Social Security Legislation Amendment (Family Participation Measures) Bill 2011

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Social Policy Section

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<td>CfC</td>
<td>Children for Community</td>
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<td>DEEWR</td>
<td>Department of Education, Employment and Workplace Relations</td>
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<td>EPP</td>
<td>Employment Pathway Plan</td>
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<td>ETS</td>
<td>Early School Leavers Transitional Support</td>
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<td>JET</td>
<td>Jobs Education and Training</td>
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<td>LGA</td>
<td>Local Government Areas</td>
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<td>NSA</td>
<td>Newstart Allowance</td>
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<td>PPP</td>
<td>Parenting Payment Partnered</td>
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<td>PPS</td>
<td>Parenting Payment – Single</td>
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<td>PP</td>
<td>Participation Plan</td>
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<td>SSA</td>
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<td>VEA</td>
<td><em>Veterans’ Entitlements Act 1986</em></td>
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Social Security Legislation Amendment (Family Participation Measures) Bill 2011

**Date introduced:** 21 September 2011  
**House:** Senate  
**Portfolio:** Education, Employment and Workplace Relations  
**Commencement:** 1 January 2012  
**Links:** The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill's home page, or through http://www.aph.gov.au/bills/. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

**Purpose**

The purpose of the Social Security Legislation Amendment (Family Participation Measures) Bill 2011 (the Bill) is to amend social security legislation to conduct participation pilots for teenage parents as announced by the Government in the 2011-12 Budget.

**Background**

2011-12 Budget initiative

The Government announced, in the 2011-12 Budget, the introduction of participation pilots for teenage parents.1 This measure was estimated to cost $47.3 million over four years. In the same Budget, the Government also announced the expenditure of $80 million over four years to provide additional training places for single and teenage parents in receipt of income support.2 Both of these initiatives were announced to commence from 1 January 2012.

Teenage Parents Participation Pilot elements

As announced in the Budget, the basic elements of the Teenage Parents Participation Pilots (TPPP) are:

- the TPPP are to be conducted in ten targeted Local Government Areas (LGA)

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2. Ibid., p. 152.

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• parents on income support\(^3\) will be required to attend six-monthly interviews with Centrelink once their child turns six months of age
• once the child is 12 months old, the purpose of the interview with Centrelink will be to develop a Participation Plan (PP)
• the PP will be compulsory
• the PP is to be aimed at improving education outcomes for the parent by focussing on school completion, foundation skills or certificate level qualification—as well as the health and education of the PP child, and
• support for the PP is to continue until the parent achieves year 12 completion, or the child turns age six.\(^4\)

The ten disadvantaged areas in Australia for the pilot locations are:
• Playford (SA)
• Hume (Vic)
• Shepparton (Vic)
• Burnie (Tas)
• Bankstown (NSW)
• Wyong (NSW)
• Shellharbour (NSW)
• Rockhampton (Qld)
• Logan (Qld)
• Kwinana (WA)\(^5\)

Need for amendments to the social security legislation

Currently there are no specific powers in the Social Security Act 1991 (SSA) or the Social Security (Administration) Act 1999 (SSAA) to require a person in receipt of Parenting Payment—Partnered (PPP)\(^6\) or Parenting Payment—single (PPS)\(^7\) to comply with the requirements of the proposed TPPP. Whilst there are powers to compel a PPP/PPS recipient to attend an interview, there are no powers to require development of, or participation in, a PP and no powers to suspend payments where a recipient of PPP/PPS does not meet the participation requirements.

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3. Income support refers to the main pension and allowance payments including Age Pension, Newstart Allowance, Parenting Payment and Disability Support Pension.
6. PPP is paid to a partnered parent with a youngest child aged less than six years.
7. PPS is more commonly referred to as the sole parent pension and is paid to a sole parent with a youngest child aged less than eight years.

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Parenting payment participation requirements

The rules for PPP and PPS were substantially changed with the Welfare to Work reforms of 1 July 2006. Currently, PPS can be paid where the person has a child aged under eight years. Once the youngest child turns age six, the person remains on PPS but then has participation requirements. Then, once the youngest child turns age eight, the PPS recipient is transferred to another income support payment, most commonly Newstart Allowance (NSA). Persons can only access PPP where the youngest child is aged under six years. Once the child turns age six, the person is transferred to another income support payment, most commonly NSA.

PPS/PPP recipients prior to 1 July 2006 are ‘saved’ and can remain on PPS/PPP until their youngest child turns age 16. However, once the youngest child turns seven years of age they then have participation requirements.

Workforce participation and single parent initiatives in the 2011-12 Budget

There were many workforce participation initiatives within the Department of Education, Employment and Workplace Relations (DEEWR) portfolio in the 2011-12 Budget under the broad banner of ‘Building Australia’s Future Workforce’. Many of these Budget initiatives proposed new and innovative methods of addressing entrenched unemployment. However, notwithstanding the strong labour market, there are still some elements of entrenched unemployment. The table below contains a snapshot of the increasing percentage of long-term recipients on NSA to all NSA recipients.

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9. Participation requirements involve looking for and accepting work up to 15 hours a week.
10. NSA is more commonly referred to as the unemployment benefit.
11. Participation requirements involve, op. cit.
14. Long-term recipients refers to those on payment for 12 months or more.
15. NSA is more commonly referred to as the unemployment benefit.

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<table>
<thead>
<tr>
<th></th>
<th>Long-term recipients</th>
<th>Total NSA recipients</th>
<th>Percentage of long-term recipients to total recipients</th>
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<tbody>
<tr>
<td>August 2009</td>
<td>275,407</td>
<td>564,601</td>
<td>48.77%</td>
</tr>
<tr>
<td>February 2010</td>
<td>321,705</td>
<td>602,383</td>
<td>53.4%</td>
</tr>
<tr>
<td>August 2010</td>
<td>341,360</td>
<td>572,201</td>
<td>59.65%</td>
</tr>
<tr>
<td>February 2011</td>
<td>356,375</td>
<td>588,824</td>
<td>60.52%</td>
</tr>
<tr>
<td>August 2011</td>
<td>337,649</td>
<td>547,029</td>
<td>61.72%</td>
</tr>
</tbody>
</table>

The intransigence of some workforce age welfare payment recipients to being placed into employment continues to be an issue of concern and this is probably the main motivator for the Government’s Building Australia’s Future Workforce Budget initiatives, targeting new and innovative assistance arrangements. This was discussed in a Parliamentary Library paper shortly after the 2011-12 Budget.17

The proposed TPPP was amongst these initiatives. Several other initiatives targeted (wholly or partially) at single parents are described below.

**Compulsory participation requirements for jobless families—targeted locations**18

- to commence 1 July 2012
- to be run in 10 targeted LGA
- to include:
  - new participation requirements and support services for parents who have been on income support for over two years, or who are aged under 23 and are a targeted LGA
  - requirement to attend compulsory workshops and interviews
  - joint setting of personal and family goals
  - assistance to target pre-vocational barriers, to engage in the community and to improve health and education outcomes for children
  - access to 52 weeks of Jobs Education and Training (JET) child care fee assistance which pays any child care fee gap
  - $71.1 million over four years of which $19.4 million is to be spent on Children for Community (CfC) services.

**Incentives for single parents and Parenting Payment reforms**19

- to commence from 1 January 2013
- adjustment of the NSA income test for recipients whose youngest child is aged under 16

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19. Ibid., pp. 140-141.

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- changes to the NSA income test taper rate with a flat 40 per cent taper rate for all excess income over the free area

- from 1 January 2013, PPP and PPS recipients on payment prior to 1 July 2006 will have to transfer to NSA when the youngest child turns age 12, not age 16, as currently applies (see comment below). There are other transitional arrangements where the recipient’s youngest child is aged 12 to 13

- estimated cost is $178.9 million mainly with the more generous income testing.

**Services to assist single parents enter the workforce**

- commencing from 1 January 2012
- provision of professional career advisory services through employment services providers
- CfC servicing to include personal skills development, confidence and parenting capacity and improved health and education outcomes for children
- $22.7 million over four years.

**Training places for single and teenage parents**

- to apply from 1 January 2012 to 30 June 2015
- provision of Early School Leavers Transitional Support (ETS) for early school leavers aged 15-21 years who do not have year 12 certificate or equivalent
- 31 000 training places at Certificate II or above level
- $80.0 million over four years.

**Financial implications**

The Explanatory Memorandum accompanying the Bill states that the expenses associated with the Bill are to be absorbed within existing operational expenses. This means that the additional work associated with the TPPP and other compliance activities will be undertaken within existing resourcing. This may be in response to the limited locations of the TPPP and also the relatively low numbers of persons that will be within the target groups within these locations. The impact on outlays is also estimated to be nil—in fact there may be some reductions of outlays if/where PPS/PPP recipients have income from employment, or even leave the scheme.

**Key provisions**

Items 1–9 of Schedule 1 to the Bill amend the SSA.

20. This is more generous than the normal NSA taper rate of fifty per cent for income from $62 to $250 per fortnight and then sixty per cent for income in excess of $250.


22. Ibid., p. 152.

23. Explanatory Memorandum, p. 4, viewed 6 October 2011, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orOrderBy=customrank;page=0;query=Title%3A%20Participation%20Dataset%3AbillsCurBef,billsCurNotBef;rec=0;resCount=Default](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orOrderBy=customrank;page=0;query=Title%3A%20Participation%20Dataset%3AbillsCurBef,billsCurNotBef;rec=0;resCount=Default)

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Item 2 inserts a new paragraph 500(1)(ca) into the SSA so that where a person is in a class of persons as specified in a legislative instrument24, then such a person’s qualification requirements can be participation requirements. Item 3 inserts a new subsection (2) into section 500 detailing that, for the purposes of paragraph 500(1)(ca), the Minister may specify a class of persons in a legislative instrument.

As it is set out in the Bill, any such legislative instrument would be disallowable.25 It is worth noting that while legislative instruments are subject to examination by the Parliament, their scrutiny is less than that which applies to a Bill which must have a second and third reading after being tabled. A legislative instrument can be subject to disallowance in the 15 sitting day period after being tabled, but if there is no motion of disallowance there is no debate.

Item 4 inserts a new subsection 501A(1A) setting out that a Parenting Payment Employment Pathway Plan (EPP) to which paragraph 500(1)(ca) applies, can contain certain elements being:

- a person’s education
- the health of a child of a PPP/PPS recipient or
- the education of a child of a PPP/PPS recipient.

Generally, section 501 of the SSA empowers the Secretary to require a PPP/PPS recipient, who is subject to participation requirements, to enter into an EPP. An EPP, for the purposes of the SSA, is an agreement that outlines an individual’s requirements and obligations under the activity test. An EPP can be in any form approved by the Secretary. Job seekers on income support, without an activity test exemption, are required to have an EPP created when they claim payment. A person is not qualified for payment if they are not prepared to enter into and comply with the terms of an EPP. The EPP applies for the whole period that a person is in receipt of payment, or until it is replaced with a new or amended plan.

Item 8 inserts provisions which operate so that some PP overpayments are not debts. Currently, where participation requirements apply, the requirement to have an EPP is linked to PPP/PPS qualification. If the person does not comply with an EPP they are not qualified to receive payments—and any payments made while not qualified are a debt which can be raised and recovered. However, in reference to the new EPP requirements in this Bill26, where PPP/PPS is paid, and the person was not qualified for one of the reasons set out in an EPP, then any amount paid is not a debt. This is essentially a softening of the EPP requirements for this group of PPP/PPS recipients, where the youngest qualifying child is below age six (for PPP) or eight (for PPS). This means that the rigor to undertake an EPP will not be the same as applies to PPP/PPS recipients with older age children. Recipients will be required to enter an EPP, but failure to comply with the EPP will not create a recoverable debt. It is, essentially, a soft stick.

25. Ibid.
26. New EPP requirements in this Bill are requirements about education, the child’s health or the child’s education.

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Item 9 flows on from Item 8 and refers to any training supplement paid to a PPP/PPS recipient while undertaking an activity that can attract the payment of a supplement. Training Supplement of $41.60 per fortnight is payable to eligible PPP/PPS recipients with compulsory participation requirements who commence an approved course. To be eligible for the Training Supplement, the person must:

- have not attained Year 12 or equivalent qualifications or
- have attained their trade or technical qualification some time ago, which can be upgraded or enhanced to provide improved employment opportunities.

The approved course must:

- be less than 12 months duration and
- be classified as full-time to meet the jobseeker’s participation requirements.

Item 8 inserts new subsection 1223(7A) to essentially provide that any training supplement paid during a period where the person was not qualified for one of the reasons set out in an EPP, is not a debt.

Items 10–20 of Schedule 1 to the Bill amend the Social Security (Administration) Act 1999 (SSAA).

Item 17 inserts new Subdivision EB—Failures by certain recipients of parenting payments into Part 3 of the SSAA. Within Subdivision EB, new section 42SB provides for the suspension of PPP/PPS payments where a person fails to comply with EPP requirements. The provisions allow for the full or partial repayment of any suspended payments where the PPP/PPS recipient later complies with their EPP requirements.

Items 12, 14 and 15 provide for the non application of a suspension of payments where the person has not complied with an EPP and the person has:

- a reasonable excuse or
- their voluntary act was reasonable.

The provisions do not spell out what is ‘reasonable’. As there are already policies and guidelines for the granting of exemptions for participation requirements for current PPP/PPS recipients, it is likely that these guidelines would be used. Broadly, these exemption guidelines refer to special family circumstances and other situations external to the family that may affect participation.

Concluding comments

This Bill arises from a 2011-12 Budget initiative aimed at pilot testing some participation requirements for PPP/PPS recipients with very young children who currently have no participation.
obligations. The pilots are aimed at testing methods of addressing entrenched disadvantage by emphasising education and vocational goals and also the health and education of the child.  

The current legislation does not provide for the conduct of the pilots that propose to require PPP/PPS recipients to attend participation interviews. Likewise, the current legislation does not allow for any rigor to be applied to the pilots such as the suspension of payment for non-compliance. However, although this Bill introduces these measures it appears to be quite ‘soft’ when compared to other non-compliance sanctions in the SSA. Payments will be suspended but not cancelled, and where compliance is later achieved there is the capacity for the full restoration of suspended payments. This may be because the Bill does no more than create the framework for a pilot program, or because of the nature of the participants—teenaged parents in receipt of income support with a child under the age of six years or eight years.

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27. K Ellis (Minister for Employment Participation and Child Care), New approaches to address disadvantage in targeted communities, op. cit.
Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2479.