

**SUBMISSION TO THE SENATE COMMUNITY AFFAIRS
COMMITTEE BY THE DEPARTMENT OF FAMILIES,
COMMUNITY SERVICES, AND INDIGENOUS AFFAIRS –**

**CERTAIN ISSUES ARISING FROM THE FAMILY ASSISTANCE,
SOCIAL SECURITY AND VETERANS' AFFAIRS LEGISLATION
AMENDMENT (2005 BUDGET AND OTHER MEASURES) BILL**
2006

Schedule 1 – FTB Part A income free area

Viability and operation of provisions

The income free area for family tax benefit (FTB) Part A is the amount that a customer (and partner, if any) can earn before the customer's FTB Part A rate is affected under the income test. The income free area is indexed on 1 July each year in accordance with movement in the Consumer Price Index (CPI).

For 2005-06, the income free area is \$33,361. This is the amount a family can earn in 2005-06 before their maximum FTB Part A rate is reduced in accordance with the income test taper rules. For every dollar over the free area, FTB Part A is reduced by 20 cents until the base rate is reached.

The amendments made by Schedule 1 will increase the income free area for FTB Part A from the current \$33,361 to \$37,500 from 1 July 2006. This is higher than the projected CPI-increased amount of \$34,310 that would replace the current income free area from that date if these amendments were not made.

The new amount of \$37,500 will be subject to indexation in accordance with movements in the CPI on 1 July 2007 and each subsequent 1 July.

Impact on relevant groups

This measure will assist lower income families, particularly those returning to work, by increasing the amount of earnings they can have before their rate of FTB Part A is affected.

Around 400,000 families will receive more FTB Part A with an average increase of \$24 per fortnight.

The measure will also result in around 40,000 families becoming newly eligible for the Health Care Card and its many benefits.

Schedule 2 – Indexing estimates of adjusted taxable income for family tax benefit and child care benefit purposes

Viability and operation of provisions

Most families choose to receive their family assistance on a fortnightly basis. For FTB, this means fortnightly instalments of FTB that are calculated on the basis of an estimate of adjusted taxable income (ATI) for the current income year. For CCB, it means an ongoing reduction in child care fees calculated by reference to, among other things, an estimate of ATI for the current income year.

After the end of the entitlement year, estimated ATI is compared to actual ATI in a process known as income reconciliation. Families who have overestimated their income and have received less than their entitlement, based on actual income, are paid a top-up. Where income has been underestimated and the customer was overpaid, a debt may result if the extra reduction under the income test exceeds the extra entitlements included at reconciliation (for example, the FTB Part A supplement). Accurate income estimates are important in helping to avoid or reduce an overpayment.

Under the current rules, responsibility for providing a reasonable estimate rests solely with the customer. However, there are many customers who do not regularly revise their estimate, even on an annual basis. This can result in overpayments because inaccurate or outdated estimates are being used to work out entitlements.

This measure addresses this issue by introducing a system of default estimates that can be used to determine entitlements. The customer will be notified of the proposed default estimate before it is used and will have the opportunity to provide a reasonable estimate of ATI, which will then be used instead of the default estimate. The default estimate would be calculated by reference to annual movements in Average Weekly Earnings (AWE). The indexation factor for 2006-07 will be 1.053 (5.3 per cent), as the relevant AWE (Original-Persons-All employees total earnings) increased from \$766.40 in November 2004 to \$806.70 in November 2005.

For the start of a new financial year, the default estimate will be based on the most recent income estimate for the customer (or partner), adjusted by the AWE indexation factor. It is proposed that the Family Assistance Office (FAO) will write to affected FTB and CCB customers in May 2006 to notify each family of the default estimate of ATI that will apply from 1 July 2006, unless a family provides a reasonable estimate. This is subject to the passage of the Bill before that time.

Also, if a default estimate is being used, when the most recent ATI for the customer (or partner) becomes known, the FAO will calculate an estimate that is based on adjusting the most recent ATI by the AWE indexation factor. If that amount is higher than the existing default estimate, the FAO will again contact the customer to advise that a new default estimate will be used to calculate future entitlement, unless the customer provides an alternative reasonable estimate.

The measure will ensure that a customer's entitlement is based on the best available estimate. Importantly, customers will continue to have the option of providing their

own reasonable estimate. That is, customers will continue to have responsibility for their estimate of income.

Impact on relevant groups

Around 150,000 families per year will avoid an overpayment or have a reduced overpayment due to the measure. The reduction in the level of debt is expected to be \$115.2 million over four years.

Schedule 3 – Returns to paid work

Viability and operation of provisions

The amendments will correct an error in the definition of “returns to paid work”. This definition relates to the FTB Part B measure that protects the rate of FTB Part B at the maximum rate for the period before a secondary earner in a couple returns to work for the first time after the birth of a child. The amendments for the FTB Part B measure were made by Schedule 1 to the *Family and Community Services Legislation Amendment (Family Assistance and Related Measures) Act 2005*, and commenced on 1 July 2005.

That measure avoids an FTB Part B overpayment for the protected period where the individual's estimate during the year had not anticipated the return to work. It helps to reduce any disincentive to return to work after a child's birth that might otherwise arise from concerns about a potential overpayment.

The existing definition of “returns to paid work” unintentionally results in a person's second return to work being counted as the first return to work, if the person was on paid leave for the whole period before the person's actual first return to work.

The amendment will ensure that the definition is corrected before the FTB Part B measure first begins to apply to families from July 2006 for the 2005-06 year. The FTB Part B measure can only be applied when the FTB reconciliation conditions are satisfied and not during the financial year.

Impact on relevant groups

The number of families affected by the amendments is estimated to be negligible.

Schedule 4 – Recovery of child care benefit debts

Viability and operation of provision

This measure enables a person's child care benefit (CCB) debt to be recovered directly from an income tax refund owed to the person or another person consenting to the recovery.

The measure operates so that any CCB debts determined by the Family Assistance Office on or after 1 July 2006 can be recovered from any income tax refund determined by the ATO on or after 1 July 2007. Existing CCB debts will not be recovered directly from income tax refunds.

A person's income tax refund will be used to offset his/her debt owing to the Commonwealth according to the following debt recovery hierarchy and to the extent that any tax credit is available to offset the debt. As per this hierarchy, a person's CCB debt will be recovered from any tax refund amount available after tax debts and Family Tax Benefit (FTB) debts, if any, are recovered.

1. tax debts
2. FTB debts
3. CCB debts
4. Child Support Agency debts
5. other Commonwealth debts

Impact on relevant groups

This measure may result in a CCB customer receiving a reduced income tax refund or no refund. However, the direct recovery of a CCB debt from an income tax refund will enable quicker repayment of a customer's debt and will help to avoid the accumulation of family assistance debts.

Schedule 5 – Reducing allocation of child care places

Viability and operation of provisions

Currently, there is no express power in the legislation to reduce a service's allocation of Child Care Benefit (CCB) approved child care places when places are consistently not in use or a service's state or territory child care licensed number of places is reduced lower than its allocated places. The current legislation only allows the Secretary to reduce an approved child care service's child care place allocation as a sanction for the service's non-compliance with the conditions for continued approval.

The Department works with the child care sector to identify ways of maximising the utilisation of the stock of approved child care places. The current practice of voluntarily relinquishing unused places, since 2001, reflects this.

This measure will both clarify and formalise the current practice of voluntary relinquishment and allow the Secretary to adjust a service's allocation to better reflect its utilisation. The latter is required where a service has consistently unused places (an excess), cannot demonstrate a sound reason for retaining some or all of their excess places, and is unwilling to voluntarily relinquish them.

Although the measure will give the Secretary the power to reclaim consistently unused places, the Department will still encourage voluntary relinquishments as the preferred method of place reduction. Any reductions would be conducted in close

consultation and negotiation with services, similar to the current voluntary relinquishment process.

If a service is still not happy with the reduction, a formal appeal process will be available.

The power created by this measure, to reduce a service's place allocation, will be discretionary. This reflects the reality that it may not always be practical or appropriate to reduce a service's allocation.

The measure will not allow to reduce a service's place allocation lower than their utilisation.

To monitor the level of utilisation of allocated places, the measure will allow the Secretary to require services to provide periodic information about the utilisation of the allocated places. The Department is working with sector peak organisations to develop this reporting mechanism. It is expected that this will have no operational impact on services, as it is likely that this information can be collected through other reporting mechanisms.

This information will provide evidence of services that may have an excess of places. The Department may begin discussions with these services to either assist them improve their utilisation or to propose a reduction in child care places.

It is expected that this information will also help identify services that are steadily increasing their utilisation. Where utilisation is nearing its maximum the Department may also consider proposing an increase of places to the service to help meet imminent demand, provided its current allocation is lower than its jurisdictional license or lower than that set by the National Standards.

This measure will also allow for the recovery of places that cannot be utilised due to a change (reduction) in a service's child care licence. This is relevant where the new number of a service's licensed places is lower than its CCB place allocation. This is most relevant to Outside School Hours Care (OSHC) where many jurisdictions are currently implementing licensing for OSHC services. With the introduction of new licensing regimes services could have the number of licensed places they can provide reduced and hence create a discrepancy with their CCB place allocation.

Impact on relevant groups

The measure will improve the distribution of available child care places and ensure better utilisation of existing places.

This measure will also assist families, particularly those returning to work, to access places by increasing the effective utilisation of approved child care places.

This measure will assist services to better meet demand for places, as the Secretary will have an increased ability to reclaim consistently unused places from some services so, in the future, they can be reallocated to other services/areas with demand.

The measure will not affect a service's funding, as operational support for places is linked to place utilisation. Places that can be reduced do not attract any funding.

The Department is currently working with sector peaks on the possible implementation of this measure. These peaks are supportive of the measure, as it would help to improve the efficient use of the supply of approved child care places. Peaks also acknowledged that this is merely formalising an existing practice and would not generally affect services, either in places or funding.

Schedule 6 – Carer allowance backdating provisions

Viability and operation of provisions

Carer Allowance is a supplementary payment available to carers who provide daily care and attention, in a private home, to an adult or child with a disability or severe medical condition, or who is frail aged. The payment is not taxable, non-income and assets tested, and can be paid in addition to any income support payment.

The current rate of payment is \$92.40 per fortnight, and is indexed on 1 January each year in line with changes to the Consumer Price Index.

The measure will standardise the backdating period available for Carer Allowance commencing from 1 July 2006.

The measure will rationalise and reduce the backdating period to a maximum of 12 weeks for the carers of both children and adults, but only for adults who experience an acute onset.

The change in backdating provisions forms part of the package of carer assistance announced in the 2005-06 Budget.

Carer Allowance (child) payments can currently be backdated for up to 52 weeks.

Carer Allowance (adult) payments can currently be backdated for up to 26 weeks if the disability or medical condition is attributable to an acute onset.

The measure would standardise the Carer Allowance backdating provisions for adults and children, remove the inequities in the current arrangements and reduce confusion for customers about different backdating periods.

Most claims for social security payments cannot be backdated. This measure retains a reasonable backdating period of 12 weeks, and applies equitably to all Carer Allowance claimants, regardless of the care receiver's age. There is no backdating for adults if the condition is not due to an acute onset.

The differences in the current backdating provisions are based on historical eligibility criteria.

Carer Allowance was introduced on 1 July 1999 when responsibility for Domiciliary Nursing Care Benefit (DNCB) was transferred to the Department of Family and Community Services and combined with Child Disability Allowance (CDA). Former DNCB and CDA recipients were transferred to Carer Allowance (adult) or Carer Allowance (child).

A claim for CDA could be backdated for up to 52 weeks based on the rationale that it could take some time for a child's disability to be diagnosed. DNCB had no backdating provisions. When Carer Allowance was introduced, the 52-week backdating provision for children was retained.

A 26-week backdating period was simultaneously introduced for adults, but only for care receivers whose care needs were attributed to an acute onset, such as an accident or heart attack.

Carer Allowance maintains separate adult and child streams due to the need to use different methods of assessing eligibility.

The current use of the Child and Adult Disability Assessment Tools, which assess a child's functional ability and an adult's care needs, do not rely on diagnoses being made.

Centrelink claim processes reflect the changes to claim lodgement rules introduced in the *Social Security (Administration) Act 1999* (SSAA).

Current legislation allows two weeks for a claim to be lodged from notification of 'intent to claim'. Up to an additional 11 weeks may be granted if the claimant was caring for a person suffering from a medical condition that had an adverse effect on the claimant's ability to claim earlier or in special circumstances where it was not reasonably practicable for the claimant to lodge earlier.

The medical report also does not have to be lodged with the claim for the claim to be granted from the 'intent to claim' date. Centrelink allows a customer to lodge the medical report at a later date if, for example, the customer is required to wait for a medical appointment for completion of the medical report.

Impact on relevant groups

The measure will not impact on current customers. Only new customers from 1 July 2006 will be affected.

The group most affected will be carers of children. However, as eligibility is based on actual functional ability and care needs as assessed using the CDAT, without the need to rely on a diagnosis, eligibility can be established quickly thereby reducing the need for lengthy backdating provisions.

Carers of adults with acute onset conditions will still have access to up to 12 weeks for backdating purposes.

Carer payments are much more widely publicised than in past years. Greater awareness as well as changes to the eligibility criteria and Centrelink's processing regimes have streamlined the claim process for carers.

Around 42,000 new customers each year will be eligible to access the backdating provisions. For some, this measure may mean a reduced amount of backdating will be payable.

It is estimated that this measure will reduce expenditure by \$107.6 million over four years.

Schedule 7 – Portability and Medical Treatment Overseas Program

Viability and operation

The Australian Government provides financial assistance through the Medical Treatment Overseas (MTO) Program administered by the Department of Health and Ageing (DHA), for Australian citizens and permanent residents to receive lifesaving medical treatment overseas in circumstances where such treatment is not available in Australia. The treatment must be of a life-saving nature and there must be a real prospect of success. The treatment must also be beyond experimental stage and accepted as a standard form of treatment by the medical profession.

Financial assistance under the MTO Program assists with:

- medical and hospital costs, which can be invoiced directly to the Department of Health and Ageing;
- return economy airfares for the patient and one attendant, which are reimbursed to the customer or paid directly to the travel agent; and
- 80 per cent of reasonable non-hospital accommodation costs for the patient and one attendant, which can be reimbursed on return to Australia.

Most social security payments can only be paid for up to 13 weeks of any absence overseas. This measure enables the Secretary to extend payment beyond 13 weeks where a person is eligible for financial assistance under the MTO Program, whether as a patient or an attendant.

Impact on relevant groups

The impact will be beneficial for people whose duration of treatment overseas exceeds 13 weeks and who are otherwise qualified for a social security payment or FTB. In the last six years, there have been only eleven qualified patients whose treatment exceeded 13 weeks. However, not all of these patients would be receiving income support. The financial implications are negligible.

Schedule 8 – Income streams

Viability and Operation of the Measure

The changes to the income streams legislation include:

- extending the term of market-linked income streams to allow payments until the member or spouse reaches age 100. Where life expectancy is greater than age 100, the greater age will be allowed for;
- allowing individuals to vary market-linked income stream payments by amounts between plus or minus 10 per cent to smooth the impact on annual payments that would result from large variations in the value of the assets backing the income stream;
- allowing non-superannuation annuities to be split as part of a divorce property settlement;
- making certain changes to enhance the operation of existing income streams rules;
- reducing the opportunity for individuals to manipulate the rules surrounding allocated income streams to inappropriately increase entitlement to income support;
- amending the definition of a defined benefit income stream to clarify the original intention of the definition and align it with existing policy.

Impact on Various Groups

The changes to the income streams legislation are either beneficial or else designed to align the legislation with existing policy.

The main group of applicants to be affected will be people of age pension age. The initiative is also likely to impact a small number of person's receiving Disability Support Pension, Mature Age Allowance, Newstart and Partner Allowance.

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