Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012

Michael Klapdor
Social Policy Section

Contents

Purpose .................................................................................................................................................... 3
Background .............................................................................................................................................. 3
Parenting Payment................................................................................................................................... 4
   Background ......................................................................................................................................... 4
   Current rules .................................................................................................................................. 4
   Transitional rules for ‘grandfathered’ recipients ........................................................................... 4
   Proposed measure will supersede previous phasing-out amendments ....................................... 5
   Parenting Payment and Newstart Allowance................................................................................ 6
   Special provisions for single parents moving from Parenting Payment to Newstart Allowance .............................................................................................................................................. 6
Who will be affected by the changes ............................................................................................ 7
   Table 1: Estimated impact on total fortnightly income of moving from PPS to Newstart Allowance ............................................................................................................... 8
Effectiveness of the welfare to work changes ............................................................................. 8
   Welfare to work evaluation report ........................................................................................... 9
   Impact on grandfathered Parenting Payment recipients .......................................................... 10
   Evidence base is limited ......................................................................................................... 11
Policy position of non-government parties .............................................................................. 12
   Position of major interest groups ........................................................................................ 12
   Financial implications ............................................................................................................. 13
   Table 2: Estimated financial impact of parenting payment changes ........................................ 13
Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012

Date introduced: 31 May 2012

House: House of Representatives

Portfolio: Education, Employment and Workplace Relations

Commencement: Sections 1–3 on the day of Royal Assent; Schedule 3 on the day after Royal Assent; Schedule 1 on 1 January 2013 and Schedule 2 on 1 July 2013.

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 purpose of the Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012 (the Bill) is to:

- amend the Social Security Act 1991 (SS Act) to remove transitional arrangements for certain Parenting Payment recipients
- amend the SS Act to increase the liquid assets limit for certain income support applicants and
- amend the definition of ‘termination payment’ in the SS Act as it relates to income maintenance periods.

Background

The measures proposed by Schedules 1 and 2, relating to Parenting Payment and the liquid assets test, were announced in the 2012–13 Budget. The measure proposed by Schedule 3, which amends the definition of termination payments, is intended to clarify exactly what kind of payments should be considered under the definition. The Government considers a number of recent interpretations of this definition by certain decision-makers did not adequately reflect the policy intent of income maintenance waiting periods.1

As each of the Schedules to the Bill deals with separate measures in different contexts, the background, issues and provisions in relation to each will be discussed separately below.


Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
Parenting Payment

Background

Parenting Payment is an income support payment intended to assist with the costs of caring for children. It is paid to the person who is the main carer of a child. There are two forms of Parenting Payment: one for single parents/carers known as Parenting Payment (Single) or PPS, and one for partnered parents/carers known as Parenting Payment (Partnered), or PPP. Different rates of payment and different kinds of income tests apply to PPS and PPP. Parents or carers must have a child of a certain qualifying age to be considered eligible; and payment of PPP can only be made to one member of a couple.

Current rules

Currently, recipients of PPS are no longer eligible for the payment once their youngest child turns eight. Recipients of PPP are no longer eligible once their youngest child turns six. Recipients of PPS are subject to activity requirements such as undertaking paid work, or looking for work or training, when their youngest child reaches the age of six.²

Transitional rules for 'grandfathered' recipients

Those who have been receiving PPS and PPP since before 1 July 2006 have had different eligibility rules from those described above. Specifically, members of this group have continued to receive their payment under the rules regarding the age of their youngest child which were in place prior to the Howard Government’s ‘Welfare to Work’ changes, announced in the 2005–06 Budget. This group of recipients, known as 'grandfathered' recipients remain eligible for Parenting Payment until their youngest child turns 16 and are subject to participation requirements when their youngest child turns seven.³

This group were protected from the changes to age eligibility by grandfathering provisions contained in the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005.⁴

² A PPS recipient is considered to meet their participation requirements if they are looking for suitable paid work where the work is of at least 30 hours per fortnight, and participating in any other activities as specified in their Employment Participation Plan. See ‘Participation Requirements’, Centrelink website, viewed 19 June 2012, http://www.centrelink.gov.au/internet/internet.nsf/payments/cc_jul06_pp_participation_requirements.htm
³ Ibid.
The measures proposed by the Bill will remove the grandfathering provisions for this group of Parenting Payment recipients from 1 January 2013 and they will be subject to the same eligibility and participation rules as other PPS and PPP recipients. This will mean that many current grandfathered recipients will no longer qualify for PPS or PPP because their youngest child will be older than the qualification age (six and eight years, respectively).

Proposed measure will supersede previous phasing-out amendments

The measures proposed by the Bill will, if passed, supersede recent amendments to social security law enacted by the Gillard Government which were intended to gradually phase out the group of recipients receiving Parenting Payment under the pre-2006 rules.

In 2011, the Gillard Government moved to draw a line under the group covered by the grandfather provisions. The effect of amendments contained in the Social Security Amendment (Parenting Payment Transitional Arrangement) Act 2011 was that only children who were born or came into the principal care of a parent before 1 July 2011 (being a parent who had continued to receive Parenting Payment since July 2006) would be covered by the grandfather provisions. Prior to these amendments, any new children born or coming into the care of a person who was receiving Parenting Payment prior to July 2006 would have extended the person’s eligibility for Parenting Payment until the child turned 16.

In early May 2012, further amendments were made through the Social Security and Other Legislation Amendment (Income Support and Other Measures) Act 2012 to speed up the process by which those with older children are moved off Parenting Payment, either onto other income support payments or into paid employment. Those protected from the 2006 changes are now only eligible to continue receiving Parenting Payment until their youngest child turns 16, if that child is aged 13, 14 or 15 on 31 December 2012. Grandfathered Parenting Payment recipients whose youngest child is aged 12 on 31 December 2012 will lose their eligibility for the payment when the child turns 13. All other grandfathered Parenting Payment recipients will lose eligibility for the payment when their youngest child turns 12.

The measures proposed by the Bill will supersede the amendments in both of these Acts so that rather than gradually phasing-out those covered by the grandfather provisions, they will be subject to the same rules and requirements applied to post-2006 Parenting Payment recipients from 1 January 2013.


Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
Parenting Payment and Newstart Allowance

The intention of the 2006 Welfare to Work changes was to encourage parents and carers of school-aged children to participate in the workforce by restricting their eligibility for an ongoing income support payment with minimal participation requirements. Those unable or unwilling to find suitable paid work would be forced onto other income support payments, particularly Newstart Allowance, which has a significantly lower rate of payment for single parents and more stringent activity requirements compared to Parenting Payment. The recent changes and the Bill’s proposed measures are intended to encourage previously protected Parenting Payment recipients to move into paid work in the same way.

PPS recipients are disadvantaged in a number of ways by moving onto Newstart Allowance:

- the maximum PPS rate is currently $648.50 per fortnight (pf) including the Pension Supplement, whereas the equivalent Newstart Allowance single with dependent rate is $529.80pf
- PPS has a more generous income and assets test than Newstart Allowance, allowing recipients to earn more income before their payment is affected and
- Newstart Allowance has more rigorous participation requirements than PPS.

Special provisions for single parents moving from Parenting Payment to Newstart Allowance

Single principal carers who move from Parenting Payment onto Newstart Allowance because their youngest child’s age makes them ineligible for PPS are provided with additional assistance not granted to most Newstart Allowance recipients. PPS recipients who move immediately onto Newstart Allowance remain eligible for the Pensioner Education Supplement, a payment of $62.50 per fortnight for those studying an approved course with at least a 50 per cent study load.

Single principal carers of dependent children on Newstart Allowance are able to receive the Pharmaceutical Allowance of $6.20 per fortnight and the Telephone Allowance of $100.80 per year. They are also eligible for a Pensioner Concession Card which entitles them to reduced cost medicines under the Pharmaceutical Benefits Scheme, more refunds for medical expenses through the Medicare Safety Net and a range of discounts on utilities, transport and services.

As part of the changes introduced by the Social Security and Other Legislation Amendment (Income Support and Other Measures) Act 2012, the Government has made the income test for single principal carer parents on Newstart Allowance more generous. This was intended as compensation to those being forced to move off Parenting Payment and to add an incentive for single parents to undertake more paid work.6

---


Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
Newstart Allowance recipients currently have their payment reduced by 50 cents in the dollar for fortnightly income earned between $62 and $250; for fortnightly income above $250, their payment is reduced by 60 cents in the dollar. From 1 January 2013, rather than being subject to the 50 and 60 per cent taper rates for income over the threshold amounts of $62 and $250 respectively, single parents will have a blanket 40 per cent taper rate applied to income over the $62 threshold (with no applicable upper threshold). This means that single parents will have their payment reduced by 40 cents for every dollar of income earned over $62 a fortnight, allowing them to earn around $400 more per fortnight before losing eligibility for payment.

Who will be affected by the changes

At the May 2012 Senate Estimates hearings, the Department of Education, Employment and Workplace Relations (DEEWR) gave evidence as to the numbers of those currently receiving Parenting Payment and the number of those affected by the amendments proposed by the Bill:

- there are currently 320,828 people receiving PPS and 115,350 receiving PPP
- of these, there are currently 122,630 grandfathered PPS recipients and 24,738 grandfathered PPP recipients
- 60,315 grandfathered PPS recipients will cease being eligible as at 1 January 2013 if the amendments in the Bill are passed
- 12,576 grandfathered PPP recipients will cease being eligible as at 1 January 2013 if the amendments in the Bill are passed and
- a further 27,728 grandfathered PPS recipients and 8,314 grandfathered PPP recipients will progressively cease being eligible for Parenting Payment over the forward estimates (2012–13 to 2015–16).7

In contrast, in a written submission to the Senate Community Affairs Legislation Committee in early 2012, DEEWR estimated that the phasing out measures introduced by the Social Security and Other Legislation (Income Support and Other Measures) Act 2012 would see only 10,000 grandfathered PPS recipients cease being eligible in the latter half of 2012–13 and a further 9,000 cease being eligible in each of the 2013–14 and 2014–15 financial years. DEEWR also estimated that 1,000–1,100 grandfathered PPP recipients would no longer be eligible in each of those years as result of the phasing out measures.8

---


Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
DEEWR has modelled the overall impact of moving from PPS to Newstart Allowance on weekly income for a single parent with two children aged 12 and 14 in January 2013, taking account of their welfare payment rate, family tax benefits and tax liability. The figures, obtained by *The Australian*, indicate that single parents who have low to middle-range weekly earnings will have the most to lose financially under the proposed changes if they are unable to find further earnings.

Table 1: Estimated impact on total fortnightly income of moving from PPS to Newstart Allowance

<table>
<thead>
<tr>
<th>Weekly earnings</th>
<th>Total income for PPS recipients p/f*</th>
<th>Total income for Newstart recipients p/f*</th>
<th>Change $</th>
<th>Change %</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>$1,193.28</td>
<td>$1,078.38</td>
<td>-114.90</td>
<td>-9.63</td>
</tr>
<tr>
<td>$100</td>
<td>$1,392.96</td>
<td>$1,223.18</td>
<td>-169.78</td>
<td>-12.19</td>
</tr>
<tr>
<td>$200</td>
<td>$1,512.96</td>
<td>$1,340.87</td>
<td>-172.09</td>
<td>-11.37</td>
</tr>
<tr>
<td>$300</td>
<td>$1,632.96</td>
<td>$1,430.87</td>
<td>-202.09</td>
<td>-12.38</td>
</tr>
<tr>
<td>$400</td>
<td>$1,744.20</td>
<td>$1,520.87</td>
<td>-223.33</td>
<td>-12.80</td>
</tr>
<tr>
<td>$500</td>
<td>$1,826.40</td>
<td>$1,622.78</td>
<td>-203.66</td>
<td>-11.15</td>
</tr>
<tr>
<td>$600</td>
<td>$1,905.88</td>
<td>$1,720.08</td>
<td>-185.80</td>
<td>-9.75</td>
</tr>
<tr>
<td>$700</td>
<td>$1,958.68</td>
<td>$1,818.04</td>
<td>-140.64</td>
<td>-7.18</td>
</tr>
<tr>
<td>$800</td>
<td>$2,010.88</td>
<td>$1,938.22</td>
<td>-72.66</td>
<td>-3.61</td>
</tr>
</tbody>
</table>

*Per fortnight

At the May Senate Estimates hearings, DEEWR gave evidence that of the 122 630 grandfathered PPS recipients, 55 600 had reported earnings in the last fortnight of March 2012. The actual numbers affected in the way modelled by DEEWR will depend on how many PPS recipients move to Newstart Allowance as opposed to higher earning paid employment or other income support payments.

Effectiveness of the welfare to work changes

The measures proposed in the Bill will mean that the eligibility criteria for Parenting Payment introduced as part of the Howard Government’s welfare to work measures will apply across the board. The Minister stated in his second reading speech that:

> The changes to Parenting Payment will encourage parents with school age children to re-enter the workforce sooner and to ensure a fair and consistent set of Parenting Payment eligibility rules.


**Warning:** All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
Under this government there have been better participation outcomes for individuals who have not been grandfathered under the Howard government's parenting payment single policy of 2006.

In practical terms the evidence shows us that while grandfathered parenting payment recipients do better than most job seekers, principal carer parents on Newstart do even better.\(^\text{10}\)

There is, however, only limited evidence publicly available which can be drawn on to evaluate the effectiveness of the welfare to work changes and the employment prospects of single principal carer parents on Newstart Allowance.

**Welfare to work evaluation report**

DEEWR has published one evaluation of the ‘Welfare to Work’ changes, in 2008. The evaluation report found:

> The evaluation results were mixed, providing evidence that Welfare to Work was only partly successful in achieving its objectives for people directly affected by the changes during 2006–07. These results occurred in the context of continuing economic expansion and strong labour market conditions.\(^{11}\)

Because of the eligibility changes, the evaluation report found that the number of principal carers commencing Parenting Payment decreased by around 30 per cent from 2005–06 to 2006–07. However, the number of single principal carer parents with school-aged children who commenced Newstart Allowance in 2006–07 was only around 51 per cent of those with school-aged children who commenced PPS in 2005–06.\(^{12}\) This reduction in number is partly because of the tighter income test that applied for Newstart Allowance but also because some may have tested their eligibility for other payments such as Disability Support Pension or Carer Payment. The report found that there were higher rates of transfer of principal carer parents from Parenting Payment to these non-activity tested payments as a result of the changes.\(^{13}\)

The ‘Welfare to Work’ evaluation looked at single principal carers with children aged 8 to 15 years (over the new PPS eligibility age) who had claimed Newstart Allowance since 1 July 2006. It found that after six months during 2006–07, 38 per cent had left income support. In comparison, for each

---


12. Ibid., pp. 20–22.

13. Ibid., p. 21.

**Warning:** All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
of the previous three years, only 15 per cent of PPS recipients with children age 8 to 15 years had left income support after six months. The evaluation report did note that if the Newstart Allowance income test had applied to these PPS recipients then 27 per cent would have left income support after six months.

While some of the 11 per cent increase in exits from income support would have been linked to the participation requirements imposed on them under Newstart Allowance (and the incentive offered by a lower payment rate), many who might have sought PPS never commenced Newstart in 2006–07 and many sought out payments without participation requirements.

Limiting eligibility and imposing participation requirements on a group of income support recipients who previously had none inevitably has an effect on the numbers of recipients and workforce participation levels of the targeted group. The evaluation report indicates that restricting eligibility did lower the number of principal carers receiving income support and shifting the group of carers with school age children to Newstart Allowance increased the rate at which this group moved off income support—however, the impact was limited.

Impact on grandfathered Parenting Payment recipients

The Melbourne Institute of Applied Economic and Social Research recently published modelling of the impact of the welfare to work changes on grandfathered recipients. The welfare to work measures not only changed age eligibility for new Parenting Payment applicants but also introduced participation requirements for grandfathered recipients once their youngest child turned seven. The Institute’s report indicated that the introduction of participation requirements had a significant impact on the Parenting Payment caseload. Its modelling, based on administrative data, found that over the first year of the new regime the total caseload for those grandfathered parents with a youngest child aged six at the start of the year (that is, before they were subject to participation requirements) fell by 23.5 per cent. Around a third of this drop in caseload was accounted for by movements to other payments. Without the participation requirements introduced as part of the ‘Welfare to Work’ changes, the modelling suggested that the caseload would have decreased by 18.5 per cent.

The changes had a greater impact on PPP recipients moving off income support than on PPS recipients—possibly due to tighter income testing for PPP recipients (higher employment earnings could have led to them losing qualification for PPP).

The evaluation report concluded:

14. Ibid., p. 34.
15. Ibid., p. 36.

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
The evidence presented here shows that the welfare to work reforms for Australian low income parents introduced in 2007 led to an increase in exits from PP [Parenting Payment] and a further reduction in PP caseload on top of that caused by the first round of reforms in 2006. Following activation, a typical grandfathered low income parent was more likely to exit PP, driven by increases in the hazards for both switching from PP to another IS [income support] payment and for exiting IS altogether. These impacts were large in magnitude, likely reflecting both the nature of the reforms – they represent a substantial increase in work-related requirements – and the strong labour market context in which they were introduced.17

The study indicates that even the minimal participation requirements introduced for grandfathered Parenting Payment recipients in 2007 had an impact on this group’s level of participation in the workforce.

Evidence base is limited

The issue of evidence as to the effectiveness of the ‘Welfare to Work’ changes has been an issue since the measures were first proposed. The dissenting report from the Australian Labor Party, Australian Democrats and the Australian Greens to the Senate Community Affairs Legislation Committee inquiry into the original welfare to work legislation stated:

Despite receiving over 60 submissions and hearing from approximately 60 witnesses over four days of hearings, the Committee was given no cogent evidence that a reduction in income support payments will lead to greater rates of participation in the workforce. The Department of Employment and Workplace Relations was asked to provide evidence that this reduction in payment would lead to higher levels of participation. In response the Department has indicated this was a Government policy decision and subsequently provided evidence to the Committee that described the effects of policy changes that differed substantially from the Government’s proposals...

...Australian Labor Party, Australian Democrat and Australian Greens Senators find it extraordinary that the government has taken a decision to reduce the income levels of so many Australians without providing any empirical data, nor clear rationale, that such a reduction will enhance participation ... In effect, the government is asking the Senate to support these income reductions without any evidence that they will have a positive policy effect. The repetition of broad statements of intent to move people from welfare into work, as is contained in the Explanatory Memorandum, does not mask the lack of coherent policy rationale for these cuts. We do not believe such rhetorical reiteration comprises adequate justification for effecting the harshness of the income reductions for so many Australians that is contained in this legislation.18

The evidence that has been published to date as to the effect of the 2006 changes indicates that tightening eligibility criteria for Parenting Payment has reduced the number of new recipients and moved a significant number of people off income support. Even the minimal participation requirements introduced for grandfathered recipients were effective in encouraging Parenting Payment recipients into work. However, many have also tested their eligibility for payments without participation requirements. The evidence base is limited but indicates that a range of different measures can be effective in encouraging the employment participation of parents with dependent children.

**Policy position of non-government parties**

The Australian Greens have strongly criticised the changes to Parenting Payment eligibility. Greens member Adam Bandt and Senator Rachel Siewert both spoke out about the phasing out measures contained in the *Social Security and Other Legislation Amendment (Income Support and Other Measures) Act 2012*[^19]. Senator Siewert was quoted as saying that the proposed changes 'demonised single parents by implying they did not want to work, and would reduce their income, making them and their children more vulnerable'.[^20]

**Position of major interest groups**

The main criticisms of the changes have come from welfare groups. A letter signed by 15 heads of charity and welfare organisations—including the Australian Council of Social Service, the Salvation Army, St Vincent de Paul and the National Welfare Rights Network—and sent to the chair of the Joint Committee on Human Rights, Mr Harry Jenkins, has called for an inquiry to be held into the Bill and possible violations of human rights. The signatories state that they believe the Bill violates the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as well as violating the 'principle of non-retrogression'. In particular, the letter argues that the Bill would violate:

- the right of everyone to social security, including 'the right to access and maintain benefits' (Article 9 of ICESCR)
- the rights of single parents to non-discrimination (Article 2, paragraph 2 of ICESCR and Article II(1)(e) of CEDAW).[^21]


*Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.*
However, the Statement of Compatibility with Human Rights contained in the Explanatory Memorandum of the Bill specifically states that it engages with Article 9 of ICESCR:

The changes to the eligibility rules for 'grandfathered' parenting payment recipients will make access to parenting payment consistent for all claimants regardless of when they first claimed payment. The justification for this is to accelerate the closing of the grandfathered conditions for parenting payments which will help to restore equity across the parenting payment population … A person’s access to social security is not impacted as recipients who are affected by this measure are entitled to apply for other income support payments, such as Newstart Allowance.22

The statement does not specifically refer to any issues in regards to rights to non-discrimination.

It should be noted that a number of Labor backbenchers are reported to have expressed concern about the changes and impact on those losing eligibility for Parenting Payment.23

Financial implications

The Explanatory Memorandum states that the abolition of grandfathering arrangements is expected to save a total of $727.9 million over the forward estimates. This is significantly more than the $685.8 million the measure was estimated to provide in savings when announced in the Budget.24

Table 2: Estimated financial impact of parenting payment changes

<table>
<thead>
<tr>
<th>Year</th>
<th>Expense ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13</td>
<td>-130.2</td>
</tr>
<tr>
<td>2013–14</td>
<td>-208.4</td>
</tr>
<tr>
<td>2014–15</td>
<td>-161.6</td>
</tr>
<tr>
<td>2015–16</td>
<td>-227.6</td>
</tr>
<tr>
<td>Total</td>
<td>-727.9</td>
</tr>
</tbody>
</table>

Source: Explanatory Memorandum, p. 3.

22.  Explanatory Memorandum, p. 16.
Comment

The changes to Parenting Payment eligibility, announced at the same time as less onerous phasing out measures were being passed by the Parliament, are primarily a savings measure. The proposed measures will, however, bring greater coherency and equity to a system which currently offers different rules and payments for people in the same circumstances who happened to start receiving assistance on different dates.

The limited evidence available indicates that many grandfathered Parenting Payment recipients will move off income support. However, some will also attempt to access other payment types with minimal participation requirements and less likelihood of ever moving into work. Other measures or programs may have been more effective in improving employment participation among single and partnered parents, but the available research and evaluations are scant. Few alternatives, however, would offer such significant Budgetary savings.

Single parents face significant barriers to employment including the need for flexible working arrangements, child care expenses, their lack of recent or relevant work experience and discrimination. While offering parents of school age children only the limited assistance provided by Newstart Allowance does create a financial incentive to find work, many will need further assistance to overcome the other barriers to entering or re-entering the workforce.25 The expansion of the Jobs, Education and Training Child Care fee assistance program, also announced in the 2012–13 Budget, changes to income testing for single parents on Newstart Allowance, and increased assistance from employment services for parents, will go some way to helping single parents overcome these barriers. The overall effectiveness of the measures contained in this Bill will be assessed by employment outcomes for this group rather than savings to the welfare Budget.

In the midst of growing concern as to the adequacy of the Newstart Allowance rate, the measures proposed by the Bill were bound to be controversial.26 Bringing greater equity to the income support system is a worthwhile goal, but in this case it will come at a significant cost to the many disadvantaged parents and carers affected.

Provisions

Item 5 of Schedule 1 to the Bill repeals Subdivision AA of Division 1 of Part 2.10 of the SS Act. This will remove all the transitional arrangements and remove any entitlement to these arrangements for those who have been qualified for Parenting Payment since before 1 July 2006.


Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
Items 1 and 6 are consequential amendments which remove references to provisions which are contained in the repealed subdivision. Item 3 removes references to the current transitional arrangements (sections 500F to 500H) at paragraph 500(1)(a) of the SS Act, which requires that a person has at least one Parenting Payment child in order to qualify for Parenting Payment. The reference in paragraph 500(1)(a) of the SS Act to existing section 500D, which sets out when a child is a qualifying child for the purpose of Parenting Payment, is retained by the amendments at item 3 of Schedule 1.

Item 4 repeals subsection 500D(3) (not including the note) which provides for the children of those covered by the transitional arrangements, who have not turned 16 and were in the care of the person before 1 July 2011, to be considered a qualifying Parenting Payment child.

Item 7 is an application provision which operates so that items 3, 4, and 5 will apply for the purposes of working out qualification for Parenting Payment from 1 January 2013.

Liquid assets waiting period

As part of the assets test which helps determine an individual's eligibility for some income support payments (Newstart Allowance, Youth Allowance, Austudy and Sickness Allowance), Centrelink assesses the level of 'liquid assets' a person has to hand. The term 'liquid assets' refers to any cash or readily realisable assets a person can draw on to support themselves as an alternative to receiving income support. It includes any such assets belonging to the person's partner and any such assets owned by both the person and their partner.

Those who are considered eligible to receive a payment but who have substantial liquid assets must serve a 'liquid assets waiting period' before they are able to receive the payment. The starting date for this waiting period and its length depend on a person's individual circumstances and the amount of liquid assets they have access to (see below).

What are liquid assets

Liquid assets include:

- cash on hand (including borrowed money)
- shares and debentures, term deposits
- 10 year insurance bonds
- amounts deposited or lent to banks or other financial institutions, whether or not the amount can be withdrawn or repaid immediately (excluding bonds or bank guarantees for the purposes of an assurance of support)
- assets given to a son or daughter (in certain circumstances)
- loans to other people
- unencumbered proceeds from the sale of a business

*Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.*
• money in trust funds, bank accounts including mortgage offset accounts (not balances of mortgage redraw accounts)
• compensation payments and
• some payments made or due by a person's previous employer.27

Assets that are not considered liquid include:

• proceeds from the sale of a person's principal home (in some circumstances)
• draw down loan facilities, such as margin loan facilities, mortgage redraw account balances or credit card limits
• the value of person's investment in a first home saver account
• bonds or bank guarantees for the purposes of an assurance of support
• voluntary one-off payments of a person's non-housing debts (in some circumstances)
• the surrender value of a life insurance policy
• the amount of an Australia Government Disaster Recovery Payment (if the length of time since receiving the payment is still reasonable in the circumstances) and
• superannuation and termination payments that have been rolled over or are going to be rolled over directly from the person's employer (note: only certain termination payments made between 1 July 2007 and 30 June 2012 which are subject to transitional provisions can be rolled over to superannuation).28

Students claiming Youth Allowance or Austudy can reduce their liquid assets by deducting certain incurred or expected costs directly related to their course of study including: fees, HECS-HELP payments, student union fees, text books and equipment required for a course, and costs for field trips.

Liquid assets waiting periods

If a person's liquid assets exceed certain limits, then a liquid assets waiting period (LAWP) of between one and 13 weeks can apply. They will not receive income support while serving this LAWP as the person is expected to draw on their assets to support themself. LAWPs apply to Newstart Allowance, Youth Allowance, Austudy and Sickness Allowance.

If the reason a person is seeking to qualify for one of these payments is because they or their partner are temporarily incapacitated and unable to work or study then any applicable LAWP will generally commence either on the day they or their partner became incapacitated or the day they ceased work or study. For Newstart Allowance recipients who are not incapacitated, any LAWP applies from

28. Ibid.

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
the day they ceased work or full-time study. LAWPs for applicants for Youth Allowance and Austudy commence from the moment they qualify for their payment.

The current limit, or reserve amount, of liquid assets a single person without dependent children can hold before they are subject to a LAWP is $2500. For a person who is a member of a couple and/or has a dependent child, the reserve amount is currently $5000. The Bill proposes to double these reserve amounts.

The length of time a person will have to serve a LAWP if they or their partner have liquid assets over the reserve amounts is worked out as follows:29

<table>
<thead>
<tr>
<th>If the recipient is...</th>
<th>Then the LAWP is calculated by...</th>
</tr>
</thead>
<tbody>
<tr>
<td>a member of a couple, AND/OR has a dependent child,</td>
<td>liquid assets minus the maximum reserve amount (see below), divided by $1,000.</td>
</tr>
<tr>
<td>NOT a member of a couple AND does NOT have a dependent child,</td>
<td>liquid assets minus the maximum reserve amount (see below), divided by $500.</td>
</tr>
</tbody>
</table>

The result of this calculation is used to determine the length of LAWP as follows:30

<table>
<thead>
<tr>
<th>If the result is...</th>
<th>Then the LAWP is...</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 or more whole weeks,</td>
<td>13 weeks.</td>
</tr>
<tr>
<td>less than 13 whole weeks,</td>
<td>the whole number of weeks, with fractions rounded down to the nearest whole week.</td>
</tr>
<tr>
<td>less than one week,</td>
<td>not served at all.</td>
</tr>
</tbody>
</table>

A LAWP does not apply if an individual or their partner served a LAWP in the twelve months prior to the person becoming unemployed or claiming the relevant allowance.

Waiting periods can also be waived for people considered to be facing serious financial hardship.

---


30. Ibid.

*Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.*
History

The main income support payment for an unemployed person of working age looking for work (Newstart Allowance) has had at least a one week waiting period since this payment commenced (as the Unemployment Benefit) in 1945. The one week waiting period was aimed at ensuring assistance was not provided for persons moving between jobs and that the person should support themselves for a period before receiving assistance. The one week waiting period has been expanded and added to over the years and now comes in the form of the liquid assets test waiting period and the income maintenance period.

The liquid assets test was introduced in 1991, through the Social Security Legislation Amendment Act 1990. The rationale for introducing a liquid assets test was explained by the then Minister, Senator Graham Richardson:

...the liquid assets test was introduced in order to prevent payments being made to those people who earned fairly high incomes over part of the year...those people who have sufficient liquid funds should maintain themselves for a short period.  

Initially, the maximum LAWP was four weeks and the reserve amounts were set at $5000 for a single person and $10,000 for a partnered person/carer of a dependent child. In 1997, the Howard Government extended the maximum LAWP to 13 weeks and halved the reserve amounts. An income maintenance period was also introduced (see discussion in next section).

The Rudd Government, as part of its agreement with the Greens to secure passage of its economic stimulus package through the Senate, temporarily doubled the reserve amounts for the liquid assets test for the period 1 April 2009 to 31 March 2011.

Who will be affected by the changes

The Explanatory Memorandum for the Bill states that around 21,000 people each year will begin receiving their payment up to five weeks earlier under this measure.

---


33. Explanatory Memorandum, p. 16.

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
Financial implications

The Explanatory Memorandum states the doubling of the reserve amounts will cost the Budget around $36 million over the forward estimates ($12 million each year for the period 2013–14 to 2015–16).

Comment

Raising the reserve amounts will be beneficial to those who have a small amount of cash savings or other assets but need income support to be able to properly support themselves and their families while they are out of work. The measures do not quite raise the reserve amounts to the same amount as when first introduced, in real terms, but go some way towards restoring thresholds to the generous level at which they were introduced. The small numbers who are estimated to benefit from these changes indicates that very few job-seekers actually have significant liquid assets when they apply for income support.

It is worth noting that this relatively small expenditure measure was an unusual inclusion in a Budget that was otherwise looking for savings.

Provisions

Items 1 and 2 of Schedule 2 to the Bill amend subsection 14A(1) of the SS Act to change the 'maximum reserve' amounts for the liquid assets test. The maximum reserve amount for a single person without dependent children changes from $2500 to $5000; and the maximum reserve amount for a person in a couple and/or a person with dependent children changes from $5000 to $10 000.

Item 3 is a consequential amendment which will repeal the note at the end of the definition of 'maximum reserve', which contains references to subsections 14(6A) and (6B). Item 4 repeals subsections 14(6A) and (6B) to remove references to the temporary increase in the reserve amounts for the liquid assets test for the period 1 April 2009 to 31 March 2011. These subsections are no longer applicable.

Item 5 repeals and substitutes subsection 14A(7) which sets out the meaning of in severe financial hardship for the purposes of Division 3A of Part 3 of the Social Security (Administration) Act 1999 (SSA Act). This particular division sets out the compliance regime in relation to payments with participation requirements. Before applying certain penalties described in this Division, the Secretary must take into account whether a person is in severe financial hardship as defined in proposed subsection 14A(7) of the SS Act. The proposed subsection sets out that a person is in severe financial hardship if the person's liquid assets do not exceed the proposed new 'maximum reserve' amounts, which mirror the amounts in proposed paragraph 14A(1)(a) and (b).

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
Item 6 is an application provision which operates so that the amendments in Schedule 2 to the Bill, with the exception of item 5, apply to persons who lodged a claim for a social security on or after 1 July 2013.

Item 7 sets out transitional arrangements for those who will be subject to a liquid assets waiting period (LAWP) beginning before the proposed changes take effect. Certain individuals who would not have been subject to a LAWP or who would have had a shorter LAWP applied had the proposed maximum reserve amounts been in effect when they were tested will see their LAWP end on 30 June 2013 (the day before the proposed amendments are to take effect).

Termination payments

If an individual receives an employment termination payment such as a leave payment or a redundancy payment and they apply and qualify for an income support payment, they may not immediately receive any income support or may only receive a reduced rate because it is determined they must serve an ‘income maintenance period’.

Income maintenance period

An income maintenance period is the period of time in which people who have received termination payments such as redundancy or leave payments have these amounts treated as ordinary income. Because these amounts are treated as ordinary income they can affect the level of payment a person receives under the relevant income test. In some cases a person will not receive any income support payment for the duration of the income maintenance period because their income is considered to be too high.

Payments that can be affected by income maintenance periods include Newstart Allowance, Sickness Allowance, Parenting Payment, Youth Allowance, Austudy and the Disability Support Pension.

Definition of termination payment

The current definition of a 'termination payment' in the SS Act is:

- a leave payment relating to a person’s employment that has been terminated, or
- a redundancy payment.

The SS Act specifies that, for the purposes of the definition, a ‘leave payment’ includes a payment in respect of sick leave, annual leave, maternity leave and long service leave but does not include an

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
instalment of parental leave pay.\textsuperscript{34} The SS Act also specifies that, for the purposes of the definition, a \textit{redundancy payment} includes a payment in lieu of notice but does not include a directed termination payment within the meaning of section 82-10F of the \textit{Income Tax (Transitional Provisions) Act 1997}—that is, payments directed into a complying superannuation plan or to purchase a superannuation annuity.

Unintended interpretations

The Bill proposes to extend the definition of termination payment in the SS Act to include ‘any other payment that is connected with the termination of a person’s employment’. The Government wishes to align the definition in the SS Act with the policy intent as set out in the \textit{Guide to Social Security Law} so that the term ‘termination payment’ can be interpreted in a broad sense and include most lump sum payments received by people as part of the termination of their employment.\textsuperscript{35}

A number of Administrative Appeals Tribunal (AAT) decisions interpreted a previous definition of termination payments in the SS Act as excluding certain payments in lieu of notice.\textsuperscript{36} The Government considered that these interpretations were not in line with the intent of the policy and, via the \textit{Social Security and Other Legislation Amendment Act 2011}, specifically inserted definitions into the SS Act stating that ‘termination payment’ includes ‘a redundancy payment’ and \textit{redundancy payment} includes a payment in lieu of notice.

The Explanatory Memorandum for this Bill justifies the further broadening of the definition on the basis of unintended interpretations of the term ‘termination payment’, and the exclusion of payments in lieu of notice from this definition by Tribunal decisions.\textsuperscript{37} However, the Explanatory Memorandum does not specify any Tribunal decisions on which it relies. Given that the amendments did not commence until 30 November 2011, it may be that the Tribunal has not yet considered any appeals in relation to the definition.

Comment

The intent of this change is to expand the definition of the term \textit{termination payment} to include any payment connected with the termination of a person’s employment. While the intent of this amendment is clear— to capture most payments made to a person upon ceasing employment to

\textsuperscript{34} The definition of termination payment and leave payment is set out in each of the different income maintenance period calculators for the various affected payments. See, for example, Point 1064-F14 of the SS Act.

\textsuperscript{35} Explanatory Memorandum, Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012, p. 12.


\textsuperscript{37} Explanatory Memorandum, op. cit., p. 12.
ensure that their means are properly assessed—the justification for the changes is not clear in the light of the amendments made in 2011.

Provisions

The amendments in Schedule 3 to the Bill amend a number of rate calculators in an identical manner.

Item 2 of Schedule 3 of the Bill proposes to repeal the existing definition of *termination payment* at Point 1066A-F14 of the SS Act (part of the rate calculator for Disability Support Pension) and substitute a new definition which sets out that the term *termination payment* includes:

- a redundancy payment
- a leave payment relating to a person's employment that has been terminated and
- any other payment that is connected with the termination of a person's employment.

Item 4 proposes to substitute this new definition at Point 1066A-G14 (part of the rate calculator for Disability Support Pensioners aged under 21). Item 6 proposes to substitute this new definition at Point 1067G-H19 (part of the rate calculator for Youth Allowance). Item 8 proposes to substitute this new definition at Point 1067L-D15 (part of the rate calculator for Austudy). Item 10 proposes to substitute this new definition at Point 1068-G7AQ (part of the rate calculator for Newstart Allowance, Sickness Allowance, Partner Allowance and Mature Age Allowance). Item 12 proposes to substitute the new definition at Point 1068A-E12 (part of the Parenting Payment (Single) rate calculator). Item 14 proposes to substitute the new definition at Point 1068B-D16 (part of the Parenting Payment (Partnered) rate calculator).

The other items in the Schedule amend the definition of ‘period to which the payment relates’ so that the term 'redundancy' is replaced by the term 'termination', to ensure that all payments that fall under the proposed new definition of termination payment are able to be included in the calculation of ordinary income.

*Warning:* All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.
Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2476.