



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (AUSTRALIANS WORKING TOGETHER AND OTHER 2001 BUDGET MEASURES) BILL 2002

In Committee

SPEECH

Thursday, 12 December 2002

BY AUTHORITY OF THE SENATE

SPEECH

Date Thursday, 12 December 2002 Page 7943 Questioner Speaker Cherry, Sen John	Source Senate Proof No Responder Question No.
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Senator CHERRY (Queensland) (5.40 pm)—by leave—I move amendments (2) to (7) on sheet 2700 revised:

(2) Schedule 1, item 11, page 6 (line 5), omit “8 weeks”, substitute “1 week”.

(3) Schedule 1, item 11, page 7 (lines 13 to 15), omit subsection (3), substitute:

(3) Subject to subsection (4), the participation agreement breach non-payment period starts 14 days after the day on which notice is given to the person.

(4) Schedule 1, item 12, page 10 (lines 22 to 34), omit subsection (2), substitute:

(2) For the purposes of subsection (1), a person is an exempt person if:

(a) the person has a PP child in respect of whom carer allowance is paid; or

(b) the Secretary determines that the person should not be required to enter into a participation agreement.

(2A) For the purposes of paragraph (2)(b), the Secretary must take into account the following matters when having regard to the person's capacity to enter into the terms of a participation agreement:

(a) the person's age, education, experience and skills; and

(b) the person's disability or illness, mental and physical condition; and

(c) the state of the local labour market and transport in the area where the person and the child or children live; and

(d) participation opportunities available to the person and any barriers to employment arising from paragraphs (a) and (b);

(e) family and carer responsibilities of the person, including the needs and interests of the child or children and the support services available; and

(f) current court proceedings; and

(g) current child welfare concerns; and

(h) length of travel time required to participate; and

(i) financial costs of compliance and the person's capacity to pay; and

(j) any other matters that the Secretary or the person considers relevant in the circumstances.

(5) Schedule 1, item 14, page 16 (line 13), omit “26 weeks”, substitute “8 weeks”.

(6) Schedule 1, item 14, page 17 (lines 27 to 29), omit subsection (2), substitute:

(2) Subject to subsection (3), the participation agreement breach rate reduction period starts 14 days after the day on which notice is given to the person.

(7) Schedule 1, item 14, page 18 (line 30) to page 19 (line 4), omit paragraphs (a) and (b) of Step 2 of the Method statement, substitute:

(a) if the participation agreement breach is the person's first breach in the 12 month period:

Maximum payment rate x 0.10

(b) if the participation agreement breach is the person's second breach in the 12 month period:

Maximum payment rate x 0.15

The six amendments deal with the requirements for parenting payments. Possibly the most important amendment from my point of view is amendment (4). It might sound like an odd place to start, but I will start with amendment (4). It is a very important amendment. It covers the situation where a person will be exempt from entering into a parenting payment agreement—for example, if they have a child with a disability or difficult family circumstances. The bill currently only exempts parents with profoundly disabled children, which is a very limited, specified definition of this. It does not include, for example, children with cystic fibrosis or diabetes. Our amendment (4) will provide for all family circumstances which impair participation, including disability of children, family trauma, Family Court matters, transport, local labour market, child welfare concerns, financial costs of compliance, parenting and caring responsibilities.

We believe it is much more important to exempt them at that point, before they actually go into a participation agreement, rather than trying to deal at the end with some sort of exemption as to whether they should be breached. This is a fundamental amendment from my point of view. It is trying to ensure that the amendments we make to this act reflect what is, as I understand it, the policy intention of the Labor Party. I have here the statement by Mr Swan on the issue of where Labor will be coming from on this bill. They have made it quite clear that they do not want to be supporting amendments which will interfere with caring responsibilities. The only way to do that is to ensure that if there is any risk that the legitimate and real caring responsibilities of a sole parent will be impacted on by an activity testing regime, they should not be in it: they simply should not be in it. On 15 November, Mr Swan said:

Our amendments go to the heart of our objections about that proposal, which is that there should be no mutual obligation where it conflicts with a person's parenting responsibilities.

Amendment (4) achieves that. I hope that the Labor Party votes for it, because it is about making sure that, before you even consider entering into a parenting agreement, if it is going to impact on the parent's caring responsibilities, their family responsibilities, they are not required to enter into the agreement. Rather than doing it after the fact, when they are being breached, when that argument is coming up, do it at the beginning so we can ensure that we do not have people going through some activity testing regime, with the stress of that, when it is not appropriate for them to do so.

Amendment (2) seeks to reduce the non-payment period for a breach from eight weeks to one week. Whilst this is not strictly in line with the independent review of breaches and penalties—the Pearce report—both Pearce and the Ombudsman's inquiry into breach penalties report that non-payment periods are intolerable, they cause homelessness and they render the person unable to participate economically. Amendment (3) is almost identical to a Labor Party amendment, other than for a slight technical change. I suspect the Labor Party's amendment might actually be superior. I may seek leave to withdraw our amendment, depending on what Senator Bishop says about his. This is about making sure that a parenting payment breach cannot be imposed until 14 days after a notice. This is very much in line with the Pearce report recommendation No. 26. It is also in line with the Ombudsman's report recommendation No. 7, which recommends 10 days as an appropriate notice period. Job seekers are often unaware of a breach until their ATM fails to produce a payment. That results in an inability to meet bills, a loss of credit ratings, overdrawn fees, and it denies the opportunity to seek speedy review. Our amendments will ensure that there is adequate notice to enable recipients to seek review, make necessary budgeting adjustments or seek to have the breach expunged before application.

Amendment (5) is a very important one and, again, it is in line with the Pearce recommendations. I notice that it is identical to opposition amendment (2). Amendment (5) seeks to change the parenting payment breach reduction period from 26 weeks to eight weeks. This is directly in line with recommendation 25 of the Pearce report, which said quite clearly:

The duration of penalties should not exceed eight weeks ...

The prolonged reductions that come out of the penalty periods being as long as 26 weeks are a severe deterrent to continued job search as well as being unduly damaging to job seekers and families. They also achieve little, if any, increased impact on compliance. The fact that Pearce went through this report with his committee and came to the firm view that it was absolutely essential that we look at that reduction in the payment period is something which I believe the government needs to take into account. I have a number of letters from various welfare organisations around Australia urging us to look at this particular issue. For example, the Chief Secretary of the Salvation Army Australia Eastern Territory wrote:

It is acknowledged that since the commissioning of the Independent Review the Government has made a number of constructive reforms to the breach penalty system and these are welcomed.

And I share that welcome. He continued:

However the following key issues remain to be addressed.

- The high rate of penalties—

on which we have amendments—

- The duration of penalties

We have to make sure that we deal with this issue. We have to make sure that we get a duration of penalty period that is much more reasonable and fair, one that does not result in people going into a period of extreme financial hardship that will lead them to homelessness or an inability to meet basic needs. That is why the Pearce recommendation to reduce it from 26 weeks to eight weeks, which we are putting as an amendment, is so fundamentally important in order to get some fairness into this system.

Amendment (6) is in line with Pearce report recommendation No. 26, making sure that the breach rate reduction for parenting payment starts 14 days after notice has been given. Amendment (7) reduces the accumulation report for parenting payment breaches from two years to 12 months. Again, this is in line with the Pearce committee recommendation No. 24. Repeated activity test breaches automatically lead to escalating penalties, yet each breach may have been a very minor breach. In our view, it is quite important to ensure that the accounting period over which breaches are accumulated becomes much more reasonable. It is about trying to make sure that there is not an endless cycle of breach piling upon breach, leading to more and more financial pressure and disadvantage. Reducing the breach accumulation period from two years to 12 months at least ensures that people have a chance each year to start on a fresh slate if they are still on benefits and make sure that they get into a situation where they can do the right thing in terms of their mutual obligations. I move these amendments, but in terms of amendment (3) I will seek Senator Bishop's guidance as to whether his amendment is superior—I think it may be so. With that I will sit down.