



**SENATE COMMUNITY AFFAIRS  
LEGISLATION COMMITTEE**

**Consideration of Legislation Referred  
to the Committee**

**CHILD CARE PAYMENTS BILL 1997  
CHILD CARE PAYMENTS (CONSEQUENTIAL AMENDMENTS  
AND TRANSITIONAL PROVISIONS) BILL 1997**

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# TABLE OF CONTENTS

Membership of the Committee .....	iii
Report to the Senate .....	1
Purpose of the Bills:	
Child Care Payments Bill 1997 - payment arrangements .....	1
- policy changes.....	3
Child Care Payments (Consequential Amendments and Transitional Provisions) Bill 1997 .....	4
Issues:	
Consultation process and implementation of the reforms.....	4
Use of disallowable instruments .....	6
Childcare Assistance limit for non-work related care.....	7
Reform of school age care.....	9
Definition of sessional care.....	10
Penalty provisions .....	10
Impact on service providers .....	11
Impact on families.....	13
Approval process.....	14
Recommendation .....	16
Addendum to the Majority Report - Australian Democrats.....	17
Dissenting report - Australian Labor Party.....	19
Appendix 1 – Submissions and letters received by the Committee.....	29
Appendix 2 – Details of the public hearing .....	31





# REPORT

## CHILD CARE PAYMENTS BILL 1997

### CHILD CARE PAYMENTS (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 1997

#### 1. THE INQUIRY

1.1 The Child Care Payments Bill 1997 and the Child Care Payments (Consequential Amendments and Transitional Provisions) Bill 1997 were introduced into the House of Representatives on 26 June 1997 and 28 August 1997 respectively. On 25 September 1997 the Senate, on the recommendation of the Selection of Bills Committee (Report No.14 of 1997), referred the provisions of the Bills to the Committee for report by 27 October 1997.

1.2 The Committee considered the Bills at public hearings on 2 and 3 October 1997. Details of the public hearings are referred to in Appendix 2. The Committee received 20 submissions relating to the Bills together with 18 letters relating to the changes to Childcare Assistance, and these are listed at Appendix 1.

#### 2. THE BILLS

##### CHILD CARE PAYMENTS BILL 1997

2.1 The Child Care Payments Bill (the Bill) introduces new payment arrangements for Childcare Assistance and Childcare Rebate and implements policy changes announced in the 1997 Budget.

##### Payment arrangements

2.2 At the present time, Childcare Assistance is paid to approved long day care centres by the Department of Health and Family Services (DHFS) to reduce child care fees of eligible families. Childcare Assistance payments for other services such as family day care, occasional care and outside school hours care (OSHC) are not covered by legislation. The Childcare Rebate is paid to families using care for work related reasons by the Health Insurance Commission (HIC).

2.3 The Bill provides a legislative basis for the services not previously covered by legislation and for the payment of both child care subsidies through the Commonwealth Services Delivery Agency (Centrelink). The aim of having both subsidies paid by one agency is 'to streamline administration of child care payments for families, service providers and the Government'<sup>1</sup> and to 'strengthen parents' right to choose the care they want for their children by giving families more control and responsibility'.<sup>2</sup>

2.4 In relation to Childcare Assistance the Bill provides that:

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1 *Explanatory Memorandum*, p.1.

2 Second Reading Speech, p.1.

- calculations for entitlements to be made by Centrelink not by the service provider as was the previous case;
- the entitlement be paid by Centrelink to the service provider;
- the entitlement be based on the family income and assets, estimates of the amount of care charged by the provider, whether they use long day care or outside school hours care, whether a third party pays part of the fees and, in some cases, whether the care is for work related purposes;
- a maximum of 50 hours per week of Assistance may be paid unless the family can demonstrate that the care is required and used for work related reasons;
- entitlements are paid in advance of care;
- claims may be backdated for a maximum of 13 weeks; and
- an assets test be introduced so that Childcare Assistance is not available if the person's assets exceed \$406,000 unless otherwise specified by regulation.

2.5 In relation to the Childcare Rebate, the Bill provides that:

- the Rebate is subject to a work test, as was the case previously;
- the amount payable is based on a percentage of the family's estimated out of pocket expenses after taking into account Childcare Assistance payments and any contributions made by a third party;
- a rebate of 30 per cent is payable if the family's income falls below the relevant Family Tax Payment cut off (\$70,000 for a one child family, increasing by \$3,000 for each additional child);
- a rebate of 20 per cent is payable if the family's income is above the relevant Family Tax Payment cut off;
- the Rebate be paid fortnightly in arrears by Centrelink to the family's nominated bank account; and
- claims may be backdated for a maximum of 13 weeks.

2.6 The Bill also provides for the following:

- *Hardship Childcare Assistance*: this will be available to families in exceptional circumstances who experience temporary difficulties in paying their fees and is payable for up to 13 weeks.
- *Emergency Childcare Assistance*: this will be paid to services in respect of a child at risk of abuse or neglect who enters care for the first time; full fees are payable for up to four weeks once a year. The Minister may make, by determination in writing, guidelines for implementing the provisions regarding Emergency Childcare Assistance. The determinations are disallowable instruments.

2.7 The Bill also provides that where a family's child care needs vary, special arrangements may apply. These arrangements involve Centrelink and the family setting a fixed period (up to 12 weeks) in which it is agreed on what is a reasonable estimate of the care needs taking account of previous patterns where available.

2.8 Under the provisions of the Bill, families are responsible for notifying Centrelink of any changes that result in a change of fees and therefore entitlements to child care assistance. The Explanatory Memorandum stated 'it is envisaged that regulations will specify that

adjustments which reduce entitlement will take effect from the following payment period if the family notifies the Agency [Centrelink] within fourteen days'.<sup>3</sup> If the notification is after 14 days, adjustment will take effect from the first day in the payment period in which the change is notified.

2.9 The Bill also provides for the application of Chapter 2 of the *Criminal Code* to all offences against the Act.

2.10 The Bill provides for Centrelink to review family entitlements annually, with some families being reviewed at other times 'on the basis of Centrelink's risk assessment'.

2.11 The Bill provides that Childcare Assistance be paid for care provided by services approved by DHFS for this purpose and the Rebate be paid for care provided by registered carers. Certain requirements are to be satisfied by service providers and carers. Some of these requirements are described in disallowable instruments.

2.12 Decisions in relation to approval and registration of child care services, including decisions regarding conditions to be imposed and decisions regarding exemptions or cancellations of approval, are reviewable by the Administrative Review Tribunal (AAT) or internally. The general provisions in the Bill concerning review of decisions allow for certain decisions made under the Act to be reviewable by the Social Security Appeals Tribunal, the AAT or the Secretary of the Department.

## **Policy changes**

2.13 The Bill provides for the implementation of measures announced in the 1997 Budget as follows:

- *School Age Care*: The Bill provides for the introduction of Childcare Assistance provisions for school children using Outside School Hours Services. The Bill sets a fee ceiling of \$1.95 per hour to which part time loadings in family day care may be added where applicable.
- *Non-work related care*: The Bill provides that Centrelink apply a work test to Childcare Assistance claimants to ascertain if the 20 hour a week limit should apply to their entitlement. The Bill defines work related activity as covering paid employment, setting up or operating a business, studying or training and actively seeking work. Exemptions under the *Childcare Rebate Act 1993* apply under the provisions of the Bill. Families in crisis, children at risk of abuse or neglect and children whose parents have disabilities are exempt from the limit.
- *New private sector places in 1998 and 1999*: Limits to new places in private sector long day centres are introduced for 1998 and 1999. The Bill provides for a planning procedure to allocate those places. The limit is expressed in terms of the number of hours (equivalent to 7000 places) for which Childcare Assistance can be claimed in these new places. Specific number of hours will be allocated to high needs areas. Allocation guidelines will set out the process and factors to be taken into account in identifying high need areas. The guidelines will be a disallowable instrument.
- *Link to immunisation*: The Bill includes provisions which link eligibility for Childcare Assistance and the Rebate to age appropriate immunisation for children up to 7 years of age. Unless a child is fully immunised, an immunisation provider has certified that the

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3 *Explanatory Memorandum*, p.2.

child had a medical contraindication, or a written declaration of conscientious objection is provided within 28 days, payment by Centrelink will cease.

### **CHILD CARE PAYMENTS (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 1997**

2.14 The Child Care Payments (Consequential Amendments and Transitional Provisions) Bill 1997 complements the Child Care Payments Bill 1997. It introduces a number of transitional arrangements designed to ensure a smooth transfer from the existing Childcare Assistance and Childcare Rebate schemes to the new payment arrangements set out in the Child Care Payments Bill. In particular:

- it ensures that children currently using the long day care sector to provide outside school hours care for their children are not disadvantaged by the introduction of the new school child rate of Childcare Assistance;
- it provides exemptions from the planning framework for child care operators who had taken action to build or extend a child care centre before the planning limits were announced on Budget night;
- it provides for the repeal of the Childcare Rebate Act; and
- it includes a number of amendments to other Acts which are necessary to implement the new payment arrangements.

## **3. ISSUES**

### **Consultation process and implementation of the reforms**

3.1 DHFS informed the Committee that it undertook extensive consultations with representatives of the child care industry and with families on implementing the new child care arrangements. These consultations, conducted in 1996 and 1997, involved representatives from national and State peak industry organisations (over 100 organisations) around Australia. A public report on the consultations, *Children's Services Program – Report on Public Consultations on Future Directions 1996-97*, was released earlier this year. In addition, the consultation strategy also included focus groups and a phone survey of families in receipt of Childcare Assistance and the Childcare Rebate. The aim of the focus groups and the phone survey was to gauge attitudes to the delivery and usage of the two child care payments.<sup>4</sup>

3.2 Some groups agreed that the consultation process had been adequate. For example, the Australian Federation of Child Care Associations (AFCCA) commended the Government on its 'commitment to consult as broadly as possible with service providers, peak bodies and families' and noted that 'although the outcomes may not have met all our concerns and the needs of all stakeholders...the quality of the decisions made are linked to a genuine process of negotiation'.<sup>5</sup>

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4 Submission No.10, pp.4-5 (DHFS) and Attachments A and B to the submission. See also *Transcript of Evidence*, pp.74, 84 (DHFS).

5 Submission No.11, p.5 (AFCCA).

3.3 Other organisations, however, claimed that the consultation process with stakeholders had been inadequate.<sup>6</sup> The Australian Confederation of Child Care (ACCC) stated that ‘what underlies some of our concerns...is that there is not adequate information coming through to us because part of our role is to educate and inform our constituency’.<sup>7</sup> ACCC further argued that ‘it is a question of the quality [of the consultations] and it is a question of whether it was a genuine consultative process or something else’.<sup>8</sup>

3.4 DHFS, as noted above, argued that the consultation process had been extensive. A representative of the Department further stated that many organisations ‘are not denying that we have had a consultation process, but they have been saying, “We don’t believe you’re listening”. So unless you are getting the outcomes that the people that you are consulting with specifically want, they are going to be uncomfortable with what I will call a consultation process.’<sup>9</sup>

3.5 Several organisations indicated that the timeframe for the implementation of the changes to child care arrangements, scheduled to be introduced on 1 January 1998, allowed insufficient time for both parents and the services involved to be fully informed of the details of the proposed changes.<sup>10</sup> A number of organisations noted that the problems arise from centres being closed and families being on holidays in January.<sup>11</sup> Several groups suggested that the implementation date should be delayed until 1 April 1998.<sup>12</sup> AFCCA argued that this would allow more time for the notification of services and families with regard to changes to the Childcare Assistance and Childcare Rebate payments. The Federation also noted that it would assist in services’ planning arrangements, especially in the upgrading of software packages and training staff in their application.<sup>13</sup>

3.6 DHFS indicated that for the Department the implementation date of 1 January 1998 would be able to be met but that it would be ‘tight’.<sup>14</sup> The Department acknowledged that the outside school hours care sector may have some difficulties in meeting the implementation date – ‘that sector has had quite a different...funding system in previous years; they have not had a system that was directly related to the income of families, where fees had to be adjusted in a variable way to the range of families using their services’.<sup>15</sup>

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6 *Transcript of Evidence*, p.50 (ACCC). See also Submission No.1, p.1 (South West Gippsland Family Day Care); Submission No.4, pp.2, 4 (Victorian Family Day Care Association); Submission No.15, p.1 (Cardinia Family Day Care).

7 *Transcript of Evidence*, p.47 (ACCC).

8 *Transcript of Evidence*, p.50 (ACCC). See also *Transcript of Evidence*, p.67 (QCCC).

9 *Transcript of Evidence*, p.84 (DHFS).

10 Submission No.11, p.7 (AFCCA); Submission No.12, p.3 (NFDCCA) ; *Transcript of Evidence*, p.25 (NOSHSA).

11 Submission No.8, p.5 (ACCC); Submission No.12, p.2 (NFDCCA); *Transcript of Evidence*, pp.25-26 (NOSHSA).

12 Submission No.11, p.7 (AFCCA); *Transcript of Evidence* p.42 (AFCCA); Submission No.8, p.5 (ACCC); Submission No.12, p.4 (NFDCCA).

13 Submission No.11, p.7 (AFCCA).

14 *Transcript of Evidence*, p.79 (DHFS).

15 *Transcript of Evidence*, p.83 (DHFS).

3.7 Centrelink informed the Committee that while the implementation date would be ‘very tight’ it had a comprehensive strategy in place for implementing the reforms involving additional staffing for the teleservice facility, an extensive training program for staff, a comprehensive publicity program and a range of consultations with industry at the local level.<sup>16</sup>

3.8 The Committee believes that to ensure a smooth transition to the new childcare arrangements that the commencement date for the reforms should be delayed until no earlier than 1 April 1998.

### **Use of disallowable instruments**

3.9 Some comments were made during the inquiry on the reliance on Ministerial discretion through the use of Disallowable Instruments.<sup>17</sup> Organisations commented that the Bill lacked sufficient ‘detail’ and much of this ‘detail’ would only be available in the form of Disallowable Instruments. ACCC claimed that ‘we don’t know how the Bill will impact on providers or families because the Bill does not contain sufficient detail’.<sup>18</sup> The Confederation noted that ‘we are a little concerned that you need to have that sort of detail at the design stage of the Act. It is not enough...to be provided with further information at some stage down the track...even if that is in the form of a disallowable instrument.’<sup>19</sup>

3.10 DHFS noted, however, that the use of Disallowable Instruments was not unusual and that the current *Child Care Act 1972* and *Childcare Rebate Act* provide for instruments to be created for the administration of the program.<sup>20</sup> DHFS argued that most of the proposed instruments under the new Bill ‘merely replicate and replace existing instruments which were made under the current legislation. These proposed instruments serve the same purpose as the existing instruments. The addition of new policy elements, however, has required the creation of some new instruments’.<sup>21</sup>

3.11 DHFS noted that the new arrangements will lead to greater transparency and accountability. The Department stated that the Bill has the effect of laying before Parliament a range of rules and guidelines in the child care area that have previously been made by the Minister in the form of administrative guidelines – ‘by placing these requirements in legislation, the rules and guidelines affecting child care will be more accessible and amenable to Parliamentary scrutiny’.<sup>22</sup>

3.12 Several groups, including the National Family Day Care Council of Australia (NFDCCA) and ACCC, noted that they had not, as yet, seen the draft instruments.<sup>23</sup> AFCCA

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16 *Transcript of Evidence* pp.79, 84 (Centrelink).

17 *Transcript of Evidence*, p.45 (ACCC); Submission No.9, p.7 (QCCC). See also Submission No.2, p.2 (Child Care Centres Association of Victoria).

18 Submission No.8, p.2 (ACCC). See also Submission No.11, p.8 (AFCCA).

19 *Transcript of Evidence*, p.45 (ACCC).

20 Submission No.10, p.8 (DHFS).

21 Submission No.10, p.8 (DHFS).

22 Submission No.10, p.8 (DHFS). See also *Transcript of Evidence*, p.80 (DHFS).

23 *Transcript of Evidence*, p.40 (NFDCCA) and p.47 (ACCC).

stated that ‘while it seems possible that guidelines in these areas are unlikely to bring unforeseen changes to the direction of the legislation it is concerning that such details have not been finalised at this stage’.<sup>24</sup>

3.13 The Department advised the Committee that seven of the 27 instruments have been drafted and the remaining 20 are still being drafted by the Office of Legislative Drafting ‘and they will all be released as exposure drafts as soon as they are cleared by the Minister for release’.<sup>25</sup> The Committee notes the Department’s assurance that the exposure drafts will be made available for comment by the industry and the broader community prior to being signed by the Minister and tabled in Parliament.<sup>26</sup>

### **Childcare Assistance limit for non-work related care**

3.14 In the second reading speech, the Minister stated that:

The Bill introduces a 20 hour limit on access to Childcare Assistance for each child in care for non work related purposes. This measure ensures Commonwealth funds are more effectively targeted to the primary purpose of the program, that is, work related care.<sup>27</sup>

3.15 DHFS indicated that there was widespread community support for the measure. Quantitative research undertaken for the Department of 650 families showed that 75 per cent of families surveyed approved of the introduction of a non-work related care limit, with 71 per cent indicating that up to 20 hours was reasonable.<sup>28</sup> Several groups, including NFDCCA and the National Association of Community Based Children’s Services (NACBCS), also indicated their support for the measure.<sup>29</sup> The Department indicated that as a result of this measure, an additional 17,000 children will be able to access subsidised care.<sup>30</sup>

3.16 Some groups, including ACCC and AFCCA, claimed that the 20 hour limit would impact adversely on low income families in particular, as these families, who have been accessing higher levels of non-work related care, will be forced to reduce their hours of care. It was argued that this would also impact on the developmental needs of these children.<sup>31</sup>

3.17 DHFS stated, however, that the proposed limit on access for non-work related care is consistent with the average number of hours paid by families using non-work related care ie. 21 hours per week. The average family using long day care for respite or developmental reasons uses 14 hours per week.<sup>32</sup> The Bill also provides that children at risk of neglect or

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24 Submission No.11, p.9 (AFCCA).

25 *Transcript of Evidence*, p.77 (DHFS).

26 Submission No.10, p.8 (DHFS).

27 Minister’s Second Reading Speech.

28 Submission No.10, p.10 (DHFS).

29 Submission No.12, p.5 (NFDCCA); *Transcript of Evidence*, p.70 (NACBCS).

30 Submission No.10, p.10 (DHFS).

31 Submission No.8, p.6 (ACCC); Submission No.11, p.5 (AFCCA). See also Submission No.16, p.7 (ACTU).

32 *Transcript of Evidence*, p.80 (DHFS).

abuse, families in crisis, and children of parents with a disability will be able to access more than 20 hours of Childcare Assistance a week.<sup>33</sup>

3.18 The Department also advised that the Australian Early Childhood Association – the peak national body responsible for early childhood in Australia – indicated that a two-day limit was appropriate for non-work related care, and that two eight-hour days was reasonable for child development purposes.<sup>34</sup>

3.19 Some groups commented on the possible impact on service providers. The AFCCA stated that the restriction of non-work related care to 20 hours will impact differently on particular states and regions depending on the services' level of reliance on work-related care. Some groups argued that services in Queensland and some areas of Western Australia in particular would be adversely affected by the proposed changes, with possible centre closures and job losses in the child care industry.<sup>35</sup>

3.20 DHFS, addressing the issue of the viability of certain centres, stated that some services which currently have a high vacancy rate and rely on families using significant periods of non-work related care may experience viability problems – 'the extent of the impact on individual services will depend on the usage patterns on non-working families and local supply'.<sup>36</sup>

3.21 The Department added that:

The current unplanned system has not required investors to demonstrate need to be eligible for Childcare Assistance funding and this has resulted in pockets of over-supply across Australia. Increasing competition and vacancy rates have exacerbated viability problems for many services in these areas. The new planning system will direct services to areas of high work related need and minimise potential for future over-supply.<sup>37</sup>

### **Reform of school age care**

3.22 The Bill introduces new Childcare Assistance provisions for school age children which are consistent across all child care sectors. A fee ceiling of \$1.95 an hour will apply, to which part time loadings in family day care may be added, where applicable. The same Childcare Assistance rate will apply whether a school age child is in a centre, Family Day Care or an OSHC service. This addresses the current serious disparities in financial assistance for the care of school aged children. To fund the new system, all current funding for operational grants and Childcare Assistance for OSHC and other services will be redirected into the new

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33 Submission No.10, p.10 (DHFS).

34 *Transcript of Evidence*, p.74 (DHFS).

35 Submission No., p.5 (QCCC); Submission No.11, p.5 (AFCCA). See also Submission No.6, p.4 (ALHMWU).

36 Submission No.10, p.11 (DHFS).

37 Submission No.10, p.11 (DHFS).



school age funding system.<sup>38</sup> DHFS stated that new reforms will significantly improve affordability for over 70,000 low and middle income families using OSHC services.<sup>39</sup>

3.23 The National Out of School Hours Services Association (NOSHSA) claimed that the removal of operational subsidy would lead to increased fees and the closure of some services.<sup>40</sup> DHFS stated that while fees are expected to rise in OSHC services as a result of the removal of the operational grant, the improved Childcare Assistance system will mean that most low and middle income families in OSHC services will be better off. In addition, the Government has ensured that the new arrangements do not affect the 35,000 school age children currently using centres and Family Day Care who receive assistance at the higher long day care rate. These children will retain their current benefits while they continue to use these services.<sup>41</sup>

3.24 Several organisations claimed that the reduction in the hourly rebateable fee from \$2.30 to \$1.95 for out of school hours care in long day centres will lead to an increase in fees and affect the viability of some centres, especially in those States that provide high levels of this type of service.<sup>42</sup>

3.25 DHFS stated that ‘increased utilisation’ is expected in most services under the new Childcare Assistance system. The Department pointed to research that indicated that poor utilisation of services is largely due to the lack of affordability of care, particularly for low income families, which is addressed in the current reforms – ‘findings showed that access to reasonable rates of Childcare Assistance improved affordability for families and subsequent service utilisation, leading to improved service viability’.<sup>43</sup> For services in rural and remote areas facing problems associated with low utilisation, ongoing funding of \$15.7 million over four years for OSHC will be provided to services where no alternative services are available to ensure that families in these communities retain access to care.<sup>44</sup>

### **Definition of sessional care**

3.26 Some organisations argued that the definition of sessional care needed to be clarified. NACBCS noted that a session of care in each State and Territory and across service types is currently defined differently – ‘we were concerned that the legislation mentions that it would be left to the Minister to define from time to time a session of care. We felt that the legislation needed to define it’.<sup>45</sup> ACCC and NACBCS expressed some concerns that the definition of a session of care may move towards a certain number of hours of care.<sup>46</sup>

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38 Submission No.10, p.12 (DHFS).

39 Submission No.10, p.13 (DHFS).

40 *Transcript of Evidence* pp.25-27 (NOSHSA). See also Submission No.4, pp.2-3 (Victorian Family Day Care Association); Submission No.6, p.3 (ALHMWU); Submission No.16, p.5 (ACTU).

41 Submission No.10, p.13 (DHFS).

42 Submission No.11, p.6 (AFCCA); Submission No.8, p.7 (ACCC); Submission No.12, p.5 (NFDCCA); Submission No.9 (QCCC), Attachment 6; Submission No.4, p.2 (Victorian Family Day Care Association).

43 Submission No.10, p.14 (DHFS).

44 Submission No.10, p.14 (DHFS).

45 *Transcript of Evidence* p.72 (NACBCS).

46 Submission No.8, p.5 (ACCC); *Transcript of Evidence*, p.72 (NACBCS).

NACBCS argued that ‘we are concerned about a move towards considering hours for child care because, once you start looking at hours and you start charging people for only the hours they use, you begin to threaten the viability and the sustainability of the whole service’.<sup>47</sup>

3.27 The Department, responding to these concerns, stated that different definitions of sessional care ‘will not be a problem under the Act. Every service provider defines whatever sessions they are currently offering to families. They can differ from service to service, not only from State to State...The reason why that information is required is simply to allow Centrelink to do the calculation...it is entirely discretionary on the services as to how they define their sessions, and it is purely for payment and monitoring of payment [by Centrelink]’.<sup>48</sup>

### **Penalty provisions**

3.28 The Bill provides for penalties of imprisonment up to a period of 2 years where a person has been convicted of fraud, making untrue statements, making a false representation or obtaining a benefit under false pretences in respect of a child care payment. However, the Bill prevents a person being imprisoned for receiving a child care payment because of an ‘act, failure or omission’ of theirs. In submissions and evidence, concern was raised about the penalty provisions of the Bill. For example, AFCCA stated:

Going to prison for not letting Centrelink or any agency know certain information, given that these people are people who obviously have children between the ages of nought and five, seems totally unreasonable and I can hardly believe that that would be a measure that any government would want to put in place.<sup>49</sup>

3.29 NACBCS also stated:

We do strongly condemn any moves by government to imprison parents for failure to notify regarding information...we think the department should be developing mechanisms to avoid this situation and setting up structures so that there are ways that people can easily give information. We certainly do not think that it should be considered a criminal offence punishable by imprisonment. That is totally unacceptable.<sup>50</sup>

3.30 In response to these concerns, the DHFS stated to the Committee that the Attorney-General’s Department had advised that any person found guilty of fraud or misrepresentation in relation to *any* government payment can be fined or imprisoned under the Crimes Act and that the Bill was bringing child care subsidies into line with all other government benefits. The Department also noted that under the provisions of the Bill, if a person is convicted of an offence in relation to child care payments, the court may order that the payments be recovered and if a person does not repay that money they cannot be imprisoned. Further, the Bill makes provision for the recovery of over payments as distinct from fraud.<sup>51</sup>

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47 *Transcript of Evidence*, p.72 (NACBCS).

48 *Transcript of Evidence*, pp.84-85 (DHFS).

49 *Transcript of Evidence*, p.44 (AFCCA). See also Submission No.9, Appendix 7, p.3 (QCCC).

50 *Transcript of Evidence*, p.73 (NACBCS); Submission No.13, p.6 (NACBCS).

51 *Transcript of Evidence*, p.75 (DHFS).

## Impact on service providers

3.31 In the second reading speech, the Minister stated that the initiatives proposed assist small business ‘by reducing the amount of administrative paper work required from service providers to claim Childcare Assistance’.<sup>52</sup>

3.32 Representatives of providers of both long day care and out of school hours services raised concerns about the impact of the changes on these services.

3.33 The ACCC stated that they believed that there would be unemployment within the child care sector as a result of the imposition of the 20 hour per week limit on non-work related care. The ACCC also stated that there could be social costs as children who may be better off in child care are no longer able to access the service.<sup>53</sup>

3.34 NFDCCA indicated that it was concerned that there would be changes to the ‘current variation and flexibility possible within Family Day Care to accommodate the new system’. Further, NFDCCA indicated that there could be fee increases.<sup>54</sup>

3.35 Under the provisions of the Bill, the operational subsidy will no longer be paid to out of school hours services but would come within the Childcare Assistance framework. In evidence, NOSHSA stated that ‘the out of school hours services sector are totally overwhelmed by the framework within which these changes have been set’.<sup>55</sup> The Queensland Child Care Coalition (QCCC) asserted that ‘outside school hours care is in chaos in relation to the implementation of Centrelink and the change to the fee relief system’.<sup>56</sup> NOSHSA also indicated that the sector was facing a loss of income and increased fees as a result of abolition of the operational subsidy. NOSHSA indicated that 200 to 300 services across Australia may suffer ‘quite substantial viability problems as a result’.<sup>57</sup>

3.36 DHFS, addressing the issue of the viability of certain centres stated that some services which currently have a high vacancy rate and rely on families using significant periods of non-work related care may experience viability problems – ‘the extent of the impact on individual services will depend on the usage patterns on non-working families and local supply’.<sup>58</sup>

3.37 NOSHSA also indicated that the implementation of Childcare Assistance would result in an increase in administration time and costs. It noted for example that after hours services have flexible patterns of attendance and as a result a centre in Blacktown, NSW, with 60 places had enrolments of 107 because of the usage pattern. As well, NOSHSA stated that ‘computerised records are virtually non-existent in out of school hours services and indications are that the only alternative would be a large increase in administration time’, with Queensland services indicating that administration time would be quadrupled for the

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52 Second Reading Speech, p.1.

53 *Transcript of Evidence*, p.46 (ACCC).

54 Submission No.12, p.7 (NFDCCA).

55 *Transcript of Evidence*, p.25 (NOSHSA).

56 *Transcript of Evidence*, p.64 (QCCC).

57 *Transcript of Evidence*, p.27 (NOSHSA).

58 Submission No.10, p.11 (DHFS).

first year of implementation.<sup>59</sup> NOSHSA and QCCC also noted that providers would not only have to undertake their administration but also aid parents in filling out the required forms.<sup>60</sup>

3.38 NOSHSA stated that problems would also arise in the out of school hours sector because these services were primarily managed by parent bodies and it would take time for the information about the changes to be assessed and appropriate management structures to be put in place.<sup>61</sup>

3.39 DHFS indicated that in the last budget, the Government provided funding of \$3,000 per service to assist these services to develop new business plans and identify new administrative arrangements so they could implement the new system. The Government also provided capital funding to assist services make changes to their computer and other administrative systems.<sup>62</sup>

3.40 NOSHSA also raised concerns that standards of quality may decrease, for example lower staff-child ratios and insufficient equipment, in order to keep fees low.<sup>63</sup>

3.41 In relation to concerns about viability of services the Department responded:

I think it is a misunderstanding of what the minister and the government want looked at in this charging practices review. This is a general concern of government. It was a concern of the previous government when they were seeking figures...that something like 30 per cent of all hours of child care assistance that are paid for are not paid for hours where the child actually attends. So there was a concern that there was a mismatch...between attendance and hours subsidised by government.<sup>64</sup>

### **Impact on families**

3.42 In the second reading speech, the Minister stated that the new arrangements 'strengthen parents' right to choose the care they want for their children by giving families more control and responsibility. The value of child care subsidies will be more readily apparent.' The Minister also stated that the measure in the Bill to limit the provision of new places to 7,000 per year over the next two years will ensure that 'all new long day care centre places are located in areas where demand for work related care is highest'.<sup>65</sup> As a result, significant inequities for families in accessing care will be overcome.<sup>66</sup>

3.43 The Department submitted that the transfer of payments to Centrelink would improve convenience for families. Families would now only deal with one agency rather than two (DSS and the HIC) as was the case under the old system. The Department also noted:

The consolidation of all payments and employment services in Centrelink provides enormous potential for families to access the full range of services and

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59 *Transcript of Evidence*, pp. 26, 28 (NOSHSA).

60 *Transcript of Evidence*, p.64 (QCCC).

61 *Transcript of Evidence*, p.25 (NOSHSA).

62 *Transcript of Evidence*, p.83 (DHFS).

63 *Transcript of Evidence*, p.26 (NOSHSA).

64 *Transcript of Evidence*, p.79 (DHFS).

65 Second Reading Speech, p.2.

66 Submission No.10, p.2 (DHFS).

support offered by Government. Access to programs will no longer be dependant on family understanding of the bureaucracy or what organisation the family should contact. Centrelink staff will handle the full range of advice on Government programs.<sup>67</sup>

3.44 Evidence was submitted that the proposed changes will result in a more complicated process for parents. For example, it was noted that the initial data collection document was 30 pages long and that it ‘will turn many families away’ and the inaccessibility of Centrelink offices for rural families.<sup>68</sup> The Department stated that the data collection document would not be 30 pages long. It would be considerably more brief. AFCCA also noted that the new requirements with regard to parental responsibilities regarding notification and record keeping introduce a new level of accountability and responsibility.<sup>69</sup>

3.45 NFDCCA drew the Committee’s attention to the cost impact on families of the provision of care for school-aged children on weekends or for irregular hours. The Council gave the example of children of shift workers who may be in care in a private home from 3.00 am. The Council noted that this care is classified as before and after school care, but it suggested that it could come under the classification of long day care and so be eligible for a higher level of child care assistance.<sup>70</sup>

3.46 It was also noted that some families may have difficulty in estimating their care needs and families may be unable to budget for these variations.<sup>71</sup> Further, for those parents who have child care needs there will be a difficulty in maintaining constant contact with Centrelink in order to have their correct childcare assistance entitlement applied.<sup>72</sup>

3.47 The Department noted in its submission that in 30 per cent of cases families had variable care needs and that in these cases ‘[Centrelink] will come to an agreement with the family about how best to calculate and provide Childcare Assistance. It is acknowledged that this process will place an added responsibility on the family.’<sup>73</sup> The Department went on to state that there were a number of payment options available including payment based on a regular pattern of care for example where a parent worked shift work. Families also had the option of paying the full costs of their child care at the time of use and claiming back payment from Centrelink. The Department stated that ‘it is expected that this approach will be used by families with highly unpredictable use of child care’.

3.48 In other evidence it was stated that because of fee rises, parents – particularly women – may be forced to leave paid work because quality child care is too expensive and that families would be forced to use unregulated home-based care because of rising fees for centre-based care.<sup>74</sup> The Committee believes that this scenario is not borne out by the facts. The Committee Chairman cited an example of a woman with an income of \$31,000 who decided

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67 Submission No.10, p.4 (DHFS).

68 Submission No.1, p.1 (South West Gippsland Family Day Care).

69 Submission No.11, pp.3, 6 (AFCCA).

70 *Transcript of Evidence*, pp 36-38 (NFDCCA). See also Submission No12, p.4 (NFDCCA).

71 Submission No.1, p.1 (South West Gippsland Family Day Care).

72 Submission No.3, p.2 (Victorian Family Day Care Association – State Advisory Committee)

73 Submission No.10, p.5 (DHFS).

74 Submission No.12, p.8 (NFDCCA).

to give up her job because she was paying \$20 a week extra for child care. After taking into account the child care costs, tax and Medicare, the woman was \$8-9,000 out of pocket as a result of her decision to give up her job.<sup>75</sup> The Chairman also drew attention to ABS statistics which indicate that between October 1996 and July 1997 the labour force participation rates for women have remained steady.<sup>76</sup>

## Approval process

3.49 The Committee received evidence in relation to the approval process for child care service providers which raised a number of concerns. NOSHSA stated:

...regarding the eligibility rules: these rules should be set if the government is to appear fair and proper in its delivery of child-care assistance to services. Government policy must be transparent and not open to manipulation. We feel that, by leaving that section open, we are placing our services at risk.<sup>77</sup>

3.50 ACCC stated that the Bill was unclear on how the Minister may determine other conditions on the approval of a service to be eligible as an approved service.<sup>78</sup> NACBCS stated that it:

...believes that the quality standards must be implemented for all service types on a compulsory basis...The government needs to be confident that its subsidies are used to assist parents to pay for good quality care. NACBCS supports the removal of access to public funds for poor quality services. Within that...we could not find throughout the legislation the link between child-care assistance or the cash rebate to accreditation of the long day care centres. We would like to see that link included in the legislation.<sup>79</sup>

3.51 The ACCC also raised concerns about the lack of information available about the approval process, noting that the service needs to apply using the approved form and to supply information required by the form. ACCC stated that “‘Information’ is defined, but the definition does not tell you anything useful, and neither has anyone else!”<sup>80</sup>

3.52 On the use of disallowable instruments in relation to approvals, NACBCS stated:

Clauses 185 to 188 are all about eligibility of long day care, family day care, occasional care and outside school hours services to be approved as those types of services. Again, they are really fundamental and should be within this bill. They should not be subordinate, they should not be guidelines.<sup>81</sup>

3.53 In response to these concerns about the need for approval, the Department stated that the main reason for the reapproval process was that all of the agreements that were previously signed were signed to make payments under the Child Care Act. These agreements will lapse with the repeal of those provisions of the Child Care Act under the transitional and consequential amendments made in conjunction with the Bill. New agreements will then be

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75 *Transcript of Evidence*, pp.65-66 (Chairman).

76 *Transcript of Evidence*, p.66 (Chairman).

77 *Transcript of Evidence*, p.26 (NOSHSA).

78 *Transcript of Evidence*, p.41 (ACCC).

79 *Transcript of Evidence*, p.70 (NACBCS).

80 Submission No.8, p.4 (ACCC).

81 *Transcript of Evidence*, p.71 (NACBCS). See also Submission No.8, p.4 (ACCC).

signed to authorise payment under that new Act ‘and also to ensure that appeal rights and so forth that are covered by the new Act are available to all services’. Further, other services such as family day care and out of hours school services have never been under legislation and will be required to sign agreements for the first time.<sup>82</sup>

3.54 The Department also noted that the rules ‘to be set out in a Disallowable Instrument, will substantially mirror existing requirements with a minor difference’.<sup>83</sup> It was stated that there was one new clause that they will be required to meet and that ‘has always been in place with family day care and other service types but it was not in the previous agreement under the Child Care Act, and that is that the person signing the agreement has to fall within a category of a fit and proper person and have no relevant convictions’. The Department added that ‘it is the minister’s, the government’s and our intention that all existing services will be approved’.<sup>84</sup> Further, all existing services will be deemed to be approved for a limited period under the Transitional Act to ensure that no service loses access to Childcare Assistance due to failure to return forms or postal problems.

3.55 The Department stated that services will have to apply for allocated hours as ‘the government has to be sure that no existing service that is out there that is already approved, actually expands in those two years [1998 and 1999] – expands in its number of places – without telling us’. Services will be approved for the number of places applied for on their application form but will not be able to expand unless they are in a high needs area and are allocated places out of the 7,000 new places made available by the Government.<sup>85</sup>

#### **4. RECOMMENDATION**

4.1 The Committee reports to the Senate that it has considered the Child Care Payments Bill 1997 and the Child Care Payments (Consequential Amendments and Transitional Provisions) Bill 1997 and **recommends** that the Bills proceed but that the implementation date for the reforms be delayed until no earlier than 1 April 1998.

Senator Sue Knowles  
Chairman

October 1997

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82 *Transcript of Evidence*, p.81 (DHFS).

83 Submission No.10, p.7 (DHFS).

84 *Transcript of Evidence*, pp.81-82 (DHFS).

85 *Transcript of Evidence*, p.78 (DHFS).





## **Addendum to the Majority Report from Senator John Woodley Australian Democrats**

The Australian Democrats support the majority report of the Community Affairs Legislation Committee into the *Child Care Payments Bill 1997* and the *Child Care Payments (Consequential Amendments and Transitional Provisions) Bill 1997*. We do, however, wish to make the following additional comments.

### **Implementation of the Reforms**

Evidence given to the Committee clearly indicated that the major and most widespread concern over the reforms contained in these bills was the proposed date for their implementation.

As a result of this Committee hearing, the Government has now said that it will delay the implementation of these reforms until 27 April 1998. This is a positive outcome and we are pleased that this Committee hearing, which was set up at the Democrats' suggestion, provided such an effective forum for parents and child care services to make their concerns known to the Government.

The Democrats urge the Government to ensure that they follow through on this announcement and ensure that the implementation of the reforms contained in these bills is delayed.

### **Disallowable Instruments**

We accept the concerns expressed by the various witnesses to the committee regarding the reliance on Ministerial discretion through the use of Disallowable Instruments. However, we also acknowledge Departmental claims that the use of Disallowable Instruments is not unusual.

The Democrats urge the Government to ensure that all 27 of the Disallowable Instruments which are currently in the process of being drafted are released as exposure drafts for comment by the industry as soon as they are completed.

### **Prison Terms**

The Democrats have concern about the provision of harsh penalties of imprisonment where a person has been convicted of fraud, making untrue statements, making a false representation or obtaining a benefit under false pretences in respect of a child care payment. While we are comforted to some extent to see that the Bill prevents a person being imprisoned for receiving a child care payment simply because of an act of failure or omission, the Democrats do question the appropriateness of using prison penalties to punish offences relating to child care payments.

### **Childcare Assistance Limit for Non-work Related Care**

The Democrats urge the Government to closely monitor and consider the effect limiting Childcare Assistance for non-work related care will have on the viability of centres in regions depending on a large proportion of non-work related care. We particularly urge the

Government to carefully consider the effect this measure will have on the viability of centres in Queensland and some areas of Western Australia.

### **Out of School Hours Care**

The Democrats are very concerned at the Government's decision to withdraw operational subsidies for Out of School Hours Care. However, because the withdrawal of operational subsidies for Out of School Hours Care is not something which is subject to legislation, the Democrats can only call on the Minister to closely monitor, and re-consider if necessary, the effect this decision has on the viability of these important services.

### **Reform of School Age Care**

The Democrats accept statements made by the Department that the need for higher fees because of the proposed reduction in the hourly rebateable fee from \$2.30 to \$1.95 for out of school hours care in long day centres will be offset to a large extent by increased utilisation of this service. However, we urge the Minister to closely monitor, and re-consider if necessary, the effect this decision has on the level of fees parents have to pay for school age care in long day care centres.

Senator John Woodley  
(AD, Queensland)

# DISSENTING REPORT BY THE AUSTRALIAN LABOR PARTY

## *Child Care Payments Bill 1997*

## *Child Care Payments (Consequential Amendments and Transitional Provisions) Bill 1997*

### **Introduction**

The Labor Opposition dissents from Chairperson's report on the Child Care Payments Bill 1997 and Child Care Payments (Consequential Amendments and Transitional Provisions) Bill 1997.

The Federal Government's changes to the childcare sector over two budgets have caused fee increases, centre closures, job losses and a decrease in the quality of care. The Federal Government has cut \$820 million from child care over two budgets.

The Child Care Payment bills introduce the Coalition's 1997 budget measures for child care and propose massive changes to the way childcare services operate and parents apply for assistance. These bills will continue the process of fee increases, the use of unlicensed care, the closure of services and the reduction of women's ability to work. The Federal Government's initial attempts to implement this legislation by 1 January 1998 would have caused chaos in the industry.

The Government has failed to acknowledge the widespread community concern over its changes to child care, and this Committee has restricted consultation by working to unrealistic deadlines, calling only a few of the many organisations with an interest as witnesses, and by not providing opportunities for parents to address the Committee.

As stated by the Queensland Child Care Coalition, "The pre-election promise that all parents have fair and equitable access to affordable, flexible and high quality options regardless of whether they choose to participate in the paid work force or care for their children at home is simply not being met."<sup>86</sup>

### **Measures**

The Child Care Payments Bill introduces a number of measures including immunisation as a criteria for childcare assistance and the childcare rebate. It also legislates a 20 hour limit for non-work related care and a 50 hour limit on work related care. The Bill proposes that the Minister will allocate childcare hours to regions yet to be specified and will limit places to 7,000 in 1998 and 1999.

### **Immunisation**

The Opposition supports national immunisation objectives. There are, however, concerns about tying the eligibility for Government assistance to programs such as immunisation. Unfortunately, making immunisation a criteria for childcare assistance and the childcare rebate will only disadvantage those who are already the least likely to get their children immunised. Families who cannot afford to get their children immunised, do not understand the requirements, or find the lengthy and complicated application process intimidating will

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<sup>86</sup> Queensland Child Care Coalition, Community Affairs Legislation Committee, Public Hearing, 3 October 1997, p. 59 Hansard.

not get assistance with child care. Child care will not be a financial option for these families without Government assistance.

There have been recorded shortages of vaccines including the Triple Antigen vaccine for Tetanus, Whooping Cough and Diphtheria. It is important that families are not unfairly disadvantaged because of vaccine shortages out of their control. The Government should exempt people who find themselves in this situation.

### **Planning Provisions**

The legislation puts in place a number of planning provisions including: the limitation of hours used and places available, the regional allocation of hours, and approval practices for centres accessing childcare assistance or the childcare rebate.

With the implementation of the Child Care Payments Bill the Government will have the structure in place for the Government to limit childcare places in the future. There is no guarantee in the bill that existing services will receive approval to continue with the same number of places and the planning process makes no provision for work based child care.

The Government will allocate hours to regions but hasn't specified what those regions are, how it will decide which regions will get what hours, or what provision will be made to increase hours and places where demand has not been met.

The Bill has no recourse to parliament for the Minister's determination for regional allocation of childcare hours, allowing regional allocation to go unscrutinised. It is imperative that the Minister's determination of the regional allocation of new childcare assistance hours is disallowable.

The Government also has not addressed the concerns of some sections of the community, such as the Queensland Nurses Union, who say there are still not, nor will there be with the implementation of this legislation, appropriate childcare services for shift workers.<sup>87</sup>

The Government's decision to limit hours of care to 50 per week "...will disadvantage women in regional areas and will lead to parents paying full fees for any care over 50 hours. Parents living in fringe metropolitan areas will also be disadvantaged if a significant proportion of their child care hours are used for travel to and from work."<sup>88</sup>

Organisations are deeply concerned about future planning arrangements. The arrangements for allocation of hours in this bill cease December 1999. The lack of certainty is causing anxiety in the industry.

### **Emergency Childcare Assistance**

Emergency Childcare Assistance is only available for one four week period in twelve months. Labor is of the strong opinion that this is not appropriate when considering children at risk. This limit is unfair to children who are facing serious crisis or potential abuse and need emergency childcare, and the limit needs to be abolished. The Australian Federation of

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<sup>87</sup> Queensland Nurses Union, Submission No. 5, p. 3.

<sup>88</sup> Australian Liquor, Hospitality and Miscellaneous Workers' Union, Submission No. 6, p. 3.

Child Care Associations said in the Community Affairs Committee public hearing on the Bill, that the "...provision could be harsh for the people who most desperately need it."<sup>89</sup>

### **Outside School Hours**

This Bill threatens the continued operation of outside school hours care by removal of the operational subsidy.

Many centres will close without this subsidy. Small centres and those in rural and regional areas are most at risk. Services and the number of qualified staff will be reduced. The Queensland Child Care Coalition also reports that fees will increase without the operational subsidy.<sup>90</sup>

Disturbingly, the Australian Liquor, Hospitality and Miscellaneous Workers union reports that the removal of the operational subsidy for out of hours school care will see an increase of children at home, 'latch key' kids, without supervision.<sup>91</sup>

It will only be a matter of time before the Federal Government moves to abolish the only remaining operational subsidy, the subsidy being paid to family day care. The Government announced the cut in the last budget but has since changed its mind.

### **Penalties**

Some childcare groups expressed concern at the harsh penalties contained in the Bill, including six months imprisonment for not providing information on request. "Going to prison for not letting Centrelink or any agency know certain information, given that these people are people who obviously have children between the ages of nought and five, seems totally unreasonable..."<sup>92</sup> Labor urges a change in such penalties.

### **Consultation**

The Federal Government's changes to child care have been characterised by a lack of consultation. Childcare services have been left feeling confused about the results of the Child Care Payments Bill and the changes the Government plans to make to the payment system.

The Government rushed hearings of this Committee, and limited witnesses to peak national organisations, which prevented the full range of groups concerned about changes to childcare payments appearing before the Committee. The Child Care Centres Association of Victoria, for example, complained about not being represented at the Committee hearings.<sup>93</sup> Most importantly, the time frame and restrictions stopped parents from being able to comment.

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<sup>89</sup> The Australian Federation of Child Care Associations, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 43 Hansard.

<sup>90</sup> Queensland Child Care Coalition, Submission 9, Attachment 6.

<sup>91</sup> Australian Liquor, Hospitality and Miscellaneous Workers' Union, Submission No. 6, p. 2.

<sup>92</sup> Australian Federation of Child Care Associations, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 44 Hansard.

<sup>93</sup> Child Care Centres Association of Victoria Inc, Submission No. 2.

The Department of Health and Family Services considers it has consulted adequately. It claims to have consulted with over 100 childcare organisations.<sup>94</sup> Despite this, few organisations consider they have been adequately consulted with.

Conducting information seminars for legislation which is supposed to be implemented within a matter of months for details that haven't been finalised is not adequate. The Victorian Family Day Care Association, for example, stated in its submission, "That the implications of the Bill have not been fully explained and we keep receiving information in a sporadic manner which makes us consider that perhaps the implications are being worked out as we go along. This makes proper consultation impossible and dissatisfaction inevitable."<sup>95</sup>

Childcare organisations have an understandable fear that the Government's long-term agenda is currently not being articulated and cannot be ascertained from the Bill. The Australian Confederation of Child Care said at the public hearings that they "...fear that there is a lot more going to happen than the stated objectives, particularly when it comes to the rearranging of the payment mechanisms and the legislative framework."<sup>96</sup>

## **Implementation**

The Australian Confederation of Child Care states in its submission that the Bill has major deficiencies and says that if changes to the system are not designed properly it will only result in further inefficiencies.<sup>97</sup>

There are 27 pieces of subordinate legislation and the Department said in public hearings that only seven had been drafted at this stage. The subordinate legislation contains definitions and regulations which, depending on the contents, could have a large impact on the industry and parents. For example, the exemptions for people using more than 50 hours a week of care or if a child is at risk are contained in subordinate legislation.

All childcare bodies who appeared as witnesses said they had not been provided with copies of subordinate legislation and were told it was unavailable.

The Australian Confederation of Child Care notes that some terms, "...fundamental to the whole system...", have not been defined, such as "other childcare assistance hours" allocated under the "guidelines" and a "qualifying session of care".<sup>98</sup>

The Federal Government has buckled to the pressure of childcare organisations and moved the implementation date from 1 January 1998 to after Easter next year. The initial implementation date would have caused widespread chaos because many services reduce hours or close over December and January. Many organisations feel they have little understanding of the Government's proposal for the industry and a January implementation date would have given them no chance to understand their obligations.

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<sup>94</sup> Department of Health and Family Services, Submission No. 10, Attachment A.

<sup>95</sup> Victorian Family Day Care Association, Submission No. 3, p. 1.

<sup>96</sup> Australian Confederation of Child Care, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 45 Hansard.

<sup>97</sup> Australian Confederation of Child Care, Submission No. 8, p. 2.

<sup>98</sup> Australian Confederation of Child Care, Submission No. 8, p. 3 & 5.

Some organisations, including the National Out of School Hours Services Association, believe an implementation date of 1 January 1999 would be more realistic, and would implement the Bill at the same time the Government plans to introduce the new smart card payments system which will also entail massive change.<sup>99</sup> "There are a lot of problems associated with parent management attempting to restructure their services in this quick space of time and trying to get parents informed."<sup>100</sup> The National Out of School Hours Association also says that the Federal Government is expecting services to restructure and enter a new marketplace completely different from how they currently operate. This needs time.<sup>101</sup>

## Fee Increases

Most of the submissions talked about fee increases resulting from last year's budget changes. The National Association of Community based Children's Services completed a survey called *Cost versus Quality* which found fees have increased by up to \$18 per week per child.<sup>102</sup> The National Out of School Hours Services Association said at the public hearings that, "The sector is facing a loss of income and increased fees as a result of the loss of operational subsidy and an increase in administration time and costs relating to the implementation of childcare assistance."<sup>103</sup>

The Government claims that the payment of childcare assistance to centres will make up for operational subsidies but NOSHSA says services are getting child care assistance but also losing \$14.50 per place in operational subsidy meaning fees would rise.<sup>104</sup> Organisations also reported that the changes contained in the Child Care Payments legislation would result in further fee increases.

NOSHSA said in the Committee's public hearings that it has estimated that in one centre, administration time will quadruple, "...resulting in an extra 11 hours and 15 minutes in wages per week, which will be equal to an extra \$169.20 in added costs for implementation."<sup>105</sup> South Gippsland Family Day Care pointed out that the impact of fee increases and a decrease in flexibility on parents and services in regional areas where many parents need flexibility and are on low incomes, will be considerable.<sup>106</sup>

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<sup>99</sup> National Out of School Hours Services Association, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 26 Hansard.

<sup>100</sup> National Out of School Hours Services Association, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 29 Hansard.

<sup>101</sup> Hearing, 2 October 1997, p. 26 Hansard.

<sup>101</sup> National Out of School Hours Services Association, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 32 Hansard.

<sup>102</sup> National Association of Community Based Children's Services, Submission No. 13, p. 2.

<sup>103</sup> National Out of School Hours Services Association, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 25 Hansard.

<sup>104</sup> National Out of School Hours Services Association, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 28 Hansard.

<sup>105</sup> National Out of School Hours Services Association, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 26 Hansard.

<sup>106</sup> South Gippsland Family Day Care, Submission No. 19.

Family Day Care organisations, such as the Victorian Family Day Care Association, were most concerned about changes to the fee structure which means parents will only get \$2.30 per hour rather than the current \$3.05 an hour.<sup>107</sup> This could mean a difference of up to \$40 per week per child.

The Australian Confederation of Child Care was also concerned about the differences in the rebateable fee between long day care and family day care.<sup>108</sup> There seems to be no policy justification for providing long day care a rebate of \$2.30 for a pre-school aged child and family day care \$3.05. The National Family Day Care Council says the cost impact of reducing fees from \$2.30 for preschool children to \$1.95 for those of school age will be considerable.<sup>109</sup> All these changes mean centres will have to increase fees.

### **Centre Closures**

The Australian Confederation of Child Care reported that, "...in Victoria for our membership, which runs about 200 centres, we would have had about a five per cent closure rate over this current calendar year."<sup>110</sup>

The South Australian Minister for Education and Children's Services, the Hon Robert Lucas, demonstrated the enormous impact the Federal Government changes to child care were having. He reported centre closures since the loss of operational subsidies, the drift of parents into informal care and families leaving paid work because of the high cost of care. He also reported staff losses through centre closures and fee increases.<sup>111</sup>

The National Out of School Hours Association conservatively estimated that, "...of the 1,400 or 1,500 services across Australia, you would be looking at 200 or 300 services suffering quite substantial viability problems as a result."<sup>112</sup> The Australian Confederation of Child Care reported in a survey examined by Access Economics that anything from 500 to 3,000 people could become unemployed as a result of this legislation.<sup>113</sup>

### **Use of Informal Care**

Family day care services have reported that the change in fees from \$3.05 per hour to \$2.30, a difference of 75 cents will result in families leaving the formal care system and seeking unlicensed, unsupervised backyard care. "...[I]f children in family day care cannot

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<sup>107</sup> Victorian Family Day Care Association - State Advisory Committee, Submission 3, p. 2.

<sup>108</sup> Australian Confederation of Child Care, Submission No. 8, p. 5

<sup>109</sup> National Family Day Care Council, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 35 Hansard.

<sup>110</sup> Australian Confederation of Child Care, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p.46 Hansard.

<sup>111</sup> Minister for Education and Children's Services South Australia, Submission 20, pp. 1 - 2.

<sup>112</sup> National Out of School Hours Services Association, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 27 Hansard.

<sup>113</sup> Australian Confederation of Child Care, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 52 Hansard.



stay because of the prohibitive costs or for whatever reason, they would have no child care."<sup>114</sup>

These changes are building on last year's budget changes. The NACBCs survey, *Cost versus Quality*, shows 67% of people leaving child care are going to informal care. Parents leaving child care cite fee increases as the reason (74%).

### **Decrease in Quality**

The massive changes in the childcare sector including the abolition of operational subsidies for the community sector have seen a reduction in the quality of child care that is set to continue following the implementation of the Child Care Payments Bill. The National Association of Community Based Children's Services questions the Government's ability to ensure children are safe if parent's cannot afford quality child care.<sup>115</sup>

The National Out of School Hours Association reports, "...that, in order to keep fees low, parent management committees may drop standards of quality, for example, lower staff-child ratios and insufficient equipment."<sup>116</sup>

### **Parents Leaving Work force**

The Government has not assessed the impact people leaving the work force because they cannot afford child care will have on revenue collection and on increasing social security payments to these people and their families.

Disturbingly, the Queensland Child Care Coalition reported that: "In March this year the female participation rate dropped by 50,100, the largest decrease since September 1979." The QCCC attributed this drop to increases in childcare fees since the Federal Government's budget cuts and changes to the childcare industry.<sup>117</sup> A report from the National Centre for Social and Economic Modelling presented at the 26th Annual conference of Economists reports that there is little financial incentive for women, particularly in low income families to enter the work force even on a part time basis because of childcare costs and reductions in family payments.<sup>118</sup> The Queensland Child Care Coalition stated at the public hearings that, "A lot of the women who are in the lower income range are finding that \$15 a week more for child care is just making it unaffordable for them."<sup>119</sup>

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<sup>114</sup> National Family Day Care Council, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 36 Hansard.

<sup>115</sup> National Association of Community Based Children's Services, Submission No. 13, p. 3.

<sup>116</sup> National Out of School Hours Services Association, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 26 Hansard.

<sup>117</sup> Queensland Child Care Coalition, Submission No. 9, p. 6.

<sup>118</sup> "Is it Worth Working? The Financial Impact of Increased Hours of Work by Married Mothers with young Children", Gillian Beer, National Centre for Social and Economic Modelling, Faculty of Management, University of Canberra, September 1997.

<sup>119</sup> Queensland Child Care Coalition, Community Affairs Legislation Committee, Public Hearing, 2 October 1997, p. 65 Hansard.

## **Conclusion**

The Federal Government's \$820 million changes over two budgets, including the implementation of the Child Care Payments Bill is causing fee increases, centre closures, job losses and a decrease in the quality of care.

The Government has made and is proposing massive changes to the childcare industry and to the lives of families using child care and has proposed giving both parents and childcare services little time to adjust.

The Federal Government has failed to realise the essential part child care plays in the lives of families who work and in children's development. Families continuing reliance on backyard or informal care because of fee increases in quality care is disturbing.

The Government needs to acknowledge the widespread community concern and to make changes to its current childcare regime that makes it affordable, accessible and equitable.

## **Recommendations**

- That implementation of the legislation not be before 1 April 1998 (the Minister recently announced an implementation date of 27 April 1998, acceding to this request), or a minimum of four months from the passing of the Bill.
- Immunisation must be exempted as a criteria for childcare payments where a recognised immunisation provider has certified that the vaccine necessary for immunisation is not available.
- The period for a retrospective claim must be changed from 13 weeks to 6 months.
- The withholding rate for debt repayment needs to be limited to 14% (this is the standard social security withholding rate and the Government has not put any limit on how much it can withhold from future payments in the bill).
- The limit of four weeks continuous care in one 12 month session of care for emergency childcare assistance should be removed.
- Chapter 6, Part 1, Division 2 should be amended to make it clear that the requirement for a service to have an allocation of childcare assistance hours only applies to new services (not existing services).
- Chapter 6, Part 1, Division 3 must be omitted as it allows the number of new family day care, occasional care and outside school hours care places to be capped without recourse to Parliament.
- The Minister's determination of the regional allocation of new childcare assistance hours must be made disallowable.
- It is not appropriate for families to face penalties of six months imprisonment for failing to comply with a request for information. Such penalties should be changed.

Senator Belinda Neal  
(ALP, New South Wales)

Senator Kay Denman  
(ALP, Tasmania)



**SUBMISSIONS AND LETTERS RECEIVED BY THE COMMITTEE**

- 1 South West Gippsland Family Day Care
- 2 Child Care Centres Association of Victoria
- 3 Victorian Family Day Care Association – State Advisory Committee
- 4 Victorian Family Day Care Association
- 5 Queensland Nurses’ Union
- 6 Australian Liquor, Hospitality & Miscellaneous Workers’ Union
- 7 Moreton Downs Early Education
- 8 Australian Confederation of Child Care
- 9 Queensland Child Care Coalition
- 10 Department of Health and Family Services
- 11 Australian Federation of Child Care Associations
- 12 National Family Day Care Council of Australia
- 13 National Association of Community Based Children’s Services
- 14 South East Region Family Day Care
- 15 Cardinia Family Day Care
- 16 Australian Council of Trade Unions
- 17 Narre Warren Child Care Complex
- 18 Murdell House Occasional Child Care Centre
- 19 South Gippsland Family Day Care
- 20 South Australian Minister for Education and Children’s Services
- 21 Billabong Educational Childcare
- 22 Vaccination Information South Australia
- 23 Mr Greg Beattie
- 24 Australian Vaccination Network

**Letters received relating to Child Care Assistance**

- |                         |                      |
|-------------------------|----------------------|
| Ms Cathy Andrews        | Ms Karen Ann Johnson |
| Mr and Mrs John Kiploks | Ms Glenda Lennie     |
| Mr Gary Bennett         | Ms Clare Wickham     |
| Ms Dianne Marsh         | Mrs Tracey Vincent   |
| Ms Leslie G Fox         | Mrs T Linke          |
| Mr Andrew Halliwell     | Ms Elizabeth Hove    |
| Ms Jane Crowe           | Ms Megan O’Brien     |
| Ms Lisa Garland         | Mrs Erica Maguire    |
| Ms Leeanne McLay        | Ms Janis Ovens       |
| Mrs Melissa Whelan      | Ms Karen Vick        |
| Ms Nerrelle Graham      | Ms Michelle Andrews  |
| Mrs Yvonne Drybwegh     |                      |

**PUBLIC HEARING**

Details of the two public hearings held on the Bills are as follows:

***Thursday, 2 October 1997, Senate Committee Room 2S1***

**Committee Members in attendance**

Senator Sue Knowles (Chairman)

Senator Kay Denman

Senator Alan Eggleston

Senator Michael Forshaw

Senator Belinda Neal

Senator Karen Synon

Senator John Woodley

**Witnesses**

**National Out of School Hours Services Association**

Ms Robyn Miller, Chairperson

Ms Anne Taylor, National Coordinator

**National Family Day Care Council of Australia**

Ms Bev Foden, President

Ms Margaret Nicolson, Secretary

Ms Jo Comans, Executive Director

**Australian Federation of Child Care Associations**

Ms Evelyn Callaghan, National President

Ms Liz Lester, National Chief Executive Officer

Ms Gwynne Bridge, Member

**Australian Confederation of Child Care**

Mr Brian McFarlane, Vice President

Mrs Lyn Connolly, Executive Member

Mr Ian Weston, Consultant

**Friday, 3 October 1997, Senate Committee Room 1S3**

**Committee Members in attendance**

Senator Sue Knowles (Chairman)  
Senator Alan Eggleston  
Senator Karen Synon  
Senator John Woodley

**Witnesses**

**Queensland Child Care Coalition**

Mr Chris Buck, Spokesperson and President, National Child Care Centres Association  
Ms Gwynne Bridge, Steering Committee Member  
Ms Wendy Turner, Steering Committee Member

**National Association of Community Based Children's Services**

Ms Celia Haddock, Secretary  
Ms Prue Warrilow, Deputy Convenor

**Department of Health and Family Services**

Mr Barry Wight, First Assistant Secretary, Family and Children's Services Division  
Ms Margaret Carmody, Assistant Secretary, Policy Analysis and Planning Branch  
Ms Paula Swift, A/g Director, Child Care Fee Subsidies  
Mr Denis Bayada, National Manager, Families and Children, Centrelink