

Opposition Senators' Minority Report

Fringe Benefits Tax changes relating to charitable organisations (Schedule 6)

Opposition Senators acknowledge charity worker concern at the prospect their family payments would be cut by changes to the way income is calculated for these payments.

From 1 July 2008, more fringe benefits are being included in the income that is used to calculate family payments (Family Tax Benefit A and B and Child Care Benefit). This has a significant impact for employees of some charities.

The Coalition implemented this change in response to a report in 2006 by experts on the Ministerial Taskforce on Child Support, chaired by Professor Patrick Parkinson.¹ That report recommended that calculations of income for child support should include all fringe benefits, to ensure that parents couldn't avoid their child support obligations by converting normal income into fringe benefits.

The report also recommended that the method for calculating child support be extended to the method for calculating family tax benefits, to ensure consistency. It was argued that it would be complex to have different methods for calculating child support and family payments.

The Coalition accepted both of these recommendations and implemented them in legislation in 2006.² At the time, the Labor Party supported the package of legislation that included this change.

It is this broadening of the income definition for family payments that caused concern. This change was done in the context of substantial increases in child support measures and large increases in family benefits during the term of the Howard Government.

Labor supported this measure. On 12 October 2006, the relevant Shadow Minister, Senator Evans, indicated support for the package of changes that included this measure.³

1 *In the Best Interests of Children - Reforming the Child Support Scheme - Report of the Ministerial Taskforce on Child Support*, 14 June 2005. Full text available at: <http://www.facs.gov.au/internet/facsinternet.nsf/family/childsupport.htm>

2 *Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Act 2006*.

3 Senator the Hon. Chris Evans, *Media Release*, 12 October 2006.

The legislation was introduced on 14 September 2006 and was passed by the Parliament on 27 November 2006.

Labor also introduced legislation⁴ on 29 May 2008 that supports the 2006 change. The explanatory memorandum to the Labor Bill:

- discusses the change to the calculation of income for family payments;
- explicitly states that the change will result in higher calculated incomes for some people; and
- gives a worked example of how the change produces a higher income for the calculation of family payments.⁵

The Labor legislation allows Centrelink to use this higher income to determine family payments. Without this change by Labor the payments to some families would have been higher. Labor cannot therefore claim that this change was all the former Government's doing.

Opposition Senators note that whilst the Coalition's 2006 change broadens the income that is used to calculate family payments, Labor's changes in the 2008 Budget do the same thing. The Government is proposing to include salary sacrifice into superannuation and investment losses in the calculation of income for family payments. The Government therefore cannot argue that their 2008 changes are completely separate from the Coalition's changes in 2006.

In particular, any charity worker who salary sacrifices into superannuation or has losses on investments will be affected by Labor's changes in the 2008 Budget. Labor's measures will result in a much larger reduction in family payments than the Coalition's changes from 2006.

Opposition Senators are concerned that Labor is reducing support for families in the 2008 Budget, in contrast with the dramatically increased support for families during the period of the previous government.

Opposition Senators note that the Minister for Families, Housing, Community Services and Indigenous Affairs (the minister) cleared the Explanatory Memorandum for this Bill prior to its presentation to the House on 29 May 2008.⁶ The Opposition notes that the Minister's awareness of the impact of the 2006 legislation was not aroused by her clearance of the Memorandum prior to 29 May 2008 which mentions

4 The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008.

5 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Explanatory Memorandum* pp 30, 35-37.

6 *Committee Hansard*, 20 June 2006, p. 31.

that notification letters to recipients of Family Tax Benefit and Child Care Benefit were being issued from April 2008.⁷

Evidence presented to the Committee clearly established that no officers of the Department of Families, Housing, Community Services and Indigenous Affairs (FHCSIA) were aware prior to May 2008 of the extent of the impact of the legislated but not yet operative provisions relating to the treatment of fringe benefits for the purpose of calculating family assistance payments.

It was acknowledged by FHCSIA that when the changes were proposed in the 2006–07 Budget, the Department was only aware of the general impact of changes, rather than the impact on specific groups of individuals with particular circumstances. Mr Hazlehurst of FHCSIA acknowledged that:

...we did not at that time [2006] do an analysis sector by sector of how many people would be affected.⁸

And later that:

...we did not do any sector-specific analysis. So, we did not look at how employees in different sectors would be affected.⁹

The Opposition notes the evidence provided to the Committee that the Minister's office was provided an oral briefing on the impacts on employees in charitable organisations on 29 May 2008.¹⁰ Yet neither the Minister nor the Treasurer made any attempts to raise the matter publicly until the publication of an article in *The Australian* newspaper on 18 June 2008,¹¹ prompting a joint press conference that day and an announcement on 19 June 2008.¹²

It remains unclear whether the Minister or the Treasurer intended to act on this issue before 1 July, or at all, if the issue had not received considerable public interest following the media coverage from 18 June 2008.

The Minister through her attempts to deny having supported these changes, indicated that she does not understand her own legislation.

In principle, Opposition Senators support the Government's intention as announced to introduce relevant amendments to ensure that employees in charitable organisations are not adversely affected by changes to the treatment of fringe benefits for the

7 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Explanatory Memorandum* p. 37.

8 *Committee Hansard*, 20 June 2006, p. 28.

9 *Committee Hansard*, 20 June 2006, p. 35.

10 *Committee Hansard*, 20 June 2006, p. 30.

11 *The Australian*, 'Tax changes to hit charity staff', 18 June 2008.

12 The Hon Wayne Swan MP and the Hon Jenny Macklin MP, Media Release, 19 June 2008.

purpose of calculating family assistance payments.¹³ Opposition Senators will closely examine the detail of the Government's amendments with a view to supporting change that corrects the anomaly with respect to employees in charitable organisations but does not reinstate previously closed loopholes.

Commonwealth Seniors Health Card (Schedule 3)

Opposition Senators are concerned at the impact on older Australians of the Government's introduction of a new compliance regime for the Commonwealth Seniors Health Card (CSHC).

The CSHC establishes the eligibility of older Australians for a range of benefits to assist them with the cost of living, including discounted pharmaceuticals through the PBS, the Seniors Concession Allowance and the Telephone Allowance.

Opposition Senators acknowledge that rising cost of living pressures place proportionately higher burdens on those with low incomes. Opposition Senators are particularly mindful of the impact of these pressures on pensioners.

Evidence provided to the Committee during this inquiry indicated that, as a result of the Government's changes in this Bill to require the provision of a Tax File Number (TFN), 27 000 people will lose their CSHC between 1 July 2008 and 30 June 2010. FHCSIA further acknowledged that this number will increase.¹⁴

Opposition Senators consider that the TFN requirements in Schedule 3 could be seen as a de facto means test. Such a measure is a sneaky and underhanded way of stripping older Australians of the CSHC. This is against the backdrop of the neglect of pensioners in the Budget.

Whilst it is acknowledged that changes to the adjusted taxable income test are not specifically dealt with in the Bill before the Committee, Opposition Senators nonetheless express grave concern at the evidence presented to the Committee that a further 22 000 people will lose eligibility for the CSHC as a result of this change.¹⁵

Opposition Senators note that FHCSIA has not modelled how many people will no longer be eligible for the CSHC in future years beyond the forward estimates, meaning that the true number of people adversely affected is likely to end up much higher.¹⁶

Opposition Senators further note that the proposed eligibility changes to the CSHC were not flagged by the then Opposition prior to the election.

13 The Hon Wayne Swan MP and the Hon Jenny Macklin MP, Media Release, 19 June 2008.

14 *Committee Hansard*, 20 June 2006, p. 47.

15 *Committee Hansard*, 20 June 2006, p. 47.

16 *Committee Hansard*, 20 June 2006, p. 52.

Partner Service Pension (Schedule 5)

Opposition Senators acknowledge the contribution made to Australia by veterans and their partners, particularly recognising that often the roles of the partners of veterans are as carers.

It is in view of this that Opposition Senators are concerned at the evidence provided to the Committee that approximately 930 partners of veterans would be affected by the changes in this Bill.¹⁷ It is considered that the savings generated from this measure are insignificant and that the measure is mean-spirited.

Opposition Senators were disappointed at the Prime Minister's lack of awareness of this issue, confirmed in the House of Representatives on 19 June 2008.¹⁸ Opposition Senators were surprised that the Minister for Veterans' Affairs, the Hon Alan Griffin MP characterised the impact of this change on affected veterans as 'minor'.¹⁹

It is noted that the proposed changes are justified by the Government as necessary to align the partner service pension with arrangements in place for social security benefits. The Opposition considers this to be an inappropriate rationale and are conscious of the concern in the veteran community that they be treated separately from welfare or social security recipients. The Opposition supports the wishes of veterans in that regard.

Opposition Senators note the evidence to the Committee that no consultation was conducted with ex-service organisations over these changes.²⁰

It is further noted that the proposed changes to the partner service pension were not flagged by the then Opposition prior to the election.

The Baby Bonus (Schedule 2)

Opposition Senators express their concern at the blunt means test proposed by the Government for the Baby Bonus. The means test lacks a taper, meaning that an extra dollar of income can make the difference between receiving the full Baby Bonus and receiving nothing. Evidence to the Committee indicates that the Government failed to commission any modelling on tapering the Baby Bonus means test.²¹

17 *Committee Hansard*, 20 June 2006, p. 54.

18 *House of Representatives Hansard*, 19 June 2008, p. 54.

19 *House of Representatives Hansard*, 19 June 2008, p. 54.

20 *Committee Hansard*, 20 June 2006, p. 53.

21 *Committee Hansard*, 20 June 2006, pp 37-8.

Opposition Senators also note the Government's decision to strip \$80 million over four years from Baby Bonus recipients by proposing to index the bonus once yearly rather than the status quo of twice yearly.²²

Opposition Senators note the time limit extension in claiming can allow for people who thought they would exceed the \$75 000 threshold to backdate and claim. It may allow for people to get around the threshold by organising for salary/benefits etc to be paid after the six month deadline to receive the benefit of the Baby Bonus.

In her second reading speech Minister Macklin clearly states that if the income estimate is incorrect and the household goes over the \$75 000, families do not have to worry that a debt will be raised against them because their income changes, however should false or misleading information be provided then the usual welfare sanctions will apply.²³

This demonstrates that the new Baby Bonus scheme will be almost impossible to administer and police, making the new criteria almost pointless, but will cost \$22.6 million to administer.²⁴

It is further noted that the proposed changes to the baby bonus were not flagged prior to the election. Just two days before the 2007 election a constituent contacted the Labor Party via their website asking whether Labor was considering any changes to the Baby Bonus. The response was:

We have no plans to make any other changes to the way the Baby Bonus is structured, either in terms of eligibility or payment methods.²⁵

An article in *The Australian* further reported that:

Wayne Swan this week ruled out any change to the baby bonus and said Australia's middle class did not receive too much welfare.²⁶

Family Tax Benefit – Part B (Schedule 1)

The Government flagged a means test to Family Tax Benefit Part B in January of this year as part of their 'razor gang' process. The Finance Minister, the Hon Lindsay Tanner MP, was reported by ABC Online on 25 January 2008 as saying:

We have undertaken to put a means test at a very generous level for Tax Benefit B.²⁷

22 *Committee Hansard*, 20 June 2006, p. 39.

23 *House of Representatives Hansard*, 29 May 2008, p. 3851.

24 Budget Measures 2008–09, *Budget Paper No. 2*, p. 370.

25 Please refer to correspondence at the end of the minority report.

26 *The Australian*, 'Time to re-think baby bonus', 14 March 2008.

27 ABC Online, "Govt to means test family tax benefit," Accessed on 23 June 2008, www.abc.net.au/news/stories/2008/01/25/2146231.htm

Additionally, it was reported in the *Herald Sun* that the limit would be \$250 000.²⁸

There was no mention during the election campaign by Labor that there would be a means test. However during the passage of the Family Assistance, Social Security and Veterans' Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006 the ALP proposed an amendment that Family Tax Benefit Part B be subjected to a modified income test where a couple's combined income exceeded \$250 000.²⁹

Opposition Senators condemn the Government's broken promise on the Family Tax Benefit Part B means test. The means test is set at \$150 000, when the Government's pre-election commitment was to means test this payment at \$250 000.³⁰

The \$150 000 income test the bill proposes will not just apply to partnered couples with the primary earner, it will now include sole parents as well. Previously sole parents were exempt from any income testing.

Treasurer Wayne Swan's Media Release on 18 May 2008 reported that a total of 40 000 families would lose eligibility for Family Tax Benefit Part B.³¹

Other Issues

Opposition Senators also express their regret at Treasury's last minute decision to cancel their appearance before the Committee. Opposition Senators believe that scrutiny of this legislation was diminished when the witnesses before it were unable to answer particular questions citing that they were issues for Treasury.

It is disappointing that Treasury declined to appear to give evidence to this inquiry. On multiple occasions throughout the public hearing at which Treasury was originally scheduled to give evidence, FHCSIA could not answer questions directed to it citing that they were questions that would need to be directed to Treasury.³²

Given that many issues before the Committee were jointly handled by the Treasurer and the Family Services Minister, the Treasury should have made itself available to answer questions on this Bill.

28 *Herald Sun*, 'New limit on family payment', 26 January 2008.

29 *House of Representatives Hansard*, 28 March 2006, p. 99.

30 Senator the Hon. Chris Evans, *Media Release*, 28 March 2006.

31 The Hon. Wayne Swan MP, *Media Release*, 18 May 2008.

32 *Committee Hansard*, 20 June 2008, pp 27, 39-41, 45, 49, 50-51, 55-57.

Senator Mitch Fifield – Deputy Chair

Senator John Watson

Senator Concetta Fierravanti-Wells

Constituent correspondence with the Australian Labor Party regarding the Baby Bonus

-----Original Message-----

From: ALP Campaign Information [mailto:Info@syd.alp.org.au]

Sent: Thursday, 22 November 2007 4:00 PM

*To: *****@optusnet.com.au*

Subject: RE: Comments from KEVIN07

Dear *****

Thank you for your email.

Federal Labor supports the maternity payment. We understand that many parents need support when their baby is born, and that's why we believe that the maternity payment makes life a little easier for new parents.

The maternity payment is due to increase to \$5000 from 1 July 2008, and if elected Labor will ensure this increase is passed on to parents.

Recently the Federal Parliament considered legislation that made some minor changes to the maternity payment. One of these was to change the name of the payment so that it officially is known as the Baby Bonus. Everyone calls it that anyway, so it makes sense to have that as the official name. The other change was to pay the Bonus in instalments for mothers under the age of 18. Federal Labor called for this change last year, as we heard some worrying cases of vulnerable younger mothers being exploited. Government has a responsibility to make sure that efforts to help families at a critical time are directed for the benefit of children.

We have no plans to make any other changes to the way the Baby Bonus is structured, either in terms of eligibility or payment methods.

In addition, Labor has released a range of initiatives to help new parents.

Labor knows that child care has become an integral part of modern Australian family life.

Under a Rudd Labor Government, our children's early years will be a national priority.

If elected, a Rudd Labor Government will:

- Increase the Child Care Tax Rebate to 50 per cent - covering up to \$7,500 a year of out-of-pocket costs for each child in child care;
- Pay the 50% Child Care Tax Rebate quarterly - so parents no longer have to wait one or two years to receive their money;
- Build 260 new child care centers in areas of need to help improve access to child care;
- Invest \$450 million in preschool for our four-year olds, with 15 hours a week for forty weeks a year of fun, play-based learning delivered by a qualified teacher;
- Implement tough national child care quality standards including a quality improvement system that assesses child care services from A to E and regular unannounced spot checks;
- Invest \$73.5 million in incentives and opportunities to improve the qualifications of child care workers to ensure our children receive expert early learning and care.

Labor knows that parents can't work - no matter how much they want to - if there is not enough high quality, affordable childcare to go around.

If you would like more information about Labor's policies for parents please visit the ALP website: www.alp.org.au

ALP Campaign Information Services

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This information is intended for the recipient only.

Every effort has been made to respond to your query in full. Please monitor the Australian Labor Party website (www.alp.org.au) for further information

----- Forwarded Message -----

From: KEVIN07 <admin@kevin07.com.au>

To: info@kevin07.com.au

Subject: New form submission has arrived from KEVIN07!

(Contact Us)

Date: Thu, 22 Nov 2007 11:12:55 +1100

New form submission has arrived from KEVIN07!

Form: Contact Us

First Name: *****

Last Name: *****

Street Address: *****

Suburb: *****

State: QLD

Postcode: *****

Email Address: *****@optusnet.com.au

Telephone Number: *

Mobile Number:

Opt In Email: No

Opt In SMS: No

Your Comments Or Enquiry: If Labour is elected, will the 'baby bonus' still be available at the current rate? Please email a response. Thank you

