Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2019

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Social Policy Section

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Date introduced: 11 September 2019
House: House of Representatives
Portfolio: Social Services
Commencement: Schedule 1 on the first 1 January or 1 July to occur after the day of Royal Assent; Schedules 2 and 3 on 1 July 2020, or, if Royal Assent occurs on or after 1 July 2020, the first 1 January or 1 July to occur after the day of Royal Assent.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through the Australian Parliament website.

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the Federal Register of Legislation website.

All hyperlinks in this Bills Digest are correct as at October 2019.
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Purpose of the Bill

The purpose of the Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2019 (the Bill) is to amend the Social Security Act 1991 (SS Act) and the Veterans’ Entitlements Act 1986 (VE Act) to:

- limit eligibility for the relocation scholarship provided to some Youth Allowance recipients to those whose parental family home or usual place of residence is in Australia, and to those who relocate for study in Australia only. Students who relocate outside Australia to undertake part of their Australian course will no longer qualify for the relocation scholarship
- introduce new payment rates for the Pensioner Education Supplement (PES) and the Education Entry Payment (EdEP) that correspond with different study loads undertaken by recipients and
- no longer pay the PES during semester breaks and end-of-year holidays.

The measures were announced in the 2017–18 Budget.\(^1\)

The changes to relocation scholarship eligibility are expected to provide savings of $3.5 million for the Department of Social Services over four years.\(^2\) The changes to EdEP and PES rates will provide combined savings of $80.3 million for the Department of Social Services over four years.\(^3\)

History of the Bill

A Bill containing the same measures, the Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2017, was introduced to the 45th Parliament on 21 June 2017.\(^4\) The Bill passed the House of Representatives on 23 October 2017 and was introduced to the Senate on 13 November 2017. The Bill lapsed at the end of the Parliament on 1 July 2019.\(^5\)

There are no significant differences between the 2017 and 2019 Bills other than changes to commencement dates. In the 2017 Bill, all the Schedules were to commence on 1 January 2018 or, if Royal Assent did not occur before 1 January 2018, the first 1 January or 1 July to occur after Royal Assent. In the 2019 Bill, Schedule 1 (relating to the Relocation Scholarship) will commence on the first 1 January or 1 July to occur after Royal Assent. Schedules 2 and 3 (relating to the Education Entry Payment and Pensioner Education Supplement rates) will commence on 1 July 2020, or, if Royal Assent does not occur before 1 July 2020, the first 1 January or 1 July to occur after Royal Assent.

There are a few changes in the 2019 Bill which follow on from amendments to the SS Act made by the Social Services Legislation Amendment (Welfare Reform) Act 2018.\(^6\) This Act will cease payment of the Wife Pension and Widow Pension B from 20 March 2020. As a result, amendments relating to the Education Entry Payment paid to Wife Pension and Widow B Pension recipients in the 2017 Bill are redundant and have been removed in the 2019 Bill.

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3. Ibid., p. 2.
5. 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.

This Bills Digest replicates much of the material in the Bills Digest for the 2017 Bill.7

Background

Relocation scholarship

The relocation scholarship was introduced from April 2010 together with a separate scholarship, the student start-up scholarship. The scholarships were supplementary amounts provided to eligible recipients of student assistance payments (such as Youth Allowance, ABSTUDY or Austudy). These two scholarships replaced the Commonwealth Education Costs Scholarship, the Commonwealth Accommodation Scholarship and the National Accommodation Scholarship.9 A much larger group of students on income support were eligible for the new scholarships but the overall value of the relocation scholarship combined with the start-up scholarship was less than the previous Commonwealth Accommodation Scholarship over the duration of the student’s course.10

The introduction of the student start-up and relocation scholarships by the Rudd Government was based on a recommendation of the 2008 Review of Australian Higher Education chaired by Denise Bradley (the Bradley Review). The Bradley Review recommended that the Government continue and enhance the Commonwealth Scholarships program by ‘providing benefits to all eligible students on Austudy or Youth Allowance for education costs and accommodation costs (for those who need to leave home) and by transferring responsibility for the payment of benefits to Centrelink’ (rather than scholarships being allocated to universities to administer).11

The relocation scholarship is payable to students studying an approved scholarship course and receiving student income support who are considered dependent and judged to have to live away from home for study, as well as independent students disadvantaged by personal circumstances.12 Vocational education and training courses at higher education institutions are not considered approved scholarship courses.13 In 2018, around 23,000 students received a relocation scholarship.14

When first introduced, any dependent student who needed to live away from home for study could be eligible for the relocation scholarship. From 2015, students relocating between or within major cities for study were no longer eligible for a relocation scholarship.15

10. Ibid., pp. 18–19.
12. Including having a dependent child in their care; being an orphan; having parents who are unable to exercise their responsibilities because they are in prison, missing or mentally handicapped or living in a nursing home; being a refugee (unless they have a parent living in Australia or are wholly or substantially dependent on someone else in the long term); being a young person in state care; where it is considered unreasonable to live at home; or, being specially disadvantaged. Department of Social Services (DSS), ‘3.8.15.10 qualification for relocation scholarship’, Social security guide, DSS website, last reviewed 7 May 2018.
13. Ibid.
When first introduced, the rate of the relocation scholarship was $4,000 for the first year of study and $1,000 for the second and subsequent years of study. From 2012, different rates were introduced for major city and regional students’ second and third years of study (based on where they were relocating from). In 2012, the rate for the first year of study for all students was reduced to its 2010 rate (the scholarship is normally indexed to movements in the Consumer Price Index once a year on 1 January). The historical rates of the scholarship are set out in Table 1.

Table 1: relocation scholarship rates

<table>
<thead>
<tr>
<th>Date</th>
<th>First year of study</th>
<th>Second year of study</th>
<th>Third year of study</th>
<th>Fourth year of study</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All students</td>
<td>Major cities</td>
<td>Regional</td>
<td>Major Cities</td>
</tr>
<tr>
<td>2010</td>
<td>$4,000</td>
<td>$1,000</td>
<td></td>
<td>$1,000</td>
</tr>
<tr>
<td>2011</td>
<td>$4,124</td>
<td>$1,031</td>
<td>$1,031</td>
<td>$1,031</td>
</tr>
<tr>
<td>2012</td>
<td>$4,000</td>
<td>$1,000</td>
<td>$2,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>2013</td>
<td>$4,048</td>
<td>$1,012</td>
<td>$2,024</td>
<td>$1,012</td>
</tr>
<tr>
<td>2014</td>
<td>$4,145</td>
<td>$1,036</td>
<td>$2,073</td>
<td>$1,036</td>
</tr>
<tr>
<td>2015</td>
<td>$4,269</td>
<td>$1,067</td>
<td>$2,135</td>
<td>$1,067</td>
</tr>
<tr>
<td>2016</td>
<td>$4,333</td>
<td>$1,083</td>
<td>$2,167</td>
<td>$1,083</td>
</tr>
<tr>
<td>2017</td>
<td>$4,376</td>
<td>$1,094</td>
<td>$2,189</td>
<td>$1,094</td>
</tr>
<tr>
<td>2018</td>
<td>$4,459</td>
<td>$1,115</td>
<td>$2,231</td>
<td>$1,115</td>
</tr>
<tr>
<td>2019</td>
<td>$4,553</td>
<td>$1,138</td>
<td>$2,278</td>
<td>$1,138</td>
</tr>
</tbody>
</table>

Source: Department of Social Services (DSS), “5.2.6.120 relocation scholarship historical rates”, Social security guide, DSS website, last reviewed 2 January 2018; Department of Human Services (DHS), “Relocation scholarship: payment rates”, DHS website, last updated 19 February 2019.

The student start-up scholarship, introduced at the same time as the relocation scholarship, was converted into an income-contingent loan program (the student start-up loan) from 1 January 2016.\(^\text{16}\)

**Education Entry Payment**

The EdEP is paid to eligible income support recipients to assist with the up-front costs of study.\(^\text{17}\) It is a taxable lump sum payment, worth $208, paid once a year.\(^\text{18}\)

The EdEP was introduced from 1 January 1992, initially for recipients of the Sole Parent Pension (now known as Parenting Payment Single).\(^\text{19}\) Access to the EdEP was gradually expanded to other

\(^\text{16}\) Department of Human Services (DHS), ‘Student Start-up Loan’, DHS website, last updated 12 May 2018.


payments: to Disability Support Pension and Widow B Pension in 1993; to Newstart Allowance in 1994; and to Carer Payment, Widow Allowance, Wife Pension, Parenting Allowance (now known as Parenting Payment Partnered) and Partner Allowance in 1995 with a view to encouraging these payment recipients to participate in education and study.

**Eligibility requirements**
Currently, a person may be eligible for the EdEP if they:

- are receiving Newstart Allowance, Parenting Payment Partnered, Partner Allowance or Widow Allowance and have received payment continuously for at least 12 months
- have started or will start an approved education course and
- have not received an EdEP in the last 12 months.

A person may also be eligible for the EdEP if they are receiving Carer Payment, Disability Support Pension, Parenting Payment Single, Special Benefit (in some cases), Widow B Pension or Wife Pension and they:

- are eligible to receive the PES (see next section) and
- have not already received an EdEP in the current calendar year.

In all cases, the person must be studying an approved course in Australia.

Recipients of some veterans’ payments may also be eligible for the EdEP. Invalidity Service Pension, Partner Service Pension and Income Support Supplement recipients may be eligible for the EdEP if they are below the veterans’ pension age, are enrolled in either a full-time or part-time course of study that is the subject of a determination under section 5D of the *Student Assistance Act 1973*, have not received an EdEP in the current calendar year and are qualified to receive the social security PES.

**Number of recipients**
In the 2017–18 financial year there were 46,298 recipients of the EdEP.

Table 2 shows the number of EdEP recipients by qualifying payment in the 2017–18 financial year.

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Table 2: Education Entry Payment recipients by main payment, 2017–18

<table>
<thead>
<tr>
<th>Main payment</th>
<th>Number of recipients</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austudy</td>
<td>327</td>
</tr>
<tr>
<td>Carer Payment</td>
<td>3,813</td>
</tr>
<tr>
<td>Disability Support Pension</td>
<td>14,504</td>
</tr>
<tr>
<td>Newstart Allowance</td>
<td>7,978</td>
</tr>
<tr>
<td>Parenting Payment Partnered</td>
<td>311</td>
</tr>
<tr>
<td>Parenting Payment Single</td>
<td>19,269</td>
</tr>
<tr>
<td>Youth Allowance (Student)</td>
<td>56</td>
</tr>
<tr>
<td>Other</td>
<td>40</td>
</tr>
<tr>
<td>Total</td>
<td>46,298</td>
</tr>
</tbody>
</table>

Source: Senate Community Affairs Committee, Answers to Questions on Notice, Social Services Portfolio, Supplementary Budget Estimates 2018–19, Question SQ18-000512.

Previous attempts to abolish the Education Entry Payment failed

The Abbott Government announced in the 2014–15 Budget that it would abolish the Education Entry Payment and the PES.27

Five different Bills were introduced to the Parliament with proposals to abolish the two payments before the Government announced in the 2017–18 Budget that it would no longer proceed with the measures:28

- **Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014** —this Bill was discharged from the Notice Paper on 28 October 201429
- **Social Services and Other Legislation Amendment (2014 Budget Measures No. 4) Bill 2014** —this Bill lapsed when the Senate was prorogued on 17 April 201630
- **Social Services Legislation Amendment (Fair and Sustainable Pensions) Bill 2015** —the measure was removed during the passage of the Bill through the Parliament in June 201531
- **Social Services Legislation Amendment (Budget Repair) Bill 2016** —this Bill was discharged from the Notice Paper on 10 May 2017 after the Government announced in the 2017–18 Budget that it would no longer proceed with the measure32 and
- **Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017** —this Bill was discharged from the Notice Paper on 23 March 2017.33

**Pensioner Education Supplement**

The PES was introduced on 1 January 1987, together the introduction of the new AUSTUDY Scheme for students.\(^{34}\) The introduction of the AUSTUDY Scheme saw a rationalisation of financial assistance for students—in particular, a restriction on students receiving either a social security pension or allowance at the same time as a range of student income supplement payments (such as the Tertiary Education Assistance Scheme). The PES was largely intended as a make-up payment for those students in receipt of a pension who would otherwise have had their overall payments reduced.\(^{35}\) It has continued as a supplementary payment for pensioners undertaking approved study.

**Rate**

The current rate of the PES is:

- $31.20 per fortnight for those with a study-load of less than 50 per cent of the normal full-time study load (unless the person is receiving Disability Support Pension, Invalidity Service Pension, War Widow/er Pension with a dependent child, or an allowance payment and has a partial capacity to work)
- $62.40 per fortnight for all other students.\(^{36}\)

**Eligibility requirements**

To be eligible for the PES, a person must meet residency requirements, be at least 16 years of age or be considered independent and be in receipt of a qualifying payment:

- Carer Payment
- Disability Support Pension
- Parenting Payment Single
- Parenting Payment Partnered (in limited circumstances)
- Widow B Pension
- Widow Allowance
- Wife Pension (where the partner receives Disability Support Pension)
- Newstart Allowance and Youth Allowance where the person has transferred from Parenting Payment Single or Disability Support Pension (in certain circumstances)
- Newstart Allowance where the recipient is a single principal carer
- Special Benefit where the recipient is a single parent
- Invalidity Service Pension
- Partner Service Pension (where the recipient’s partner receives Invalidity Service Pension) and
- War Widow/er’s Pension or Defence Widow/er’s Pension if the recipient has a dependent child.\(^{37}\)

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34. *Student Assistance Amendment Act 1986.*
36. DSS, ‘*5.1.7.30 PES: current rate*’, Social security guide, DSS website, last reviewed 9 November 2015.
37. DSS, ‘*3.8.3.10 qualification for PES*’, Social security guide, DSS website, last reviewed 3 July 2017.
The person must also be undertaking qualifying study. Qualifying study means that a person is enrolled in a course or is a continuing student intending to enrol in a course, the course is an approved course of education or study, the recipient is a full-time student or concessional study-load student and the person’s progress is considered satisfactory.\(^{38}\)

Approved courses are determined by the Minister for Social Services in the Student Assistance (Education Institutions and Courses) Determination 2019 and include secondary and tertiary courses.

Full-time study is defined as at least 75 per cent of the normal amount of full-time study required for the course of education or study.\(^{39}\) For tertiary students, this would be the full-time study load required under the administration guidelines for the Higher Education Support Act 2003, the amount defined by the institution, an amount equivalent to the average amount of full-time study required to complete the course in the minimum time, or, a minimum of 20 contact hours a week.\(^{40}\)

A concessional study-load student is a person undertaking at least 66 per cent or 25 per cent of the normal amount of full-time study for their particular course of education or study.\(^{41}\) Only single parents, carers or students with a substantial disability may qualify for PES at the 25 per cent part-time study load.\(^{42}\) The 66 per cent study-load concession generally only applies to non-school students. For tertiary students studying a course covered by the Higher Education Support Act 2003, the study load would be for a minimum of 66 per cent of the full-time study load for the particular course. For tertiary courses not covered by the Higher Education Support Act 2003 and other secondary courses (not at a secondary school), the percentage is 66 per cent or more of the study-load normally required by the institution for a full-time student.\(^{43}\)

### Number of recipients by payment type

Table 3 shows the number of PES recipients by qualifying payment as at 29 June 2018.

**Table 3: Pensioner Education Supplement recipients by qualifying payment, as at 29 June 2018**

<table>
<thead>
<tr>
<th>Main payment</th>
<th>Number of recipients</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carer Payment</td>
<td>2,333</td>
</tr>
<tr>
<td>Disability Support Pension</td>
<td>9,259</td>
</tr>
<tr>
<td>Newstart Allowance</td>
<td>1,651</td>
</tr>
<tr>
<td>Parenting Payment Single</td>
<td>11,041</td>
</tr>
<tr>
<td>Other</td>
<td>31</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24,315</strong></td>
</tr>
</tbody>
</table>

Source: Senate Community Affairs Legislation Committee, Answers to Questions on Notice, Social Services Portfolio, Supplementary Budget Estimates 2018–19, Question SQ18-000512.

38. DSS, ‘1.1.Q.40 qualifying study (Austudy, YA, PES, FAA)’, Social security guide, DSS website, last reviewed 1 July 2019.
41. DSS, ‘3.8.3.40 concessional study-load students’, Social security guide, DSS website, last reviewed 7 May 2018.
42. Ibid.
43. Ibid.
Attempts to abolish the Pensioner Education Supplement
See section on attempts to abolish the EdEP above.

Committee consideration

**Senate Selection of Bills Committee**
In its reports on 19 September 2019 and 17 October 2019, the Senate Selection of Bills Committee reported that it had deferred consideration of the Bill until its next meeting.  

**Senate Community Affairs Legislation Committee**
The 2017 Bill was referred to the Senate Community Affairs Legislation Committee. The Committee published its report on 1 September 2017 making one recommendation: that the Bill be passed. 

The Committee acknowledged the impact of the proposed changes on some students ‘however notes that since the introduction of these payments individuals wishing to undertake study have access to more targeted support, such as HECS-HELP, FEE-HELP and VET FEE-HELP tuition loan programs’. 

Australian Labor Party (ALP) senators issued a Dissenting Report and rejected the recommendation of the majority report. ALP senators welcomed the Government’s decision to no longer abolish the EdEP and PES entirely but stated that ‘there is still significant concern regarding the impact of these cuts on income support recipients who are undertaking study, who are predominantly women and people with disability’. 

The Australian Greens also issued a Dissenting Report recommending that the Bill not be passed. The Australian Greens stated that the Bill, if passed, ‘will place added financial pressure on income support recipients who are studying and render it more difficult for them to continue their studies and find work in the future’.

**Senate Standing Committee for the Scrutiny of Bills**
The Senate Standing Committee for the Scrutiny of Bills had no comment on the Bill or the 2017 Bill.

**Policy position of non-government parties/independents**
At the 2019 Election, the ALP committed to reversing the three measures in the Bill.
In 2017, then Shadow Minister for Families and Social Services Jenny Macklin described the measures in the Bill, together with other budget measures, as ‘nasty cuts’. As discussed above, ALP senators recommended the 2017 Bill be opposed by the Senate in their Dissenting Report to the Senate Community Affairs Legislation Committee’s majority report on the Bill.

The Australian Greens also recommended the 2017 Bill not be passed in their Dissenting Report. It is unclear what the position of other non-government parties and independents is on the Bill.

**Position of major interest groups**

**Australian Council of Social Service**

The Australian Council of Social Service (ACOSS) previously stated that it was opposed to the relocation scholarship changes, stating ‘there appears to be no clear policy rationale behind the tightening eligibility’ and ‘ACOSS’ view is that social security payments should be paid on the basis of financial need and not guided by arbitrary conditions’. ACOSS is also opposed to the changes affecting the PES and EdEP stating that ‘costs of study are unlikely to be less with 50%+ study load’ and ‘costs of commencing study remain the same regardless of study load, and therefore there is no rationale for having a tiered rate of EEP [EdEP]’.

ACOSS also suggested that the changes to PES and EdEP rates ran counter to the Government’s ‘Investment Approach’ to welfare which is aimed at early interventions to prevent long-term income support receipt:

> These education payments provide much needed assistance that improves people’s prospects. It is counterintuitive to develop an Investment Approach policy to improve support to people seeking to improve their employment prospects, and at the same time cut assistance that actually helps people on low incomes get meaningful and sustainable employment.

**National Social Security Rights Network**

The National Social Security Rights Network (NSSRN) previously stated that it was opposed to each of the measures in the Bill.

In regards to the relocation scholarship eligibility changes, the NSSRN stated:

> Relocation scholarships should be generally available to all low income students who move away from home to study, regardless of the location of the family home or where the student chooses to study. This is consistent with the original intention of the payment and provides support on an equitable basis. The scholarship should respond to the need for support with the costs of moving away from home without additional restrictions.

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52. J Macklin (Shadow Minister for Families and Social Services), *Turnbull targets pensioners and families with more cuts*, media release, 21 June 2017.
53. ALP Senators, *Dissenting report*, op. cit.
56. ACOSS, *‘Social security’*, ACOSS website, May 2017.
57. DSS, *‘Australian Priority Investment Approach to Welfare’*, DSS website, 4 October 2016.
In regard to the changes to EdEP rates, the NSSRN stated ‘at $208 per year this payment is unlikely to meet all the additional costs of study for many students, regardless of study load. Put another way, proposing a tiered rate structure for a payment based on study load might make some sense if many people were being overcompensated’. 60

The NSSRN also suggested the PES rate structure was not properly aligned with actual costs faced by different students:

Any rate structure is a compromise, as it only has an approximate fit with the costs faced by different students. However, our view is that the current rate structure strikes a better balance than this proposal, especially in how it acknowledges the challenges facing students with disability. 61

**Carers Australia**

Carers Australia previously stated that it was opposed to the changes to the PES and EdEP, stating: ‘reducing the amount of EEP and PES payments based on small changes in course loads, and suspending payments during semester breaks and holiday periods, as proposed in the Bill, will adversely affect the capacity of carers to continue their studies’. 62

**People with Disability Australia**

People with Disability Australia (PWDA) was also opposed to the changes to the PES and EdEP stating the change to payment rates ‘is deeply unfair and will cause substantial financial pain to people in receipt of social security payments who are studying’. 63 PWDA stated in its submission to the Senate Community Affairs Committee inquiry into the 2017 Bill:

If the Bill is passed those on the lowest incomes, including people with disability, will be further pushed into poverty and financial hardship. It will make it harder for people with disability to start or to continue undertaking education. Plans to cut these payments are counter to the Government’s focus on increasing employment opportunities through further education. Whilst expectations for pensioners to undertake education increase, the very means of supporting access to education for pensioners are being cut. 64

**Financial implications**

According to the Explanatory Memorandum, the changes to the relocation scholarship eligibility requirements will provide savings of $3.5 million over four years for the Department of Social Services. 65 As some costs may be involved for other agencies such as the Department of Human Services, this does not reflect the net fiscal impact of the measure. The changes to EdEP and PES rates will provide combined savings of $80.3 million over four years for the Department of Social Services (neither the Explanatory Memorandum nor the budget papers disaggregated the savings estimate for each payment). 66

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60. Ibid., p. 3.
61. Ibid.
63. People with Disability Australia, Submission to Senate Community Affairs Legislation Committee, *Inquiry into the Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2017*, [Submission no. 5], August 2017, [p. 1].
64. Ibid.
66. Ibid., p. 2.
Statement of Compatibility with Human Rights

As required under Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth), the Government has assessed the Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government considers that the Bill is compatible.67

Parliamentary Joint Committee on Human Rights

The Parliamentary Joint Committee on Human Rights (PJCHR) stated that it did not have any comment in relation to the Bill on the basis that it did not engage, or only marginally engaged, human rights; promoted human rights; and/or permissibly limited human rights.68

In regards to the 2017 Bill, the PJCHR had questioned whether the relocation scholarship measure in the Bill was a ‘permissible limitation on the right to social security’.69 The PJCHR found that the statement of compatibility with human rights had identified the purpose of the measure as ‘to simplify and streamline the delivery’ of the relocation scholarship. However, the PJCHR stated:

... ‘simplifying’ and ‘streamlining’ do not constitute legitimate objectives for the purposes of international human rights law and do not acknowledge the extent of the payment reduction. Rather, a legitimate objective must address a pressing or substantial concern, and not simply seek an outcome regarded as desirable or convenient.70

The PJCHR sought the advice of the Minister for Social Services which was provided on 25 August 2017.71 The PJCHR found that, based on the additional information provided by the Minister, the measure was ‘likely to be compatible with the right to social security’.72 However, the PJCHR noted that ‘information in support of the Minister’s statement as to the financial barriers facing students whose parental home or usual place of residence is overseas, or who study overseas, would have been of assistance’ in assessing the measure.73

None of this additional information has been included in the Explanatory Memorandum or Statement of Compatibility with Human Rights for the 2019 Bill.

Key issues and provisions

Schedule 1—Relocation scholarship payment

Schedule 1 will limit eligibility for the relocation scholarship payment provided to some Youth Allowance recipients to those whose parental family home or usual place of residence is in Australia, and to those who relocate for study in Australia only. Students who relocate outside Australia to undertake part of their Australian course will also no longer be qualified for the relocation scholarship.

67. Ibid., pp. 22–32.
70. Ibid.
72. Ibid., p. 74.
73. Ibid., p. 73.
The Explanatory Memorandum to the Bill states that these two groups of students currently qualify for the relocation scholarship as the criteria used to assess remoteness (that is, whether a student is moving from or to a major city or regional area) classifies anything not considered a ‘major city of Australia’ as regional or remote location and ‘this includes locations outside of Australia’. The Explanatory Memorandum describes this as ‘a loophole in the current legislation’.

The measure will provide limited expenditure savings to Government but will prevent payment of the relocation scholarship to students whose parental home or usual place of residence is overseas, and those who move overseas to undertake a component of their Australian course.

**Numbers affected**

The Government estimates that fewer than 400 students each year will not be eligible for the relocation scholarship as a result of the changes: fewer than 250 students per year with parental homes outside of Australia and fewer than 150 students studying outside of Australia.

**Key provisions**

*Item 1* inserts proposed subsections 592K(7A), (7B) and (7C) into the *SS Act* which set out additional circumstances in which a person would be deemed ineligible for the relocation scholarship.

Proposed subsection 592K(7A) would make a person ineligible for the relocation scholarship where, on the day the person commenced their course, the home of each parent was outside Australia. Where a person had one parent living outside Australia and another parent in Australia, they would not be precluded from the relocation scholarship under this provision (but would need to meet the other eligibility requirements).

Proposed subsection 592K(7B) would make a person ineligible for the relocation scholarship where they are considered independent for Youth Allowance purposes and, on the day six months before the person commences their course, their usual place of residence was outside Australia. As independent young people are only eligible for Youth Allowance where they are considered disadvantaged by personal circumstances, this would preclude some disadvantaged young people who have recently returned from overseas for whatever reason from receipt of the relocation scholarship.

Proposed subsection 592K(7C) would make a person ineligible for the relocation scholarship where their place of study is, at the time of qualification, outside Australia. The location of their place of study is worked out using principles in a legislative instrument provided for by subsection 592K(8) (the Explanatory Memorandum refers to a non-existent subsection 592J(8) and replicates an identical error in the Explanatory Memorandum to the 2017 Bill).

**Schedule 2—Education entry payment**

Schedule 2 introduces new payment rates for the EdEP, with lower rates payable for those not undertaking full-time study. The new tiered rate structure will be:

74. Explanatory Memorandum, op. cit., p. 5.
75. Ibid.
76. Ibid., p. 25.
77. See footnote 8 for list of circumstances.
78. Explanatory Memorandum, op. cit., p. 7.
• $208 per annum (the current rate) for study loads between 76 per cent and 100 per cent of a normal full-time study load
• $156 per annum for study loads between 51 per cent and 75 per cent of a normal full-time study load
• $104 per annum for study loads between 26 per cent and 50 per cent of a normal full-time study load
• $52 per annum for study loads of 25 per cent of a normal full-time study load.

The Government’s rationale for the changes is set out in the Explanatory Memorandum:

The amendments made ... by Schedule 2 better target education entry payment by tailoring the rate of payment to the study load undertaken by the student. This is intended to better reflect the costs students incur as part of their study. Students undertaking part-time study loads do not generally incur the same study costs as those undertaking full-time study loads and it is proposed the education entry payment rates reflect this.79

The Government has not provided evidence to show how the new payment rates reflect the initial costs students face commencing different study-loads. Given that the EdEP has been around the same rate since it was first introduced in 1992 (it was increased from $200 to $208 in 2000 with the introduction of the Goods and Services Tax), it is difficult to see how the rate has any relation to the actual costs associated with commencing study.80

While the measure will provide savings for the Government, it will lower the level of support available to those students receiving income support who are unable to undertake full-time study. This will reduce the incentive to undertake study (especially when combined with the similar changes to the PES) for those without capacity to undertake full-time studies such as people with disability and those with caring responsibilities.

**Numbers affected**

The Government previously estimated that around 56,100 EdEP recipients would be paid a lower rate.81 The average annual reduction was estimated at $70.36.82

**Key provisions**

Item 1 of Schedule 2 insert proposed section 665AA into the SS Act to define normal amount of full-time study for the purposes of the EdEP paid to Parenting Payment Single recipients. A normal amount of full-time study will be:

• for a course of study which is within the meaning of the Higher Education Support Act 2003 and which has Commonwealth supported students (as defined in that Act) enrolled in the course—a full-time student load for that course
• for a course outside the meaning of the Higher Education Support Act 2003 or which does not have Commonwealth supported students enrolled, and for which the education institution defines an amount of full-time study that would be typically undertaken by a full-time student—the amount defined by the institution or

79. Ibid., p. 9.
82. Senate Community Affairs Committee, Answers to Questions on Notice, Social Services Portfolio, Budget Estimates 2017–18, Question SQ17-000343.
Item 2 repeals and substitutes section 665B which sets out the rate of EdEP to be paid to the recipient based on the fortnightly rate of PES payable (as amended by Schedule 3 of the Bill). This will link rates of PES and EdEP payable to those eligible for both supplementary payments based on their study load. The equivalent rates are set out in Table 4.

Table 4: study loads corresponding to PES and EdEP rates

<table>
<thead>
<tr>
<th>Study load (% of full-time)</th>
<th>PES rate (per fortnight)</th>
<th>EdEP rate (annual)</th>
</tr>
</thead>
<tbody>
<tr>
<td>76–100%</td>
<td>$62.40</td>
<td>$208</td>
</tr>
<tr>
<td>51–75%</td>
<td>$46.80</td>
<td>$156</td>
</tr>
<tr>
<td>26–50%</td>
<td>$31.20</td>
<td>$104</td>
</tr>
<tr>
<td>25%</td>
<td>$15.60</td>
<td>$52</td>
</tr>
<tr>
<td>Less than 25%</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

Source: Explanatory Memorandum, Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2019, p. 11.

The rate of EdEP is based on the rate of PES payable for the first day of the current calendar year for which the PES is payable.

Similar amendments to item 2 are made to relevant sections providing for the rate of EdEP payable to other pension payment recipients:

- item 3 amends the EdEP rate for Disability Support Pension (section 665F)
- item 4 amends the EdEP rate for Special Benefit (section 665N) and
- item 11 amends the EdEP rate for Carer Payment (section 665ZFB).

Rates of EdEP for other qualifying payments are worked out based on the percentage of the normal amount of full-time study (the percentage is the relevant percentage) that the Secretary of the Department of Social Services is satisfied that the person will be undertaking on the first day of the calendar year the person undertakes study in that course. The rates of EdEP corresponding to study load for these payments are the same as those set out in Table 4.

Amendments are made to the relevant sections providing for the rate of EdEP payable to different payment types to require that the relevant percentage be worked out and showing the corresponding payment rate:

- item 7 amends the EdEP rate for Newstart Allowance (section 665V)
- item 10 amends the EdEP rate for Widow Allowance (section 665ZD)
- item 14 amends the EdEP rate for Partner Allowance (section 665ZR) and
- item 17 amends the EdEP rate for Parenting Payment Partnered (section 665ZV).

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83. In practice, this will be determined by delegates of the Secretary; specifically, officials in the DHS.
Items 19–23 amend the VE Act to make similar adjustments to the rate of EdEP paid to certain recipients of the Partner Service Pension, Invalidity Service Pension or Income Support Supplement.

Schedule 3—Pensioner education supplement

Schedule 3 will introduce a new rate structure for the PES, with lower rates payable for those not undertaking full-time study. The Schedule will also prevent payment of the PES during semester breaks and holiday periods.

The new rate structure will be:

- $62.40 per fortnight (the current rate) for study loads between 76 per cent and 100 per cent of a normal full-time study load
- $46.80 per fortnight for study loads between 51 per cent and 75 per cent of a normal full-time study load
- $31.20 per fortnight (the current part-rate) for study loads between 26 per cent and 50 per cent of a normal full-time study load
- $15.60 per fortnight for study loads of 25 per cent of a normal full-time study load.

The proposed changes will also apply to the PES paid under the ABSTUDY Scheme and the Assistance for Isolated Children Scheme.

The Explanatory Memorandum to the Bill states that the amendments will ‘better align pensioner education supplement fortnightly rates with a person’s study load’.

As with the EdEP changes, the Government has not provided any evidence to demonstrate the different costs faced by students with different study loads, nor how the proposed PES rates are related to those costs.

The measures will provide savings to the Government but will lower the level of support available to those students receiving income support who are unable to undertake full-time study. The changes, combined with the EdEP measures in Schedule 2, will reduce the incentive to undertake study for those without capacity to undertake full-time studies such as people with disability and those with caring responsibilities.

Numbers affected

The Government previously estimated that around 31,000 full-rate PES recipients and 1,200 part-rate recipients each year would be paid lower rates under the changes to the rate structure. All PES recipients would no longer receive the PES during semester breaks or holiday periods.

Key provisions

Item 1 repeals subsections 1061PB(3) to (5) of the SS Act and inserts proposed subsections 1061PB(3) and (4). The current subsections set out when a person is taken to have been undertaking qualifying study for the purposes of the PES from 1 January, 1 July and until 31 December. The subsections allow certain PES recipients, depending on their course of study, to

84. These schemes are not provided for by legislation. The changes will be made via amendments to the policy guidelines to the schemes.
86. DSS, Submission to Senate Community Affairs Legislation Committee, Inquiry into the Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2017, [Submission no. 6], August 2017, p. 4.
be considered as undertaking qualifying study for the whole calendar year. The proposed subsections provide that an individual will not be considered to be undertaking qualifying study on a day ‘if the day does not fall within a study period’ or on a day ‘if the day falls within a period of vacation that occurs during a study period’.

The term ‘study period’ is not clearly defined. The proposed subsections give an example of ‘a semester’ but it is not entirely clear how teaching breaks within a semester might be treated (although it appears that they may be covered by proposed subsection 1061PB(4) and would therefore not be considered to be a period where the person was undertaking qualifying study) and how other types of study calendars would be accounted for. The NSSRN suggested that the proposed provision would apply to holiday breaks during a semester when students continued to undertake activities related to study: including completing assignments and attending campus.\(^87\)

It is also unclear how the Department of Human Services will verify study periods—whether these will be provided by claimants or by education institutions.

**Item 2** repeals and substitutes section 1061PZG which sets out the new rate schedule for PES. The rate is worked out by first determining the person’s relevant percentage of the normal amount of full-time study (as defined at section 1061PF). The person’s relevant percentage corresponds to the payment rate set out in **proposed subsection 1061PZG(4)**—the relevant rates are set out in Table 5.

**Table 5: study loads corresponding to PES rates**

<table>
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</thead>
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Source: Explanatory Memorandum, Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2019, p. 21.

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\(^87\) NSSRN, op. cit., p. 4.
Social Services Legislation Amendment (Better Targeting Student Payments) Bill 2019

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