
The Parliament of the Commonwealth of Australia

Advisory report:

Family Assistance and Other Legislation Amendment Bill 2011

House of Representatives
Standing Committee on Social Policy and Legal Affairs

June 2011
Canberra

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Membership of the Committee

Chair Mr Graham Perrett MP

Deputy Chair The Hon Judi Moylan MP

Members Mr Shayne Newman MP

Ms Michelle Rowland MP

Ms Laura Smyth MP

The Hon Dr Sharman Stone MP

Mr Ross Vasta MP



Terms of reference

On Thursday 2 June 2011, the Selection Committee determined that the Family Assistance and Other Legislation Amendment Bill 2011 be referred to the Standing Committee on Social Policy and Legal Affairs for inquiry and report.



List of abbreviations

ATSIA	Standing Committee on Aboriginal and Torres Strait Islander Affairs
CPI	Consumer Price Index
DSP	Disability Support Pension
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FRC	Families Responsibilities Commission
FTB	Family Tax Benefit
PPL	Paid Parental Leave
PWC	Public Works Committee



List of recommendations

Recommendation 1

The Committee recommends that Schedule 1 – Age of FTB child for family tax benefit of the Family Assistance and Other Legislation Amendment Bill 2011 be passed by the House of Representatives without amendment.

Recommendation 2

The Committee recommends that Schedule 2 – Indexation of the Family Assistance and Other Legislation Amendment Bill 2011 be passed by the House of Representatives without amendment.

Recommendation 3

The Committee recommends that Schedule 3 – Assessing qualification for Disability Support Pension of the Family Assistance and Other Legislation Amendment Bill 2011 be passed by the House of Representatives without amendment.

Recommendation 4

The Committee recommends that Schedule 4 – Extending Cape York welfare reform trial of the Family Assistance and other Legislation Amendment Bill 2011 be passed by the House of Representatives without amendment.

Recommendation 5

The Committee recommends that the exemption of the *Aboriginal Land Rights (Northern Territory) Act 1976* from the *Public Works Committee Act 1969* be passed by the House of Representatives without amendment.

Family Assistance and Other Legislation Amendment Bill 2011

Referral and conduct of the inquiry

- 1.1 The Family Assistance and Other Legislation Amendment Bill 2011 (the Bill) was referred for inquiry to the House Standing Committee on Social Policy and Legal Affairs on Thursday 2 June 2011 by the Selection Committee. The Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, indicated that it would be desirable for the Committee to report to the House on Tuesday 14 June 2011 to enable consideration of the Bill that week.
- 1.2 The Committee met by teleconference on Friday 3 June 2011 to determine the conduct of the inquiry. It was noted that this Bill contains five separate measures, all of which warrant some scrutiny, and that the timeframe for reporting was particularly short.
- 1.3 The Committee determined that adequate consultation of stakeholders could not be conducted within the time available and the Committee would rely on material and statements already available to investigate and report on each of the measures.
- 1.4 The Committee also noted that the Senate Committee on Community Affairs (the Senate Committee) was referred the same Bill on the same

date for inquiry. A reporting date for the Senate Committee was initially set for 14 June 2011, however an interim report was presented stating that:

In order to give proper consideration to this bill, the committee has agreed to present this interim report and intends to present the final report on Monday, 20 June 2011.¹

- 1.5 Given the longer reporting time, the Senate Committee has issued a call for submissions and is conducting hearings as part of its inquiry and report on the Bill.
- 1.6 The consultation work being undertaken by the Senate Committee is an important contribution to the two inquiries into this Bill, especially in light of the constraints placed on this Committee inquiry.
- 1.7 This Committee also expresses its concern that, should it have decided to issue a call for submissions, then the same stakeholders would be obliged to hurriedly prepare a different submission for each inquiry. Similarly if hearings were conducted by each Committee, then stakeholders would have to appear before each inquiry. This appears an unnecessary and unproductive burden to place on stakeholders, and especially on non-government organisations.
- 1.8 This Committee notes the limitations that not engaging in public hearings or calling for submission has placed on the investigative breadth of its advisory report. However, given that any consultation would have been cursory at best, given the reporting timeline, the Committee determined that it would rather the Senate Committee have the time and opportunity to engage in this manner and it would be the task of this House Committee to indicate issues of policy or process concern in its advisory report.
- 1.9 These findings are then available to the Senate Committee to aid them in their further investigations of the Bill. The Parliamentary Library is preparing a Bills Digest which should be available in the week following the tabling of this report.
- 1.10 The Committee has assessed the integrity of the amendments in achieving the aims set out in the Explanatory Memorandum, and given consideration to any unintended consequences with regard to these amendments. It has also considered the views of peak stakeholder groups, where these are already available.

1 Senate Standing Committee on Community Affairs, 'Interim Report: Family Assistance and Other Legislation Amendment Bill 2011' <http://www.aph.gov.au/senate/committee/clac_ctte/family_assistance_11/interim_report/index.htm> viewed 10 June 2011.

- 1.11 In the concluding comments to this advisory report, the Committee notes some of its broader concerns regarding the conduct of Bills inquiries and mechanisms to facilitate the continuing integrity and contribution of Committees of both Houses.

Outline of Bill

- 1.12 The Bill contains five Schedules which address amendments to legislation across a range of areas. Four of the Schedules propose amendments to legislation in order to give effect to 2011–12 Budget measures. Three of these Schedules relate to new changes announced as part of the Budget which affect eligibility for certain assistance payments or adjust the commencement date for indexation of certain benefits.
- 1.13 These measures are:
- Schedule 1: Age of Family Tax Benefit (FTB) child for family tax benefit;
 - Schedule 2: Indexation arrangements for family assistance payments and paid parental leave; and
 - Schedule 3: Qualification for disability support pension.
- 1.14 Schedule 4 is a further 2011–12 Budget measure and proposes an extension to the welfare reform trial in the Cape York area.
- 1.15 The final schedule in the Bill, Schedule 5, is not related to a Budget measure and proposes to exempt Aboriginal Land Trusts from the *Public Works Act 1969*.

Schedule 1—Age of FTB child for family tax benefit

Amendment proposed

- 1.16 Schedule 1 of the Family Assistance and Other Legislation Amendment Bill 2011 proposes to amend the *A New Tax System (Family Assistance) Act 1999* to enact measures announced in the 2011–12 Budget.
- 1.17 The substance of the proposed amendment is that the maximum age of a child for eligibility for Family Tax Benefit (FTB) Part A be lowered from 24 years to 21 years on 1 January 2012.

- 1.18 As a transitional measure, FTB Part A payments will not be withdrawn on 1 January 2012 from families where a child is aged between 22 and 24 and is enrolled in a course of full-time study immediately before 1 January 2012. The payments will continue until the end of the course of full-time study in such cases.
- 1.19 This measure is intended to align the age of non-dependence for FTB Part A with the age of independence for Youth Allowance.
- 1.20 The Australian Government calculates that this measure would save \$29.2 million over four years.

Issues and impacts

- 1.21 The amendment would make families ineligible for FTB Part A payments for children aged 22 years and above, with the exception of current 22–24 year old students, from 1 January 2012.
- 1.22 On that same date, the age of independence for the purpose of Youth Allowance will be 22, according to the *Social Security Act 1991*. This means that a person aged 22 years and above who is enrolled in full-time study will be assessed for eligibility for Youth Allowance against their own income, not that of their parents. Moreover, the Youth Allowance payment is paid to the individual, not to their family.
- 1.23 Thus, a family may lose FTB Part A when their child turns 22, but the individual could gain personal support through Youth Allowance instead.

Committee comment

- 1.24 The Committee considers the harmonisation of legislation a desirable goal that enables individuals, families and organisations to navigate and understand the laws that apply at the various life stages for individuals and families. The Committee also supports the view that young people aged 22 years and above should be considered independent.
- 1.25 The Committee notes that this amendment reflects the view that families do not require family payments for children who are no longer dependent. Independent children can instead receive direct support if they meet Youth Allowance eligibility requirements and are studying full-time.
- 1.26 Effectively, the Australian Government will be transferring benefits from the parents of 22–24 year old full-time students through FBT Part A directly to 22–24 year old full-time students through Youth Allowance.

- 1.27 The Committee is of the view that Schedule 1 will not result in significant disadvantage for Australian families and recommends that the House of Representatives agree to pass Schedule 1 of the Family Assistance and Other Legislation Amendment Bill 2011.

Recommendation 1

- 1.28 **The Committee recommends that Schedule 1 – Age of FTB child for family tax benefit of the Family Assistance and Other Legislation Amendment Bill 2011 be passed by the House of Representatives without amendment.**

Schedule 2—Indexation

Amendment proposed

- 1.29 Schedule 2 of the Family Assistance and Other Legislation Amendment Bill 2011 proposes to amend the *A New Tax System (Family Assistance) Act 1999* (the Family Assistance Act) and the *Paid Parental Leave Act 2010* on 30 June 2011 to enact measures announced in the 2011–12 Budget.
- 1.30 The substance of the proposed amendments is to pause indexation of the higher income free threshold for Family Tax Benefit (FTB) Part A, and the maximum income limits for eligibility for Family Tax Benefit (FTB) Part B, the baby bonus, and paid parental leave until 1 July 2014. The amendment will also pause indexation of FTB Part A and FTB Part B supplement payments until 1 July 2014.
- 1.31 Normally these income limits and supplement payments are indexed by the Consumer Price Index on the first day of the financial year. This Schedule proposes that these income limits and supplement payments are not indexed by the Consumer Price Index on 1 July 2011, 1 July 2012 and 1 July 2013.
- 1.32 The Australian Government expects that the income limit indexation amendment would save \$1 201.9 million over four years, and the FTB

supplement indexation amendment would save \$803.2 million over five years.

Issues and impacts

Family Tax Benefit Part A

- 1.33 An income test is applied to FTB Part A payments when family income exceeds \$45 114 per annum. At that point, FTB Part A payments are reduced by 20 cents per additional dollar earned, until the payment reaches the FTB Part A base rate. This range is called the income free area.
- 1.34 Another income test is applied when family income exceeds \$94 316, plus \$3 796 per annum per additional child. At that point, FTB Part A payments are reduced by 30 cents per additional dollar earned, until the payment is cut off. This range is called the higher income free area.
- 1.35 The income cut-off rates vary depending on the number and age of the children. For example, a family with one child under the age of 17 would cease receiving FTB Part A payments when the family income (not including the FTB Part A supplement) exceeds \$98 769. A family with one child under the age of 17 and one child aged between 18 and 24 would cease receiving the FTB Part A payments when the family income exceeds \$108 539.²
- 1.36 It is the indexation of the higher income free threshold (\$94 316, plus \$3 796 per additional child) that the Schedule proposes to pause until 1 July 2014.
- 1.37 The Family Assistance Act was amended in 2009 in the *Social Security and Family Assistance Legislation Amendment (2009 Budget Measures) Act 2009* to pause indexation of the higher income free threshold for FTB Part A from 1 July 2009 to 1 July 2012. The amendment proposed will extend the period of that pause to 1 July 2014.
- 1.38 This amendment would affect approximately 31 000 families who would have received a part rate FTB Part A payment with indexation but will cease to receive FTB Part A in 2012–13 without indexation, rising to 39 000 families in 2013–14. In the first year, less than 2 per cent of families will

2 Centrelink, 'Income Test' <www.centrelink.gov.au/internet/internet.nsf/payments/ftb_a_iat.htm> viewed 8 June 2011.

become ineligible for FTB Part A.³ The higher number represents about 2.6 per cent of families who receive FTB Part A payments.⁴

- 1.39 This 2.6 per cent represents families who earn more than double the average family income of FTB Part A eligible families.⁵ These families, being above the income free area, would have been receiving the FTB Part A base rate only (plus the FTB Part A supplement) which stands at \$2 062.25 for children aged under 18 years and \$2 518.50 for children aged 18–24 years. Depending on the number and age of children in the family, the CPI-related wage increase may not compensate for the loss of the FTB Part A payment.
- 1.40 The Committee understands that the savings from this measure will go to fulfilling the Australian Government's election promise to increase the FTB Part A rates for full-time students between the ages of 16 and 19 in order to encourage teenagers to achieve a year 12 qualification.

Family Tax Benefit Part B

- 1.41 Family Tax Benefit (FTB) Part B is available to families with one or two parents where the primary earner's income is \$150 000 or less. In the case of a secondary earner, the secondary earner's income is subject to an income test.
- 1.42 If the secondary earner's income exceeds \$4 745 per annum, FTB Part B payments are reduced by 20 cents per additional dollar earned. This range is called the income free area.
- 1.43 The Schedule proposes to extend the pause on indexation of the \$150 000 primary earner income limit for FBT Part B. There is no change to the income free area for the secondary earner income.
- 1.44 The Family Assistance Act was amended in 2009 in the *Social Security and Family Assistance Legislation Amendment (2009 Budget Measures) Act 2009* to pause indexation of the income limit for FTB Part B from 1 July 2009 to 1 July 2012. The amendment proposed will extend the period of that pause to 1 July 2014.
- 1.45 This amendment would mean that approximately 9 000 families who would have received a part rate FTB Part A payment with indexation will cease to receive FTB Part A in 2012–13 without indexation, rising to 11 400

3 The Hon. Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, *House of Representatives Hansard*, 2 June 2011, p. 19.

4 DPS Parliamentary Library, Research Paper No 13, 2010–11, 'Budget Review 2011–11', p. 161.

5 DPS Parliamentary Library, Research Paper No 13, 2010–11, 'Budget Review 2011–11', p. 161.

families in 2013–14. The higher number represents about one per cent of families who receive FTB Part B payments.⁶ The Committee understands that a CPI-related wage increase that renders a family ineligible may not compensate for the loss of the FTB Part B payment.

- 1.46 Mr Alan Tudge, MP, claims that this measure will affect 7 900 families in his electorate of Aston.⁷

Baby Bonus

- 1.47 The maximum income limit for eligibility for the baby bonus is \$75 000 of family income in the six months following the birth or adoption of a child.

- 1.48 The Schedule proposes to extend the pause on indexation of the \$75 000 family income limit for the baby bonus. This measure will result in approximately 700 families becoming ineligible for the baby bonus in the first year. The Committee understands that a CPI-related wage increase that renders a family ineligible may not compensate for the loss of the baby bonus payment.

- 1.49 The Family Assistance Act was amended in 2009 in the *Social Security and Family Assistance Legislation Amendment (2009 Budget Measures) Act 2009* to pause indexation of the family income limit for the baby bonus from 1 July 2009 to 1 July 2012. The amendment proposed will extend the period of that pause to 1 July 2014.

Paid Parental Leave

- 1.50 Paid Parental Leave (PPL) was introduced by the passing of the *Paid Parental Leave Act 2010* (the PPL Act). The PPL Act stipulates that an income test applies to the primary carer income, with a maximum income limit of \$150 000 in the financial year before the birth or adoption of a child. The PPL Act provided for indexation of this maximum income limit from 1 July 2012.
- 1.51 Schedule 2 proposes to amend the PPL Act to pause the indexation of primary carer income for PPL until 1 July 2014. This measure will bring the indexation for PPL in line with indexation for the baby bonus.
- 1.52 This measure will result in a number of families becoming ineligible for paid parental leave. The Committee understands that a CPI-related wage

6 DPS Parliamentary Library, Research Paper No 13, 2010–11, 'Budget Review 2011–11', p. 161.

7 Mr Alan Tudge, MP, *House of Representatives Hansard*, 31 May 2011, p. 117.

increase that renders a family ineligible may not compensate for the loss of paid parental leave.

Family Tax Benefit Supplements

- 1.53 Family Tax Benefit Part A and Family Tax Benefit Part B both include a supplement payment. These supplements are paid after the Family Assistance Office balances the FTB payments at the end of each financial year.⁸
- 1.54 For the 2010–11 financial year, the FTB Part A supplement is up to \$726.35 per child and the FTB Part B supplement is up to \$354.05 per family. These payments are indexed against the Consumer Price Index on the first day of each financial year.⁹
- 1.55 Schedule 2 proposes to amend the Family Assistance Act to pause the indexation of the FTB Part A and Part B supplement amounts until 1 July 2014.
- 1.56 The predicted indexation increase for 2011–12 for the FTB Part A supplement would be approximately \$18 per child, and for the FTB Part B supplement, \$11 per child, resulting in a maximum loss in real terms of about \$20 per child without indexation.¹⁰ By 2014, the FTB Part A supplement would be \$58 higher per child if indexed, and the FTB Part B supplement \$31 higher per child.
- 1.57 The Committee notes that members of the Opposition have provided differing results arising from this measure. Mrs Louise Markus, MP, told Parliament that families could lose more than \$800 in 2012–13 due to the indexation freeze of the FTB supplements.¹¹ Mr Kevin Andrews, MP, states that ‘FTB A recipients will be \$81.28 worse off per child by 2014–15 while FTB B recipients will be \$39.62 worse off per child by 2014–15’.¹²
- 1.58 The Australian Government expects this measure to result in net savings of \$803.2 million over five years.¹³

8 Centrelink, ‘Family Tax Benefit Supplements’ <www.centrelink.gov.au/internet/internet.nsf/payments/ftb_supplement.htm> viewed 8 June 2011.

9 Centrelink, ‘Family Tax Benefit Supplements’ <www.centrelink.gov.au/internet/internet.nsf/payments/ftb_supplement.htm> viewed 8 June 2011.

10 This is based on calculations according to predicted CPI.

11 Louise Markus MP, *House of Representatives Hansard*, 31 May 2011, p. 102.

12 The Hon. Kevin Andrews MP, *House of Representatives Hansard*, 1 June 2011, p. 114.

13 DPS Parliamentary Library, Research Paper No 13, 2010–11, ‘Budget Review 2011–11’, p. 162.

Committee comment

- 1.59 The Committee understands that these measures are designed to save around \$2 billion, some of which will be redistributed to other family assistance measures. These include the increase in the FTB Part A rates for full-time students between the ages of 16 and 19 which is part of the Government's policy to encourage teenagers to achieve a year 12 qualification.
- 1.60 The Committee notes these amendments will affect a very small percentage of eligible families (approximately 1.9 million for FTB Part A and 1.6 million for FTB Part B). In the first year following these changes, less than 2 per cent of these families will become ineligible for FTB Part A or Part B.¹⁴ Moreover, this small percentage represents families at the very top of the eligibility range.
- 1.61 The Committee understands that a wage increase which results in a family becoming ineligible for one or more of the above payments may not compensate for the loss of the payment(s). However it will mitigate the impact, as no family assistance payments will be lost under these measures unless there has been a rise in income.
- 1.62 Furthermore, the pause on indexation for the FTB Part A and Part B supplements will result in small decreases in real terms for each child (approximately \$20) in each year, but collectively will save over \$800 million.
- 1.63 The Committee is of the view that Schedule 2 will not result in significant disadvantage for Australian families and recommends that the House of Representatives Parliament agree to pass Schedule 2 of the Family Assistance and Other Legislation Amendment Bill 2011 with no amendments.

Recommendation 2

- 1.64 **The Committee recommends that Schedule 2 – Indexation of the Family Assistance and Other Legislation Amendment Bill 2011 be passed by the House of Representatives without amendment.**

14 The Hon. Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, *House of Representatives Hansard*, 2 June 2011, p. 19.

Schedule 3—Assessing qualification for disability support pension

Amendment proposed

- 1.65 Schedule 3 of the Family Assistance and Other Legislation Amendment Bill 2011 proposes to amend the *Social Security Act 1991* to enact measures announced in the 2011–12 Budget.
- 1.66 The substance of the proposed amendment is the introduction of a requirement that people provide evidence that they have tested their future work capacity by participating in training or work-related activities in order to qualify for the disability support pension (DSP).
- 1.67 The new requirement would take effect from 3 September 2011. It would not apply to claimants for DSP who have a severe impairment, such as those who are clearly unable to work.
- 1.68 Under current arrangements:
- ...a person has a continuing inability to work because of an impairment if the Secretary is satisfied that the impairment is of itself sufficient to prevent the person from doing any work independently of a program of support within the next two years, and either: (i) the impairment is of itself sufficient to prevent the person from undertaking a training activity during the next two years; or (ii) if the impairment does not prevent the person from undertaking a training activity – such activity is unlikely (because of the impairment) to enable the person to do any work independently of a program of support with the next two years.¹⁵
- 1.69 The key change that this Schedule represents is the requirement for people claiming the DSP to have demonstrated that they have participated actively in a program of support. These programs of support include Department of Employment and Workplace Relations funded employment services, Disability Management Services and some Job Services Australia services.

15 Family Assistance and Other Legislation Amendment Bill 2011 Explanatory Memorandum, p. 8.

Issues and impacts

- 1.70 This part of the Bill is an element of the *Building Australia's Future Workforce* measures. The broader changes to the DSP program include:
- increasing the number of hours a DSP recipient can work from 15 to 30 hours
 - changes in arrangements for Disability Employment Services, and
 - providing incentives to encourage employers to employ people with disabilities.
- 1.71 The package of measures would provide positive incentives for people with disabilities to return to or engage with the workforce, improve employment services for DSP recipients, and increase the opportunities for people with disabilities to obtain employment.
- 1.72 Welfare reform is a complex issue and, in particular, changes to DSP eligibility must ensure that appropriate employee and employer assistance is in place to assist those persons with a disability to engage in the workforce to the full extent of their capacity.
- 1.73 On this Budget measure there has been sound support from some key stakeholders. Mr Toby Hall from Mission Australia called for similar changes to those included in the Bill prior to the delivery of the Budget. Mr Hall proposed that:
- ...successive governments and a failing welfare system have allowed thousands of people without serious disabilities to move from the dole to receiving disability pensions when they are not engaged in looking for work. This is despite the fact they might have a capacity for employment and their issues could be overcome with intensive support.¹⁶
- 1.74 Mr Hall urged the Government to offer people receiving the DSP intensive assistance 'a new stream in the employment service system to offer the specialised help required'.¹⁷

16 Toby Hall, Mission Australia, 'System Fails Jobless on Disability Support', 10 May 2011 <www.missionaustralia.com.au/news/3227-system-fails-jobless-on-disability-support> viewed 6 June 2011.

17 Toby Hall, Mission Australia, 'System Fails Jobless on Disability Support', 10 May 2011 <www.missionaustralia.com.au/news/3227-system-fails-jobless-on-disability-support> viewed 6 June 2011.

1.75 Similarly, Mr Tony Nicholson from the Brotherhood of St Laurence described the budget measures as a step in the right direction:

At long last we see policy initiatives that recognise that the most disadvantaged in our community have modest mainstream aspirations and that they won't shy away from increased obligations.¹⁸

1.76 One possible community concern relating specifically to this Schedule of the Bill is that the requirement to attend programs of support could be onerous for some DSP applicants, particularly if they live some distance away from their local employment service providers.

1.77 This concern needs to be balanced against the potential benefits of increasing the workforce participation of people with disabilities.

Committee comment

1.78 The Committee notes that this Budget measure is designed to ensure applicants for DSP have tested their capacity for future employment by undertaking and participating actively in a program of support.

1.79 The Committee finds that the requirements stipulated in these amendments are not overly onerous when weighed against the potential social and economic benefits of boosting the workforce participation of people with disabilities.

1.80 The Committee is of the view that Schedule 3 promotes workforce engagement and will not result in disadvantage for persons with a disability. The Committee recommends that the House of Representatives agree to pass Schedule 3 of the Family Assistance and Other Legislation Amendment Bill 2011 without amendment.

Recommendation 3

1.81 **The Committee recommends that Schedule 3 – Assessing qualification for Disability Support Pension of the Family Assistance and Other Legislation Amendment Bill 2011 be passed by the House of Representatives without amendment.**

18 Patricia Karvelas, 'Disabled can't be forced to work', 12 May 2011 <www.theaustralian.com.au/national-affairs/budgets/disabled-cant-be-forced-to-work/story-fn8gf1nz-1226054261826> viewed 6 June 2011.

Schedule 4—Extending Cape York welfare reform trial

Amendment proposed

- 1.82 Schedule 4 of the Family Assistance and other Legislation Amendment Bill 2011 proposes to amend the *Social Security (Administration) Act 1999* to enable a proposed 12 month extension of the Cape York welfare reform trial (the Trial). The Trial represents a partnership between the communities of Aurukun, Coen, Hope Vale, and Mossman Gorge, the Commonwealth Government, the Queensland government and the Cape York Institute for Policy and Leadership. A key element of the Trial is the Families Responsibilities Commission (FRC), which was established under Queensland Government legislation.
- 1.83 The FRC involves local Family Responsibility Commissioners, who hold conferences with community members, refer people to support services and, where appropriate, arrange income management.
- 1.84 Currently, a person can only be subject to income management under the Trial after a decision by the FRC made before 1 January 2012. Schedule 4 proposes to extend this date to 1 January 2013 to enable income management to continue in Cape York for a further 12 months.

Issues and impacts

- 1.85 The Queensland Government is currently leading a process of consultation with Cape York communities about extending the Trial. The Queensland Government legislation also needs to be changed in order for the Trial to be extended.
- 1.86 The extension of the Cape York welfare reform trial, at a cost of \$16.1 million over two years from 2011–12 to 2012–13, will build on the gains already made in education and social responsibility and allow further work on home ownership, in partnership with the Queensland Government, regional organisations and local Indigenous communities. In addition, the measures in the Trial contribute to a number of Closing the Gap Building Blocks, including Schooling, Healthy Homes and Safe Communities.¹⁹

¹⁹ Budget Statement, the Hon. Jenny Macklin MP, 10 May 2011, p. 27.

- 1.87 The purpose of the FRC is:
- ... to support the restoration of socially responsible standards of behaviour and to assist community members to resume and maintain primary responsibility for the wellbeing of their community and the individuals and families within their community'.²⁰
- 1.88 A 2010 independent evaluation of the FRC found indications of positive community-level change around school attendance, alcohol and violence in the two communities of Aurukun and Mossman Gorge.²¹
- 1.89 The evaluation also found the FRC appeared to be contributing to restoring Indigenous authority by supporting local and emerging leaders in Local Commissioner roles to make decisions and model positive behaviour.
- 1.90 It was noted in the evaluation that although the FRC had been operating for 18 months only, it is strengthening its role within participating communities.

Committee comment

- 1.91 The Committee notes the preliminary positive evaluations of the FRC and recognises the value of community-based, holistic and cross-agency approaches to overcoming Indigenous disadvantage. The consultations that the Queensland Government is currently leading with Cape York communities about extending the Trial are an important component in determining the future value of the Trial.
- 1.92 The Committee also notes the long period of time that has been invested in establishing this Trial and building community engagement and fostering leadership through the Trial. In order to more adequately assess the impacts and possible successes of the Trial, a 24-month extension could be considered.
- 1.93 The Committee is aware that the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (ATSIA) is completing an inquiry into the high levels of involvement of Indigenous youth in the criminal justice system. In the course of that inquiry the

20 Families Responsibilities Commission, 'About the Commission', <www.frcq.org.au> viewed 7 June 2011.

21 Department of Families, Housing, Community Services and Indigenous Affairs, Implementation Review of the Family Responsibilities Commission – Final Report, September 2010, pp. 6-8.

ATSIA Committee received over 110 submissions and spoke at length with the Family Responsibilities Commissioner, Mr David Glasgow.

- 1.94 The ATSIA Committee also undertook to consider coordinated models of service delivery and increasing positive community engagement.
- 1.95 This Committee refers the House of Representatives to the more detailed findings of the ATSIA Committee in relation to the FRC and the effectiveness of the Cape York welfare reform trial in overcoming Indigenous disadvantage and building positive social norms. The ATSIA report is expected to be tabled in June 2011.
- 1.96 The Committee is of the view that Schedule 4 provides opportunity for Indigenous communities in Cape York to drive social change through an extension of the Trial. Future evaluations on the continuation of the Trial should include consultation with the Indigenous communities who have been engaged in the process. The Committee recommends that the House of Representatives agree to pass Schedule 4 of the Family Assistance and Other Legislation Amendment Bill 2011 without amendment.

Recommendation 4

- 1.97 **The Committee recommends that Schedule 4 – Extending Cape York welfare reform trial of the Family Assistance and other Legislation Amendment Bill 2011 be passed by the House of Representatives without amendment.**

Schedule 5—Public Works Act exemption

Amendment proposed

- 1.98 Schedule 5 of the Family Assistance and Other legislation Amendment Bill 2011 proposes to amend the *Aboriginal Land Rights (Northern Territory) Act 1976* to stipulate that the *Public Works Committee Act 1969* (PWC Act) does not apply to Aboriginal Land Trusts.
- 1.99 The substance of this proposed amendment is to remove the requirement for works carried out by Aboriginal Land Trusts to be subject to the scrutiny of the Public Works Committee (the PWC).

- 1.100 The *Aboriginal Land Rights (Northern Territory) Act 1976* provides for the granting of traditional Aboriginal land in the Northern Territory for the benefit of Aboriginal people. The *Aboriginal Land Rights (Northern Territory) Act 1976* was the first legislation to provide the basis for Aboriginal people in the Northern Territory to claim rights to Crown land based on traditional occupation and association with land.
- 1.101 The *Aboriginal Land Rights (Northern Territory) Act 1976* establishes Aboriginal Land Trusts to hold title to land in the Northern Territory for the benefit of Aboriginal people entitled by Aboriginal tradition to use or occupy the land concerned. Land trusts hold communal title for land granted to them as inalienable Aboriginal freehold, meaning that the land cannot be bought, acquired or forfeited.
- 1.102 The PWC Act provides for the establishment of a joint Parliamentary Standing Committee on Public Works (the PWC) to scrutinise expenditure on capital works undertaken by or for the Commonwealth, utilising Commonwealth funds.
- 1.103 The PWC is one of the oldest investigative Committees of the Parliament and is one of very few avenues for the Parliament to scrutinise capital works expenditure proposed by the Executive. It plays an important role in the scrutiny and accountability of Commonwealth agencies and embodies the fundamental right of the Parliament to scrutinise the appropriations of the Executive.
- 1.104 There are very few grounds for exemption from the PWC Act. For individual projects these are:
- urgency;
 - defence purposes where scrutiny would be contrary to the public interest; and
 - the work is of a repetitive nature.²²
- 1.105 The PWC Act sets out that a request for exemption must be justified to the Finance Minister, the PWC, the Governor-General and/or the House of Representatives prior to approval.
- 1.106 Similarly, there are very few circumstances under which an authority may be given blanket exemption from PWC scrutiny. The PWC Act provides that this may only be approved by the Governor-General where she is satisfied that the authority 'is engaging in trading or other activities, or is providing services, in competition with another body or other bodies, or

22 *Public Works Committee Act 1969* (Cth) s18(8) and s18(8A).

with persons'.²³ An exemption on these grounds must be justified to the House of Representatives, where it sits as a disallowable instrument for 15 sitting days.

- 1.107 For those authorities, such as Australia Post, which are granted exemption from the PWC, this has been enshrined in the PWC Act itself or in its regulations, rather than in legislation relating to another authority.
- 1.108 The PWC has consistently noted in its annual reports to the Parliament, concerns about exemption provisions being inappropriately utilised by agencies to avoid scrutiny.²⁴

Committee Comment

- 1.109 The Explanatory Memorandum to the amendment notes that section 5AA of the PWC Act will still apply to works undertaken by or for the Commonwealth. Section 5AA sets out the meaning of a public work.
- 1.110 The Committee understands that, currently, capital works for Aboriginal Land Trusts are undertaken by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) and therefore section 5AA of the PWC Act applies.
- 1.111 Indeed, under Part IIb of the *Aboriginal Land Rights (Northern Territory) Act 1976*, it appears that the Commonwealth holds statutory rights over Commonwealth funded buildings and infrastructure on Aboriginal lands unless transferred to the another body. It is clear in this circumstance that the PWC Act applies.
- 1.112 If this amendment is passed, it is unclear what scrutiny and accountability processes will be put in place for the administration and expenditure of these funds if the PWC requirement is removed. Regardless of which authority administers the funding, FaHCSIA or Aboriginal Land Trusts, it is important that proper processes of scrutiny and accountability are in place.
- 1.113 The PWC should not be regarded as an impediment to capital works, but rather the opportunity to ensure expenditure is value for money, and that the resulting work is apt and fit for purpose.

23 *Public Works Committee Act 1969* (Cth) s6A3.

24 See for example, Parliamentary Standing Committee on Public Works, *Seventy-Fourth Annual Report*, March 2011, p. 3.

Recommendation 5

- 1.114 **The Committee recommends that the exemption of the *Aboriginal Land Rights (Northern Territory) Act 1976* from the *Public Works Committee Act 1969* be passed by the House of Representatives without amendment.**

General comments—Bills referral process

- 1.115 The Committee takes this opportunity to make some general comments about the reforms introduced in the 43rd Parliament which have enabled the Selection Committee to refer bills to a House of Representatives committee for an advisory report.
- 1.116 The Social Policy and Legal Affairs Committee states from the outset its strong support for bill referrals to committees and its desire to engage in a number of bill inquiries through the course of the parliament.
- 1.117 As at May 2011, a total of 15 bills were referred to four different House of Representatives committees. Since the beginning of the 43rd Parliament, some 25 bills have been referred. Of those tabled to date, the average inquiry length is nearly 27 days.²⁵
- 1.118 The Committee appreciates the urgency of the House in considering some bills; however, timeframes must also balance the need for careful investigation when a bill has been referred to a committee for inquiry and report. In this instance, due to the omnibus nature of the bill referred, the Committee has only been able to highlight issues of concern which it considers require clarification, rather than conduct its own detailed investigation into these matters.
- 1.119 In addition, with the increase in the number of bill referrals to House committees, there are obviously instances when Senate committees will be tasked to conduct inquiries into the same bill. The Committee considers this an important element in the independence of both Houses. However it also considers that the work of House and Senate committees should inform consecutive debate and scrutiny, rather than concurrent inquiries placing additional demands on stakeholders.

25 This does not include the advisory reports on the Wild Rivers (Environmental Management) Bill 2010 which took 176 days or the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2010 which took one day.

- 1.120 These issues have been noted by other committees in their advisory reports to the House.²⁶ In addition, the previous bill referred to this Committee for inquiry was already the subject of a lengthy and intensive inquiry by a Senate committee.²⁷
- 1.121 The Committee expresses its reservations that the bill referral process as it currently operates can undermine the capacity of committees to fulfil their independent and investigative functions. The Committee makes these comments as general observations to the House in order to promote a dialogue on the processes and value of parliamentary committees.

Mr Graham Perrett MP
Chair
14 June 2011

26 See for example the 22 December 2010 and 24 March 2011 advisory reports from the Standing Committee on Climate Change, Environment and the Arts <www.aph.gov.au/house/committee/ccea/reports.htm> viewed 10 June 2011.

27 See advisory report into the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011, <www.aph.gov.au/house/committee/spla/reports.htm> viewed 10 June 2011.

Dissenting report

- 1.122 This Bill was referred to the Social and Legal Committee during the last sitting week. As there was insufficient time to arrange a Committee meeting before Parliament rose on Thursday 2 June 2011, the Committee had a teleconference hook up on Friday 3 June 2011 to discuss the referral. The Bill was also referred to a Senate committee.
- 1.123 Matters dealt with in this Bill include Family Assistance Measures, assessing qualification for disability support pension, extending the Cape York welfare reform trial and a Public Works Act exemption.
- 1.124 These are serious matters referred to the Committee to report in unseemly haste, making a complete mockery of the operation of this Parliament by virtually asking for a rubber stamping of these measures by the Committee.
- 1.125 While this is a budget-related Bill and the Coalition does not propose to prevent the legislation proceeding, there are a number of serious issues to be raised in relation to this Bill.
- 1.126 Yet in a practical sense no time has been allowed for the Committee to conduct a proper examination of the matters which are the subject of the Bill, including time to seek submissions from those who will be affected by these provisions.
- 1.127 Coalition members have submitted this dissenting report as they are particularly concerned about the impact that this legislation will have on Australian families.
- 1.128 The Bill seeks to freeze indexation of the Family Tax Benefit Part A and Part B supplements for three years, which will see a quarter of a million families worse off. Even families struggling to make ends meet on incomes of \$45 000 will be hit by these changes.
- 1.129 At a time when Australian families are struggling with a rising cost of living, cutting \$2 billion from family benefits will place more pressure on family budgets.
- 1.130 The Government has tried to claim that this change will only affect the 'rich', but this assertion is erroneous. Over 2.1 million families will lose some support as a result of the real value of the Family Tax Benefit supplement being cut. On top of this, many families with parents earning

- 1.131 Losing this support will hurt families who have already seen many of their bills increase dramatically in recent years. Since December 2007, electricity prices have increased by an average of 51 per cent across Australia; the overall cost of food has increased by 13 per cent; and education costs such as school fees have increased by an average of 24 per cent across Australia.
- 1.132 These changes could not have come at a worse time for Australian families, and Coalition members are deeply concerned about the effect that this legislation will have on families already struggling with interest rate rises and increases to the cost of living. It is time the Government recognised these struggles; Australian families cannot afford to pay for the Government's waste and mismanagement through cuts to family payments. Coalition members call on the Government to acknowledge and attend to the serious impact that these policies will have on Australian families who will have their assistance payments eroded or cancelled under this legislation.
- 1.133 Other concerns are in relation to assessing the qualifications for disability support pension (DSP) in which the Government will require that people with a disability currently on a Disability Support Pension will be required to provide evidence that they have tested their future work capacity by participating in training or work-related activities in order to qualify for the DSP.
- 1.134 These requirements will take effect from 3 September 2011. The Government states that the programs of support include Department of Employment and Workplace Relations-funded employment services, Disability Management Services and some Job Services Australia services.
- 1.135 Another element is the provision of incentives to encourage employers to employ people with disability.
- 1.136 There has been no assurance by the Government regarding the adequacy of services to assist people with training and employment placement. There is no assurance from Government that issues such as transport to work in rural and more remote locations has been addressed or that parents with children, particularly single parents, have access to affordable, quality childcare facilities.

- 1.137 As for the incentives to prospective employers, there is plenty of evidence to suggest that the take-up rate of businesses for assistance under previous programs has been abysmal.
- 1.138 In regard to Schedule 5 – Public Works Act exemption, which seeks to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*, the Coalition agrees with the Government’s intent to remove the requirement for the Public Works Committee to supervise some construction activities on Aboriginal Land Trust land that result from individuals or groups expending grant funds for specific projects.
- 1.139 The proposed amendment however goes significantly further in that it specifically excludes all commonwealth funded projects on Aboriginal Land Trust land from the scrutiny of the *Public Works Committee Act 1969*.
- 1.140 The explanatory memorandum tabled by the minister along with the legislation states that this amendment will not affect the application of the Public Works Act to any proposed arrangement that involves the carrying out of a work by or for the Commonwealth or by or for an authority of the Commonwealth to which the Public Works Act applies.
- 1.141 Coalition members believe that as the proposed amendment exempts all Aboriginal Land Trust land from scrutiny of the Public Works Committee it has the direct effect of legislating that the *Public Works Committee Act 1969* cannot apply to any works.
- 1.142 The Public Works Committee ensures transparency in government projects, ensures Commonwealth projects meet appropriate standards, and ensures value for money for the taxpayer. Exempting projects on Aboriginal Land Trust lands in mainly remote regions removes a significant taxpayer funding safe guard.
- 1.143 Coalition members recommend that this amendment not be supported.

The Hon Judi Moylan MP
Deputy Chair
14 June 2011

The Hon Dr Sharman Stone MP
14 June 2011

Mr Ross Vasta MP
14 June 2011