

# Chapter 1

## Social Services Legislation Amendment (Payment Integrity) Bill 2017

### Introduction

1.1 The Social Services Legislation Amendment (Payment Integrity) Bill 2017 (the Bill) introduces four measures, three of which were announced in the 2017-18 Budget<sup>1</sup>

1.2 The Minister for Social Services (Minister), the Hon Christian Porter MP, stated the measures in the Bill are intended to ensure 'our welfare system is fair and sustainable so that we can continue to support those who need it the most both now and into the future.'<sup>2</sup>

1.3 The measures are expected to generate total savings of \$823.2 million over the forward estimates.<sup>3</sup>

### Key provisions and purpose of the Bill

1.4 The Bill is comprised of four schedules and amends the *Social Security Act 1991*, the *Veterans' Entitlements Act 1986* and the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act) for the purpose of introducing four measures designed to reinforce the residency requirements of Australia's welfare system and encourage greater financial self-reliance from income support payment applicants:<sup>4</sup>

- Schedule 1 extends the residency timeframe requirements to be eligible for the Age Pension and the Disability Support Pension (Disability Pension).
- Schedule 2 ceases the Age Pension supplement payment after six weeks overseas or immediately for permanent departures.
- Schedule 3: Aligns the taper rates for Family Tax Benefit (FTB) Part A so that all income above the higher income free area is treated equally.

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1 Australian Government, [Budget measures: budget paper no. 2: 2017-18](#), p. 147, 148 and 152. The other measure, contained in Schedule 2, was included in the former Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017, which was subsequently removed from the Notice Paper.

2 The Hon Christian Porter MP, Minister for Social Services, [House of Representatives Hansard](#), 21 June 2017, p. 7196.

3 Social Services Legislation Amendment (Payment Integrity) Bill 2017, [Explanatory Memorandum](#), p3.

4 The Hon Christian Porter MP, [House of Representatives Hansard](#), 21 June 2017, p. 7196.

- Schedule 4: Extends the waiting period for certain income support payments where an applicant has liquid assets.<sup>5</sup>

## **Consideration of the Bill by other committees**

### ***Scrutiny of Bills***

1.5 The Senate Standing Committee for the Scrutiny of Bills (Scrutiny Committee) reviewed the provisions of the Bill, and outlined concern with the potential for retrospective impacts of Schedule 1 of the Bill. The Scrutiny Committee found that although the amendment would commence prospectively after 1 July 2018, the changes would impact people who may have made retirement arrangements based on existing eligibility requirements for the Age Pension or Disability Pension. These people may now find themselves waiting a further five years for the Age Pension or Disability Pension than they expected.<sup>6</sup>

1.6 The Scrutiny Committee wrote it has 'a long-standing scrutiny concern about provisions that, while not technically retrospective, may raise questions as to the fairness of applying a change in the law to individuals who have arranged their long-standing affairs on the basis of the existing law' and asked the Minister's advice 'as to why it is considered necessary to apply the amended residency requirements to individuals who may have arranged their affairs on the basis of the existing law, and the number of people likely to be adversely affected by these proposed changes.'<sup>7</sup>

1.7 In providing a response to the questions of the Scrutiny Committee,<sup>8</sup> the Minister reiterated the measure will only apply prospectively to new applications for the Age Pension or Disability Pension made from 1 July 2018. The Minister advised that grandfathering arrangements would be required to operate for a significant period of time, would create parallel residency systems and would be complex from a policy and administrative perspective. The Minister pointed to the 30 International Social Security Agreements Australia holds, which allow people to apply for and receive foreign pensions while in Australia. These agreements also commonly allow people to combine periods of residence in Australia with eligible overseas residence, for the purposes of meeting pension residence requirements in Australia.

1.8 In evaluating the Minister's response, the Scrutiny Committee found that administrative complexity is not by itself sufficient justification for not including grandfathering arrangements. However, the Scrutiny Committee noted the range of alternative income support safety nets available to people impacted by this Bill. The Scrutiny Committee recommended the new information provided by the Minister be

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5 Explanatory Memorandum, pp. 2-3.

6 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest Number 8](#), 9 August 2017, pp. 21-22.

7 [Scrutiny Digest Number 8](#), 9 August 2017, p. 22.

8 Senate Standing Committee for the Scrutiny of Bills, *Preliminary comments and response*, 28 August 2017, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Scrutiny\\_of\\_Bills/Ministerial\\_Responses](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Bills/Ministerial_Responses).

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included in the Explanatory Memorandum, as it is valuable information to assist in interpreting the Bill.

### ***Human Rights***

1.9 The Parliamentary Joint Committee on Human Rights (Human Rights Committee) reviewed the Bill and found the Bill raised questions in relation to its potential impact on the right to social security and the right to equality and non-discrimination.<sup>9</sup>

#### *Right to Social Security*

1.10 The Human Rights Committee found that Schedule 1 of the Bill was a 'backwards step' in the realisation of the right to Social Security and in its report, stated that international human rights law requires such limitations to rights to be justified on grounds they would 'address a legitimate objective, are rationally connected to that objective and are a proportionate way to achieve that objective.' The Human Rights Committee found the statement of compatibility in the Explanatory Memorandum to the Bill did not provide a substantive assessment of whether the limitations were justified on the above grounds and wrote to the Minister seeking advice. At time of tabling this report, the Minister's response had not been published by the Human Rights Committee.

#### *Right to equality and non-discrimination*

1.11 The Human Rights Committee also found certain provisions in the Bill may have disproportionate impacts on persons with disabilities and older people from non-Australian background, but stated such measures do not necessarily constitute unlawful discrimination 'if the differential treatment is based on reasonable and objective criteria such that it serves a legitimate objective, is effective to achieve that legitimate objective and is a proportionate means of achieving that objective.' The Human Rights Committee found that these issues were not addressed in the statement of compatibility in the Explanatory Memorandum, and wrote to the Minister seeking advice as to whether the measure is compatible with the right to equality and non-discrimination. At time of tabling this report, the Minister's response had not been published by the Human Rights Committee.

### **Conduct of the inquiry**

1.12 On 22 June 2017, the Senate referred the provisions of the Bill 2017 to the Senate Community Affairs Legislation Committee (the committee) for inquiry and report by 7 September 2017.<sup>10</sup>

1.13 Details of the inquiry, including a link to the Bill and associated documents, were placed on the committee's website.<sup>11</sup> The committee wrote to 91 organisations and

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9 Parliamentary Joint Committee on Human Rights, [Human rights scrutiny report 7 of 2017](#), 8 August 2017, pp. 18-19.

10 [Journals of the Senate](#), No. 48, 22 June 2017, p. 1540.

11 See: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/PaymentIntegrity](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/PaymentIntegrity).

individuals inviting submissions by 4 August 2017. Submissions continued to be accepted after that date.

1.14 The committee received 14 submissions to the inquiry. Submissions accepted by the committee are listed at Appendix 1. The committee thanks those organisations that made submissions to the inquiry.

1.15 The committee held public hearings on 30 August 2017 in Sydney and on 31 August 2017 in Melbourne. Witnesses are listed at Appendix 2.

### **Note on references**

1.16 References to Committee Hansard are to proof transcripts. Page numbers may vary between the proof and official transcripts.

### **Issues identified during the inquiry**

1.17 Witnesses and submitters to the inquiry were generally not supportive of changes which would reduce income support payments. Catholic Social Services Australia submitted the changes 'will have the effect of reducing payments to the most vulnerable families and individuals in our community.'<sup>12</sup> St Vincent de Paul Society submitted 'we oppose legislative measures that reduce payments to the most vulnerable families and individuals in our communities, particularly given the woeful inadequacy of existing payment levels for income support.'<sup>13</sup>

1.18 The Australian Unemployed Workers Union (AUWU) pointed to a broad spectrum of changes to the income support system that is having adverse impacts on a broad range of Australians:

Considering the current combined social circumstances of high-cost housing, increasing costs of utilities and essential services, as well as a lack of stable, well-paid, flexible jobs, the so-called 'reforms' being made to welfare are having a visibly negative impact on a broadening section of society. People from professional and skilled backgrounds, with perfectly sound employment capacities, are contacting the AUWU expressing despair at their decline into financial and social destitution.<sup>14</sup>

1.19 In introducing the Bill, the Minister pointed to the need to maintain the sustainability of the income support payment system, to ensure that it can continue to provide support for future Australians in need:

While the Australian welfare system is already highly targeted, prudent and reasonable changes, such as those contained in this bill, are required to maintain the stability and sustainability of the system in the longer term. Without sensible decisions to keep spending under reasonable control, the

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12 Catholic Social Services Australia, *Submission 1*, p. 1. The issue of rising inequity and the need to maintain income support payments was raised in most submissions to the inquiry.

13 St Vincent de Paul Society, *Submission 13*, p. 3.

14 Ms Kate Zizys, Australian Unemployed Workers Union, *Committee Hansard*, p. 8.

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next generation of Australians will be left with more debt to repay and higher taxes.<sup>15</sup>

### ***Schedule 1 – residency requirements for Age Pension***

1.20 Currently, to be eligible for the Age Pension or Disability Pension, a person must have either been an Australian resident for a continuous period of 10 years or more, or resident for a total of 10 years with a continuous period of at least five years.<sup>16</sup>

1.21 Schedule 1 enhances the residency requirements and introduces a self-sufficiency test to require that:

- at least five years of the ten years continuous Australian residency period must be during a person's working life; or,
- at least five years must relate to periods in which a person was not in receipt of an activity tested income support payment (such as Austudy, Newstart, Youth Allowance and Special Benefit, as well as superseded similar payments).<sup>17</sup>

1.22 If a person cannot meet the above requirements, then they must have at least 15 years of continuous Australian residency.

1.23 Access to Special Benefit will remain for those experiencing financial hardship and existing exemptions remain, such as for those refugees (permanent humanitarian entrants) or for people who incur an ongoing inability to work after arrival in Australia for the Disability Pension.

1.24 In introducing the Bill, the Minister stated '[t]his measure reinforces and strengthens the residence connection required before a person can qualify for the age pension or DSP [Disability Pension] by increasing the continuous period a person must be an Australian resident. The community reasonably expects that those choosing to migrate to Australia should be self-sufficient to the greatest extent possible.'<sup>18</sup>

1.25 The amendments made by this schedule are expected to impact approximately 2390 people each year.<sup>19</sup> Approximately 90 Parent and Partner visa migrants a year will now be required to wait an additional five years before being eligible for Age Pension and approximately 2300 people per year will be delayed from claiming Age

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15 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7196.

16 Department of Social Services, *Social Security Payments – Residence Criteria*, <https://www.dss.gov.au/about-the-department/international/policy/social-security-payments-residence-criteria> (accessed 27 July 2017).

17 Explanatory Memorandum, pp. 6-7.

18 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7197.

19 Department of Social Services, *Welfare – Other Measures, 2017 Budget*, p. 3.

Pension or DSP.<sup>20</sup> The amendments will result in savings of \$119.1 million over the forward estimates and are intended to commence on 1 July 2018.<sup>21</sup>

*Issues raised regarding schedule 1*

1.26 The Federation of Ethnic Communities Councils (FECCA) and the National Ethnic Disability Alliance raised concerns that as nearly 40 per cent of people receiving the Age Pension were not born in Australia, the changes would disproportionately impact people from culturally and linguistically diverse (CALD) backgrounds who generally retire with lower superannuation, and often face multiple barriers to finding work, such as discrimination or qualifications not being recognised.<sup>22</sup> Other submitters stated the changes would disproportionately impact people with a disability<sup>23</sup> or those who live in areas of high unemployment or who have been retrenched or undertaken study.<sup>24</sup>

1.27 The National Social Security Rights Network (NSSRN) agreed with FECCA's views and argued the measure 'is likely to cause severe financial hardship to some very vulnerable Australians.'<sup>25</sup> NSSRN submitted the change establishes a concerning precedent of linking current income support eligibility to a person's history of income support.<sup>26</sup>

1.28 Catholic Social Services Australia similarly submitted the waiting period had little bearing on whether or not a person is in need of income support.<sup>27</sup> Anglicare Australia raised similar concerns that the changes were a step away from the 'universalism underpinning our pension system' and directly linked pension eligibility to economic contribution.<sup>28</sup>

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20 Department of Social Services, *Submission 11*, p. 2.

21 Explanatory Memorandum, pp. 2-3.

22 Federation of Ethnic Communities Councils, *Submission 8*, p. 2. See also submissions from National Social Security Rights Network, St Vincent de Paul Society and Volunteering Australia.

23 This issue was raised in submissions from Carers Australia, Chinese Australian Services Society, Federation of Ethnic Communities Councils, People with Disability Australia and St Vincent de Paul Society. Federation of Ethnic Communities Councils.

24 This issue was raised in submissions from Anglicare Australia, Australian Council of Social Service and St Vincent de Paul Society.

25 National Social Security Rights Network, [Budget 2017 – new residence rules for pensions](#), 27 May 2017, p. 2, see (accessed 31 July 2017).

26 National Social Security Rights Network, *Submission 12*, p. 3.

27 Catholic Social Services Australia, *Submission 1*, p. 2.

28 Anglicare Australia, *Submission 5*, p. 4.

1.29 The NSSRN argued the self-sufficiency test introduces a concerning precedent of penalising people for previous periods in receipt of income support payments.<sup>29</sup>

1.30 The NSSRN also raised concerns with impacts this measure could have on elderly migrants who entered Australia on the contributory parent visa scheme.<sup>30</sup> The NSSRN argued there should be an exemption for people who had sought income support payments due to being a victim of family violence, neglect or abuse by their assurer or another family member. The NSSRN contends this 'could be achieved at minimal cost to the taxpayer, by extending the assurance of support scheme to permit recovery of these amounts from assurers.'<sup>31</sup> The Chinese Australian Services Society pointed out that many migrants on this visa class wait over ten years from the time of application to when the visa is granted, leaving them with little opportunity to meet the new eligibility requirements.<sup>32</sup>

1.31 The Chinese Australian Services Society and Volunteering Australia both submitted that the self-sufficiency test did not take into account the valuable contributions that many elderly migrants make in voluntary work, and argued the pension eligibility tests should take into account the contributions of the sons and daughters of the elderly migrants.<sup>33</sup>

1.32 Carers Australia raised concerns on the impact this measure may have on carers, stating it is 'likely that many carers will find themselves responsible for both the care and at least some of the financial needs of family members or friends who are subject to lengthy waiting periods of between 10 and 15 years before they can access payment.'<sup>34</sup>

1.33 Other submissions stated the changes would disproportionately affect women who frequently bear the brunt of family care responsibilities, who are more likely to require an Age Pension due to insufficient superannuation, and are less likely to

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29 National Social Security Rights Network, *Budget 2017 – new residence rules for pensions*, 27 May 2017, p. 3. See also submissions from Anglicare Australia, Carers Australia and St Vincent de Paul Society and also Dr Cassandra Goldie, Australian Council of Social Service, *Committee Hansard*, 30 August 2017, p. 1.

30 This visa requires an assurance of support, usually from an adult child resident in Australia, who guarantees to provide financial support or repay any recoverable social security payments made to the migrant during the first 10 years of Australian residence. See: <https://www.dss.gov.au/about-the-department/international/policy/social-security-payments-residence-criteria>.

31 National Social Security Rights Network, *Budget 2017 – new residence rules for pensions*, 27 May 2017, p. 2, see (accessed 31 July 2017). This issue was also raised by St Vincent de Paul Society, *Submission 13*, p. 7.

32 Chinese Australian Services Society, *Submission 4*, p. 3.

33 Chinese Australian Services Society, *Submission 4*, p. 3.

34 Carers Australia, *Submission 2*, p. 3, and Volunteering Australia, *Submission 7*, p. 4.

satisfy a 'self-sufficiency test'.<sup>35</sup> St Vincent de Paul Society further submitted this put women from migrant backgrounds who experience family and domestic violence at risk.<sup>36</sup>

1.34 The Australian Council of Social Service submitted that although people impacted by the extended waiting periods would still have access to Special Benefit payments, the rate of payment was significantly lower and 'is completely inadequate, especially for older people or people with a disability who typically have high healthcare costs.'<sup>37</sup>

1.35 In introducing the Bill, the Minister pointed out:

The current residency requirements are generous when compared to the qualifying contribution periods required to receive a pension in other countries. A number of OECD countries require greater than 10-years contributions in order to receive even a part pension.

1.36 The Department of Social Services (Department) provided similar information, for example that Poland requires migrants to make a minimum contribution to the country for 20 years before becoming eligible for a pension and Japan requires 25 years of contributions.<sup>38</sup> Additionally, unlike those overseas systems funded from the direct contributions of individuals and employers, the Australian income support system is funded from general revenue – and as such it has stronger residency requirements for support payment eligibility.<sup>39</sup> When the Age Pension was introduced in 1909, the residency requirement was for 20 years continuous residence.<sup>40</sup>

1.37 The Department submitted that the measures also address concerns raised by the Productivity Commission regarding the cost of publicly funded financial support of parent migrants who have not resided in Australia during any part of their working lives.<sup>41</sup>

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35 Federation of Ethnic Communities' Councils and National Ethnic Disability Alliance, *Submission 8*, p. 2.

36 St Vincent de Paul Society, *Submission 13*, p. 8.

37 Australian Council of Social Service, *Submission 6*, p. 2. See also submissions from Federation of Ethnic Communities' Councils and National Ethnic Disability Alliance, National Social Security Rights Network, St Vincent de Paul Society.

38 Department of Social Services, *Submission 11*, p. 1.

39 Department of Social Services, *Social Security Payments – Residence Criteria*, <https://www.dss.gov.au/about-the-department/international/policy/social-security-payments-residence-criteria> (accessed 27 July 2017).

40 Australian Parliamentary Library, *Budget Review 2017-18: Pensions*, [http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/BudgetReview201718/Pensions](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201718/Pensions) (accessed 26 July 2017).

41 Department of Social Services, *Submission 11*, pp. 1-2.

## *Schedule 2 – Age Pension supplement*

1.38 The Pension Supplement is a combination of Pharmaceutical Allowance, Utilities Allowance, Goods and Service Tax (GST) Supplement, and Telephone Allowance. The payment rate per fortnight is \$35.40 - \$65.90 for singles and \$53.40 - \$99.40 for couples.<sup>42</sup> Currently, if a person goes overseas their pension supplement is cut to the basic amount, which is equivalent to the GST Supplement, after six weeks, being a fortnightly rate of \$23.00 for singles and \$37.80 for couples.<sup>43</sup>

1.39 This schedule stops the payment of the pension supplement<sup>44</sup> after six weeks temporary absence overseas, or immediately for permanent departures. In introducing the Bill, the Minister stated the change will bring the pension supplement into line with the portability arrangements for most other income support payments.<sup>45</sup> The Minister also stated that the basic amount of the pension supplement was 'designed to assist with 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 any longer than a short-term absence.'<sup>46</sup>

1.40 The amendments made by this schedule will result in savings of \$150.2 million over the forward estimates and are intended to commence on 1 January 2018, and will apply to all pension recipients overseas before, on or after commencement of the schedule.<sup>47</sup>

### *Issues raised regarding schedule 2*

1.41 Multiple submitters argued the amendment significantly reduces the income support for recipients of the Age Pension and Disability who travel long distances to maintain connections with family members in their places of birth or in safe haven countries, and pointed out that many Australians from migrant backgrounds are obliged to travel overseas to fulfil caring responsibilities for elderly family members. Submitters argued the changes may have the effect of forcing elderly CALD Australians to make decisions about abandoning unwell or dying family members for fear of losing significant income support.<sup>48</sup>

1.42 The Chinese Australian Services Society submitted they did not oppose the stopping of payments for permanent departures, but recommended that for temporary

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42 Department of Human Services, Pension Supplement, <https://www.humanservices.gov.au/individuals/services/centrelink/pension-supplement> (accessed 31 July 2017).

43 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7197.

44 The changes impact the Pension Supplement paid under the Age Pension as well as under the *Veterans Entitlements Act 1986*.

45 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7198.

46 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7198.

47 Explanatory Memorandum, p. 10.

48 Refugee Council of Australia, *Submission 9*, p. 1. See also submissions from Federation of Ethnic Communities' Councils and National Ethnic Disability Alliance, People with Disability Australia and St Vincent de Paul Society.

departures there should be a tapering of the pension supplement payments from 6 weeks after departure, with the payment reduced to nil by 18 weeks after departure.<sup>49</sup>

1.43 Catholic Social Services Australia also submitted they did not oppose this measure, as long as there were safeguards in place for people to apply for exemptions.<sup>50</sup>

1.44 The Explanatory Memorandum to the Bill outlines that 'Pensioners who leave Australia permanently or who are temporarily absent from Australia for more than six weeks are unlikely to be impacted by the Australian GST and it is therefore not appropriate to continue to pay them the pension supplement basic amount.'<sup>51</sup>

1.45 The statement of compatibility with human rights emphasises this point and states:

The change to the rate a recipient can receive after being outside Australia for more than six weeks does not affect their ability to access social security within Australia. This measure ensures that social security is appropriately targeted and that outside Australia for any longer than a short absence are not inappropriately remunerated for domestic expenses.<sup>52</sup>

1.46 The N SSRN recommended that pensioners already overseas should not be impacted by this change.<sup>53</sup>

1.47 Other submitters recommended the supplement be rolled into the Aged Pension basic rate and meaning that the usual portability timeframe would then apply.<sup>54</sup> The Australian Council of Social Service told the committee 'people don't view their income in terms of where different parts are going. This payment has been in place for quite some time, and people expect to receive a certain amount each fortnight. That's how they view their income. They're not putting aside \$11.50 or whatever it is per week, if they're single, to cover their GST costs.'<sup>55</sup>

1.48 The submission from the Department clarified that the measures are designed to reinforce the residence-based nature of Australia's social security system and will align the portability arrangements with most other income support arrangements. The Department further stated:

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49 Chinese Australian Services Society, *Submission 4*, p. 4.

50 Catholic Social Services Australia, *Submission 1*, p. 2.

51 Explanatory Memorandum, p. 10.

52 Explanatory Memorandum, *Statement of compatibility with human rights*, pp. 20-21.

53 National Social Security Rights Network, *Submission 12*, p. 3.

54 National Social Security Rights Network, *Submission 12*, p. 3. See also Australian Council of Social Service, *Submission 6*, pp. 2-3.

55 Dr Goldie, Australian Council of Social Service, *Committee Hansard*, 30 August 2017, pp. 6-7.

This is consistent with the Government's policy position to streamline social security payments and to appropriately target social security assistance to Australian residents in greatest need.<sup>56</sup>

### ***Schedule 3 – Taper rates for FTB Part A***

1.49 This Schedule amends the Family Assistance Act to align the income test payment taper rates so that all income above the higher income free amount is treated equally when calculating an individual's rate of family tax benefit (FTB) Part A.<sup>57</sup>

1.50 The Department website explains the current taper rate calculations for income over \$94 316:

If your family's adjusted taxable income is over \$94,316, we use 1 of 2 tests. We'll apply the test that gives you a higher rate.

The first test reduces your FTB Part A by 20 cents for each dollar of income you have over \$52,706.

The second test reduces the base rate of FTB Part A by 30 cents for each dollar of income you have over \$94,316. This applies until your payment is nil.<sup>58</sup>

1.51 The amendment will change the taper rate used in the first test, to apply a 30% taper rate to income over \$94 316.<sup>59</sup>

1.52 The Department estimates this measure will impact around 24 900 families who will lose access to FTB Part A payments, and another 71 800 families will see a reduction in their FTB Part A payment rate.<sup>60</sup> Analysis by the Parliamentary library indicates 'it will likely be larger families affected by the proposed measure.'<sup>61</sup>

1.53 The Minister stated the measure would '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.'<sup>62</sup>

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56 Department of Social Services, *Submission 11*, p. 3.

57 Taper rates to reduce the amount of FTB Part A payments apply when the recipient's annual family income is over \$52 706. The taper rates differ depending on the amount of income earned, and the number and age of dependent children. See the Department's website for current taper rates: <https://www.humanservices.gov.au/customer/enablers/income-test-family-tax-benefit-part>.

58 Department of Human Services, Income test for Family Tax Benefit Part A, <https://www.humanservices.gov.au/individuals/enablers/income-test-family-tax-benefit-part>, (accessed 31 July 2017).

59 Explanatory Memorandum, p. 15.

60 Department of Social Services, *Welfare – Other Measures, 2017 Budget*, p. 3.

61 Australian Parliamentary Library, *Budget Review 2017-18: Family Payments*, [http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/BudgetReview201718/FamilyPayments](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201718/FamilyPayments) (accessed 1 August July 2017).

62 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7198.

1.54 The amendments made by this schedule will result in savings of \$415.4 million over the forward estimates and are intended to commence on the first 1 July after Royal Assent (anticipated to be 1 July 2018).

*Issues raised regarding schedule 3*

1.55 Catholic Social Services Australia submitted the changes 'could result in as many 100 000 families becoming worse off - especially families with three or more children or two high school age children.'<sup>63</sup> NSSRN pointed out these families had recently been impacted by the cessation of the large family supplement payment.<sup>64</sup>

1.56 The Parenthood pointed out that while impacted families were in higher income brackets, they also had greater expenses and were 'more than likely paying mortgages that are higher and paying childcare fees that are quite substantial.'<sup>65</sup>

1.57 In its submission, ACOSS stated it did not necessarily oppose the change, but recommended the Department undertake modelling of the impacts to larger families and publish the result.<sup>66</sup> NSSRN also did not oppose the change, providing the freeze on indexation of the rates of payment and income free thresholds were reversed.<sup>67</sup> National Council of Single Mothers and their Children (Council of Single Mothers) opposed the threshold change, arguing that many small changes over recent years have cumulatively resulted in a significant reduction in income support for impacted families. The Council of Single Mothers recommended a review similar to the Harmer review, to ensure decisions regarding income support rates were 'undertaken in an informed context.'<sup>68</sup>

1.58 In discussing the impact of the measure, the Minister outlined that 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.'<sup>69</sup>

***Schedule 4 – Liquid assets test***

1.59 Certain income support payments (Newstart, Sickness and Youth Allowance and Austudy) have a liquid assets waiting period (LAWP), where income support payments are delayed if a person has funds readily available to them or their partner.

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63 Catholic Social Services Australia, *Submission 1*, p. 2.

64 National Social Security Rights Network, *Submission 12*, p. 4.

65 Ms Nicole Lessio, The Parenthood, *Committee Hansard*, 31 August 2017, p. 2.

66 Australian Council of Social Service, *Submission 6*, p. 3.

67 National Social Security Rights Network, *Submission 12*, p. 4.

68 National Council of Single Mothers and their Children, *Submission 14*, p. 2.

69 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7198.

*Table: Current liquid assets waiting periods*

<b>Waiting period (weeks)</b>	<b>Liquid assets range: Partnered or single with dependants</b>	<b>Liquid assets range: Single with no dependants</b>
NIL	\$0 to \$10,999	\$0 to \$5,499
1	\$11,000 to \$11,999	\$5,500 to \$5,999
2	\$12,000 to \$12,999	\$6,000 to \$6,499
3	\$13,000 to \$13,999	\$6,500 to \$6,999
4	\$14,000 to \$14,999	\$7,000 to \$7,499
5	\$15,000 to \$15,999	\$7,500 to \$7,999
6	\$16,000 to \$16,999	\$8,000 to \$8,499
7	\$17,000 to \$17,999	\$8,500 to \$8,999
8	\$18,000 to \$18,999	\$9,000 to \$9,499
9	\$19,000 to \$19,999	\$9,500 to \$9,999
10	\$20,000 to \$20,999	\$10,000 to \$10,499
11	\$21,000 to \$21,999	\$10,500 to \$10,999
12	\$22,000 to \$22,999	\$11,000 to \$11,499
13	\$23,000 onwards	\$11,500 onwards

*Source:* Department of Human Services, liquid assets waiting period, <https://www.humanservices.gov.au/customer/enablers/liquid-assets-waiting-period>

1.60 This schedule will increase the maximum liquid assets test waiting period from 13 weeks to 26 weeks for income support payment claims made after commencement of the schedule.<sup>70</sup>

1.61 In introducing the measure, the Minister outlined the purpose of the LAWP is to 'ensure that people with the means to support themselves do so for a period, before relying on the taxpayer funding for income support.'<sup>71</sup>

1.62 The amendments made by this schedule will result in savings of \$138.5 million over the forward estimates and are intended to commence on 20 September 2018.

#### *Issues raised regarding schedule 4*

1.63 Anglicare Australia submitted data showing that people on low income support were unable to meet the basic costs of living, spending 122 per cent of their income on an ongoing basis.<sup>72</sup> The Australian Council of Social Service told the committee that 'if you are reliant on social security ... you are persistently required to spend more in any given week in order to keep the roof over your head, in order to get

70 Explanatory Memorandum, p. 17.

71 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7199.

72 Anglicare Australia, *Submission 5*, p. 5.

the basics of food and to keep the lights on, and you do not have enough income to cover that.<sup>73</sup>

1.64 Other submitters raised similar concerns that claimants may have to exhaust savings before being able to access income support, which may reduce their capacity to meet an unanticipated large expense such as car repairs.<sup>74</sup>

1.65 The Parenthood expressed concern that the LAWP could be applied to money that people do not actually have access to, as the LAWP 'includes money that the employer owes you, and in circumstances where businesses go out of business and employees are left with nothing, they might be owed money but they may never see that money.'<sup>75</sup>

1.66 The AUWU told the committee for people working in the 'gig economy' of periodic employment that 'increasing the liquid asset test is a disincentive to take longer periods of work. It's a disincentive to save money, and it's an incentive to stay on welfare which, while it may be woefully inadequate, is at least somewhat stable.'<sup>76</sup>

1.67 Catholic Social Services Australia submitted this measure 'would likely affect older workers, for example those receiving a redundancy payout' and would make households financially vulnerable to managing contingencies while on income support.<sup>77</sup> The Council of Single Mothers submitted this would also impact women who received a divorce settlement and then needed to use the settlement payment for re-establishment costs, such as purchase of a new house or buying an additional car.<sup>78</sup>

1.68 Multiple submitters raised the Henry Tax Review which recommended abolishing the LAWP, as it can lead to arbitrary and inequitable treatment of claimants as a result of small differences in savings.<sup>79</sup>

1.69 In introducing the measure, the Minister noted that the current liquid assets test was set at 13 weeks in 1997, and since that time the average level of liquid assets held by claimants has risen considerably with the average now being \$63,000 for people who would be impacted by the measure. The Minister stated this 'indicates that

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73 Dr Goldie, Australian Council of Social Service, *Committee Hansard*, 30 August 2017, p. 5.

74 This issue was raised in submissions from Australian Council of Social Service, Chinese Australian Services Society, National Social Security Rights Network and St Vincent de Paul Society and also during committee hearings by the Australian Council of Social Service and the Unemployed Workers Union.

75 Ms Nicole Lessio, The Parenthood, *Committee Hansard*, 31 August 2017, p. 1.

76 Ms Kate Zizys, Australian Unemployed Workers Union, *Committee Hansard*, p. 8.

77 Catholic Social Services Australia, *Submission 1*, pp. 2-3.

78 National Council of Single Mothers and Their Children, *Committee Hansard*, 31 August 2017, p. 3.

79 This issue was raised in submissions from Anglicare Australia, Australian Council of Social Service, National Social Security Rights Network, St Vincent de Paul Society.

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many claimants have a greater capacity to support themselves than the current LAWP recognises.<sup>80</sup>

1.70 The Department's submission noted that those who are not subject to the LAWP or have a LAWP of 13 weeks or less will not be affected by this measure.<sup>81</sup>

1.71 The Minister has confirmed that the range of exemptions for students and people experiencing financial hardship will remain in place, and that superannuation assets are exempt from the LAWP.<sup>82</sup>

1.72 St Vincent de Paul Society submitted the LAWP would delay access to employment support services.<sup>83</sup> However, the Department provided advice that people serving a waiting period are eligible to volunteer for job active for up to six months, which ensures they are still able to access assistance to find a job.<sup>84</sup>

### **Committee view**

1.73 The committee notes the overarching goal of the four proposed measures is to ensure Australia's social security system remains fair, is targeted to those most in need of income support and is sustainable in the long term so that social security remains available to future generations of Australians.

1.74 The committee notes that Aged Pension and Disability Pension eligibility is based on the needs of an individual, rather than a dollar value an individual contributes into a social insurance fund. The committee also notes that to protect the sustainability of the pension system, payments are residence-based and targeted to Australian citizens and long-term residents. At the same time, there is also an obligation on government to ensure people residing in Australia are not destitute.

1.75 The committee notes the evidence provided to this inquiry regarding the availability of assistance to people who will be subject to lengthened residence requirements, such as access to Special Benefit payments and the waiver of the residence requirements for certain vulnerable cohorts such as refugees and some people with disability. The committee also notes the international arrangements with 30 countries which allow people to count periods of residence in those countries towards the residence requirements to be eligible for income support payments in Australia.

1.76 The committee considers the measures in Schedule 1 achieve a suitable balance between enhancing the residence-based nature of Australia's income support system, whilst ensuring the residence arrangements continue to include reasonable and appropriate income support safety nets.

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80 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, p. 7199.

81 Department of Social Services, *Submission 11*, p.5.

82 The Hon Christian Porter MP, *House of Representatives Hansard*, 21 June 2017, pp. 7199-7200.

83 St Vincent de Paul Society, *Submission 13*, p. 13.

84 Department of Social Services, *Submission 11*, p.6.

1.77 The committee acknowledges the Pension Supplement may be considered by individual recipients as overall income. However, the supplement is paid to compensate individuals for specific expenses which are incurred in Australia, and is therefore not appropriate to pay to people who are overseas for an extended period of time. The committee therefore considers the measures in Schedule 2 are reasonable, and bring the portability arrangements in line with similar income support payments and supplements.

1.78 The committee notes the concerns raised by submitters and witnesses that the measure in Schedule 3 will predominantly impact larger families. The committee notes the measure will ensure that all income over the highest bracket will be treated equally for the purposes of determining the rate of income support payments.

1.79 The committee notes concerns that the LAWP may require individuals to exhaust their savings before accessing income support payments. However, the committee notes advice from the Minister that average savings have significantly increased since the waiting period was first established. The committee considers the measure in Schedule 4 will ensure greater self-reliance by people who are able to support themselves, which will improve the overall fairness and sustainability of the income support system.

1.80 The committee agrees with the view of the Scrutiny Committee, that the information provided by the Minister to that committee is extrinsic material which assists in the interpretation of the Bill. This information would be useful to include in the Explanatory Memorandum, as it is valuable for understanding the context of any human rights implications for individuals impacted by the Bill.

## **Recommendations**

### **Recommendation 1**

**1.81 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.**

### **Recommendation 2**

**1.82 The committee recommends the Bill be passed.**

**Senator Slade Brockman**

**Chair**