the Hon Christian Porter MP on 1 September 2016.⁵

1.8 The 2016 iteration of the Family Payments Bill included a minor change relating to the commencement date for Schedule 2, which was changed from 1 July 2016 to 1 July 2017.

1.9 The provisions of the Family Payments Bill 2016 were referred to the Senate Education and Employment Legislation Committee (Education and Employment committee) for inquiry and report by 10 October 2016.⁶

1.10 The Education and Employment committee conducted two public hearings in October 2016 and heard from various child care providers, childhood advocacy groups, the Mitchell Institute and the Department of Social Services and Department of Education and Training.⁷ The Education and Employment committee recommended that the Family Payments Bill 2016 be passed.⁸

3 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, [Explanatory Memorandum](#) (EM), pp. 10, 14, and 17.

4 *Journals of the Senate*, No. 134-3, 3 December 2015, p. 3623.

5 The Hon Christian Porter MP, Minister for Social Services, [House of Representatives Hansard](#), 1 September 2016, p. 275.

6 *Journals of the Senate*, No. 7, 15 September 2016, p. 211.

7 See: Senate Education and Employment Legislation Committee, [Family Assistance Legislation Amendment \(Jobs for Families Child Care Package\) Bill 2016 \[Provisions\]](#), [Social Services Legislation Amendment \(Family Payments Structural Reform and Participation Measures\) Bill 2016 \[Provisions\]](#), 10 October 2016, pp. 63-64.

8 Senate Education and Employment Legislation Committee, [Family Assistance Legislation Amendment \(Jobs for Families Child Care Package\) Bill 2016 \[Provisions\]](#), [Social Services Legislation Amendment \(Family Payments Structural Reform and Participation Measures\) Bill 2016 \[Provisions\]](#), 10 October 2016, p. 29.

Changes in the Omnibus Bill

1.11 The Omnibus Bill reintroduces most of the measures introduced in the 2015 and 2016 iterations of the Family Payments Bill, with the exception of some of the measures in schedule 2 to the bills to introduce a new rate structure for FTB Part B.

1.12 The FTB Part A rate will be increased by \$20.02 per fortnight, almost double the \$10.08 increase proposed in the Family Payments Bill 2015 and Family Payments Bill 2016.

Schedule 4 – Jobs for Families Child Care Package

1.13 This schedule proposes to:

- cease the Child Care Benefit and Child Care Rebate and replace them with a new Child Care Subsidy (CCS) which is subject to an income and activity test; and
- introduce a new Additional Child Care Subsidy (ACCS), available under certain circumstances and at various rates.⁹

Previous consideration of the measures

1.14 Schedule 4 reintroduces measures that were previously introduced in the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 (Jobs for Families Bill 2015) and Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016 (Jobs for Families Bill 2016).

1.15 The provisions of the Jobs for Families Bill 2015 were referred to the Education and Employment committee for inquiry and report by 17 March 2016 with the committee subsequently receiving an extension to 4 April 2016.¹⁰ The Education and Employment committee recommended that the Jobs for Families Bill 2015 be passed.¹¹

1.16 The provisions of the Jobs for Families Bill 2016 were referred to the Education and Employment committee in conjunction with the Family Payments Bill 2016 for inquiry and report by 10 October 2016.¹² The Education and Employment committee recommended that both bills be passed.¹³

9 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 21.

10 *Journals of the Senate*, No. 16, 3 December 2015, p. 3623.

11 Senate Education and Employment Legislation Committee, [Family Assistance Legislation Amendment \(Jobs for Families Child Care Package\) Bill 2015 \[Provisions\]](#), 4 April 2016, p. 24.

12 *Journals of the Senate*, No. 7, 3 December 2015, p. 211.

13 Senate Education and Employment Legislation Committee, [Family Assistance Legislation Amendment \(Jobs for Families Child Care Package\) Bill 2016 \[Provisions\]](#), [Social Services Legislation Amendment \(Family Payments Structural Reform and Participation Measures\) Bill 2016 \[Provisions\]](#), 10 October 2016, p. 29.

1.17 The committee notes that the provisions of Schedule 4 to the Omnibus Bill are identical to the provisions of the Jobs for Families Bill.

Schedules 17 and 18 – Paid Parental Leave

1.18 Schedules 17 and 18 propose to amend the PPL Act to provide that:

- paid parental leave (PPL) under the Paid Parental Leave Scheme will only be provided to parents who have no employer provided primary carer leave, or whose employer provided paid primary carer leave is for a period less than 20 weeks or is paid at a rate below the full-time national minimum wage; and
- remove the obligation for employers to act as paymaster and administer government-funded PPL payments to eligible employees, unless an employer chooses to manage the payment to employees and the employee agrees to the employer paying them.

Previous consideration of the measures

1.19 Schedules 17 and 18 reintroduce measures that were previously introduced in the Fairer Paid Parental Leave Bill 2016 (FPPL Bill). The FPPL Bill was referred to the committee for inquiry and report by 15 February 2017.¹⁴

1.20 The committee conducted a public hearing on 1 February 2017 and heard evidence from various academics, women and child advocacy groups and peak bodies and the Department of Social Services.

1.21 In its report the committee noted that:

The Explanatory Memorandum to the Omnibus Bill states that the Fairer Paid Parental Leave Bill 2016 will be withdrawn following the introduction of the revised PPL scheme arrangements contained in the Omnibus Bill.¹⁵

The committee proposes to consider the concerns raised and the evidence received in the committee's inquiry into the Fairer Paid Parental Leave Bill 2016 in conjunction with its consideration of the provisions of the Omnibus Bill.¹⁶

Changes in the Omnibus bill

1.22 The Omnibus Bill increases the period of government-funded PPL to 20 weeks as opposed to 18 weeks under the FPPL Bill. The Omnibus Bill also includes a minor change to the commencement date for these measures to provide that the amendments commence on the first 1 January, 1 April, 1 July or 1 October after the end of the period of 9 months on the day the Act receives Royal Assent.

1.23 Schedule 18 of the Omnibus Bill also includes a minor amendment to the title from 'Employer opt-in' to 'Removal of parental leave pay mandatory employer role'.

14 *Journals of the Senate*, No. 15, 10 November 2016, p. 448.

15 *Journals of the Senate*, No. 26, 9 February 2017, p. 881.

16 Senate Community Affairs Legislation Committee, [Fairer Paid Parental Leave Bill 2016 \[Provisions\]](#), 15 February 2017, p. 2.

Other provisions of the bill

Schedules 5 and 10 – Pensioner payments and supplements outside Australia

1.24 Schedule 5 proposes to reduce from 26 weeks to six weeks the period during which age pension and other payments with unlimited portability can be paid outside Australia at the means-tested rate. After six weeks the payment will be adjusted according to the length of the pensioner's Australian working life residence.¹⁷

1.25 Schedule 10 proposes to cease the payment of pension supplement after six weeks temporary absence overseas and immediately for permanent departures.¹⁸

Schedule 6 and 7– Education payments

1.26 Schedule 6 seeks to amend the SS Act and SS Admin Act to cease the pensioner education supplement which is currently available to certain income support recipients at the rate of \$62.40 per fortnight or \$31.20 per fortnight, depending on the person's study load.¹⁹

1.27 Schedule 7 seeks to amend the SS Act, SS Admin Act and *Veterans' Entitlements Act 1986* to cease the education entry payment which is currently available to eligible long-term income support recipients as an annual lump sum payment of \$208.²⁰

Schedule 8 – Indexation of certain payments

1.28 This schedule proposes to amend the current rules for indexation of income free areas to provide that indexation of the income free areas of all working age allowances and parenting payment single and other means test thresholds for student payments is maintained at level for a period of three years.²¹

Schedule 9 – Closing energy supplement to new welfare recipients

1.29 This schedule proposes to remove the energy supplement for new welfare recipients from 20 September 2017. Welfare recipients who are paid the energy supplement with their payment prior to 20 September 2016 will continue to receive the energy supplement from 20 September 2017, provided they continue to meet the legislative criteria.²²

17 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 100.

18 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 131.

19 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 102.

20 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 107.

21 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 111.

22 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 113.

Schedules 13, 14 and 15 – Waiting periods and entitlement for certain payments

1.30 Schedule 13 proposes amendments to the SS Act to extend and simplify the ordinary waiting period for working age payments.²³

1.31 Schedule 14 proposes to extend youth allowance (other) from 22 to 24 years of age, and remove entitlement to newstart allowance and sickness allowance for young unemployed people aged 22 to 24.²⁴

1.32 Schedule 15 proposes to introduce a four week waiting period for job seekers aged under 25 to receive income support payments. Job seekers aged under 25 years who have been classified as job ready will be required to complete certain pre-benefit assigned activities to help them prepare for work.²⁵

Consideration of the bill by other committees

Parliamentary Joint Committee on Human Rights

1.33 The Parliamentary Joint Committee on Human Rights (human rights committee) deferred its consideration of the Omnibus Bill on 16 February 2017.²⁶ The human rights committee did not release its consideration of the Omnibus Bill prior to the preparation of this report.

Senate Standing Committee for the Scrutiny of Bills

1.34 The Senate Standing Committee on the Scrutiny of Bills (scrutiny of bills committee) sought advice from the Minister in relation to:

- the retrospective commencement of Part 1 of Schedule 3 (Family Tax Benefit Part A) on 1 July 2016 and what effect this will have on individuals;
- new section 201A (Part 1 of Schedule 4) which proposes to use an offence-specific defence that reverses the evidential burden of proof;
- payment of the Energy Supplement (Schedule 9) to recipients between 20 September 2016 and 19 September 2017, whether the provisions are retrospective and the justification for this.²⁷

1.35 The scrutiny of bills committee noted its concern regarding the breadth and nature of the powers in section 199G, item 261 of Schedule 4 and new subsection 19DA(5) which allows delegation of legislative power. The scrutiny of bills

23 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 143.

24 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 150.

25 Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, EM, p. 157.

26 Parliamentary Joint Committee on Human Rights, [Human rights scrutiny report: Report 1 of 2017](#), 16 February 2017, p. 53.

27 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest No. 2 of 2017](#), 15 February 2017, pp. 28, 31, 35.

committee drew these concerns to the attention of Senators and the Senate Regulations and Ordinances Committee.²⁸

1.36 The scrutiny of bills committee also queried the appropriateness of providing strict liability offences with penalties above 60 penalty units which is inconsistent with the *Guide to Framing Commonwealth Offences*.²⁹

1.37 The scrutiny of bills committee received a response from the Minister on 2 March 2017. The scrutiny of bills committee did not release its consideration of the minister's response prior to the preparation of this report.

Conduct of the inquiry

1.38 On 9 February 2017, the Senate referred the provisions of the Omnibus Bill to the Community Affairs Legislation Committee for inquiry and report by 20 March 2017.³⁰ The committee sought an extension of the reporting date to 21 March 2017.³¹

1.39 Details of the inquiry, including a link to the Omnibus Bill and associated documents, were placed on the committee's website.³² The committee wrote to 215 organisations and individuals inviting submissions by 3 March 2017. Submissions continued to be accepted after that date.

1.40 The committee received 68 submissions to the inquiry and held a public hearing in Canberra on 9 March 2017. Submitters and witnesses are listed at Appendices 1 and 2.

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

Note on references

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

28 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest No. 2 of 2017](#), 15 February 2017, pp 29, 33, 36.

29 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest No. 2 of 2017](#), 15 February 2017, p. 31.

30 *Journals of the Senate*, No. 26, 9 February 2017, p. 881.

31 *Journals of the Senate*, No. 31, 20 March 2017, p. 1053.

32 See: Community Affairs Legislation Committee, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/OmnibusSavingsReform (accessed 15 March 2017).

