



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

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# SPEECH

<b>Date</b> Thursday, 12 December 2002	<b>Source</b> Senate
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<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> Cherry, Sen John	<b>Question No.</b>

**Senator CHERRY** (Queensland) (6.31 pm)—by leave—I move together Democrat amendments (10) to (13), (15) to (18) and (20):

(10) Schedule 1, page 20 (after line 25), after item 24, insert:

**24A Subsection 550B(1)**

Omit “8 weeks”, substitute “1 week”.

(11) Schedule 1, page 20 (after line 25), after item 24, insert:

**24B After subsection 553C(4)**

Add:

(5) If:

(a) a person ceases to be qualified for youth allowance because of a failure to comply with a requirement to enter into a Youth Allowance Activity Agreement; and

(b) the Secretary, under section 80 of the Administration Act, cancels or suspends the person's youth allowance because of that loss of qualification; and

(c) within 4 weeks after the date of effect of the action taken by the Secretary, the person enters into a Youth Allowance Activity Agreement;

the person's qualification for youth allowance is taken, for the purposes of paragraph 540(c) of this Act, never to have ceased.

(12) Schedule 1, page 20 (after line 30), after item 26, insert:

**26A Paragraph 557(b) and note**

Repeal the paragraph and the note, substitute:

(b) the latest breach is the first or second activity test breach in the 12 months immediately before the day after the latest breach.

Note: If the latest breach is the third or subsequent activity test breach in the 12 months before the latest breach, an activity test non-payment period applies to the person (see Subdivision D of Division 2).

(13) Schedule 1, page 20 (after line 30), after item 26, insert:

**26B Subsection 557A(1)**

Omit “26 weeks”, substitute “8 weeks”.

(15) Schedule 1, page 20 (after line 30), after item 26, insert:

**26D Subsection 557B(3)**

Omit “the period starts on the day”, substitute “the period starts on the 14th day”.

(16) Schedule 1, page 20 (after line 30), after item 26, insert:

**26E Subsection 557E(1) (step 2 of the method statement)**

Repeal the step, substitute:

*Step 2.* Work out the rate reduction amount as follows:

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

Maximum payment rate x 0.10

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

Maximum payment rate x 0.15

(17) Schedule 1, page 20 (after line 30), after item 26, insert:

**26F Subsection 557E(2)**

Omit “**2 year period** means the 2 years”, substitute “**12 month period** means the 12 months”.

(18) Schedule 1, page 20 (after line 30), after item 26, insert:

**26G Subsection 558A(1)**

Omit “13 weeks”, substitute “4 weeks”.

(20) Schedule 1, page 20 (after line 30), after item 26, insert:

**26K Section 558G (step 2 of the method statement)**

Omit “0.16”, substitute “0.08”.

I indicate that I will not be moving amendments (14) and (19), as they have been covered in items on sheet 2791. The amendments moved deal very much with the Pearce report and the recommendations which flow from it and, in this instance, with the Youth Allowance. We are seeking with these amendments to ensure that we improve and reform the breaching regime for Youth Allowance. Amendment (10) seeks to change the non-payment period from eight weeks to one week. This is not strictly in line with what is said in the Pearce review; however, both Pearce and the Ombudsman's inquiry into breach penalties report that non-payment periods are intolerable. They cause homelessness and render the person unable to participate economically. This amendment will mean that the financial penalty will be short and sharp. Non-payment for a period of one week is only roughly double the second breach rate of 15 per cent for four weeks. It will mean that there will at least be some money in the person's account for the fortnight, and that is very important in terms of keeping people from emergency aid and homelessness.

Amendment (11), which again goes to Youth Allowance, seeks to expunge the breach if the person complies within four weeks. This follows Pearce recommendation No. 25. It will provide greater encouragement for job seekers to rectify their breaches as soon as possible and it will induce job seekers to contact Centrelink to get the breach dealt with rather than go underground. Amendment (12) seeks to reduce the accumulation period for breaches on Youth Allowance from two years to 12 months. Pearce recommendation No. 24—I have discussed this earlier—is very important in terms of making sure that an accumulation of problems does not emerge; that has resulted in huge levels of indebtedness for young people, as reported on by ACOSS very recently.

Amendment (13) seeks to change the 26-week breach reduction period to eight weeks. This is in line with Pearce recommendation No. 25. Amendment (15) is a technical one. Amendment (16) is very important for the Democrats. This amendment seeks to bring in an activity test breach rate reduction of 10 per cent for the first breach and 15 per cent for the second breach, which is a reduction from the 18 per cent and 24 per cent in place now. In our view, this is in line with the broad recommendations of Pearce recommendation No. 25.

It is important to discuss what is the appropriate percentage in terms of Pearce. When we discuss the Labor Party's amendments, we will be considering their proposal to have a reduction of 20 per cent for admin tests and 25 per cent for activity tests. We are told that this is broadly in line with what was in Pearce. Certainly Pearce said that a 25 per cent reduction in rates should be the maximum. However, it should also be noted that Pearce acknowledged that it should be borne in mind that breach penalties often trigger extra penalties, such as bank overdraft fees, utility charges for late payment or reconnection, and even the cost of eviction and trying to find alternative accommodation. The review says that there needs to be an element of flexibility in terms of the repayments where a person gets into financial difficulty or hardship. Some other penalty rate might be more

appropriate. It noted, for example, that it is significant in this context that the standard deduction rate used by Centrelink to recover overpayments from job seekers who have no other income is 14 per cent. This presumably reflects a view that a higher rate would leave them with insufficient money for necessities.

Whilst we are talking about a breaching regime, it is important to note that even within the Pearce report there was an acknowledgment that, whilst 25 per cent might be a maximum rate of reduction, there was an issue of trying to make sure that where other circumstances came into play, particularly where someone was going to be suffering financial hardship, there should be an element of flexibility. One of the criticisms the Democrats have of the Labor Party's approach, with their 20 per cent and their 25 per cent proposed reduction rates, is that we do not think it provides the flexibility that the Pearce report was recommending, even though there was that maximum figure of 25 per cent in the Pearce report. I will deal with that issue again when we get to the Labor Party's amendments.

Amendment (17) is about the reduction of the accumulation period from two years to 12 months. Amendment (18) seeks to reduce the administrative breach period to four weeks from its current 13 weeks, which is broadly in line with Pearce recommendation No. 25. Amendment (20) seeks to reduce the admin rate reduction to eight per cent from 16 per cent. This is an interpretation of Pearce report recommendation No. 25 to recognise the less serious nature of administrative breaches. That was also something that the Ombudsman commented on. I commend the amendments to the Senate.