Labor Senators' Dissenting report

Schedule 1

The Labor Senators acknowledge the issues of problem gambling and the evidence of witnesses around concerns for individuals and families. We will be proposing an amendment to this legislation to ensure that, where there is a state-wide pre-commitment scheme in place, venues must continue to have the capability of connecting to that scheme.

The Government's legislation recommits to further consultation across stakeholders and the Labor Senators strongly support such consultation and engagement.

Schedule 1A

The Labor Government's Charities Bill 2013 was to create a statutory definition of what constitutes a charitable entity. The importance of the definition is that it guides the ATO as to whether or not an organisation is eligible for certain tax benefits. The Bill codified existing case law and explicitly stated that charities are free to critique the policies of political parties and candidates. The Bill had widespread support in the sector.

There is broad support within the charitable sector for a statutory definition of charity as very few want to be bogged down in court cases to decide if they are a charity.

The Government report refers to speeches by Minister for Social Services Kevin Andrews and Coalition policy to repeal the act and, in particular, the Australian Charities and Not-for-profits Commission, the ACNC.

Witnesses made it clear any debate over the future of the ACNC should be made separate to the definition of a charity.

Regardless of Government policy in the future regarding the ACNC, Labor Senators strongly support the definition of charity.

Mr Nathan Macdonald, acting director, Justice Connect (Not-for-profit Law):

> In our view the Charities Act is a step towards certainty and clarity for those seeking charitable endorsement and goes some way towards addressing the proliferation of statutory definitions on 'charity'.
>
> We feel the Charities Act represents a piece of policy that is long overdue, having been considered and recommended by several major inquiries, including the 2001 charities definition inquiry and, more recently, the Productivity Commission inquiry in 2010. Consultation on the current definition was adequate and, while a number of the 200-plus submissions asked for some degree of tinkering to the Bill, it is fair to say that there was broad support for a single definition on 'charity' across the Commonwealth,

> with the end result being a definition that largely preserves and clarifies the common law.[1]

Mr David Crosbie, CEO, Community Council for Australia:

> We recognise, as would everybody who has ever looked at the legislation and the definition of 'charity', that the current provisions are woefully inadequate, that they discriminate against small charities who cannot afford tax lawyers, and they are complex even for the most well-resourced charity in terms of understanding what is charitable and what is not. It was a massive step forward to get the level of consensus that was agreed through the 2011 consultations, the 2013 consultations and the 2001 consultations on a new statutory definition of 'charity' and we, like most of the charitable sector, celebrated the fact that we had clarity and some sense of being able to plan our activities based on a clear, concise definition of 'charity' that included things previously not included like advocacy, Indigenous disadvantage, housing and disaster relief.[2]

Reverend Tim Costello, chair, Community Council of Australia and CEO, World Vision Australia:

> This new definition is extraordinarily important for all of us. With the consultations and over 200 submissions made, I have not heard of anyone in the sector who was troubled by this definition.[3]

Mr Joe Zabar, director Services Sustainability, UnitingCare Australia:

> The ACNC decision is very different from the statutory definition question.[4]

Schedule 5

The Labor Senators on this Committee do not share the majority's view on the appropriateness of the measure proposed in Schedule 5.

This measure would see interest charges applied to certain debts applying to Austudy payment, fares allowance, Youth Allowance payments to full-time students and apprentices and ABSTUDY living allowance payments.

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1 Mr Nathan McDonald, Acting Director, Justice Connect, *Proof Committee Hansard*, 9 December 2013, p. 16.

2 Mr David Crosbie, Chief Executive Officer, Community Council for Australia, *Proof Committee Hansard*, 9 December 2013, p. 16.

3 Reverend Tim Costello, Chief Executive Officer, World Vision Australia, *Proof Committee Hansard*, 9 December 2013, p. 16.

4 Mr Joe Zabar, Director, Services Sustainability, UnitingCare Australia, *Proof Committee Hansard*, 9 December 2013, p. 18.

The Labor Senators have had regard to the submissions of organisations that work directly with students, including the Student Representative Council of the University of Sydney and the Nationals Tertiary Education Union which highlight the financial stress under which many students already find themselves, including reference to research which shows that up to two thirds of tertiary students are already under significant financial strain.

We also note that during the hearings, the Australian Youth Affairs Coalition argued that this measure is unlikely to make students pay back their debts on time. They said: "in cases where young people are already struggling to pay existing debts the additional interest charge is not likely to serve as an incentive to pay on time".[5]

The National Tertiary Education Union also argued that this measure may act as a disincentive to students seeking access to appropriate support because of fear of punitive debts, and that this may lead to decisions not to engage in tertiary education.[6]

On the basis of the evidence before the committee, the Labor Senators consider this measure to be overly punitive on students who are already under significant financial strain, and we do not consider that it will achieve the outcomes to which it is directed. On this basis we oppose this measure.

Schedule 7

This Bill amends Paid Parental Leave (PPL) legislation to remove the requirement for employers to administer Government funded parental leave pay to their eligible long-term employees.

From 1 March, employees will be paid directly by the Department of Human Services, unless an employer opts in to provide parental leave pay to its employees and an employee agrees for their employer to pay them.

The current PPL legislation provides that employers must administer the paid parental leave for eligible; long-term employees. The employer role in the scheme is designed to help employers retain their skilled staff by enabling women to remain connected to work and their careers when they take time out of the workforce to have a baby or adopt a child. During 2013 election campaign, Labor announced that it would enable businesses with less than 20 employees to have Centrelink administer their PPL payments to their employees on an opt-in basis.

5 Mr Reynato Reodica, Deputy Director, Youth Sector, Australian Youth Affairs Coalition, *Proof Committee Hansard*, 10 December 2013, p. 2.

6 See the comments of Ms Jeannie Rea, National President, National Tertiary Education Union, *Proof Committee Hansard*, 10 December 2013, p. 1.

The PPL scheme was designed to be a workplace entitlement rather than a welfare payment. The submission to this inquiry from the ACTU referred to the Productivity Commission recommendation that employers should act as the agent for the government and pay its statutory leave on its behalf. The Commission noted that 'structuring payments in this way would strengthen the link between employer and employee, which should increase retention rates for the business (and lead to a higher lifetime employment by women).

The ACTU concurs with the PC that the employer's role in the delivery of employees' PPL is critical to developing a culture where a parent's need to take leave to have and care for a baby is connected to their employment relationship. Requiring employers to pass on the government payments assists in categorising PPL as a 'workplace entitlement', albeit subsidised to the minimum wage level. It appears like any other leave entitlement, and in an ever increasing number of workplaces, is being 'topped up' by employers so that employee receives paid leave at their normal wage rate paid by the employer.

The evidence supplied by Mr Phillip Brown, Branch Manager, Parental Payments and Family Research Branch, Department of Social Services referred to the legislation review of the PPL that is due to be finalised in the very early part of next year. This review draws from the separate evaluation process which is currently underway as well as early evaluation reports which are publicly available.

Mr Brown in giving evidence the evaluation, said:

> In broad terms it certainly showed that, overall, while there were some concerns and misunderstandings between Centrelink and different employers, over time, as Centrelink mastered the business of working with employers, and employers, particularly when they had multiple claimants, were able to adapt as well. So, overall, it is not without concerns and issues raised by employers—small, medium, large—but I think the processes have been managed well and they are relatively smooth, notwithstanding the evidence provided here earlier in the day.[7]

Mr Brown when giving evidence from the evaluation said:

> Ease of registering for the PPL scheme', more than half said it was easier to register with the scheme, so it was a minority but a sizeable minority found it was difficult. Attitudes towards organising PPL statements, 'It was easy to organise payments for the PPL scheme', strongly agree or agree was 79 per cent people said they strongly agreed or agreed that it was easy to organise payments for the PPL scheme through Centrelink.[8]

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7 Mr Phillip Brown, Branch Manager, Parental Payments and Family Research Branch, Department of Social Services, *Proof Committee Hansard*, 10 December 2013, p. 43.

8 Mr Phillip Brown, *Proof Committee Hansard*, 10 December 2013, p. 43.

On the claim made by employer group about the complexity of effectively maintain the PPL, Mr Brown stated:

> The Council of Small Business Australia have raised those concerns with us consistently, but other evidence and feedback, given either through the review or the evaluation, or through correspondence to the minister, is not a uniform view at all.[9]

Recommendation 1

1.1 Labor Senators will be recommending an amendment to Schedule 1 to ensure that, where there is a state-wide pre-commitment scheme in place, venues must continue to have the capability of connecting to that scheme.

Recommendation 2

1.2 Labor Senators will be opposing Schedule 1A.

Recommendation 3

1.3 Labor Senators will be opposing Schedule 5.

Recommendation 4

1.4 Labor Senators support an amendment to Schedule 7 to enable businesses with less than 20 employees to have Centrelink administer their PPL payments to their employees on an opt-in basis.

Senator Carol Brown **Senator Nova Peris**

Senator Claire Moore

9 Mr Phillip Brown, *Proof Committee Hansard*, 10 December 2013, p. 43.