

Chapter 1

Introduction

Background

1.1 The 2017–2018 Budget included measures to simplify welfare payments, introduce streamlined administrative processes and a new compliance framework. The Social Services Legislation Amendment (Welfare Reform) Bill 2017 implements these changes.

Key provisions and purpose of the Bill

1.2 The Social Services Legislation Amendment (Welfare Reform) Bill 2017 (the Bill) amends multiple Acts to implement changes to:

- the administration of certain welfare payments;
- cease and transfer recipients from a range of payments to one jobseeker payment;
- alter conditions applying to certain jobseeker and other payment recipients;
- introduce a random drug testing trial for certain income support recipients;
- amend exemptions and reasonable excuse provisions in relation to drug and alcohol dependence in order to encourage people into treatment;
- introduce a new compliance framework;
- streamline administration of information to facilitate the collection of tax file numbers;
- enable the use of certain information for prosecutions without the need to apply for warrants; and
- align social security law with the *Disability Discrimination Act 1992*.

1.3 In his second reading speech, the Minister for Social Services, the Hon. Christian Porter MP, indicated that the Bill is intended to make 'the system simpler, more sustainable, and focussed on supporting people from welfare into employment'.¹

1.4 The Bill is comprised of 18 schedules proposing amendments to the following legislation:

- *Social Security Act 1991*;
- *Social Security (Administration) Act 1999*;
- *A New Tax System (Family Assistance) Act 1999*;
- *A New Tax System (Family Assistance)(Administration) Act 1999*;

1 The Hon. Christian Porter MP, Minister for Social Services, [House of Representatives Hansard](#), 22 June 2017, p. 2.

- *A New Tax System (Medicare Levy Surcharge – Fringe Benefits) Act 1999;*
- *Farm Household Support Act 2014;*
- *Income Tax Assessment Act 1936;*
- *Income Tax Assessment Act 1997;*
- *Income Tax Rates Act 1986;*
- *Child Support (Assessment) Act 1989;*
- *Veterans’ Entitlements Act 1986;*
- *Paid Parental Leave Act 2010;*
- *Student Assistance Act 1973;*
- *Social Security (International Agreements) Act 1999;* and
- *Disability Discrimination Act 1992.*

1.5 The principal amendments provided for in each of the schedules is summarised below.

Schedule 1: Creation of the Jobseeker payment

1.6 This schedule replaces the existing Newstart Allowance and creates a new jobseeker payment for working aged Australians from 20 March 2020. This schedule largely includes amendments to replace reference to 'newstart' or 'newstart allowance' with 'jobseeker' or 'jobseeker payment' in the following acts:

- *A New Tax System (Family Assistance) Act 1999;*
- *Farm Household Support Act 2014;*
- *Income Tax Assessment Act 1936;*
- *Income Tax Assessment Act 1997;*
- *Social Security Act 1991;*
- *Social Security (Administration) Act 1999;* and
- *Veterans’ Entitlements Act 1986.*

Schedule 2: Cessation of Widow B Pension

1.7 This schedule will cease Widow B Pension from 20 March 2020. Before that date, all current Widow B Pension recipients will be of Age Pension age, and will be automatically transferred to that payment.

Schedule 3: Cessation of Wife Pension

1.8 This schedule will cease Wife Pension from 20 March 2020. Recipients at that time will be able to transition to Jobseeker, Carer payment or the Age Pension.

Schedule 4: Cessation of Bereavement Allowance

1.9 Bereavement Allowance will be abolished and equivalent provision will be provided as a one off payment within the new Jobseeker payment.

Schedule 5: Cessation of Sickness Allowance

1.10 Amendments in this schedule cease new grants of Sickness Allowance from 20 March 2020, and cease payment of the allowance from 20 September 2020. Qualification conditions for Jobseeker Payment are modified to allow working age people who are temporarily incapacitated through illness or accident to qualify for Jobseeker Payment under similar conditions to those currently in place in relation to Sickness Allowance.

1.11 Limited mutual obligation may apply for those with some capacity to work, however, a new exemption would be included for people who are undertaking a rehabilitation program in some circumstances.

Schedule 6: Cessation of Widow Allowance

1.12 This schedule closes Widow Allowance to new applicants from 1 January 2018, and ceases the payment from 1 January 2022.

1.13 It also provides for an exemption from the activity test for those recipients who claim Newstart Allowance after 1 January 2018 and who would have otherwise been eligible to receive Widow Allowance to be exempted from activity test requirements.

Schedule 7: Cessation of Partner Allowance

1.14 This schedule ceases Partner Allowance from 1 January 2022. All recipients of this allowance will be of Age Pension age and will transition to the Age Pension by 1 January 2022.

Schedule 8: Minister's Rules

1.15 This schedule allows the Minister to make rules by legislative instrument in relation to the transitional matters in Schedules 1 to 7, including savings or applications provisions.

Schedule 9: Changes to activity tests for persons aged 55 to 59

1.16 Schedule 9 amends the *Social Security Act 1991* to remove the ability of Newstart Allowance recipients and some Special Benefit recipients aged 55 to 59 to satisfy the activity test by engaging only in unpaid voluntary work for at least 30 hours per fortnight. The Bill provides that these recipients will be required to engage in at least 15 hours of suitable paid work and the balance of the 30 hours per fortnight may be satisfied by unpaid voluntary work. These changes commence on 20 September 2018.

Schedule 10: Start day for some participation payments

1.17 This schedule amends the *Social Security (Administration) Act 1999* to change the date from which a person transferring to or claiming Newstart or Youth Allowance, who is subject to RapidConnect², will be paid.

Schedule 11: Removal of intent to claim provisions

1.18 Schedule 11 amends the *Social Security (Administration) Act 1999* to remove the deemed claim provisions that allow claimants to receive payments from the date on which they initially contacted the Department of Human Services.

Schedule 12: Establishment of a drug testing trial

1.19 Schedule 12 provides for a mandatory drug testing trial to be undertaken over two years from 1 January 2018 in three locations for new recipients of Newstart Allowance and Youth Allowance (other).

Schedule 13: Removal of exemptions for drug or alcohol dependence

1.20 Schedule 13 will remove certain exemptions from the activity test for recipients of Newstart Allowance, Youth Allowance (other), disability support pension (under 35 with participation requirements), special benefit (with activity test requirements), and parenting payment single (with participation requirements). Exemptions will no longer be available to these payment recipients where the reason for the exemption primarily relates to drug or alcohol misuse and abuse.

Schedule 14: Changes to reasonable excuses

1.21 This schedule amends the *Social Security Administration Act 1999* to provide the Secretary with a power to make a legislative instrument setting out matters that are not to be taken into account when deciding whether a person has a reasonable excuse for committing a breach under the mutual obligation and participation requirements.

Schedule 15: Targeted compliance framework

1.22 This schedule introduces a new compliance framework with a simpler and fairer 'demerit point' based system.

1.23 Support for vulnerable job seekers will be available.

Schedule 16: Streamlining tax file number collection

1.24 Schedule 16 amends the *Social Security Administration Act 1999* to require claimants of social security payments or seniors health card to provide their tax file number (TFN) or make a TFN declaration as part of the claim. This would mean that a claim could not be assessed until the TFN or declaration is supplied as part of the claim.

2 RapidConnect is a program under which recipients of Newstart or Youth allowance are required to access employment opportunities through an employment services provider, and generally are not paid any allowance until a first appointment has occurred. Income support is payable from the date of the claim.

Schedule 17: Information management

1.25 This schedule aligns the information gathering and protection provisions in the *A New Tax System (Family Assistance)(Administration) Act 1999*, *Paid Parental Leave Act 2010*, *Social Security Administration Act 1999* and *Student Assistance Act 1973* with current Commonwealth policy and drafting standards for such provisions.

1.26 This will allow information or documents obtained about a person under the information gathering provisions in the course of an administrative action to be used in subsequent investigation and prosecution of criminal offences.

Schedule 18: Aligning social security and disability discrimination law

1.27 This schedule amends the *Disability Discrimination Act 1992* to provide consistent exemptions to the *Social Security Act 1991*, the *Social Security (Administration) Act 1999* and the *Social Security (International Agreements) Act 1999*.

Financial impact

1.28 The Explanatory Memorandum (EM) to the Social Services Legislation Amendment (Welfare Reform) Bill 2017 includes an outline of the expected costs and savings over the forward estimates to 2020–21 (See Table 1.1).

Table 1.1: Financial impact of implementation of the Bill to 2020–21

MEASURE	FINANCIAL IMPACT OVER THE FORWARD ESTIMATES
<i>Schedule 1 – Creation of the Jobseeker Payment</i>	Expense of \$11.6 million
<i>Schedule 2 – Cessation Widow B Pension</i>	Expense of \$0.1 million
<i>Schedule 3 – Cessation Wife Pension</i>	Expense of \$6.3 million
<i>Schedule 4 – Cessation of Bereavement Allowance</i>	Savings of \$1.04 million
<i>Schedule 5 – Cessation of Sickness Allowance</i>	Savings of \$6.9 million
<i>Schedule 6 – Cessation of Widow Allowance</i>	Expense of \$4.5 million
<i>Schedule 7 – Cessation of Partner Allowance</i>	Expense of \$1.08 million
<i>Schedule 8 – Minister's Rules (safety net for transitional arrangements)</i>	Nil
<i>Schedule 9 – Relief from activity test for persons aged 55 to 59</i>	Expense of \$47.8 million*
<i>Schedule 10 – Start date for some participation payments</i>	Savings of \$198.0 million
<i>Schedule 11 – Removal of Intent to Claim provisions</i>	Savings of \$68.0 million
<i>Schedule 12 – Establishment of a drug testing trial</i>	Not for publication
<i>Schedule 13 – Removal of exemptions for drug or alcohol dependence</i>	Expense of \$28.8 million
<i>Schedule 14 – Changes to reasonable excuses</i>	Expense of \$4.3 million
<i>Schedule 15 – Targeted Compliance Framework</i>	Savings of \$204.7 million
<i>Schedule 16 – Streamlining Tax File Number collection</i>	Expense of \$5.5 million
<i>Schedule 17 – Information Management (Streamline Prosecution Referrals)</i>	Nil
<i>Schedule 18 – Aligning Social Security and Disability Discrimination Law</i>	Nil

Source: Social Services Legislation Amendment (Welfare Reform) Bill 2017, EM, June 2017, p. 4.

Conduct of the inquiry

1.29 On 22 June 2017, the Senate, pursuant to the Senate Selection of Bills Committee Report and contingent upon introduction in the House of Representatives, referred the provisions of the Social Services Legislation Amendment (Welfare Reform) Bill 2017 Bill to the Senate Community Affairs Legislation Committee (the committee) for inquiry and report by 4 September 2017.³ On Monday 4 September 2017, the Senate amended the reporting date to 6 September 2017.⁴

1.30 The Bill was introduced into the House of Representatives and read a first time on 22 June 2017; the second reading was moved on the same day.

1.31 Details of the inquiry were placed on the committee's website.⁵ The committee wrote to approximately 88 organisations and individuals inviting submissions. The closing date for submissions was 4 August 2017.

1.32 The committee received 63 submissions to the inquiry and held public hearings in Sydney on 30 August 2017 and Melbourne on 31 August 2017. Submitters and witnesses are listed at Appendices 1 and 2.

1.33 The committee would like to thank the individuals and organisations that made submissions to the inquiry and gave evidence at its public hearings.

Consideration by other parliamentary committees

1.34 Two other parliamentary committees are considering the Bill, and have sought advice from the Minister in relation to certain aspects of the Bill and/or its potential impacts.

Senate Standing Committee for the Scrutiny of Bills

1.35 In its report of 9 August 2017, the Senate Standing Committee for the Scrutiny of Bills raised a number of issues for response by the Minister in relation to provisions included in Schedules 12, 14 and 15.⁶

1.36 The issues raised mostly relate to the inclusion of significant matters in delegated legislation, and the delegation of administrative and legislative powers.

1.37 The Standing Committee for the Scrutiny of Bills sought advice from the Minister on these issues. In his response of 28 August 2017, the Minister advised that an amendment to the Bill had been drafted that would address some of the concerns raised.⁷ The committee notes that, at the time of drafting this report, the proposed

3 *Journals of the Senate*, No. 48, 22 June 2017, pp. 1540–1541; Selection of Bills Committee, [Report No.7 of 2017](#), 22 June 2017 (accessed 26 June 2017).

4 *Journals of the Senate*, No. 56, 4 September 2017, p. 1816.

5 See: Community Affairs Legislation Committee, [http://www.aph.gov.au/Parliamentary Business/Committees/Senate/Community_Affairs/WelfareReform](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/WelfareReform) (accessed 25 July 2017).

6 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest 8 of 2017](#), 9 August 2017, pp. 23-31 (accessed 10 August 2017).

7 The Hon. Christian Porter MP, Minister for Social Services, correspondence to Senator Helen Polley, Chair, Senate Scrutiny of Bills Committee, 28 August 2017.

amendment to the Social Services Legislation Amendment (Welfare Reform) Bill 2017 referred to by the Minister was not available for consideration.

Parliamentary Joint Committee on Human Rights

1.38 In its report of 15 August 2017, the Parliamentary Joint Committee on Human Rights considered the Bill and sought additional information from the Minister in relation to:

- Schedules 1–7: right to social security;
- Schedule 10: rights to social security and an adequate standard of living;
- Schedule 12: rights to privacy, social security, an adequate standard of living, equality and non-discrimination;
- Schedule 13–14: rights to equality and non-discrimination, social security and an adequate standard of living, protection of family, rights of the child;
- Schedule 15: rights to social security and an adequate standard of living;
- Schedule 17: right to privacy and right to not incriminate oneself; and
- Schedule 18: right to equality and non-discrimination.⁸

1.39 The Joint Committee on Human Rights had not published its response from the Minister or any further report at the time of drafting this report.

Note on references

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

8 Parliamentary Joint Committee on Human Rights, [Human Rights Scrutiny Report, Report 8 of 2017](#), 15 August 2017, pp. 46-90 (accessed 31 August 2017).