

CHAPTER 1

Background

Referral

1.1 On 15 September 2016, the Senate referred an inquiry into the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016 [Provisions] (Jobs for Families bill), and the Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2016 [Provisions] (Social Services bill) to the Education and Employment Legislation Committee for inquiry and report by 10 October 2016.

Conduct of the inquiry

1.2 Details of the inquiry were made available on the committee's website. The committee also contacted a number of organisations inviting submissions to the inquiry. Submissions were received from 50 individuals and organisations, as detailed in Appendix 1.

1.3 Public hearings were held in Melbourne on 3 and 4 October 2016. A list of witnesses can be found in Appendix 2.

Background

1.4 The bills seek to reform family assistance for child care by introducing the Child Care Subsidy, and an Additional Child Care Subsidy, and increase the rate of the Family Tax Benefit Part A payments and introduce a new rate structure for Family Tax Benefit Part B.

1.5 Introduced by the Hon Christian Porter MP, Minister for Social Services, the two bills seek to reintroduce major reforms under the Australian Government's Jobs for Families Child Care Package.

1.6 The Jobs for Families bill seeks to amend various Acts in relation to family assistance for child care. Its key measures are:

- the introduction of the Child Care Subsidy, replacing two current payments: the Child Care Benefit and Child Care Rebate;
- the introduction of an Additional Child Care Subsidy, available under certain circumstances and at various rates; and
- new approved provider and service requirements, to come into effect from July 2018.

1.7 The Social Services bill seeks to reform Family Tax Benefit Part A (FTB A) and at-home under-18 year old youth fortnightly rates. Its key measures are:

- to increase the fortnightly rates of FTB A by \$10.08 for each FTB child in the family up to the age of 19 years, with an equivalent fortnightly rate increase of around \$7.48 for certain youth allowance and disability support pension recipients under the age of 18; and
- introduce a new rate structure for FTB B, and make other amendments to the rules for FTB B by:
 - increasing the standard rate by \$1 000.10 per year for families whose youngest child is under one year of age;
 - maintaining the current standard rates for families with a youngest child aged between one and under five, and between five and under 13 years of age;
 - maintaining the current standard rate for single parents who are at least 60 years of age, grandparents and great-grandparents with a youngest child aged between 13 and 18;
 - introducing a reduced standard rate of \$1 000.10 per year for individuals whose youngest child is aged 13 to 16 (currently \$2 832.40), and who are not single parents aged 60 or more or grandparents or great-grandparents; and
 - remove entitlement to FTB Part B for single parent families who are not single parents aged 60 or more or grandparents or great-grandparents, from 1 January of the calendar year their youngest child turns 17.¹

Previous consideration of the bills

1.8 Both bills were introduced into the 44th Parliament, and were each the subject of inquiries by Senate committees. Owing to the dissolution of the parliament, the bills lapsed and were reintroduced into the 45th Parliament by the Hon Christian Porter MP, on 1 September 2016.

Jobs for Families bill

1.9 The Senate Education and Employment Legislation Committee (Education and Employment Committee) has previously inquired into an earlier version of the Jobs for Families bill, and tabled its report on 4 April 2016.²

1.10 The Education and Employment Committee noted that the simplified system to be introduced by the Child Care Subsidy had 'attracted praise from most submitters'.³

1 Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2016, *Explanatory Memorandum*, p. 6.

2 Senate Education and Employment Legislation Committee, *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 [Provisions]*, April 2016.

1.11 However, the Education and Employment Committee also noted that 'other elements of the bill drew criticism and concerns from many submitters', including the activity test provision.⁴

1.12 The Education and Employment Committee concluded that the emphasis of the bill is to provide a greater subsidy rate to families earning the least and more hours of subsidy to families who work the most:

This approach, the committee believes, is in line with community expectations, whereby subsidies and assistance are targeted at those whom they will most benefit and reducing the subsidisation of those with the means to pay a greater proportion of the costs themselves.⁵

1.13 The Education and Employment Committee conducted a public hearing in March 2016, and heard from representatives of Early Childhood Australia, The Parenthood, Secretariat of National Aboriginal and Islander Child Care and the Department of Education and Training.

1.14 The committee recommended that the Senate pass the bill.

Social Services bill

1.15 The Senate Community Affairs Legislation Committee (Community Affairs committee) has previously inquired into an earlier version of the Social Services bill, and tabled its report on 1 March 2016.⁶

1.16 In its report, the Community Affairs Committee noted that:

Most submitters and witnesses supported reforms to the FTB payments system to ensure it is simpler, fairer and better targeted, and supported the rate increases for certain cohorts. However, submitters and witnesses generally opposed the proposed reduced payment rate for certain families and expressed concerns about the following issues:

Impacts on low income families and vulnerable families, such as single parents and families of children with disability;

The costs of raising children increase with children's age, while the measures propose a corresponding reduction in payments.

3 Senate Education and Employment Legislation Committee, *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 [Provisions]*, April 2016, p. 9.

4 Senate Education and Employment Legislation Committee, *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 [Provisions]*, April 2016, p. 9.

5 Senate Education and Employment Legislation Committee, *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 [Provisions]*, April 2016, p. 23.

6 Senate Community Affairs Legislation Committee, *Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill (No. 2) 2015*, 1 March 2016.

The proposed increases do not compensate for the loss of supplements.

The proposed amendments do not appropriately encourage greater workforce participation.

IT and payroll system upgrades may not address end of year FTB debts.⁷

1.17 The Community Affairs Committee conducted a public hearing in February 2016, and heard from the Australian Council of Social Service, The Parenthood, UnitingCare Australia, National Council of Single Mothers and their Children, Australian Catholic Council for Employment Relations, Catholic Social Services Australia, CatholicCare Melbourne & Gippsland, National Welfare Rights Network, Grandparents Australia, National Council of Women of Australia, Children with Disability Australia and the Department of Social Services.

1.18 The committee recommended that the Senate pass the bills.

Scrutiny of Bills Committee

1.19 The Senate Committee on the Scrutiny of Bills (Scrutiny of Bills Committee) drew attention to certain provisions of the Jobs for Families bill 2015, including:

- review rights;
- delegation of legislative power—Henry VIII clause; and
- trespass on personal rights and liberties—strict liability;

1.20 The Scrutiny of Bills Committee sought responses from Senator the Hon Simon Birmingham, Minister for Education and Training, and published those responses in its Fifth Report of 2016.⁸

Changes in the 2016 bills

Jobs for Families bill

1.21 Changes to the Jobs for Families bill relate to the dates of commencement of particular schedules, taking into account the prorogation and subsequent re-introduction of the bill. The Department of Education and Training set out the changes in their submission. The majority of the changes relate to correcting 'drafting errors and to give effect to policy intent', including:

- a new rule making power that will enable the Minister to determine circumstances in which children over the age of 13 and/or are attending secondary school may be eligible for the child care subsidy;

7 Senate Community Affairs Legislation Committee, *Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill (No.2) 2015 [Provisions]*, March 2016, p. 8.

8 Senate Standing Committee on the Scrutiny of Bills, *Fifth Report of 2016*, 3 May 2016.

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- the removal of potential unintended consequences in relation to the way that services calculate attendances when issuing a certificate in relation to a child;
 - the expansion of the Secretary's power to make case by case decisions about an individual's Activity Test Result; and
 - correction of an omission from the 2015 iteration of the bill that would have left the Secretary's decisions in relation to grant funding open to review.

Social Services bill

1.22 Changes to the Social Services bill relate to the commencement date for Schedule 2 of the bill, which has been changed from 1 July 2016 to 1 July 2017.

Human rights implications

1.23 The Explanatory Memorandum asserts that the Jobs for Families bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.⁹

1.24 In relation to Human Rights obligations, the Explanatory Memorandum for the Jobs for Families bill notes:

The current system is complex and difficult for families to navigate. It is inflexible and does not effectively meet families' workforce participation needs. Measures in the Bill are compatible with and advance human rights under the ICCPR, the CEDAW, the CRC and the ICESCR which will ultimately enable parents who wish to work, or to work more, by providing a simpler, more affordable, more flexible and more accessible child care system. As described above, to the extent that the proposed Bill may limit some rights, those limitations are reasonable, necessary and proportionate.¹⁰

1.25 The Explanatory Memorandum asserts that the Social Services bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.¹¹

Financial impact

1.26 The measures in the Jobs for Families bill form part of the Government's investment of approximately \$40 billion in child care support over the forward

9 Family Assistance Legislation Amendment (Jobs For Families Child Care Package) Bill 2016, *Explanatory Memorandum*, p. 6.

10 Family Assistance Legislation Amendment (Jobs For Families Child Care Package) Bill 2016, *Explanatory Memorandum*, p. 15.

11 Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2016, *Explanatory Memorandum*.

estimates. This includes more than \$3 billion of additional expenditure to support the implementation of the Jobs for Families Child Care Package.¹²

Jobs for Families legislative measure	Funding	Years
Child Care Subsidy	\$23.2 billion	Over two years from 2018-19
Additional Child Care Subsidy	\$173 million	Over two years from 2018-19

Family Assistance Legislation Amendment (Jobs For Families Child Care Package) Bill 2016, *Explanatory Memorandum*.

1.27 The measures in the Social Services bill seek to provide savings in order to fund the Jobs for Families Child Care Package.¹³

Measure	Financial impact over the forward estimates (fiscal balance, whole of government)
Reform Family Tax Benefit Part A and at-home under-18 year old youth fortnightly rates	Cost of \$1 166.7 million
Reforms to Family Tax Benefit Part B	Saving of \$787.9 million
Phase out the Family Tax Benefit Part A and Part B supplements	Saving of \$6 253.2 million

Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2016, *Explanatory Memorandum*.

Acknowledgement

1.28 The Committee thanks those individuals and organisations who contributed to the inquiry by preparing written submissions or by appearing at the public hearing.

12 Family Assistance Legislation Amendment (Jobs For Families Child Care Package) Bill 2016, *Explanatory Memorandum*, p. 4.

13 Social Services Legislation Amendment (Family Payments Structural Reform and Participation Measures) Bill 2016, *Explanatory Memorandum*, p. 2.