THE SENATE

BILLS

Social Services Legislation Amendment (Miscellaneous Measures) Bill 2015

Second Reading

SPEECH

Wednesday, 4 May 2016

BY AUTHORITY OF THE SENATE
Senator CANAVAN (Queensland—Minister for Northern Australia) (10:29): I move:

That this bill be now read a first time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This bill introduces a number of minor 'housekeeping' amendments in the Social Services portfolio – contributing to general maintenance of the substantial suite of legislation administered by the portfolio.

In this case, amendments will be made to the social security law and family assistance law. The amendments will correct technical errors and clarify intended policy by removing minor ambiguities and anomalies.

The measures in this bill are technical in nature. These amendments are an important part of the ongoing management of these legislative frameworks.

One of the amendments in this bill will clarify that people serving an Income Maintenance Period for a mainstream income support payment, such as Newstart Allowance, cannot access special benefit during that period.

An Income Maintenance Period is a period of time during which payments, for example, redundancy or leave payments, are apportioned and treated as income for certain social security payments.

The effect of the Income Maintenance Period is to either reduce the person's payment rate, or fully preclude them from receiving a social security payment for the period that the termination or leave payment represents. During this period the person is expected to draw on the resources provided by their other payment.

A single person without children would be fully precluded from receiving Newstart Allowance if their termination payment is equivalent to at least $1014 per fortnight. This amount is higher if the person is paying rent.

In addition to Newstart Allowance, the Income Maintenance Period applies to Youth Allowance, Partner Allowance, Austudy Payment, Widow Allowance, Parenting Payment, Disability Support Pension and Sickness Allowance.

A person who is required to serve an Income Maintenance Period may have it reduced or waived if he or she is in severe financial hardship due to unavoidable or reasonable expenditure. You

Unavoidable or reasonable expenditure includes, but is not limited to, things such as the reasonable costs of living such as food, rent and utilities bills, as well as school and funeral expenses, essential repairs to the home, whitegoods and car, insurance premiums, medical expenses and any other costs that are considered unavoidable or reasonable taking into account the individual circumstances of the person.

Special Benefit is a discretionary income support payment available to people in severe financial hardship who are unable to earn a sufficient livelihood for themselves, due to reasons beyond their control. Special Benefit is generally paid at the same rate as Newstart Allowance but is not subject to an Income Maintenance Period.

However, it has been longstanding policy that a person who is unable to have an Income Maintenance Period for another income support payment waived or reduced, because the expenditure of their funds is neither unavoidable
nor reasonable, should not be paid Special Benefit instead, as this circumvents the purpose of the Income Maintenance Period and may encourage people to spend their termination payments too quickly.

This amendment confirms this policy position – people should use their own resources before drawing on taxpayer-funded support.

A further amendment in this bill will realign the time period for income reconciliation for certain Family Tax Benefit recipients. That is, for families who are not required to lodge a tax return, or have types of income not included in a tax return, the bill will introduce a one year timeframe for individuals to notify their non-lodger status or provide income details. This is consistent with the equivalent timeframe currently applying to families who are required to lodge a tax return.

The reduction to the timeframe from two years to one year is also consistent with the intent of the family assistance programme, which is to deliver financial assistance to families to help with the cost of raising children when it is needed.

One year is considered a reasonable amount of time for families to notify Centrelink that they are not required to lodge and/or provide details of types of income not included in a tax return in order for reconciliation of their Family Tax Benefit entitlement to occur.

It is also important to note that this amendment will have very little practical effect on families, as the one year timeframe for to provide income details or notify of non-lodger status has been communicated to recipients since the implementation of the broader realignment of time periods amendments in 2013.

As such, these amendments will not result in any unexpected or unforeseen outcomes for families, as they have been familiar with the rules for some time. However, the amendments will ensure it is clear that all Family Tax Benefit recipients have the same time period to meet the reconciliation conditions to receive supplements and top-up payments.

This bill will also make several amendments to the administration of certain student payments.

Firstly, the student payment eligibility criteria will be changed to remove the current requirement for new apprentices to have a Commonwealth Registration Number. The amendment alters payment eligibility criteria so that the requirements for new apprentice can be determined by the Minister in a legislative instrument.

This administrative detail has proved to cause delays in accessing and cancelling payments for apprentices. For example, an apprentice who is receiving Austudy payment ceases his apprenticeship and leaves his employer, but there is a delay in cancelling his Commonwealth Registration Number which means he continues to be paid Austudy.

There can be delays of weeks or even months before a Commonwealth Registration Number is cancelled, which means when his Austudy payment is cancelled, he may have been overpaid and incur a debt. The change in definition of new apprentice removes any link to the person having a Commonwealth Registration Number which removes the delay in cancelling payment and avoids incurring a social security debt.

Removing the requirement is a sensible improvement. This change ensures payments are not unduly delayed to new apprentices needing financial support and that payments cease promptly when they cease to be apprentices so debts do not occur. This is expected to benefit all new apprentices seeking financial support through Youth Allowance or Austudy payments.

The change is also needed in light of Commonwealth Registration Numbers being replaced from 1 July 2016 as part of the Department of Education and Training's apprenticeship reforms.

The second student payment amendment is to clarify that only one course of education is taken into account in assessing 'undertaking full-time study' or 'undertaking qualifying study' for student payments at the same institution or across multiple institutions.

This measure aims to prevent students from being supported financially to undertake multiple unrelated courses of education that do not contribute to their employment or career prospects. It is estimated that this measure will affect only a small number of individuals.
It has always been the intention that students are only assessed against one course of education under the full-time study requirements of Youth Allowance (Student) and the qualifying study requirements of Austudy. The amendment will make the law clearer in this area, so that students are not assessed as undertaking full-time study on the basis of more than one course of education during a single study period.

The third amendment relating to student payments is to clarify exemptions from the Austudy assets test for people with a partner receiving a relevant payment.

A person is intended to be exempt from the Austudy assets test if their partner is receiving a relevant pension, benefit, allowance or compensation payment. The exemption is not intended to apply if the partner has received the relevant payment at any time in the past, unless the payment relates to lump sum compensation received as an armed services widow or widower under the Military Rehabilitation Compensation Act 2004, which has been received in the past.

This will ensure the appropriate application of the assets test to the assets of partners of individuals receiving financial support through Austudy payments.

The bill will also make a series of other minor amendments, clarifying and simplifying matters such as the indexation of Pharmaceutical Allowance, the allowable income limits for the Health Care Card, and certain decision-making and delegation framework provisions.

In the case of Pharmaceutical Allowance, the bill will make some small corrections and additions to cross-referencing in the indexation tables to ensure the legislation accurately reflects long-standing indexation policy. Pharmaceutical Allowance, which is added into the rate of some social security payments, or may in some circumstances be paid as a separate payment, is indexed or adjusted each year under Part 3.16 of the Social Security Act 1991. No change is proposed to current policy and practice.

The Social Security Act 1991 does not currently specify exactly what components of Newstart Allowance are to be included in the calculation of allowable income limits for the Health Care Card but current and past policy and practice is, and has been, to include only the maximum basic rate and energy supplement.

The amendment contained in this bill seeks to clarify the components of Newstart Allowance to be included in the calculation of allowable income in a way which gives undoubtable legislative support to the current and past practice of calculating allowable income. That is, the amendment seeks to make it clear that the Pension Supplement, Pharmaceutical Allowance and Rent Assistance are all to be excluded from that calculation.

Nobody currently holding the Health Care Card will lose it because of this amendment. This is because the amendment contained in the bill does nothing more than provide clearer legislative support for the current practice of calculating allowable income. Furthermore, nobody acquiring the card in the future will be prevented from doing so because of the same amendment. This is because in the future the law will be applied as it is currently.

The amendments regarding the delegation framework will remove the requirement for the Secretary of the Department to seek the agreement of the Secretary of the Department of Human Services to the delegation of the Secretary's powers to officers of the 'Human Services Department' under the family assistance law. Departmental officers would continue to consult closely to ensure delegation instruments drafted are in line with the Human Services Department requirements.

These amendments will reduce the administrative burden and the time taken in the making of instruments of delegation under the family assistance law. It will also bring the relevant delegation provisions in the family assistance law into line with those in the Social Security (Administration) Act 1999.

Lastly, there are a small number of technical amendments.

These technical amendments include amending paragraph 8(8) (z) of the Social Security Act 1991 to change incorrect references in the note of the paragraph and repealing clause 49 of Schedule 1A of the Social Security Act 1991. These technical amendments will allow for corrections to cross-references, which will make the law easier to understand for individuals, and will repeal a spent clause from the legislation which is no longer used.
While these amendments are minor in nature, they are worth bringing forward to minimise confusion for payment recipients and stakeholder groups contending with legislative provisions that are sometimes unclear.

Such amendments are also an important part of ongoing responsible management of this important core legislative framework, and within the established policy to ensure consistency and clarity.