

The committee's report into selected Schedules of the Social Services and Other Legislation Amendment Bill 2013

1.1 On 20 November 2013, the Social Services and Other Legislation Amendment Bill 2013 ('the bill') was introduced into the House of Representatives. On 4 December 2013, the House conducted the Second Reading debate, Consideration in Detail and the Third Reading stage of the bill. On 5 December 2013, the bill was introduced in the Senate.

The referral

1.2 The bill is an omnibus bill with 12 schedules. On 5 December 2013, the Senate Selection of Bills Committee referred the provisions of Schedules 1, 1A, 3, 4, 5, 7, 8, 10, 11 and 12 to the Senate Community Affairs Legislation Committee ('the committee'). The Selection of Bills Committee asked the committee to report by 11 February 2014. However, on a motion from the Assistant Minister for Social Services, Senator the Hon. Mitch Fifield, the Senate voted to bring forward the committee's reporting timeframe to 12 December 2013.

Conduct of the inquiry

1.3 The committee recognises that the short timeframe for this inquiry reflects:

- the 2013 sitting calendar, and the proroguing of parliament in August 2013, which meant that several of the measures announced in the May 2013 federal budget were not introduced and passed in the previous parliament; and
- that several of the proposed measures are due to commence on 1 January 2014 and therefore need the parliament's assent by the last sitting day of 2013 (see Table 1).

1.4 Within the timeframe, the committee held two public hearings on 9 and 10 December 2013. The first hearing focused on stakeholders' views on Schedule 1 and 1A of the bill. The second hearing provided an opportunity for stakeholders to comment on Schedules 3, 4, 5, 7, 8, 10, 11 and 12. The transcript of these hearings is reproduced in Appendix 2 of this report. The report should be read in conjunction with the evidence contained in these transcripts.

1.5 The committee also received 64 submissions, which are listed in Appendix 1. The majority of these submissions relate to Schedule 11 of the bill.

1.6 The committee thanks all the organisations and individuals who provided both written and verbal evidence to this inquiry at such short notice. It is also grateful to the Parliamentary Library's researchers for providing an advance copy of the *Bill's Digest* to assist the committee with its inquiry and report.

Table 1: Timing and estimated savings of the measures

Schedule	Commencement	Savings
1 – Encouraging Responsible Gambling	Day of Royal Assent	Abolition of the National Gambling Regulator may result in savings
1A	Day of Royal Assent	The financial implications of this amendment are unquantifiable in 2013–14 and 2014–15, and nil in the outyears
2 – Continuing income management as part of Cape York Welfare Reform	Day of Royal Assent	Cost of \$4.2 million over two years
3 – Family tax benefit and eligibility rules	1 January 2014	Savings of \$76.6 million over four years
4 – Period of Australian working life residence	1 January 2014	Saving of \$50.8 million over four years
5 – Interest charge	1 January 2014	Saving of \$33.5 million over three years
6 – Student start-up loans	Immediately after the commencement of Schedule 5 to this Act.	Saving of \$1,213.7 million over four years
7 – Paid parental leave	1 March 2014	Cost of \$7 million over five years
8 – Pension bonus scheme	1 March 2014	Saving of \$80.5 million over three years
9 – Indexation – child care rebate	1 March 2014	Saving of \$105.8 million over three years
10 – Indexation – remaining amendments	1 July 2014	Saving of \$18.8 million over four years
11 – Extending the deeming rules to account-based income streams	1 January 2015	Saving of \$161.7 million over four years
12 – Other amendments	Parts 1–4: Day of Royal Assent Part 5: The seventh day after the Bill receives Royal assent Part 6: Immediately after the commencement of Parts 1 and 2 of Schedule 2A to the <i>Family Assistance and Other Legislation Amendment Act 2013</i> .	Nil

Source: Social Services and Other Legislation Bill 2012, p. 2. *Explanatory Memorandum*, p. 5.

Schedule 1: Encouraging responsible gambling

1.7 Schedule 1 of the bill amends the *National Gambling Reform Act 2012* to implement aspects of the government's responsible gambling policy and remove parts of the existing gambling regulatory regime. At the public hearing on 9 December 2013, the committee received evidence from several witnesses into the provisions of Schedule 1 (see Appendix 2).

1.8 The bill would abolish all commitments in the *National Gambling Reform Act 2012* relating to pre-commitment systems including:

- abolishing requirements on manufacturers and venues to ensure electronic gaming machines are pre-commitment enabled;
- repealing provisions limiting ATM withdrawals;
- repealing provisions requiring electronic warning messages be displayed to players;
- abolishing the proposed gambling regulator and the proposed levies; and
- removing references to a proposed trial of pre-commitment in the Australian Capital Territory as well as its proposed evaluation by the Productivity Commission.¹

1.9 The bill would commit the government to:

- work with the states and territories, the gaming industry, academics and the community sector to develop and implement a voluntary pre-commitment scheme on gaming machines in venues nationally, within a realistic time period; and
- work with the gaming industry and the states, to ensure all pokies are capable of supporting a venues-based voluntary pre-commitment scheme, and to do this within a realistic timetable.²

1.10 The committee emphasises that while gambling is a significant problem for some Australians, most Australians gamble responsibly. The gaming industry is a major employer in Australia and governments have a responsibility to ensure that legislation does not place undue financial stress on venues. The gambling lobby's concerns with the potential impact of a mandatory pre-commitment system on their

1 Amanda Biggs, Luke Buckmaster, Carol Ey and Michael Klapdor, *Social Services and Other Legislation Amendment Bill 2013, Bills Digest*, Parliamentary Library, 2013–14, 10 December 2013.

2 Amanda Biggs, Luke Buckmaster, Carol Ey and Michael Klapdor, *Social Services and Other Legislation Amendment Bill 2013, Bills Digest*, Parliamentary Library, 2013–14, 10 December 2013.

business models were discussed in the first report of the Parliamentary Joint Select Committee on Gambling Reform.³

1.11 The committee highlights the fact that the changes proposed in Schedule 1 of the bill were flagged by the Federal Coalition in the lead-up to the 2013 federal election. The Coalition's pre-election policy document on gambling stated:

The Coalition does not support mandatory pre-commitment because it will not effectively tackle problem gambling. Gambling reforms need to ensure that problem gambling is prevented and problem gamblers helped. Mandatory pre-commitment is highly unlikely to achieve either of these aims.

The Coalition supports voluntary pre-commitment programme for electronic gaming machines adopted in concert with other measures, such as targeted counselling services and an effective self-exclusion scheme.

The Coalition will put a stop to the trial of mandatory pre-commitment in the Australian Capital Territory and instead devote much needed resources to programmes that will actually help problem gamblers and those at risk...

The Rudd-Gillard Government's national gambling regulator represents unnecessary duplication of a function already satisfactorily undertaken by the States and Territories. The Coalition will shut down the national gambling regulator and divert funding earmarked for it to the States and Territories to fund additional counselling and support services for problem gamblers.

We will amend the National Gambling Reform Act to put an end to Labor's bureaucracy and invest resources in measures proven to support problem gamblers, such as counselling.⁴

1.12 The committee acknowledges the strong views put at the public hearing in opposition to Schedule 1 of the bill. This included evidence from the Salvation Army, the Australian Churches Gambling Taskforce and Gambling Impact Society New South Wales.⁵ Major Kelvin Alley from the Salvation Army expressed his disappointment with Schedule 1 in the following terms:

3 Parliamentary Joint Select Committee on Gambling Reform, *First report: the design and implementation of a mandatory pre-commitment system for electronic gaming machines*, May 2011, pp. 227–228
http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/gamblingreform/completedinquires/2010-13/precommitmentscheme/report/index (accessed 10 December 2013).

4 Liberal Party of Australia and The Nationals, 'Helping problem gamblers', *Policy document*, August 2013, <http://www.liberal.org.au/helping-problem-gamblers> (accessed 6 December 2013).

5 See the evidence of the Reverend Tim Costello from the Australian Churches Gambling Taskforce, Ms Ros Phillips from *Family Voices* and Ms Kate Roberts from Gambling Impact Society New South Wales, *Proof Committee Hansard*, 9 December 2013.

I am very surprised to be here...I have worked for the last couple of years tirelessly with the previous government, so it surprises me that the work done to introduce national legislation to reform the area of problem gambling on poker machines is about to be repealed. We were delighted, despite the watered down legislation, to achieve the milestones achieved last year. The Salvation Army, along with the Australian Churches Gambling Taskforce, worked very hard with the previous government to achieve what was achieved...

I appeal to members and senators of this great house—this house for all Australians—that Christmas should be about good news. Let this go through and it is bad news; 33 per cent of players are in danger of harm from these machines—33 per cent of players. If this were a vehicle there would be a national regulation to control the sort of damage caused by any consumer product that would be harmful to 33 per cent of its users. Forty per cent of income—and I hesitate to use the word 'income'; it is actually people's losses—comes from the vulnerable. Take more time, I appeal to you, to think this through. Please.⁶

1.13 Having experienced the impacts of problem gambling, Ms Kelilah Doust told the committee:

Appearing as someone who has been affected by gambling problems with a family member, I suffered as a child from neglect and financial loss. My family almost lost our home. I am ashamed to be sitting here today in the face of regulations being repealed. Australian families have been fighting a silent battle and will continue to do so without this legislation. If any of these government bodies or clubs actually cared about the issue they would find a way. Instead, they find excuses.⁷

1.14 While the committee shares these witnesses' concern with the social impact of problem gambling, it emphasises that there is no evidence that mandatory pre-commitment would be an effective public policy response in Australia.

Schedule 1A

1.15 On 4 December 2013, during the Third Reading stage of the bill, government amendments inserted Schedule 1A. This sub-schedule would delay the commencement of the *Charities Act 2013* from 1 January 2014 to 1 September 2014. The Supplementary Explanatory Memorandum states that the delayed commencement 'will allow for further consultation on the legislation in the broader context of the Government's other commitments in relation to the civil sector'.⁸

6 Major Kelvin Alley, Salvation Army, *Proof Committee Hansard*, 9 December 2013, p. 11.

7 Ms Kelilah Doust, Consumer Voice, Gambling Impact Society, *Proof Committee Hansard*, 9 December 2013, p. 8.

8 *Supplementary Explanatory Memorandum*.

1.16 The committee considered the rationale for Schedule 1A at the public hearing on 9 December and again the following day. UnitingCare Australia, Justice Connect and the Community Council of Australia were all given the opportunity to give their views on the practical effect of delaying the Charities Act (see Appendix 2).⁹ The committee notes the views expressed in a submission from the Centre for Independent Studies, which supports the government's consultative approach:

The government's decision to abolish the ACNC within the next year raises many questions about how the elimination of the commission should be managed. Will the national register of charities be maintained in some form? Will a national 'centre for excellence' be created to replace the ACNC, and if so, what responsibilities will it have? How can the commission be wound down in a way that preserves accountability in the charity sector?

Laudably, the government has committed to consulting with NFP [Not-for-Profit] sector stakeholders and experts over the next several months to develop constructive answers to these questions. It would be counterproductive if, while these consultations are taking place, the sector were simultaneously confronted with changes to the legal definition of 'charity' and 'charitable purpose.' Allowing the Charities Bill 2013 to come into effect on 1 January 2014 would be both distracting and constraining at a time when focus and flexibility are needed.¹⁰

1.17 From the outset, the Coalition has been clear that it opposes the previous government's reforms to regulating charities and in particular, the creation of the Australian Charities and Not-for-Profits Commission (ACNC). In 2012, Coalition Members of parliamentary committees reporting into the provisions of the Australian Charities and Not for Profits Amendment Bill, argued that they:

...do not accept that the current Commonwealth regulatory regime, based on the activities of the Australian Securities and Investments Commission and the Australian Taxation Office, is broken, and therefore do not accept the premise for this new regulatory megastructure. We are unpersuaded by

9 Reverend Tim Costello, UnitingCare Australia, Mr David Crosbie, Chief Executive Officer, Community Council for Australia, Mr Nathan Daniel MacDonald, Acting Director, Justice Connect (Not-for-profit Law), Mr Joe Zabar, Director, Services Sustainability, UnitingCare Australia, *Proof Committee Hansard*, 9 December 2013, pp. 15–21.

10 Centre for Independent Studies, *Submission 13*, p. 1.

claims that this reform will reduce the regulatory burden faced by the sector.¹¹

1.18 Commenting on the Charities Bill in June 2013, the then Shadow Minister for Families, Housing and Human Services, the Hon. Kevin Andrews, told the House:

This bill would be the first time that legislation has sought to comprehensively define in statute, for the purposes of Commonwealth law, charity. Our concern is clear: why create a statute where the common law has and does serve us well? Why depart from 400 years of clarity and consistency? The coalition will oppose this bill and, if elected to government later this year, we will seek to repeal it.¹²

1.19 In the Second Reading Speech on the Social Services and Other Legislation Amendment Bill 2013, Minister Andrews explained:

The government has committed to consulting with the sector on abolishing the Australian Charities and Not-for-profits Commission and establishing a centre for excellence and a possible national register of charities. The delay will mean we can work holistically with civil society, consulting a range of stakeholders, including charity law specialists who provide advice to the sector.¹³

1.20 The committee asked officials from the Department of Social Services (DSS) and the Treasury about the connection between the *Charities Act 2013* and the proposed abolition of ACNC. DSS responded:

I think there are intersections for people, for stakeholders, in the sector about how they see these issues connected in terms of the construct of that piece of legislation—how it operates, how it might be implemented by the ACNC, what role they might play in that, whether that construct continues into the future. In our conversations with stakeholders, they do see these things to be connected.¹⁴

11 See Parliamentary Joint Committee on Corporations and Financial Services, *Australian Charities and not-for-profits Commission Bill 2012, Australian Charities and not-for-profits Commission (Consequential and Transitional) Bill 2012, Tax Laws Amendment (Special Conditions for Not-for-profit Concessions) Bill 2012*, September 2012, p. 61. Senate Community Affairs Legislation Committee, *Australian Charities and not-for-profits Commission Bill 2012, Australian Charities and not-for-profits Commission (Consequential and Transitional) Bill 2012, Tax Laws Amendment (Special Conditions for Not-for-profit Concessions) Bill 2012*, pp. 39–46.

12 The Hon. Kevin Andrews MP, Debate on Charities Bill 2013, *House of Representatives Hansard*, 17 June 2013.

13 The Hon. Kevin Andrews MP, Second Reading Speech, *House of Representatives Hansard*, 4 December 2013, p. 37

14 Ms Trish Woolley, Branch Manager, Program Service Branch, Department of Social Services, *Proof Committee Hansard*, 10 December 2013, p. 28.

1.21 When asked to comment what areas in the Charities Act have been flagged for change, Treasury responded:

It is impossible to know at this stage and I think that is why the government has asked for more consultations, to see if there are any areas and possibly to flush out areas that they are interested in.¹⁵

1.22 The government's broader reforms to the regulation of charities in Australia will be a matter for parliamentary consideration in the new year, when the government intends to introduce the legislation to repeal the ACNC. On 4 December 2013, the Minister announced that the government will establish a new Centre for Excellence which 'will support innovation and provide education, training and development opportunities to the sector' and 'will move the relationship from a compliance and regulatory focus to one that advocates for the sector'.¹⁶ In light of these proposals, the delay of the commencement of the *Charities Act 2013* until 1 September 2013 is a necessary and prudent measure.

Schedule 3—Family tax benefit eligibility rules

1.23 Currently, Family Tax Benefit Part A is payable to:

- a parent with children aged 0–15;
- a parent with children aged 16–17 who are still undertaking or have completed secondary study; and
- dependent full-time secondary students aged 18 until the end of the calendar year they turn 19.¹⁷

1.24 Schedule 3 of the bill proposes to limit eligibility for Family Tax Benefit Part A for children aged 16 to 17 who have already completed their Year 12 qualification. The benefit would only be paid in respect of children over 16 until the end of the calendar year in which they finish senior secondary school. The Explanatory Memorandum states that 'youth allowance...will remain available as the more appropriate payment to help young people transition from school into work or post-secondary study'.¹⁸

1.25 This measure was announced in the May 2013 federal budget by the previous government. The change will commence on 1 January 2014. The 2013–14 Budget Papers estimate savings from the measure of \$76.6 million over four years:

15 Ms Sue Piper, Manager, Philanthropy and Exemptions Unit, Revenue Group, Treasury, *Proof Committee Hansard*, 10 December 2013, p. 28.

16 The Hon. Kevin Andrews MP, *Address to the National Disability Services CEO Conference*, 4 December 2013, <http://kevinandrews.com.au/media/address-to-the-national-disability-services-ceo-conference> (accessed 10 December 2013).

17 *Explanatory Memorandum*, p. 7.

18 *Explanatory Memorandum*, p. 7.

\$7.5 million in 2013–2014; \$22.7 million in 2014–15; \$23.9 million in 2015–16; and \$24.6 million in 2016–17.¹⁹ DSS confirmed that the saving of \$76 million takes into account not only the saving from terminating the payment of Family Tax Benefit A, but also the cost of the person taking up the youth allowance.²⁰

1.26 The committee expressed interest in the process for moving from receipt of Family Tax Benefit A (at the end of the calendar year in which they completed Year 12) to a youth allowance payment (should they decide to study full time at tertiary level). DSS officials told the committee that this transition was possible, provided the person had applied to study at tertiary level.²¹ In a response to a Question on Notice, DSS confirmed that:

FTB recipients are currently sent a letter if they have a child who will complete Year 12 to advise them of the effect on their FTB, and the letter also advises about the option for the child to claim Youth Allowance. This process would continue to apply under the new measure in Schedule 3 to the Social Services and Other Legislation Amendment Bill 2013 (Family tax benefit and eligibility rules).²²

Schedule 4—Period of Australian working life residence

1.27 Schedule 4 of the bill relates to eligibility for the age pension for recipients living outside Australia. The current requirement for age pensioners to receive the full pension where they have been living abroad for 26 weeks or more is for 25 years of residency during their Australian working life (16 years of age to pension age). The Parliamentary Library's *Bills Digest* gives the example of a person with 16 years Australian residency (16/25) during their working life receiving 64 per cent of the rate otherwise payable if they resided in Australia.²³

1.28 Schedule 4 proposes that from 1 January 2014, age pensioners will be required to have been Australian residents for 35 years during their working life to receive the full means-tested pension after 26 weeks' absence from Australia. Where they have been absent from Australia for 26 weeks or more, the full pension is payable

19 Australian Government, Budget 2013–14, *Part 2—Expense measures*, http://www.budget.gov.au/2013-14/content/bp2/html/bp2_expense-10.htm (accessed 10 December 2013).

20 See discussion in *Proof Committee Hansard* transcript, 10 December 2013, p. 38. (Appendix 2).

21 Department of Social Services, *Proof Committee Hansard*, 10 December 2013, pp 36–37.

22 Response from Ms Diana Lindenmeyer, Acting Branch Manager, Family Payments and Child Support, Department of Social Services, *Response to question taken on Notice*, received 11 December 2013.

23 Amanda Biggs, Luke Buckmaster, Carol Ey and Michael Klapdor, Social Services and Other Legislation Amendment Bill 2013, *Bills Digest*, Parliamentary Library, 2013–14, 10 December 2013, p. 19.

only where the person has been a resident for 35 years of their Australian working life. If they have been an Australian resident for less than 35 years, their pension would reduce proportionately.²⁴

Possible impact of the measures in Schedule 4

1.29 In the *Bills Digest*, the Parliamentary Library reproduced estimates from FaHCSIA officials at a Senate Estimates hearing in May 2012 that:

- around 5,400 pensioners go overseas permanently each year and of these, around 2,100 are paid under social security agreements with New Zealand and Greece; and
- of the 3,300 who leave Australia permanently each year, around '858 have less than 25 years working life residence, 759 have between 25 and 35 years Australian working life residence and 1683 have more than 35 years Australian working life residence'.²⁵

1.30 The *Bills Digest* extrapolates that:

If current trends were to continue under the new rules, then around half of those pensioners who leave Australia permanently each year will not receive a full pension payment, compared to 26 per cent under the existing rules. Around 4,000 pensioners leave Australia temporarily each year and those that stay overseas for 26 weeks can also have their payments reduced under the portability rules. No estimates have been published as to how many of the 4,000 stay overseas longer than 26 weeks, nor how many might be affected by the AWLR changes.²⁶

1.31 Another indication of the possible impact of this measure comes from the 2012–13 Budget Papers, where the measure was first announced. Budget Paper No. 2 estimated that the government will achieve savings of \$50.8 million over four years by amending the Australian Working Life Residence rules applying to the age pension, from 1 January 2014.²⁷ DSS confirmed at the public hearing that this estimated cost saving remains accurate.²⁸

24 To receive any pension payment, a person must have been a resident for at least 10 years.

25 Amanda Biggs, Luke Buckmaster, Carol Ey and Michael Klapdor, Social Services and Other Legislation Amendment Bill 2013, *Bills Digest*, Parliamentary Library, 2013–14, 10 December 2013, p. 19.

26 Amanda Biggs, Luke Buckmaster, Carol Ey and Michael Klapdor, Social Services and Other Legislation Amendment Bill 2013, *Bills Digest*, Parliamentary Library, 2013–14, 10 December 2013, p. 21.

27 Australian Government, Budget 2012–13, *Part 2—Expense measures*, http://www.budget.gov.au/2012-13/content/bp2/html/bp2_expense-09.htm (accessed 10 December 2013).

28 Department of Social Services, *Proof Committee Hansard*, 10 December 2013, p. 26.

1.32 The Council on the Ageing (COTA) supported the proposed measures in Schedule 4, noting that the reforms would bring Australia into line with other Organisation for Economic Cooperation and Development (OECD) countries.²⁹

1.33 National Seniors Australia expressed some concern that the amendment could impact the pension payment of people who are currently overseas—having made their retirement plans based on the previous 25 year rule—and need to return to Australia for a period of longer than 26 weeks, before returning abroad.³⁰

Schedule 5—Interest charges for certain student debts

1.34 The Parliamentary Library's *Bills Digest* notes that a social security debt arises when payments are made to a person who is not entitled, or when overpayments are made to an entitled recipient. It explains that this situation may arise where an individual has failed to declare income or assets that would have been taken into account by the means test, and would have resulted in a lower payment rate.³¹

1.35 Overpayments may be recovered by a reduction in future social security payments or, when a person who has raised a debt is no longer in receipt of a social security payment, they are usually required to enter into a repayment plan. Currently, however, there is no incentive for student income support debtors to repay their debt.³²

1.36 Schedule 5 of the bill proposes to introduce an interest charge for certain debts relating to austudy payment, fares allowance, youth allowance payments to full-time students and apprentices, and ABSTUDY living allowance payments. The charge will only apply where the debtor does not have or is not honouring an acceptable repayment arrangement.³³

1.37 The committee asked DSS officials to provide an overview of the number and quantum of social security debts that the measure seeks to address. DSS told the committee that there are currently 22,000 individual debtors comprising 33,000 debts,

29 Ms Jo Root, National Policy Manager, Council on the Ageing, *Proof Committee Hansard*, 10 December 2013, p. 20.

30 National Seniors Australia, Submission 57.

31 Amanda Biggs, Luke Buckmaster, Carol Ey and Michael Klapdor, Social Services and Other Legislation Amendment Bill 2013, *Bills Digest*, Parliamentary Library, 2013–14, 10 December 2013, p. 21.

32 Statement of Compatibility with Human Rights, *Social Services and Other Legislation Amendment Bill 2013*, p. 7.

33 *Explanatory Memorandum*, p. 17.

with a total value of \$72 million.³⁴ DSS estimates that once the interest charge is imposed, roughly half these debtors will begin to repay their debt.³⁵

1.38 At the public hearing on 10 December 2013, the committee took evidence on matters relating to Schedule 5 from the National Welfare Rights Network, the Australian Youth Affairs Coalition (AYAC) and the National Tertiary Education Union. AYAC argued that the additional interest charge is not likely to make debtors pay on time.³⁶ The National Welfare Rights Network commented that it is more difficult to recoup a debt where people are no longer receiving a social security benefit.³⁷ It also noted that the proposed rate of interest (new proposed section 1229H) would be difficult for debtors who have only recently entered the workforce to service. The National Welfare Rights Network recommended a number of amendments to proposed new subsection 1229F of Schedule 5 to soften the proposed penalties for non-compliance with, or termination of repayment arrangements.

Committee view on Schedule 5

1.39 The committee believes that the interest charge proposed in schedule 5 of the bill is an appropriate measure to ensure that debts are repaid when the debtor has the capacity to do so. Debtors would have 28 days once notified by the Department of Human Services to enter into a debt repayment arrangement. The potential gain to the public purse is quite significant. DSS stressed there would be no interest charge paid where the debtor is honouring an acceptable repayment arrangement.

Schedule 7—Paid parental leave

1.40 Schedule 7 of the bill would remove the current requirement for employers to make payments to employees under the national Paid Parental Leave (PPL) scheme from 1 March 2014. Employees would be paid directly by the Department of Human Services, although employers would have the option to make the payment to employees themselves. The government estimates that removing this requirement will save employers \$48 million nationally, with implementation estimated to cost \$7 million.³⁸

34 Mr Murray Kimber, Branch Manager, Payment Integrity and Performance Information Branch, Department of Social Services, *Proof Committee Hansard*, 10 December 2013, p. 39.

35 Mr Oliver Caddick, Director, Student Payment Program Performance Section, Payment Integrity and Performance Information Branch, Department of Social Services, *Proof Committee Hansard*, 10 December 2013, p. 30.

36 Mr Reyato Reodica, Deputy Director, AYAC, *Proof Committee Hansard*, 10 December 2013, p. 2.

37 Ms Amelia Meeres, Solicitor, National Welfare Rights Network, *Proof Committee Hansard*, 10 December 2013, p. 3.

38 *Regulation impact statement—paid parental leave*, p. 6.

1.41 The Regulation Impact Statement on the provisions of Schedule 7 noted that as of June 2013, 76 per cent of recipients were receiving their PPL from their employer. It also cited the results of an Australian Chamber of Commerce and Industry (ACCI) survey published in May 2013 which found that 84.3 per cent of businesses either agreed or strongly agreed that 'the Government should not require employers to be the paymaster of the Paid Parental Leave Scheme'.³⁹

1.42 The committee notes that both major parties took policies to the last federal election to at least partially remove PPL paymaster responsibilities from employers. Pre-election, the Coalition announced that it would fully remove this obligation, meaning that all employees' PPL entitlements will be paid directly by the Commonwealth Government.⁴⁰ The Labor Party's election policy was that businesses with fewer than 20 employees would no longer have to administer government-funded PPL.⁴¹

1.43 Both the Council of Small Business of Australia (COSBOA) and ACCI told the committee that it was highly desirable to have government as a paymaster, rather than employers. Both organisations emphasised that there is no evidence to suggest that payments through the employer's payroll lead to a stronger attachment to the workplace.⁴² ACCI noted that in New Zealand, where the government is the PPL paymaster, there has not been 'any compelling policy rationale' to transfer the paymaster role to the individual employers.⁴³ COSBOA took issue with the costs and complications associated with current claiming processes. The Executive Director of the Council, Mr Peter Strong, told the committee:

In dealing with a person who is on parental leave, quite often they will come in, especially after the child is born or just beforehand... You will find out and you will talk about the pay. You will do a pay run and the pay will

39 *Regulation impact statement—paid parental leave*, p. 2. The sample size was 1700, 1096 of which were small businesses (less than 20 employees). See ACCI, *Submission into the Review of the Paid Parental Leave Scheme*, July 2013, p. 6.

40 *The Coalition's policy for Paid Parental Leave*, August 2013, <http://lpaweb-static.s3.amazonaws.com/The%20Coalition%E2%80%99s%20Policy%20for%20Paid%20Parental%20Leave.pdf> (accessed 10 December 2013).

41 The Hon. Kevin Rudd, the Hon. Chris Bowen, the Hon. Gary Gray, the Hon. Jan McLucas and the Hon. Bernie Ripoll, 'Cutting business red tape—Paid parental leave payments', *Media release*, 22 August 2013, http://d3n8a8pro7vhmx.cloudfront.net/australianlaborparty/pages/1219/attachments/original/1377235782/Fact_sheet_-_Small_Business_Paid_Parental_Leave.pdf?1377235782 (accessed 10 December 2013).

42 Mr Daniel Mammone, Director of Workplace Policy and Director of Legal Affairs, Australian Council of Commerce and Industry, *Proof Committee Hansard*, 10 December 2013, p. 13 and Mr Peter Strong, Executive Director, Council of Small Business Australia, *Proof Committee Hansard*, 10 December 2013, p. 12.

43 ACCI, *Submission into the Review of the Paid Parental Leave Scheme*, July 2013, p. 12. See also Mr Daniel Mammone, ACCI, *Proof Committee Hansard*, 10 December 2013, pp 13–14.

go off into their account, as it normally does. You will email, if that is what you do, their pay advice to them. That sounds easy except...[T]here are too many problems in there. There are too many issues that you have to change. It is imposed upon you from a third party that has no role of telling us what to do with our pay system above and beyond PAYG and the normal sorts of things you ask of an employer. It does not happen often and it just causes confusion for everybody and creates mistakes. Without a doubt, it creates mistakes that do not benefit everybody as well.⁴⁴

1.44 The committee believes that the measures proposed in Schedule 7 of the bill will provide a significantly more streamlined process for businesses that choose not to 'opt-in'.

Schedule 8—Pension bonus scheme

1.45 The Pension Bonus Scheme provides a lump sum payment to people who are qualified for the aged pension but who choose to defer their pension and remain in the workforce. The bonus payment is paid at the time an applicant eventually claims their age pension. While the scheme closed in September 2009, people remained able to register if they qualified but had not registered at the time of closure.⁴⁵

1.46 Schedule 8 of the bill seeks to establish 1 March 2014 as the cut-off date for late applications to the Pension Bonus Scheme. It will establish a formal cut-off date so that no applications to the Pension Bonus Scheme can be made on or after 1 March 2014. Applicants who are already registered in the scheme will not be affected by this change, and those who are eligible can continue to apply up until 1 March 2014.

1.47 The committee supports Schedule 8:

- the cut-off date for the Pension Bonus Scheme was originally announced by the previous government in the 2013 federal budget and represents an important cost saving of \$80.5 million over three years;
- the 2009 Harmer Review of Pensions found that the Pension Bonus Scheme is complex and difficult for people to understand. Moreover, the benefits from the scheme flow to individuals who would have continued working past the pension age in any event;⁴⁶ and

44 Mr Peter Strong, Executive Director, Council of Small Business of Australia, *Proof Committee Hansard*, 10 December 2013, p. 12.

45 *Explanatory Memorandum*, p. 60.

46 Mr Jeff Harmer, *Pension review report*, Department of Families, Housing, Community Services and Indigenous Affairs, 27 February 2009, p. 94.

- the replacement Work Bonus Scheme is considered a simpler and more targeted workforce participation incentive for older workers.⁴⁷ Under the Work Bonus Scheme, age pension recipients can have half of their employment income, up to a cap of \$500 per fortnight, disregarded from the pension test.⁴⁸

1.48 The Committee took evidence on Schedule 8 of the bill from both the Council on the Ageing (COTA) and National Seniors Australia. Both organisations supported the proposed amendments.

Schedule 10—Reduction of period for temporary absence from Australia

1.49 Family and parental assistance payments—including Family Tax Benefit Part A, Family Tax Benefit Part B, Parental Leave Pay (PLP) and Dad and Partner Pay (DAPP)—assist families with the costs of raising children. Currently, recipients can continue claiming these family and parental assistance payments while they are temporarily overseas for up to three years.

1.50 Schedule 10 of the bill seeks to reduce the length of time recipients can claim these family and parental payments while they are temporarily overseas from three years to 56 weeks. The Schedule provides for some extensions to this 56 week period in special circumstances.

1.51 Australian Defence Force and Australian Federal Police personnel who are deployed overseas will, under an addition to section 24 of the Family Assistance Act, be explicitly exempt from the measures and continue to be eligible for the payments for up to three years. Other Australian Government personnel who are stationed overseas temporarily, such as diplomatic staff, appear not to be exempt from the changes given they are not explicitly mentioned in the bill.

Recommendation 1

1.52 The committee recommends that the Government consider extending the exemptions available in Schedule 10 of the bill to all personnel stationed overseas by the Australian Government, to ensure that diplomatic staff are exempt.

1.53 The committee supports the provisions in Schedule 10, which were first announced in the 2013 federal budget. The number of recipients impacted will be relatively small: in June 2013, FaHCSIA estimated that the families of 2,800 children

47 Amanda Biggs, Luke Buckmaster, Carol Ey and Michael Klapdor, *Social Services and Other Legislation Amendment Bill 2013, Bills Digest*, Parliamentary Library, 10 December 2013, pp 29–30.

48 Dale Daniels, Luke Buckmaster and Peter Yeend, *Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Bill 2009, Bills Digest*, 179, Parliamentary Library, 2009.

will be affected by the changes in the first year of operation.⁴⁹ The committee did not receive any feedback from stakeholders critical of Schedule 10.

Schedule 11—Extending the deeming rules to account-based income streams

1.54 When calculating income to assess an income support recipient's financial investments, the investments are assumed to be earning a certain rate of income regardless of what they actually earn (a deeming rate). The EM notes that these deeming rules encourage people to choose investments on their merit rather than the effect the investment income may have on the person's income support entitlement.⁵⁰

1.55 Currently, however, certain income streams are not subject to income deeming. Schedule 11 of the bill extends the income deeming provisions to any asset-tested income stream that is an account-based pension. The government's intent is that people with similar financial assets are treated consistently under the income support system.

1.56 The measures will begin for products assessed from 1 January 2015. They are estimated by Treasury to save \$161.7 million. Some witnesses have queried this estimate.

Concerns with the impact of Schedule 11

1.57 As noted earlier, the majority of submissions received by the committee during this inquiry related to Schedule 11 of the bill (see Appendix 1). More than 40 submissions were received from financial advisers. They expressed concern with:

- the potential disincentive the deeming provisions might have on the responsible management of retirees' superannuation assets;⁵¹
- reducing competition between financial products and product providers by offering preferential social security treatment to pension schemes which are not asset-backed; and
- equity implications, with claims that the measures would disproportionately affect Australians with modest means, and therefore lead to greater reliance on the aged pension.⁵²

49 Senate Community Affairs Legislation Committee, *Answers to Questions on Notice*, Families, Housing, Community Services and Indigenous Affairs Portfolio, Budget Estimates 2013–14, 3 and 4 June 2013, Question 200, accessed 29 November 2013. See Amanda Biggs, Luke Buckmaster, Carol Ey and Michael Klapdor, *Social Services and Other Legislation Amendment Bill 2013*, *Bills Digest*, Parliamentary Library, 2013–14, 10 December 2013, p. 38.

50 *Explanatory Memorandum*, p. 69.

51 Financial Planning Australia, *Submission 2*, p. 1.

52 Financial Planning Australia, *Submission 2*, p. 1.

1.58 All three concerns are addressed in Financial Planning Australia's (FPA) submission. In terms of a possible anti-competitive effect, the FPA noted:

If the value of the underlying asset is used to deem the income derived from the financial product, then financial products without an underlying asset (such as Defined Benefits Scheme Pensions or annuity products) may have a lower income than the deemed income of an account based pension. We do not form a value judgment by comparing these products, but stress that product recommendations made by financial planners should be influenced by the circumstances and goals of the client, and not arbitrary distinctions in the social security law.⁵³

1.59 DSS responded that people with non-account based income stream products have no access to their capital, no investment choice and no ability to change the amount of income they receive each year to reflect the changes in the deeming rates. The Department stated that 'it would not be appropriate to subject these products to deeming'.⁵⁴

1.60 In terms of equity considerations, the FPA presented data comparing aged pension outcomes for a 65 year old single woman who purchases either a \$200,000 or a \$500,000 account based pension and has no other assets. For the person with the \$500,000 account based pension, there is no effect as the asset will be unaffected by the deeming provisions. On the FPA's figures, the retiree on a \$200,000 account based pension will expect to receive \$62.40 less per fortnight from the age pension.⁵⁵

1.61 This evidence was put to the DSS for its response. DSS commented:

This is a consequence of people being assessed under either the income test or the assets test. At \$500,000, a person will be assessed under the assets test. Regardless of whether they have their assets in superannuation or non-superannuation holdings, they will receive the same level of pension. That is, the pension assets test already assesses financial assets consistently regardless of how they are held.

The person with a \$200,000 balance will be assessed under the income test and...will get a pension payment depending on whether it is held directly or in superannuation. That is, the pension income test does not currently assess income consistently for superannuation account based income streams and financial assets held directly. Thus the schedule changes the social security income test treatment of superannuation account based income streams to ensure equity for people assessed under the income test.⁵⁶

53 Financial Planning Australia, *Submission 2*, p. 1.

54 Department of Social Services, *Response to Question on Notice from public hearing 10 December 2013*, received 11 December 2013.

55 Financial Planning Australia, *Submission 2*, p. 2.

56 Department of Social Services, *Response to Question on Notice from public hearing 10 December 2013*, received 11 December 2013.

Committee view

1.62 The committee supports extending the deeming provisions to align treatment of account based superannuation streams with the deemed income rules applying to other assets. The committee agrees with National Seniors Australia that it is important that people with similar financial assets are treated consistently under the income support system.⁵⁷

Conclusion

1.63 The committee supports the passage of Schedules 1, 1A, 3, 4, 5, 7, 8, 10, 11 and 12 of the bill before the parliament rises in 2013.

- The provisions in Schedule 1 of the bill effect a clear Coalition election commitment. The committee is pleased that both major parties now support a voluntary pre-commitment programme for electronic gaming machines. Senators on the committee also emphasise the importance of assisting those with a gambling problem with targeted counselling services and an effective self-exclusion scheme.
- Schedule 1A has been inserted to ensure there is further consultation on the commencement of the *Charities Act 2013*. For some time, the Coalition has clearly stated that it favours a different approach to that of the previous federal government in the regulation of the not-for-profit sector. The proposed nine months delay of the commencement of the Charities Act is prudent given this different path and the need for stakeholder consultation.
- The provisions in Schedules 3, 4, 5, 8, 10 and 11 of the bill would implement commitments made by the previous federal Labor Government in budget statements and Mid-Year Economic Forecasts. These measures are savings measures and will be among several measures that the Coalition intends to implement to improve the budget bottom line.
- Schedule 7's provision to relieve employers of the administrative responsibility of paying their employee's paid parental leave is implementing a clear Coalition election commitment. The government recognises the cost that current administrative arrangements have on business.

57 National Seniors Australia, *Submission 57*.

Recommendation 2

1.64 The committee recommends that the Schedules of the bill inquired into by the Senate Community Affairs Legislation Committee be passed without amendment.

Senator Sue Boyce

Chair

