

CHAPTER 1

Introduction

Reference

1.1 On 10 September 2015 the Hon Luke Hartsuyker MP introduced the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015 (the bill) in the House of Representatives.¹

1.2 On 17 September 2015, the Senate referred the provisions of the bill to the Senate Education and Employment Committee (the committee) for inquiry and report by 24 November 2015.²

Conduct of the inquiry

1.3 Details of the inquiry were made available on the committee's website.³ The committee also contacted a number of organisations inviting submissions to the inquiry. Submissions were received from 15 individuals and organisations, as detailed in Appendix 1.

1.4 A public hearing was held in Canberra on 13 November 2015. The witness list for the hearing is at Appendix 2.

Background

1.5 The principle of mutual obligation, namely that job seekers have an obligation to actively seek work and that the government has an obligation to support job seekers and provide resources to assist them into the workforce, has had, and continues to have, bipartisan political support.⁴

1.6 A key element of a job seeker's mutual obligation is the requirement to participate in an Employment Pathway Plan. A key element of the government's mutual obligation is the payment of participation payments to eligible recipients.

1 The Hon Luke Hartsuyker MP, Assistant Minister for Employment and Deputy Leader of the House, *House of Representatives Hansard*, 10 September 2015, pp 9746–9751.

2 *Journals of the Senate*, 17 September 2015, pp 3146–3147.

3 Senate Standing Committee on Education and Employment, Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/job_seeker_compliance (accessed 3 November 2015).

4 See for example Senator Fierravanti-Wells, Assistant Minister for Multicultural Affairs, *Senate Hansard*, 14 October 2015, p. 87; Julie Collins MP, *House of Representatives Hansard*, 13 October 2015, p. 83.

These include Newstart Allowance, Youth Allowance for persons who are not apprentices or full-time students, Parenting Payment for persons who have participation requirements and special benefit for certain visa holders.⁵

1.7 In 2010, the former Labor government introduced tougher rules for job seekers. The Social Security Legislation Amendment (Job Seeker Compliance) Act 2011 (the Amendment Act) tightened the compliance rules for the appointments that a job seeker has with an employment service provider (known as connection and reconnection appointments) and introduced the suspension of payments to job seekers following an initial failure to attend an appointment or, in some circumstances, an activity such as training or Work for the Dole.⁶

1.8 Under the Amendment Act, the Secretary of the Department of Social Security (the Secretary) could suspend a participation payment where a job seeker failed to attend a connection or reconnection appointment. Where the Secretary suspended a job seeker's payment, the payment was reinstated as soon as a job seeker notified the Secretary of their intention to attend a re-scheduled appointment.⁷

1.9 The 2014–15 federal budget set out a series of welfare reforms to increase the ability of every Australian to contribute to the economy and improve the long-term sustainability of the welfare system.⁸ As part of the commitment to implement these reforms, the government introduced the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014,⁹ the Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014¹⁰ and the Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014.¹¹

5 *Social Security Act 1991; Social Security (Administration) Act 1999*, Schedule 1.

6 Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011, *Explanatory Memorandum*, p. 2.

7 *Social Security Legislation Amendment (Job Seeker Compliance) Act 2011*, s 42SA.

8 Australian Government, *Budget 2014–15*, Building a strong welfare system, 13 May 2014, p. 1, available at http://www.budget.gov.au/2014-15/content/glossy/welfare/html/welfare_01.htm (accessed 3 November 2015).

9 The Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014 did not pass both Houses of Parliament.

10 The Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014 did not pass both Houses of Parliament and was discharged from the Senate Notice Paper on 28 October 2014.

11 The Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014 did not pass both Houses of Parliament and was discharged from the Senate Notice Paper on 28 October 2014.

1.10 In 2014, the Coalition government introduced the Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014¹² that sought to ensure that more job seekers met their mutual obligation requirement to attend appointments with their employment services provider and transition from welfare to employment.¹³

1.11 The committee reported on the Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014 in November 2014.¹⁴

Purpose and overview of the bill

1.12 The bill seeks to build on the *Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Act 2014* that instituted the 'no show no pay' principle to strengthen the incentive for job seekers to attend appointments with their employment service providers.¹⁵

1.13 The bill would amend Division 3A of Part 3 of the *Social Security (Administration) Act 1999* to support measures announced in the 2015–16 budget. It will commence on 1 July 2016.¹⁶

1.14 The bill seeks to further strengthen the job seeker compliance framework by providing stronger and more immediate consequences for job seekers who do not meet their mutual obligation requirements.¹⁷

1.15 The bill would also simplify compliance provisions in the *Social Security (Administration) Act 1999* to assist job seekers to better understand their mutual obligation requirements.¹⁸

12 The Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014 with ten opposition amendments agreed to was passed by both Houses of Parliament on 3 December 2014.

13 Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014, *Explanatory Memorandum*, p. 2; The Hon Luke Hartsuyker MP, Assistant Minister for Employment and Deputy Leader of the House, *House of Representatives Hansard*, 25 September 2014, p. 10.

14 Senate Standing Committee on Education and Employment, Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014 [Provisions], November 2014, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/Strengthening_Job_Seeker/Report (accessed 3 November 2015).

15 The Hon Luke Hartsuyker MP, Assistant Minister for Employment and Deputy Leader of the House, *House of Representatives Hansard*, 10 September 2015, p. 9746.

16 Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, *Explanatory Memorandum*, p. 2.

17 Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, *Explanatory Memorandum*, p. 2.

Key provisions of the bill

1.16 The bill would:

- suspend immediately a job seeker's social security payment where a job seeker refuses to enter into an Employment Pathway Plan without a reasonable excuse for doing so, the suspension to continue until they enter into a plan with no back-payment for the period in which they failed to comply, and impose an additional penalty to be deducted from the eventual payment;
- suspend immediately a job seeker's social security payment where a job seeker acts in an inappropriate manner during an appointment such that the purpose of the appointment is not achieved without a reasonable excuse for doing so, the suspension to continue until they attend a re-scheduled appointment and behave in a manner deemed to be appropriate with no back-payment for the period in which they failed to attend the appointment and behave appropriately, and impose an additional penalty to be deducted from the eventual payment;
- suspend immediately a job seeker's social security payment where a job seeker fails, without a reasonable excuse, to attend all required appointments (including employment services providers, training and Work for the Dole), the suspension to continue until they attend a re-scheduled appointment, and with no back-payment for the period in which they fail to attend the appointment;
- suspend immediately a job seeker's social security payment where a job seeker fails, without a reasonable excuse, to undertake adequate job search efforts (to be specified in a legislative instrument), the suspension continuing until they meet their job search requirements, with the possibility of receiving full back pay once adequate job search efforts can be proven to have resumed; and
- remove the possibility of waiver of the eight week non-payment period imposed on job seekers who refuse a suitable job offer.¹⁹

1.17 In addition, the bill would simplify the compliance framework, and assist job seekers to better understand their mutual obligation requirements by renaming all failures resulting in short-term financial penalties as 'no show no pay' failures. This would also mean that the connection and reconnection failure provisions would

18 Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, *Explanatory Memorandum*, p. 2.

19 Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, *Explanatory Memorandum*, pp 2–3; Parliamentary Library, Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, *Bills Digest*, No. 39, 5 November 2015, p. 2.

become redundant and would be repealed, further streamlining the compliance framework.²⁰

Compatibility with human rights

1.18 The provisions in the bill engage the right to social security, the right to an adequate standard of living, and the right to work.²¹

1.19 The bill's statement of compatibility with human rights states that the bill is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.²²

Financial impact statement

1.20 The explanatory memorandum states that the bill would have budgetary implications with savings of \$24.5 million in the years 2015–19.²³

Acknowledgement

1.21 The committee thanks those individuals and organisations who contributed to the inquiry by preparing written submissions and giving evidence at the public hearing.

Notes on references

1.22 References in this report to the committee *Hansard* are to the proof *Hansard*. Page numbers may vary between the proof and official *Hansard* transcripts.

20 Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, *Explanatory Memorandum*, p. 3.

21 Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, Statement of Compatibility with Human Rights, *Explanatory Memorandum*, p. 42.

22 Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, Statement of Compatibility with Human Rights, *Explanatory Memorandum*, p. 36.

23 Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015, *Explanatory Memorandum*, p. 3.

