Family Assistance and Other Legislation Amendment Bill 2012

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Social Policy Section

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Family Assistance and Other Legislation Amendment Bill 2012

Date introduced: 15 February 2012
House: House of Representatives
Portfolio: Families, Housing, Community Services and Indigenous Affairs
Commencement: Various dates as set out in the table on page 2 of the Bill

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/Parliamentary_Business/Bills_Legislation. 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 Bill amends the family assistance law to:

• make payment of the Family Tax Benefit Part A supplement conditional on a child meeting immunisation requirements
• pause indexation of Baby Bonus for three years from 1 July 2012 and
• prevent an individual from being entitled to Family Tax Benefit Part A and/or Part B as fortnightly instalments on the basis of estimated income where the individual had no actual entitlement after underestimating their income for two consecutive years.

The Bill also amends the social security law to give certain Carer Allowance recipients access to bereavement payments on the death of the care receiver and to allow access to Carer Supplement for carers whose rate of payment is reduced to nil because of income earned in the fortnight covering 1 July in any given year.

Schedule 1—Immunisation requirements
This Schedule implements a Government measure announced on 25 November 2011, under which, from 1 July 2012, families will need to have their children fully immunised at one, two and five years of age in order to receive the Family Tax Benefit Part A end-of-year supplement (the Part A Supplement). In a related change, the Bill also removes Maternity Immunisation Allowance from the A New Tax System (Family Assistance Act) 1999 (FA Act) from 1 July 2012.


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These were part of a package of immunisation measures that included:

- a new requirement that children receive vaccines for meningococcal C, pneumococcal and varicella (chicken pox) and
- the addition of a new combination vaccine to the National Immunisation Program, which means children will be immunised against measles, mumps and rubella earlier, at 18 months instead of the current four years of age.\(^2\)

The Government says that the purpose of these changes is to increase the immunisation rates of Australian children over time.\(^3\) It adds that ‘existing exemptions will continue to be available for people who register as conscientious objectors to immunisation’.\(^4\)

The changes also reflect the increasing use by the Labor Government of ‘welfare conditionality’ as a way of changing behaviours of recipients of income support and family assistance.\(^5\)

**Part A Supplement**

Family Tax Benefit is a payment to help families with the cost of raising dependent children. Family Tax Benefit Part A (FTB(A)) is payable to a parent/guardian or an approved care organisation for a child aged under 21 years or a dependent full time student aged between 21 and 24 years. Family Tax Benefit Part B (FTB(B)) provides additional assistance to families with one main income earner, including sole parent families with a dependent full time student up to the age of 18 years. Both forms of Family Tax Benefit are subject to income tests (see discussion below of Schedule 3).

The Part A Supplement is a payment to families eligible to receive Family Tax Benefit Part A at any time during the income year. It is paid for each eligible child in a family, and paid as a lump sum after the end of the income year. The Part A Supplement is currently paid at $726.35 per child.

The Part A Supplement was introduced by the Howard Government as part of the *Family Assistance Legislation Amendment (More Help for Families—Increased Payments) Act 2004*. The Bill introducing the Act was introduced on the night of the Federal Budget announcement in 2004. Commentators at the time suggested that the Part A Supplement was directed at addressing the problem of families

\(^2\) Ibid.
\(^3\) Ibid.
\(^4\) Ibid. Under subsection 6(3) of the FA Act, ‘the child meets the immunisation requirements if a recognised immunisation provider has certified in writing that he or she has discussed with the adult the benefits and risks of immunising the child and the adult has declared in writing that he or she has a conscientious objection to the child being immunised’.

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incorrectly estimating their annual income and being required to repay the Government for overpayment of their Family Tax Benefit at the end of the year.\(^6\)

In his second reading speech for the Bill, the then Minister for Children and Youth Affairs, Larry Anthony said in relation to the Part A Supplement that:

As well as providing extra assistance to families, this lump sum will be available, if required, to offset any family assistance overpayment that may have occurred during a previous income year.\(^7\)

In 2011, the Government made the payment of the Part A Supplement for a child turning four in a particular income year, conditional on the child having received a basic health assessment.\(^8\)

### Maternity Immunisation Allowance

Maternity Immunisation Allowance is a payment to encourage parents to fully immunise children in their care. It was introduced by the Howard Government in 2008 and was originally paid in respect of children who had reached the age of 18 months and who had received age-appropriate immunisation (unless the child was exempt from that requirement). From 2009, Maternity Immunisation Allowance was changed into two equal payments paid when children met the 18 month and four year old immunisation requirements. Currently, Maternity Immunisation Allowance is paid in two separate amounts of $129 each. It is not means tested.

In the 2009–10 financial year, 270,282 families received Maternity Immunisation Allowance in respect of 276,284 children.\(^9\) In 2011–12, Maternity Immunisation Allowance was expected to cost around $65.7 million.\(^10\)

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**Childhood immunisation**

Immunisation is the act of protecting people against harmful infections before they come into contact with them in the community. This is achieved through vaccination, ‘the administration of a vaccine to stimulate the immune system’. As the Australian Institute of Health and Welfare explains:

> Vaccination effectively protects an individual from disease, but also, if enough people in a population are vaccinated it limits the spread of infection, thereby controlling or even eliminating the disease. This concept is known as ‘herd immunity’.

The Australian Government provides free access to vaccines listed in the National Immunisation Program (NIP) Schedule.

Children are considered to be fully immunised when they have received all of the vaccinations appropriate to their age.

As can be seen in the table below, at 30 June 2011, 90.3 per cent of children aged 12-15 months were fully immunised. For children aged 24-27 months and 60-63 months, the corresponding figures were 92.8 per cent and 89.6 per cent respectively.

**Table 1: Children registered with appropriate immunisation coverage at 30 June**

<table>
<thead>
<tr>
<th></th>
<th>2009–10</th>
<th>2010–11</th>
<th>change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid immunisation episodes recorded at 30 June</td>
<td>4.7 million</td>
<td>4.6 million</td>
<td>−2.1%</td>
</tr>
<tr>
<td>Children under 7 years of age registered at 30 June</td>
<td>2.1 million</td>
<td>2.1 million</td>
<td>0%</td>
</tr>
<tr>
<td>Total amount paid to immunisation providers¹</td>
<td>$8.9 million</td>
<td>$9.2 million</td>
<td>+3.4%</td>
</tr>
</tbody>
</table>

**Children registered with appropriate immunisation coverage at 30 June**

<table>
<thead>
<tr>
<th>Age</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children aged 12–15 months</td>
<td>91.5%</td>
<td>90.3%</td>
<td>−1.2%</td>
</tr>
<tr>
<td>Children aged 24–27 months</td>
<td>92.4%</td>
<td>92.8%</td>
<td>+0.4%</td>
</tr>
<tr>
<td>Children aged 60–63 months</td>
<td>89.6%</td>
<td>89.6%</td>
<td>0%</td>
</tr>
</tbody>
</table>


Between 1987 and 2006, childhood immunisation rates in Australia increased substantially. However, Australia’s ranking on this measure is comparatively low (in the middle third of

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Organisation for Economic Cooperation and Development countries) due to the large number of countries with almost total levels of childhood immunisation.\(^\text{13}\)

**Key provisions**

This measure is similar to a measure introduced in 2011 under which payment of the Part A Supplement for a child turning four in a particular income year was made conditional on the child having received a basic health assessment. The immunisation measure works in a similar way. That is, under **item 2** of Schedule 1 of the Bill (which inserts **new section 61B** into the FA Act), the section of the FA Act under which the Part A Supplement is paid (**clause 38A**) is to be disregarded unless the immunisation requirements are satisfied.

**Item 1** of Schedule 1 replaces reference to Maternity Immunisation Allowance with reference to the Part A Supplement (**subsection 6(1)**) of the FA Act. While Maternity Immunisation Allowance is paid when children meet the 18 month and four year old immunisation requirements, the new Part A Supplement incentive is to be paid when the child of a Family Tax Benefit Part A recipient has met immunisation requirements and has turned one, two or five in the income year (**new paragraphs 61B(1)(a), 61B(2)(a) 61B(3)(a)**).

Under the definition provided in **Part 3** of the FA Act, in order to have met the immunisation requirements, the child must have been immunised in accordance with:

(a) a standard vaccination schedule determined under section 4 of the FA Act or

(b) a catch up vaccination schedule determined under section 4.

The relevant determination is the Family Assistance (Meeting the Immunisation Requirements) Determination 2003. This will need to be updated to include the new vaccines outlined above.

**Financial implications**

The measure is expected to provide savings of $209.1 million over the four years from 1 July 2011.\(^\text{14}\)

**Comment**

These amendments remove an existing non means tested incentive for people to fully immunise their children and replace it with an additional condition for access to an existing payment available only to those eligible for Family Tax Benefit Part A. It therefore targets its immunisation incentive directly at those on lower incomes. At the same time, it does not provide an additional incentive (in

\(^{13}\) Australian Institute of Health and Welfare, op. cit., p. 31.

\(^{14}\) Explanatory Memorandum, p. 2.

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the form of a greater financial benefit). Rather, the incentive comes in the form of avoiding loss of a financial benefit for which those affected would have already been eligible.

This ‘negative’ incentive will be felt most keenly by those who rely on the Part A Supplement to reconcile any debts accrued through overpayment of Family Tax Benefit (an original purpose of the Supplement). Nevertheless, in order to avoid what is effectively a sanction, people need only either meet the immunisation requirements or register as conscientious objectors.

The Explanatory Memorandum and Minister’s second reading speech do not include any information about the anticipated impact of the measure on immunisation rates, other than to assert that it will ‘help improve immunisation rates over time’. It is likely that any significant increase in immunisation rates would require a more extensive policy approach, especially given the withdrawal of Maternity Immunisation Allowance.

**Schedule 2—Baby Bonus**

This Schedule implements a change announced as part of the 2011–12 Mid Year Economic and Fiscal Outlook (MYEFO) to reduce Baby Bonus to $5000 and freeze indexation of the payment for three years from 1 July 2012. The Government’s rationale for this change is to reduce expenditure on Baby Bonus, consistent with its objective of returning the Federal Budget to surplus. According to the Minister for families, Housing, Community Services and Indigenous Affairs, Jenny Macklin:

> The Australian Government is making changes to the Baby Bonus that maintains support for new parents, while ensuring the family payments system is sustainable into the future.

For babies born on or after 1 September 2012, the rate of the Baby Bonus will be reset to $5,000, from its current rate of $5,437. Indexation of the Baby bonus will be paused from 1 July 2012 until 1 July 2015.

... This modest reduction of around $34 a fortnight will help ensure the family payments system remains sustainable into the future. It will deliver a saving of $358 million over four years.

The Baby Bonus will continue to be paid in 13 fortnightly instalments, with the first instalment being $846 and the balance being paid in 12 fortnightly instalments of $346.

Following this change, the Baby Bonus will have increased by 67 per cent since it was introduced at $3,000 in 2004.

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16. J Macklin (Minister for families, Housing, Community Services and Indigenous Affairs), A sustainable family payments system, media release, 29 November 2011, viewed 8 March 2012, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F1260441%22](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F1260441%22)
17. Ibid.

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Baby Bonus is indexed in line with changes to the Consumer Price Index (CPI). The effective date of indexation is 1 July each year. The indexation is based on the CPI increase in the 12 months to the previous December. If CPI decreased in the 12 months to the previous December, Baby Bonus rate does not change.

The table below provides information on expenditure on and numbers of recipients of Baby Bonus from 2001.

**Table 2: Baby Bonus, Expenditure and Recipients, 2001–02 to 2011**

<table>
<thead>
<tr>
<th>Year</th>
<th>Annual expenditure (millions)</th>
<th>Recipients</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001–02</td>
<td>$51</td>
<td>155 421 individuals (taxpayers)</td>
</tr>
<tr>
<td>2002–03</td>
<td>$160</td>
<td>316 265 individuals (taxpayers)</td>
</tr>
<tr>
<td>2003–04</td>
<td>$247</td>
<td>426 635 individuals (taxpayers)</td>
</tr>
<tr>
<td>2004–05</td>
<td>$727</td>
<td>237 256 families</td>
</tr>
<tr>
<td>2005–06</td>
<td>$855</td>
<td>268 757 families</td>
</tr>
<tr>
<td>2006–07</td>
<td>$1161</td>
<td>286 770 families</td>
</tr>
<tr>
<td>2007–08</td>
<td>$1213</td>
<td>284 720 families</td>
</tr>
<tr>
<td>2008–09</td>
<td>$1399</td>
<td>278 072 families</td>
</tr>
<tr>
<td>2009–10</td>
<td>$1398</td>
<td>267 793 families</td>
</tr>
<tr>
<td>2010–11</td>
<td>$1176</td>
<td>219 000 families</td>
</tr>
</tbody>
</table>


As shall be explained below, Baby Bonus has undergone numerous changes (including changes of name) since its introduction in 2001—from First Child Tax Refund (2001–04) to Maternity Payment (2004–07) to Baby Bonus (from 2007).

As can be seen from the table, in 2010–11 Baby Bonus was paid to 219 000 families. Of these, 131 000 families were paid Baby Bonus between 1 July and 31 December 2010, and 88 000 families were paid Baby Bonus between 1 January and 30 June 2011. The lower number of Baby Bonus claims in the second half of 2010–11 was due to the introduction of the Paid Parental Leave scheme.

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Baby Bonus and Paid Parental Leave

The changes to the Baby Bonus have been criticised by some as discriminating against ‘stay at home’ mothers because the Government did not also take savings from the Paid Parental Leave scheme. This suggests the need to clarify the issues involved by outlining the relationship between Baby Bonus and Paid Parental Leave.

Baby Bonus in its original form was introduced by the Howard Government in 2002. It is currently paid to primary carers or their partners in order to assist with the extra costs arising from a new birth or adoption. Baby Bonus is payable to those whose family’s estimated combined adjusted taxable income is $75 000 or less in the 6 months following the birth of their child or the child coming into their primary care. Baby Bonus is not taxable income.

Paid Parental Leave was introduced by the Rudd-Gillard Government in 2010 and is paid to working parents of children born or adopted from 1 January 2011. To be eligible, a person must be a primary carer and have an income of $150 000 or less. Those eligible are paid for 18 weeks at the National Minimum Wage (currently $589.40 a week before tax). Paid Parental Leave is taxable income.

Parents are not able to receive both Paid Parental Leave and Baby Bonus for the same child. Rather, they must choose one or the other depending on which best suits their financial circumstances.

It is widely thought that Baby Bonus was primarily introduced as an incentive to increase Australia’s birth rate. However, this is at best a small part of the story. It is more likely that Baby Bonus was introduced in response to growing demands for paid maternity leave but in a way that would allow non-working mothers to access it. Indeed, one commentator has described Baby Bonus as ‘a badly designed sop to women when Howard refused to introduce paid maternity leave’.

The First Child Tax Refund (also known at the time as Baby Bonus) was a 2001 Coalition Government election commitment. It provided tax refunds of up to $2500 per annum for five years for mothers after the birth of their first child born on or after 1 July 2001. During the election campaign, the

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then Prime Minister, John Howard, described the First Child Tax Refund as a measure aimed at taking the financial pressure off families with new children ‘when typically the family ... loses one of its two incomes for a period of time during which the mother or father gives up or reduces paid employment to care for the child’. 23

Importantly, the scheme also made provision for non-working primary carers by guaranteeing a minimum payment of $500 for each full year for a parent who earned less than $25,000 in the relevant assessment year.

In other words, the First Child Tax Refund (Baby Bonus I) was to some extent similar to a paid parental leave scheme in that it sought to compensate families for the absence of one parent from the workforce, though not expressed as a workplace entitlement. On the other hand, it also sought to ensure that primary carers not in the paid workforce would also benefit, though to a lesser extent.

First Child Tax Refund was replaced by Maternity Payment in 2004 (renamed Baby Bonus in 2007). This change was to address lower than expected take-up of the measure (due to having to claim as a tax rebate at the end of the financial year, rather than a payment when it was needed). Maternity Payment was paid as a lump sum of $3000 for each newborn child and each child adopted at less than 26 weeks of age. No means test applied. The rate of payment was scheduled to increase to $4000 in July 2006, $5000 in July 2008 and indexed annually to CPI thereafter.

The objective of increasing the population appears to have played little part in the Government’s public rationale for the policy. In his 2004 Budget speech, the then Treasurer, Peter Costello, said that the Maternity Payment recognised ‘the cost of a new child and will assist all mothers many of whom leave the workforce and leave paid work at the time of the birth of their child’. 24 Again, the Government was explicitly seeking to highlight the role of Baby Bonus in compensating for the loss of one parent from the workforce. However, Baby Bonus II also quite specifically included primary carers not in the paid workforce, thereby eroding the extent to which it could be considered a paid parental leave scheme.

The Labor Government subsequently made several changes to Baby Bonus, including:

- from July 2008, indexation was changed from twice yearly indexation in March and September to annual indexation in July


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• from January 2009, an income test was introduced, meaning that families with an estimated adjusted taxable income of more than $75,000 in the six months after the birth of the child were no longer eligible (this threshold is indexed in July each year)
• from January 2009, claimants were to be paid in 13 fortnightly instalments, rather than receive a lump sum
• from January 2009, indexation of the upper income threshold for the payment was frozen until July 2012, and
• from July 2011, a portion of the payment was made available upfront.

Given that Baby Bonus in many ways resembles paid parental leave (payments made in instalments to primary carers that can function as compensation for time out of the workforce) why did Labor feel the need to introduce a separate, formal Paid Parental Leave scheme?

Essentially, the creation of a separate scheme is intended as recognition that such leave is a workplace entitlement. The entitlement to Paid Parental Leave is also connected with objectives such as encouraging women to remain in the workforce and to take leave at a crucial stage of childhood development.

This is also the basis of the much more generous scheme proposed by the Coalition which proposes to provide new mothers with 26 weeks paid leave at their full wage or salary capped at an income level of $150,000. These approaches can be contrasted with Baby Bonus which is intended as a form of short term income support to assist with the costs of newborn or adopted children.

These differences have been to some extent obscured by the design of the Paid Parental Leave scheme, which is funded entirely from general taxation revenue and provided by the Government, rather than employers (though it will be paid through the employer once fully implemented). Further, it has no direct relationship with actual leave available to women in their workplaces in that it does not provide a statutory entitlement to 18 weeks leave for new mothers. As such, one commentator has described the scheme as ‘pretending to be a leave scheme when, in fact, it is a baby bonus with a work test’.25 It is also clear that Baby Bonus (‘stay at home mums’) and Paid Parental Leave (‘working mums’) have each come to be popularly associated with opposite sides in what have been called the ‘mummy wars’.

Key provisions

The measure involves changes to the FA Act and A New Tax System (Family Assistance) (Administration) Act 1999 (FAA Act). Item 1 of Schedule 2 of the Bill repeals and substitutes subsection 66(1) of the FA Act, resetting the amount of Baby Bonus at $5000, while item 2 of Schedule 2 of the Bill amends clause 3 of Schedule 4 of the FA Act to ensure that indexation will not


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occur on 1 July 2012, 1 July 2013 and 1 July 2014. A note in subclause 3(9) of Schedule 4 of the FAA Act provides that indexation will recommence on 1 July 2015.

Changes to the FAA Act relate to upfront payments of Baby Bonus. Item 3 of Schedule 2 of the Bill amends paragraph 47(2A)(a) to ensure that the upfront amount of Baby Bonus remains at $879.77 until 31 August 2012, as a result of there being no indexation on 1 July 2012 and Baby Bonus being reset to $5000 on 1 September 2012. Item 4 of Schedule 2 of the Bill repeals paragraph 47(2A)(b) of the FAA Act and substitutes new paragraphs 47(2A)(b) and 47(2A)(c). The former sets the upfront amount of Baby Bonus at $846.15 between 1 September 2012 and 30 June 2015, reflecting the resetting of the full amount at $5000. The latter sets a new method for calculating the upfront amount of Baby Bonus from 1 July 2015 (when indexation resumes). This will be 16.92 per cent multiplied by the claimant’s amount of Baby Bonus entitlement. The reset upfront amounts in items 3 and 4 of Schedule 2 of the Bill are intended to ensure that the upfront amount exceeds subsequent instalments of Baby Bonus by $500.

Financial implications

The measure is expected to provide savings of $357.7 million over the four years from 1 July 2011.\(^{26}\)

Comment

The change to Baby Bonus will mean that prospective claimants will receive around $34 less per fortnight (over the 13 fortnightly payments) than would otherwise have been the case. Given that Baby Bonus is now a means tested payment, it is arguable that this reduction is not inconsequential.

As noted above, one of the main criticisms of the measure is that it discriminates against ‘stay at home’ mothers because the Government did not also take savings from the Paid Parental Leave scheme. However, while Baby Bonus and Paid Parental Leave have elements in common and a somewhat intertwined and controversial history they are sufficiently different in purpose that a change to one need not be seen as inferring the need for a similar change in the other. As noted above, while there may be some confusion resulting from its design, Paid Parental Leave is supposed to be a workplace entitlement specifically enabling primary carers a period of time with their child whilst remaining engaged with the workforce. There is no reason why a change in Baby Bonus should necessitate a similar change in Paid Parental Leave.

\(^{26}\) Explanatory Memorandum, p. 2.

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Schedule 3—Non-entitlement to Family Tax Benefit on estimated income basis

This Schedule amends the family assistance law to end fortnightly payment of family tax benefit to recipients who claim Family Tax Benefit but have no actual entitlement for two consecutive years from 2009–10, following end-of-year reconciliation of their income tax return. According to Minister Macklin:

“This change will make sure that families do not receive benefits they are not entitled to, and do not subsequently have debts raised against them.

Families no longer receiving family tax benefit part A or part B instalments would still be able to make a lump sum claim at the end of the financial year, and exceptions will apply to ensure that families are not put at risk of hardship.”

This change will take effect from 1 July 2012.

Family Tax Benefit debts

Family Tax Benefit can be claimed as either a fortnightly or an annual payment.

To receive Family Tax Benefit, a claimant must lodge a claim with the Family Assistance Office. For fortnightly payments, claimants must lodge an instalment claim, estimate their income for the year, choose a payment option if appropriate, and later lodge tax returns for themselves and their partner (or advise if they are not required to lodge a return). For annual payments, claimants lodge a lump sum claim and lodge tax returns for themselves and their partner (or advise if they are not required to lodge a return).

The information provided to the Family Assistance Office assists with determining eligibility and rates of payment. Information on annual income is particularly crucial as both forms of Family Tax Benefit are subject to income tests.

The FTB(A) income test takes into account the adjusted taxable income of the family and where income is below upper cut-off limits, either a part-rate or a full rate of FTB(A) can be paid. The rate of FTB(A) is dependent on the level of family income and, how many qualifying children the family

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has and the ages of the children.\textsuperscript{28} Eligibility for FTB(B) is limited to families (single parent or couple) where the primary earner has an adjusted taxable income of $150 000 per year or less.\textsuperscript{29}

As noted above, claimants wishing to receive Family Tax Benefit fortnightly must provide an estimate of their income for the year. Underestimates of annual income will result in a debt to Centrelink, though this has become less of a problem since the introduction of the Part A Supplement. As explained in a previous section of this Bills Digest, the Part A Supplement was introduced in order to offset family assistance overpayments.

According to the 2010–11 FAHCSIA Annual Report, in 2008–09:

- two million families received Family Tax Benefit
- 92 per cent of recipients were paid Family Tax Benefit fortnightly
- eight per cent were paid Family Tax Benefit annually as a lump sum, and
- seven per cent of Family Tax Benefit recipients had a debt following reconciliation (an overpayment that results from an underestimation of family income).\textsuperscript{30}

As noted above, the measure in this Schedule is intended to ensure that Family Tax Benefit is not paid in fortnightly instalments to claimants unlikely to be eligible for the payment (those who have been found to have no actual entitlement for two consecutive years). This is intended to ensure that such people do not have a Family Tax Benefit debt raised against them.

**Key provisions**

The main provision introducing this measure is item 8 of Schedule 3 of the Bill, which inserts a new subdivision CB into Division 1 of Part 3 of the FAA Act. This new subdivision will set out when an individual will not be entitled to a Family Tax Benefit on a fortnightly (estimated income) basis.

**New subsection 32AF(1)** sets out the scope of new subdivision CB Division 1 of Part 3 of the FAA Act. It provides that an individual will not be entitled to Family Tax Benefit on an estimate income basis if:

- there are two consecutive years in which the individual was entitled to be paid Family Tax Benefit fortnightly and for each of the consecutive years the Secretary determines either or both of the following apply:


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the individual’s FTB(A) rate is nil because of the individual’s finally determined adjusted taxable income and there are no other days in either of the consecutive years that the individual is entitled to be paid FTB(A) and

the individual’s FTB(B) rate is nil because of the application of subclause 28B(1) of Schedule 1 to the FA Act. This means the finally determined adjusted taxable income of the primary earner (the higher earner in a couple or a sole parent) is greater than the primary earner income limit for FTB(B), which is currently $150 000.32

New sections 32AG to 32AM provide for a range of exceptions to this measure. These exceptions are:

1. an individual’s rate of Family Tax Benefit is greater than nil for a more recent income year
2. an individual, for the whole of an income year after the consecutive years, was not eligible for Family Tax Benefit for a non-income reason and, after the applicable year, the individual claims Family Tax Benefit for the income year in which the claim is made, and their actual adjusted taxable income is below the Family Tax Benefit income limits in the current year
3. receipt of an income support payment (social security pension, social security benefit, service pension or income support supplement)
4. gaining a new child for whom Family Tax Benefit is payable
5. a couple separating
6. special circumstances exist in relation to the individual or individual’s partner (or both) that did not exist at the end of the later of the consecutive years which make it inappropriate to prevent the individual from being paid Family Tax Benefit on a fortnightly basis and
7. the Secretary is satisfied that other circumstances determined by the Minister in an instrument exist in relation to the individual, their partner or both.

Each of the above exceptions must exist on a day after the later of the consecutive years.

Financial implications

The measure is expected to have a financial impact of $1.2 million over the four years from 1 July 2011.33

Comment

The requirement that people who wish to be paid Family Tax Benefit on a fortnightly basis provide an estimate of their adjusted taxable income for the coming year inevitably leads some claimants to incur a debt through overpayment. This can be for various reasons, including claimants wishing to maximise their fortnightly income and unexpected increases in income for the year. This measure

31. ‘Days’ in this context refers to days in a year in which a person meets the eligibility criteria for FTB(A).
32. Explanatory Memorandum, p. 12.
33. Explanatory Memorandum, p. 2.

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seeks to reduce the extent of debts occurring for this reason. It also includes a number of exceptions designed to ensure that families who do not qualify as a result of the changes in this Bill, may access fortnightly Family Tax Benefit payments where appropriate.

**Schedule 4—Carer Allowance**

Schedule 4 amends the *Social Security Act 1991* (SS Act) to give certain Carer Allowance recipients access to bereavement payments on the death of the care receiver. This change was announced on 3 August 2011 as part of the Government’s National Carer Strategy.  

The amendment is explained in the Explanatory Memorandum as follows:

- Carer allowance is an income supplement available to people who provide care and attention on a daily basis to an adult or child who has a physical, intellectual or psychiatric disability which is permanent and likely to affect the person for an extended period.

- The Social Security Act currently provides for a bereavement payment to be made to a person receiving carer allowance for care of a disabled child on the death of that child, but not to a person receiving carer allowance for care of a disabled adult on the death of that adult. These amendments will extend bereavement payments to cover the latter case.

Currently, people receiving Carer Allowance for care of a disabled adult cease to be eligible for the payment on the death of that adult. This measure provides for a continuation of Carer Allowance for a defined period known as the ‘bereavement rate continuation period’ (see below). This provides for such carers to be treated equivalently to people receiving Carer Allowance for care of a disabled child, on the death of that child.

Carer Allowance is currently paid at $114 per fortnight. The measure will commence on 1 July 2012.

**Key provisions**

The measure involves changes to the SS Act. The amendments introduce bereavement payment provisions for people receiving carer allowance for care of a disabled adult on the death of that adult. The key amendment is Item 2 of Schedule 4 of the Bill which inserts a new subdivision BA of Division 10 of Part 2.19 of the SS Act. This allows a person receiving an income support (other than carer payment) as well as carer allowance for care of a disabled adult, to remain qualified for carer allowance during the ‘bereavement rate continuation period’.

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34. J Macklin (Minister for Families, Housing, Community Services and Indigenous Affairs), N Roxon (Minister for Health and Ageing) and J McLucas (Parliamentary Secretary for Disabilities and Carers), *National carer strategy launch*, media release, 3 August 2011, viewed 15 March 2012, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F972546%22](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F972546%22)

35. Explanatory Memorandum, p. 20.

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Paragraph 21(2)(a) of the SS Act defines the ‘bereavement period’ as ‘the period of 14 weeks that starts on the day on which the person dies’. The ‘bereavement rate continuation period’ is defined as:

(i) that begins on the day on which the bereavement period begins; and
(ii) that ends:

(A) if the first available bereavement adjustment payday is before the end of the bereavement period—on the day before the first available bereavement adjustment payday; or
(B) if the first available bereavement adjustment payday occurs on or after the day on which the bereavement period ends—the day on which the bereavement period ends (paragraph 21(2)(d)).

The ‘first available bereavement adjustment payday’ in relation to the person’s death is the first payday of the person after the bereavement notification day for which it is practicable to terminate or adjust payments under the SS Act to take account of the person’s death (paragraph 21(2)(c)).

Schedule 4 also provides for a lump sum to be payable in some circumstances (new section 992LB).

Financial implications

The measure is expected to have a financial impact of $2.1 million over the four years from 1 July 2011.  

Schedule 5—Carer Supplement

Carer Supplement is an annual payment to assist carers with the costs of caring for a person with a disability or medical condition. Carer Supplement is paid to carers who receive an instalment of a qualifying payment for a period including 1 July each year. Carers whose rate of payment is reduced to nil because of income earned in the fortnight covering 1 July are not eligible for Carer Supplement.

Schedule 5 amends the SS Act to allow access to Carer Supplement for carers whose rate of payment is reduced to nil because of income earned in the fortnight covering 1 July in any given year. This change was announced as part of the Government’s National Carer Strategy.

The amendment is explained in the Explanatory Memorandum as follows:


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Presently, a carer cannot receive the annual carer supplement payment if their income, or their partner’s income, reduces the carer’s rate of carer payment, wife pension, carer service pension or partner service pension to nil during the instalment period that includes 1 July in any given year.

This situation may disadvantage carers or their partners who may participate in casual or irregular work in addition to their caring commitments, and who are offered extra employment in the instalment period that includes 1 July. These carers may be faced with the difficult decision of accepting the offer of extra employment, knowing that they may then lose their annual carer supplement because the employment income they receive in that period may, solely or partly, cause their instalment of carer payment, wife pension, carer service pension or partner service pension to be reduced to nil.

This Schedule introduces amendments to remedy this situation. The amendments apply to a carer who is not paid an instalment of carer payment or wife pension under the Social Security Act or partner service pension or carer service pension under the Veterans’ Entitlements Act because the income threshold has been exceeded in the carer’s instalment period that includes 1 July. If the carer’s income threshold has been exceeded because of assessed income that includes an amount of employment income, then the carer can nevertheless, from 2012, receive carer supplement.37

Up to $600 Carer Supplement is paid to recipients of Carer Allowance for each person being cared for. An additional $600 Carer Supplement is paid where a recipient is also in receipt of one of:

- Carer Payment
- Wife Pension with Carer Allowance
- Department of Veterans’ Affairs Carer Service Pension, and
- Department of Veterans’ Affairs Partner Service Pension with Carer Allowance.

This means that some carers are able to receive two or more Carer Supplement payments.

The measure will commence on the day of Royal Assent.

Key provisions

The measure involves changes to the SS Act. The key amendment is item 3 of Schedule 5 of the Bill which inserts new subsection 992(3A) into the SS Act. The new subsection provides that:

- where:
  - a person’s rate of payment is reduced to nil under the income tests in either the SS Act or Veterans’ Entitlement Act 1986 and

37. Ibid., p. 22.

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– the income assessed under the relevant rate calculator comprises income that includes a component of employment income.

• a person who is a recipient of:
  – Carer Payment
  – Wife Pension
  – Carer Service Pension or
  – Partner Service Pension.

• may receive Carer Supplement even when the person has exceeded the income threshold in respect of an instalment period that includes 1 July.

Financial implications

The measure is expected to have a financial impact of $2.9 million over the four years from 1 July 2011.38

Schedule 6—other amendments

This Schedule makes minor or technical amendments to the social security law and family assistance law to clarify various provisions, which are explained on pages 24-28 of the Explanatory Memorandum.

Financial implications

The amendments have no financial impact.39

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38. Explanatory Memorandum, p. 2.

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Family Assistance and Other Legislation Amendment Bill 2012

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