

# Chapter One

## Introduction

### Background

1.1 The Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009 (the bill) was introduced into the House of Representatives on 10 September 2009. The bill was introduced into the Senate on 17 September 2009. On the same day, the Selection of Bills Committee referred the provisions of the bill to the Senate Standing Committee on Rural and Regional Affairs and Transport References Committee for inquiry and report by 26 October 2009.<sup>1</sup>

### Conduct of the inquiry

1.2 The committee advertised the inquiry in *The Australian* on Wednesday, 23 September 2009. The committee also wrote directly to a number of key stakeholder groups, state and federal government departments and agencies, and peak bodies inviting submissions.

1.3 The committee received 50 submissions (see Appendix 1). The committee decided that submissions and evidence to the committee's inquiry into Rural and Regional Access to Secondary and Tertiary Education Opportunities, in as far as they are relevant, will be considered as submissions and evidence to the inquiry into the Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009.

1.4 The committee held a public hearing in Canberra on 13 October 2009 and heard evidence from a number of witnesses, including government departments and agencies, key stakeholder groups and educational institutions. (See Appendix 2 for a list of witnesses).

1.5 All evidence provided to the committee is available on the parliament's homepage at <http://www.aph.gov.au>.

1.6 The committee appreciates the time and work of all those who provided oral and written submissions to the inquiry. Their work has assisted the committee considerably in its inquiry.

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1 Journals of the Senate, 17 September 2009, p. 2546.

## **Purpose of the bill**

1.7 The bill amends the *Social Security Act 1991* (the Act), the *Higher Education Support Act 2003*, the *Military Rehabilitation and Compensation Act 2004*, the *Social Security (Administration) Act 1999* and the *Veterans' Entitlements Act 1986* to make wide-ranging changes to income support arrangements for students. The bill implements a number of recommendations made by the *Review of Australian Higher Education* conducted by Emeritus Professor Denise Bradley, AC.<sup>2</sup> In particular, the bill:

- changes the criteria upon which a Youth Allowance recipient is considered to be 'independent';
- makes major changes to means testing for payments to students and youth from 1 January 2010, and increases the personal income-free area for Youth Allowance and Austudy students, and Australian Apprentices, from 1 July 2012;
- provides for new scholarships for students on income support; and
- exempts merit and equity based scholarships from the income test under social security and veterans' entitlements legislation.<sup>3</sup>

## **The Review of Australian Higher Education**

1.8 In the second reading speech for the bill, the Minister noted the measures in the bill were part of the government's reforms to higher education which are aimed at two policy objectives:

- that by 2025, 40 per cent of 25- to 34-year-olds will hold a bachelor degree or higher; and
- that by 2020, 20 per cent of higher education enrolments at undergraduate level should be people from low socio-economic status backgrounds.

1.9 The measures in the bill contain the government's response to the recommendations in the *Review of Higher Education in Australia* (the Bradley Review) in relation to student income support. The Bradley review found:

Current levels of income support are inadequate to support the participation and success of students from low socio-economic backgrounds. Reforms to, and better targeting of, income support should enable such students to attain better qualifications in a more timely fashion and are urgently required. This will require significant reforms to elements of Australia's welfare and income support system.<sup>4</sup>

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2 Senate Committee for the Scrutiny of Bills, *Alert Digest No. 12 of 2009*, p. 20.

3 Senate Committee for the Scrutiny of Bills, *Alert Digest No. 12 of 2009*, p. 20.

4 *Review of Australian Higher Education: Final Report*, December 2008, p. xv.

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1.10 Specifically, the Bradley Review recommended that the government introduce the following package of reforms to the student income support system:

- Increase threshold for Parental Income Test to \$42,559, consistent with the value used for the Family Tax Benefit.
- Change the indexation rate for the Parental Income Test to be consistent with the Family Tax Benefit index, a combination of CPI and Male Total Average Weekly Earnings.
- Change the Parental Income Test taper rate for reduction in benefits for each child in the family on income support benefits to 20 per cent.
- Apply the new taper rate only once as is the case for the Family Tax Benefit rather than for every child in the family receiving benefits.
- Increase the personal income threshold for Youth Allowance and Austudy to \$400 per fortnight.
- Change the indexation of the personal income threshold from zero to a wage basis (for example, Male Total Average Weekly Earnings).
- Reduce the age of independence for Austudy from 25 to 22 years.
- Remove the workforce participation criteria for independence of:
  - working part-time for at least 15 hours per week for at least 2 years; and
  - earning a specified amount in an 18-month period since leaving school.
- Introduce 'grandfathering' arrangements for existing students who have already satisfied these criteria for independence.
- Extend eligibility for benefits to students enrolled in all Masters by coursework programs.
- Continue and enhance the Commonwealth Scholarships program by providing benefits to all eligible students on Austudy or Youth Allowance for education costs and accommodation costs (for those who need to leave home) and by transferring responsibility for the payment of benefits to Centrelink.

### **Principal measures of the bill**

1.11 As mentioned above, there are four principal measures contained in the bill.<sup>5</sup>

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5 Information contained in the following section of this report is based on information provided in the Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009, *Explanatory Memorandum*, pp 2-4.

***Changes to criteria upon which recipient is considered to be 'independent'***

1.12 The bill contains changes to the criteria upon which a Youth Allowance recipient is considered to be 'independent'. Independent Youth Allowance recipients are entitled to the maximum rate of payment and are not subject to a test for parental income.

1.13 The age at which a person is automatically deemed independent will be changed from 25 to 22 years. It is intended that the change will be phased in, so that the age of independence will be reduced to 24 years in 2010, 23 years in 2011 and 22 years in 2012.

1.14 From 1 January 2010, a Youth Allowance claimant will no longer be able to attain independence through part-time employment or wages. No person who is currently independent because of the current workforce participation tests will be affected by the change. In addition, students who completed secondary school in 2008, did not study in 2009, commenced university in 2010 (and are required to live away from home) will not be affected.

***Changes to means testing for payments to students and youth***

1.15 It is proposed that, from 1 January 2010, the annual parental income threshold (for non-independent Youth Allowance recipients to get the maximum rate of Youth Allowance) will increase from \$32,800 to \$44,165.

1.16 The parental income reduction for Youth Allowance will also be changed from a taper rate of 25 per cent per person, to a taper of 20 per cent apportioned between the members of the family who are subject to the parental income test. This change will reduce the effect of parental income on a Youth Allowance recipient, particularly where the same parental income applies to multiple recipients in a family. It will also mean that the point at which a person's parental income disentitles them to Youth Allowance will be raised substantially.

1.17 The Government estimates that these changes to the parental income test will mean that an additional 67,800 students will qualify for income support and approximately 34,600 will receive a higher rate of payment.

1.18 From 1 July 2012, the personal, income-free area for Youth Allowance and Austudy students and Australian Apprentices will increase from \$236 to \$400 per fortnight. This means that students and Australian Apprentices will be able to earn up \$400 per fortnight without having their payments reduced. The increased income-free area will be indexed to the CPI and the Government estimates that 61,480 students will receive a higher rate of income support payment on the implementation of this measure.

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### *New scholarships for students on income support*

1.19 It is proposed that all students receiving Youth Allowance or Austudy while undertaking an approved higher education course will receive a student Start-up Scholarship. In 2010, the scholarship will be \$1,127 for each six months of study – a total of \$2,254 for the year. The Government has indicated that the student Start-up Scholarship payment will effectively increase the value of student income support by \$86.77 per fortnight. An estimated 146,600 students will receive a student Start-up Scholarship in 2010.

1.20 In addition to the student Start-up Scholarship payment, some students receiving student income support will receive a relocation scholarship to assist with the cost of relocating for study. The scholarship will be \$4,000 for a student's first year, and then \$1,000 per year, in subsequent years, up to four years.<sup>6</sup> The Government estimates that 14,200 students will receive a relocation scholarship payment in 2010.

### *Exempting merit and equity based scholarships from the income test under social security and veterans' entitlements legislation*

1.21 Merit and equity based scholarships will be exempt to a threshold of \$6,762 per year, and the threshold will be indexed. The Government anticipates that this measure will increase the entitlement to income support for students receiving scholarships, and provide an incentive to individuals and organisations to fund scholarships for students. It also estimates that this measure will result in approximately 3,500 students receiving a higher rate of income support payment.

1.22 The bill also makes amendments to the social security law and veterans' entitlements law to facilitate the measures and make amendments of a technical nature.

### **Financial impact**

1.23 The explanatory memorandum to the bill expresses the financial impact of the measures to be introduced in the following table:

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6 Department of Education, Employment and Workplace Relations, Youth Allowance: Student Income Support Relocation Scholarship, Factsheet 5. Available at: [http://www.deewr.gov.au/HigherEducation/Programs/YouthAllowance/Documents/NewYouthAllowanceFactsheet\\_RelocationScholarship.pdf](http://www.deewr.gov.au/HigherEducation/Programs/YouthAllowance/Documents/NewYouthAllowanceFactsheet_RelocationScholarship.pdf), accessed 23 October 2009.

<b>FINANCIAL IMPACT</b>	
<b>Year</b>	<b>Expense (\$ million)</b>
2009-10	85.7
2010-11	-72.8
2011-12	-127.5
2012-13	8.1
<b>Total</b>	<b>-106.5</b>

1.24 The explanatory memorandum also notes that the financial impact statement does not include the extension of Youth Allowance and Austudy payments to students undertaking Masters programs by coursework. It is proposed that this particular measure will be enacted by legislative instrument and does not form part of this bill. It is estimated that this measure will produce an estimated expense of \$72.7 million over the period of the financial impact statement.

### **Comment of Senate Scrutiny of Bills Committee**

1.25 The Senate Standing Committee for the Scrutiny of Bills (Scrutiny committee) has a standing brief to consider all bills as to whether they trespass unduly on personal rights and liberties, and related matters.

1.26 The Scrutiny committee commented on the following issues in relation to the bill:

#### **Delayed commencement**

##### **Subclause 2(1)**

Item 4 in the table to subclause 2(1) provides that Divisions 3 and 4 of Part 2 of Schedule 1 commence on 1 July 2012. Where there is a delay in commencement of longer than six months, the Committee expects that the explanatory memorandum to the bill will provide an explanation, in accordance with paragraph 19 of Drafting Direction No 1.3.

In this case, the explanatory memorandum does not provide an explanation for the delayed commencement. The Committee **seeks the Minister's advice** on the reasons for the delayed commencement and **requests that these reasons be included in the explanatory memorandum** to assist readers and those affected by the legislation.

*Pending the Minister's advice, the Committee draws Senators' attention to the provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.*

**Incorporating matter as in force from time to time****Schedule 2, item 4, new subsection 592N92)**

Proposed new section 592N of the *Social Security Act 1991*, to be inserted by item 4 of Schedule 2, provides for the Minister to approve scholarship courses by legislative instrument which may make provision for, or in relation to, a matter by applying, adopting or incorporating any matter contained in an instrument or writing 'as in force or existing from time to time'. The explanatory memorandum clearly and comprehensively explains (at page 25) why this incorporation by reference is necessary and also provides relevant examples. The explanatory memorandum also states that 'only very limited non-legislative instruments would be incorporated as in force from time to time'. The Committee is satisfied that this incorporation by reference is thoroughly explained.

*In the circumstances, the Committee makes no further comments on this bill.*<sup>7</sup>

