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No. 3 2002–03

Family and Community Services Legislation
Amendment (Disability Reform) Bill (No. 2) 2002

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Family and Community Services Legislation Amendment
(Disability Reform) Bill (No. 2) 2002

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8 August 2002

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Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002

Date Introduced: 27 June 2002

House: Representatives

Portfolio: Family and Community Services

Commencement: There are three Schedules in the Bill. However, within each Schedule, different items have various commencement dates. These commencement dates are set out in detail in the Table set out in **clause 2** of the Bill.

Purpose

This Bill follows the original proposed amending Bill for the Disability Support Pension (DSP) program, which was introduced to the House of Representatives on 16 May 2002. The original Bill was called the *Family and Community Services Legislation Amendment (Disability Reform) Bill 2002*. The second reading debate on that first Bill was adjourned in the House of Representatives on 30 May 2002, without the Bill being read a third time.¹

This second Bill proposes virtually the same amendments to the DSP provisions within the *Social Security Act 1991* (SSA) as presented in the first Bill, except for the introduction of transitional provisions for DSP recipients. It is still proposed to reduce the qualification hours under the continuing inability to work test from 30 hours a week to 15 hours a week, but the new limit is only to apply to those claiming DSP on or after 1 July 2003. All DSP claims made up to and including 30 June 2003 are to have the existing DSP qualification requirements applied. In short, existing DSP recipients will be 'saved'.

Background

Schedule 1 - Amendments relating to disability support pension

Original proposal to modify the DSP 30-hour a week rule to a 15-hour a week rule

The proposed amendments to the DSP provisions in the SSA presented in this Bill were originally presented in a like Bill in May 2002. That Bill was the *Family and Community*

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Services Legislation Amendment (Disability Reform) Bill 2002. The Bills Digest is No. 157 - 2001-02.²

The comments and analysis provided in Bills Digest No 157³ in regards to the proposed changes to the DSP, newstart allowance and youth allowance programs also refer to the exact same amendments presented in this Bill.

DSP recipients granted before 1 July 2003 to be 'saved'

The only differences in the provisions contained within this Bill are in **Item 15 of Schedule 1**, which contains savings provisions for those claiming DSP prior to 1 July 2003. DSP claims made up to and including 30 June 2003 are to be subject to the existing DSP 30-hour a week test, not the 15-hour a week test to be applied to DSP claims made on or after 1 July 2003.

Main Provisions

For comment on the provisions in this Bill, see Bills Digest No. 157 - 2001-02.⁴

Schedule 1

DSP recipients claiming before 1 July 2000 to be 'saved'

The only new item in this Bill compared to the *Family and Community Services Legislation Amendment (Disability Reform) Bill 2002* is **Item 15 of Schedule 1**. **Item 15** proposes to insert a savings provision for DSP claims lodged up to and including 30 June 2003. Even where a claim has been lodged on 30 June 2003, and qualification is determined after 1 July 2003, the pre-July 2003 30-hour rule applies.

Under the **Item 15** savings provisions, where there is a break in qualification, and the person subsequently re-claims DSP, then the post-July 2003 15-hour a week rule applies. This may act as a significant disincentive for DSP recipients to give up their DSP for fear of not being able to get back on the payment under the pre-July 2003 conditions (ie. the 30-hour a week test). The main situations these concerns might arise are for those attempting to increase their working hours beyond 30-hours a week - see below.

DSP recipient commences work for more than 30 hours a week - 2 year suspension of payment, not cancellation

Currently, where a DSP recipient commences to work more than 30 hours a week, there is provision within the *Social Security (Administration) Act 1999* (SSAA) to suspend payments for up to two years. Sections 96 and 97 of the SSAA refer.⁵ The origins of these provisions are to encourage DSP recipients to make attempts to increase their work

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capacity and activity, without undue fear of losing easy re-access to their DSP. These same provisions are included in the savings provisions in **Item 15** in the Bill.

Concluding Comments

This Bill simply proposes to 'save' existing DSP recipients to the 30-hour a week rule instead of also exposing them to the new 15-hours a week rule proposed to be introduced from 1 July 2003. This means there will be far less 'losers', under this modified proposal.

It also means the total savings anticipated for the application of the 15-hour a week rule to the DSP qualification rules will not be realised and what savings are achieved will be further into the future.

Endnotes

- 1 House of Representatives, *Hansard*, 30 May 2002, p. 2754
- 2 [Family and Community Services Legislation Amendment \(Disability Reform\) Bill 2002. Bills Digest No. 157 2001-02.](#)
- 3 *ibid.*
- 4 *ibid.*
- 5 **Disability support pension-suspension instead of cancellation in some cases:**

96.(1) If:

'(a) a person ceases to be qualified for disability support pension because the person obtains paid work that is for at least 30 hours per week; and

(b) the person has, within the notification period referred to in section 93, informed the Secretary that the person has obtained that work;

the Secretary may determine:

(c) that section 93 does not apply to the person's disability support pension; and

(d) that the person's disability support pension is to be suspended.'

Disability support pension-suspension taken to have been under section 96

97.(1) If:

'(a) a person ceases to be qualified for disability support pension because the person obtains paid work that is for at least 30 hours per week; and

(b) disability support pension ceases to be payable to the person under [section 93](#); and

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(c) within the period of 2 years after the pension ceases to be payable, the person ceases to do work of the kind referred to in paragraph (a);

the Secretary may determine that the person is to be treated as if:

(d) [section 93](#) had not applied to the person's disability support pension; and

(e) the disability support pension had been suspended under [section 96](#).'

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