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THE HOUSE OF REPRESENTATIVES

SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT  
AND OTHER MEASURES) BILL 2012

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Employment and Workplace Relations, the  
Honourable Bill Shorten MP)

# **SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT AND OTHER MEASURES) BILL 2012**

## **GENERAL OUTLINE**

The Bill implements the income support measures that form part of the broader reforms in the *Building Australia's Future Workforce Package* announced in the 2011-12 Budget which aims to encourage more participation in work and other activities, better align the treatment of different recipients, and make the system fairer.

The Bill includes amendments to the *Social Security Act 1991* (the SS Act) and the *Social Security (Administration) Act 1999* (Administration Act) related to the following *Building Australia's Future Workforce* (BAFW) measures:

- Changes to the eligibility criteria for youth allowance (other) and newstart allowance;
- Incentives for single parents and parenting payment reforms; and
- Streamlining services for job seekers – alignment of daily penalty amounts.

These measures were announced to come into effect on 1 July 2012 in the case of the changes related to youth allowance (other) and job seeker compliance penalties, and on 1 January 2013 in the case of the parenting payment and related changes.

In addition, but unrelated to the BAFW package, the Bill makes a minor amendment to the *Indigenous Education (Targeted Assistance) Act 2000* (IETA Act) to increase the appropriation associated with the extension of the Student Education Trusts measure as part of the Cape York Welfare Reform Trials.

### Changes to the eligibility criteria for youth allowance (other) and newstart allowance

The first measure in this Bill will amend the SS Act to so that from 1 July 2012 unemployed 21 year olds may be eligible for youth allowance. Currently these young people may be eligible for newstart allowance when they turn 21.

To encourage young people to take up work, the Bill will amend the income free area value from \$62 a fortnight to \$143 a fortnight for all youth allowance (other) recipients. In addition the working credit limit value will be increased from \$1000 to \$3500 for the same group of young people.

This Bill will also extend early school leaver participation requirements (Earn or Learn), for recipients of youth allowance who have not achieved a Year 12 or equivalent qualification, to 21 year olds.

As a consequence of these changes, the Bill will also amend the ages referred to in various payments, supplements and payment calculators to align with the age changes for youth allowance and newstart allowance including:

- increasing the age at which a person will cease to be qualified for Youth Disability Supplement from 21 to 22 years;
- increasing the minimum qualification age for Sickness Allowance from 21 to 22 years; and
- increasing the minimum qualification age for the Long Term Income Support rate for students from 21 to 22 years.

The Bill includes transitional provisions for existing 21 year old recipients of newstart allowance to continue to receive their current payments.

### Incentives for single parents and parenting payment reforms

The second measure in the Bill will enact changes to the eligibility rules for “grandfathered” parenting payment recipients; those recipients who have been continuously receiving parenting payment since before 1 July 2006. Currently grandfathered recipients can receive parenting payment until their youngest child turns 16 years provided that child was in their care before 1 July 2011. Since 1 July 2011 any new child born to, or coming into the care of, a grandfathered parenting payment recipient no longer extends that recipient’s grandfathered status.

From 1 January 2013, grandfathered recipients will cease to be eligible for parenting payment when their youngest eligible child (in their care before 1 July 2011) turns:

- 16 years if the child was born before 1 January 2000;
- 13 years if the child was born between 1 January 2000 and 31 December 2000; or
- 12 years if the child was born on or after 1 January 2001.

These changes for parenting payment recipients whose youngest child is aged 12 to 15 years will make eligibility for income support more consistent with the treatment of other parents.

In addition, for single principal carer parents receiving newstart allowance, the current dual income test taper rate of 50 and 60 cents in the dollar will be replaced from 1 January 2013 with a more generous taper rate of 40 cents in the dollar for income above the income free area of \$62 per fortnight. This will provide a strong incentive for parents to re-engage in the workforce and will more generously reward single parents who are working.

### Job seeker reconnection penalties

The third measure in the Bill will amend the Administration Act by aligning, from 1 July 2012, the daily penalty rates for reconnection and no show no penalties at one-tenth of a job seeker’s fortnightly participation payment.

. Aligning the rate at one-tenth will simplify the compliance framework and make the system fairer for job seekers by not penalising them for not connecting during weekends where providers are not available.

### Student Education Trusts

The Student Education Trusts are a financial management service whereby parents and caregivers from the remote Indigenous communities of Aurukun, Coen, Hope Vale and Mossman Gorge on Cape York in Far North Queensland are supported and encouraged to save or their children’s education costs from the early years through to tertiary education.

The Bill amends the *Indigenous Education (Targeted Assistance) Act 2000* to provide additional funding for the Student Education Trusts measure as part of the 12 months extension of the Cape York Welfare Reform Trials announced on 10 May 2011.

### Other changes

The Bill also amends the SS Act to facilitate the measures and make amendments of a technical nature.

## FINANCIAL IMPACT STATEMENT

### Schedule 1 – Age requirements for social security payments, Schedule 2 – Income test for youth allowance, Schedule 5 – Working credit balances

These Schedules amend the SS Act to implement various changes related to youth allowance (other).

| Year          | Expense (\$ million) |
|---------------|----------------------|
| 2011-12       | 9.8                  |
| 2012-13       | -47.4                |
| 2013-14       | -72.5                |
| 2014-15       | -76.3                |
| <b>TOTAL:</b> | <b>-186.4</b>        |

### Schedule 3 – Income Test for newstart allowance, Schedule 4 – Claims for newstart allowance, Schedule 6 – Parenting payment transitional arrangement

These Schedules amend the SS Act to implement various changes related to parenting payment and the newstart allowance income test.

| Year          | Expense (\$ million) |
|---------------|----------------------|
| 2011-12       | 2.9                  |
| 2012-13       | 19.0                 |
| 2013-14       | 11.5                 |
| 2014-15       | -6.8                 |
| <b>TOTAL:</b> | <b>26.7</b>          |

### Schedule 7 – Penalty for reconnection failures

This Schedule amends the SS Act to align daily penalty rates for reconnection failures.

| Year          | Expense (\$ million) |
|---------------|----------------------|
| 2011-12       | 1.197                |
| 2012-13       | 0.056                |
| 2013-14       | -0.021               |
| 2014-15       | -0.023               |
| <b>TOTAL:</b> | <b>1.209</b>         |

### Schedule 8 – Extension of Cape York Welfare Reform Trials

This Schedule amends the *Indigenous Education (Targeted Assistance) Act 2000* to provide the appropriation to fund the 12 months extension of the Student Education Trusts measure as part of the extension of the Cape York Welfare Reform Trials.

| Year | Expense (\$) |
|------|--------------|
| 2012 | \$681,000    |

**Note:** Total expenditure for schedules are rounded

**SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT  
(INCOME SUPPORT AND OTHER MEASURES) BILL 2012**

For ease of description, this Explanatory Memorandum uses the following abbreviations:

‘Administration Act’ means the *Social Security (Administration) Act 1999*.

‘Bill’ means this Bill, i.e. the Social Security Legislation Amendment (Income Support and Other Measures) Bill 2011.

‘SS Act’ means the *Social Security Act 1991*.

**Clause 1 – Short Title**

This clause provides for the Bill, when enacted, to be cited as the *Social Security Legislation Amendment (Income Support and Other Measures) Act 2012*.

**Clause 2 – Commencement**

This clause inserts a three column table setting out commencement information for various provisions of the Act. Each provision of the Act specified in column 1 of the table commences (or is taken to have commenced) in accordance with column 2 of the table and any other statement in column 2 has effect according to its terms.

Table item 1 provides that sections 1 to 3 and anything in this Act not elsewhere covered by this table shall commence on Royal Assent.

Table item 2 provides that Schedules 1 and 2 shall commence on 1 July 2012.

Table item 3 provides that Schedule 3 shall commence on 1 January 2013.

Table item 4 provides that schedule 4 shall commence on Royal Assent.

Table item 5 provides that Schedule 5 shall commence on 1 July 2012.

Table item 6 provides that Schedule 6 shall commence on Royal Assent.

Table item 7 provides that Schedule 7 shall commence on 1 July 2012.

Table item 8 provides that Schedule 8 shall commence on Royal Assent.

**Clause 3 – Schedule(s)**

This clause provides that each Act that is specified in a Schedule to this Bill is amended or repealed as set out in applicable items of the Schedule concerned, and any other item in a Schedule to the Bill has effect according to its terms.

## **Schedule 1—Age requirements for social security payments**

### ***Social Security Act 1991***

The amendments made by Schedule 1 change the eligibility criteria in relation to age requirements for youth allowance and newstart allowance.

Under the proposed amendments, the maximum age for youth allowance for non-students will increase from 21 to 22 years. Once a person has attained the amended maximum age (i.e. 22) they will no longer be of 'youth allowance age' for the purposes of the SS Act.

For newstart allowance, the minimum qualification age will be increased from 21 to 22 years under the proposed amendments.

### **Item 1 - Paragraphs 19C(8)(b) and (c)**

Item 1 amends the definition of *maximum payment rate* in relation to newstart allowance and youth allowance under paragraphs 19C(8)(b) and (c) of the SS Act respectively.

Paragraph 19C(8)(b) provides that in relation to newstart allowance for special benefit where the person has turned 21 years, Step 4 of the Method statement in Module A of the applicable rate calculator is to be used to calculate the person's maximum payment rate.

Paragraph 19C(8)(c) provides that in relation to youth allowance for special benefit where the person has not reached the age of 21 years, Step 4 of the Method statement in Module A of the youth allowance Rate Calculator in section 1067G is to be used to calculate the person maximum payment rate.

Under this amendment, the age requirement in relation to determining the maximum payment rate for special benefit in relation to newstart allowance and youth allowance is increased from 21 to 22 years.

### **Item 2 - Subsection 23(1) (paragraph (a) of the definition of *early school leaver*)**

Item 2 amends the definition of *early school leaver* under subsection 23(1) of the SS Act.

Currently the term *early school leaver* is defined to mean a person who is less than 21 years old, who has not completed the final year of secondary school (or an equivalent level of education) and is not undertaking full-time study.

Under this amendment, the age requirement is increased from 21 to 22 years old.

### **Item 3 - Subsection 543B(1)**

To be qualified for youth allowance a person needs to be of youth allowance age. A person is of youth allowance age if they have attained the minimum age for youth allowance and not yet attained the maximum age for youth allowance.

Item 3 amends the maximum age for youth allowance under section 543B of the SS Act.

Currently subsection 543B(1) provides, among other things, that any person who is at least 21 years old and who is in one of the following categories has reached the maximum age for youth allowance:

- is not undertaking full-time study, or
- is undertaking full-time study in respect of a course of education that is to last for less than 12 months and was immediately before starting the course of education receiving newstart allowance; or
- is not a new apprentice.

Under the amendments made by Item 3, the maximum age for youth allowance in relation to a person who is in each of the above categories is increased from 21 to 22 years. That is, where the amendments apply a person will cease to be qualified for youth allowance at age 22, instead of age 21.

### **Items 4 and 5 - Subparagraphs 593(1)(g)(i), (1B)(b)(i) and (1D)(b)(i)**

Item 4 and 5 amend the qualification criteria for newstart allowance under section 593 of the SS Act.

Currently subsection 593(1) provides, among other things, that a person is qualified for a newstart allowance in respect of a period if throughout the period the person is at least 21 years of age and has not reached the pension age. Subsections 593(1B) and 593(1D) also provide that a person is qualified for newstart allowance in respect of certain periods if, among other things, the person is at least 21 years of age and has not reached the pension age.

The amendments made by Item 4 and 5 have the effect of increasing the lower age limit for qualification for newstart allowance from 21 to 22 years.

### **Item 6 – Paragraph 666(1)(e)**

Item 6 amends the qualification criteria for sickness allowance under section 666 of the SS Act.

Section 666 provides that a person is qualified for sickness allowance in respect of a period if, among other criteria, before the relevant period begins the person has turned 21.

Under the amendment, Item 6 increases the age requirement from 21 to 22 years.

### **Item 7 – Section 1067F**

Item 7 amends the definition of *long term income support student* under section 1067F of the SS Act.

Section 1067F provides, among other criteria, that a person is a *long term income support student* if the person is at least 21 years.

Under the amendment, Item 7 increases the age requirement from 21 to 22 years.

Item 7 also increases the age references in subparagraphs 1067F(1)(c)(i) and 1067F(1)(c)(ii) to 22.

### **Item 8 – Paragraph 1067G-D1(b)**

Item 8 amends the criteria for qualification for youth disability supplement under paragraph 1067G-D1(b) of the SS Act.

Section 1067G-D1 provides that an amount for youth disability supplement can be added to a person's payment of youth allowance if the person has a partial capacity to work and has not turned 21 years of age.

Under this amendment, Item 8 increases the age requirement from 21 to 22 years of age.

### **Items 9, 10, 11 and 12 – Paragraphs 1067G-H26(a) and (b), 1067L-D25(a) and (b), 1068-G9(a) and (b), and 1068B-D22(a) and (b)**

Items 9 to 12, inclusive, make amendments paragraphs 1067G-H26(a) and (b), 1067L-D25(a) and (b), 1068-G9(a) and (b), and 1068B-D22(a) and (b) of the SS Act which variously provide for the partner income free area.

Sections 1067G-H26, 1067L-D25, 1068-G9, and 1068B-D22 respectively provide for the method of determining the partner income free area in relation to a person. The partner income free area is the maximum amount of ordinary income the person's partner can earn without affecting the person's benefit.

Currently, if the person's partner is not receiving a social security benefit, this amount will differ according to whether or not the person's partner has turned 21.

Under these amendments to Items 9, 10, 11 and 12, the reference to 21 will be replaced with 22. .



### **Item 13 – Section 1190 (table item 4A, column 2)**

The table under section 1190 sets out the amounts which are to be indexed or adjusted in accordance with the SS Act. Column 2 of the table sets out the relevant description of amounts affected by section 1190. Table item 4A specifies that amounts of youth disability supplement shall be indexed and adjusted.

Currently, the Description of table item 4A in Column 2 of the table provides that youth disability supplement is payable to a disability support pensioner, or to a recipient of youth allowance, who is under 21.

The amendment made by Item 13 replaces the reference to 21 with 22 for youth allowance recipients.

### **Item 14 – Application – persons in severe financial hardship**

Item 14 is an application provision in relation to the amendment made by Item 1 regarding paragraphs 19C(8)(b) and (c). Item 14 makes clear that the application of this amendment shall only apply in relation to whether a person is in severe financial hardship for days on or after 1 July 2012.

### **Item 15 – Application – youth allowance**

Subitem 15(1) is an application provision in relation to the amendments in Items 2 and 3 regarding subsections 23(1) and 543B(1) unless subitems 15(2) or (3) apply. Subitem (1) makes clear that those amendments shall only apply in relation to working out a person's eligibility for youth allowance for days occurring on or after 1 July 2012.

Subitem 15(2) provides that, in relation to a person who was aged 21 on 30 June 2012 and was either receiving a newstart allowance immediately before 1 July 2012 or whose newstart allowance was suspended immediately before 1 July 2012, the amendments in Items 2 and 3 do not apply to that person during the period beginning on 1 July 2012 and ending on the day on which the payment of their newstart allowance is cancelled. Subitem (2) ensures that a person who is 21 and receiving a newstart allowance immediately prior to the amendments is not affected by the amendments in Items 2 and 3 prior to any cancellation of their newstart allowance. However, if their newstart allowance is cancelled, the amendments in Items 2 and 3 will apply to that person after that cancellation.

Subitem 15(3) provides that if a person was granted a newstart allowance under the Administration Act prior to 1 July 2012, and if their start date for the allowance under clause 5 of Schedule 2 to that Act is on or after 1 July 2012, Items 2 and 3 do not apply to that person during the period beginning on 1 July 2012 and ending on the day on which the payment of their newstart allowance is cancelled. This is to ensure that a person who was deemed eligible for a newstart allowance prior to 1 July 2012, but whose allowance was to begin after that date is not affected by the amendments in Items 2 and 3 prior to any cancellation of their newstart allowance. However, if their

newstart allowance is cancelled, the amendments in Items 2 and 3 will apply to that person after that cancellation.

Subitem 15(4) is an application provision in respect of the amendment made by Item 7 regarding paragraphs 1067F(1)(a) and 1067F(2)(a). Subitem (4) makes clear that, subject to subitem(5), the application of the amendment is that it shall only apply in relation to working out the rate of youth allowance for days occurring on or after 1 July 2012.

Subitem 15(5) provides that the amendment in item 7 does not apply to a person who was aged 21 on 30 June 2012, and was receiving a youth allowance immediately before 1 July 2012, or whose youth allowance was suspended immediately before 1 July 2012. Subitem (5) ensures that those who are 21 and were receiving youth allowance immediately prior to the amendments are not affected.

Subitem 15(6) is an application provision in relation to the amendment in item 8 regarding paragraph 1067G-D1(b). Subitem (6) makes clear that the application of the amendment is that it shall only apply in relation to working out the rate of youth allowance for days occurring on or after 1 July 2012.

## **Item 16 – Application – newstart allowance**

Subitem 16(1) is an application provision in relation to the amendments made by Items 4 and 5 regarding subparagraphs 593(1)(g)(i), 593(1B)(b)(i), and 593(1D)(b)(i) unless subitems 16(2), (3), (4), (5) or (6) apply. Subitem (1) makes clear that subject to Item 16, the application of the amendments shall apply in relation to determining eligibility for newstart allowance for days occurring on or after 1 July 2012.

Subitem 16(2) provides that, in relation to a person who was aged 21 on 30 June 2012 and was either receiving a newstart allowance immediately before 1 July 2012 or whose newstart allowance was suspended immediately before 1 July 2012, the amendments in Items 4 and 5 do not apply to that person during the period beginning on 1 July 2012 and ending on the day on which the payment of their newstart allowance is cancelled. Subitem (2) ensures those who are 21 and were receiving a newstart allowance immediately prior to the amendments are not affected prior to any cancellation of their newstart allowance. However, if their newstart allowance is cancelled, the amendments in Items 4 and 5 will apply to that person after the cancellation.

Subitem 16(3) provides that if a person aged 21 made a claim for newstart allowance which had not been determined prior to 1 July 2012, the amendments in Items 4 and 5 do not apply to the claim, or if the claim is granted, to payment of that allowance as a result of that claim.

Subitem 16(4) provides that if a person aged 21 made a claim for newstart allowance before 1 July 2012 and was, on 1 July 2012, serving a liquid assets test waiting period in relation to the claim, the amendments in Items 4 and 5 do not apply to the claim, or if the claim is granted, to payment of that allowance as a result of that claim.

Subitem 16(5) provides that if a person was granted a newstart allowance under the Administration Act prior to 1 July 2012 and an income maintenance period applies to the person on 1 July 2012, the amendments in Items 4 and 5 do not apply to that person during the period beginning on 1 July 2012 and ending on the day on which the payment of their newstart allowance is cancelled. This means that the amendments in Items 4 and 5 will only apply to such a person if, and after, the payment of their newstart allowance is cancelled.

Subitem 16(6) provides that if a person was granted a newstart allowance under the Administration Act prior to 1 July 2012, and whose start date for the allowance under clause 5 of Schedule 2 to that Act is on or after 1 July 2012, the amendments in Items 4 and 5 do not apply to that person during the period beginning on 1 July 2012 and ending on the day on which the payment of their newstart allowance is cancelled. This means that the amendments in Items 4 and 5 will only apply to such a person if, and after, the payment of their newstart allowance is cancelled

### **Item 17 – Application – sickness allowance**

Subitem 17(1) is an application provision in relation to the amendments made by Item 6 regarding paragraph 666(1)(e). Subitem (1) provides that the application of the amendment shall only apply in relation to determining eligibility for sickness allowance for days occurring on or after 1 July 2012.

Subitem 17(2) makes clear that the amendment made by Item 6 does not apply to a person who was aged 21 on 30 June 2012, and was receiving a sickness allowance immediately before 1 July 2012, or whose sickness allowance was suspended immediately before 1 July 2012.

### **Item 18 – Application – general rates**

Item 18 is an application provision in relation to the amendments made by Items 9 to 12, inclusive, regarding paragraphs 1067G-H26(a) and (b), 1067L-D25(a) and (b), 1068-G9(a) and (b), and 1068B-D22(a) and (b) respectively. Item 18 makes clear that the application of the amendments shall apply in relation to working out the rates of social security for days occurring on or after 1 July 2012.

## **Schedule 2—Income test for youth allowance**

### *Social Security Act 1991*

#### **Items 1 and 2 – Paragraph 1067G-H29(b), 1067G-H32(c), and 1067G-H33(c)**

Subsection 1067G-H29 sets out the ordinary income free area in relation to youth allowance. The ordinary income free area is the amount of income that a person can earn without a deduction being made from the person's maximum payment rate. Paragraph 1067G-H29(b) sets out the fortnightly income free area for a person who is not undertaking full time study, or undertaking a new apprenticeship. Item 1 changes this amount under paragraph 1067G-H29(b) from \$62 to \$143.

Where a person's ordinary income exceeds the ordinary income free area, they are deemed to have an ordinary income excess under subsection 1067G-H30, which is the amount by which the person's ordinary income exceeds the person's ordinary income free area. Subsection 1067G-H31 sets out that if a person had an ordinary income excess, they are subject to an ordinary income reduction, which is the sum of their upper and lower income reduction (if any).

Subsection 1067G-H32 sets out the lower range reduction. For a person who is not undertaking full-time study and who is not a new apprentice the lower range reduction will be an amount equal to 50% of the part (if any) of the person's ordinary income that does not exceed the amount in paragraph 1067G-H32(c), which is currently \$188. Item 2 shall reduce the amount under paragraph 1067G-H32(c) from \$188 to \$107.

Subsection 1067G-H33 sets out the upper range reduction. For a person who is not undertaking full-time study and who is not a new apprentice the lower range reduction will be an amount equal to 60% of the part (if any) of the person's ordinary income that exceeds the amount in paragraph 1067G-H33(c), which is currently \$188. Item 2 shall reduce the amount under paragraph 1067G-H33(c) from \$188 to \$107.

#### **Item 3 – Application**

Item 3 is an application provision which provides that the amendments made by Items 1 and 2 shall only apply to working out the rate of youth allowance for days occurring on or after 1 July 2012.

## **Schedule 3—Income test for newstart allowance**

### *Social Security Act 1991*

#### **Items 1, 2 and 3 – Point 1068-G1 (method statement, step 10), Point 1068-G14 (heading) and Point 1068-G14**

Items 1, 2 and 3 are technical amendments consequential to the amendment made by Item 4.

#### **Item 4 – Section 1068 (at the end of Module G of the Benefit Rate Calculator B)**

Item 4 inserts new section 1068-G17 within section 1068 of the SS Act.

Section 1068 sets out the various Benefit Rate Calculators to be used to calculate the rate of widow allowance, newstart allowance (18 or over), sickness allowance (18 or over), partner allowance, and mature age allowance under Part 2.12B of the SS Act.

Item 4 inserts a new point 1068-G17 to Module G of section 1068. The new point 1068-G17 provides that if a person receiving newstart allowance has an ordinary income excess, but is not a member of a couple, and is the principal carer of a child then their ordinary income reduction is an amount equal to 40% of their ordinary income excess.

#### **Item 5 – Application**

Item 5 is an application provision which provides that the amendments made by Schedule 3 shall only apply to working out the rate of newstart allowance for days occurring on or after 1 January 2013.

## **Schedule 4—Claims for newstart allowance**

### *Social Security (Administration) Act 1999*

#### **Item 1 – Paragraph 4(2)(a) of Schedule 2**

Item 1 makes a technical amendment to paragraph 4(2)(a) of Schedule 2.

#### **Item 2 – Subclause 4(5) of Schedule 2**

Item 2 repeals subclause 4(5) of Schedule 2.

The amendments made by Items 1 and 2 mean that for a person making a claim for newstart allowance, either subclause 4(1) or 4(6) will apply, depending on whether or not the person is serving a liquid assets test waiting period.

#### **Item 3 – Application**

Item 3 makes clear that the amendments in Items 1 and 2 apply to claims made on or after the commencement of those Items, which is the day the Act receives Royal Assent.

## **Schedule 5—Working credit balances**

### ***Social Security Act 1991***

#### **Items 1, 2, 3 and 4 – Subsections 1073E(2), (4), (5) and (5A) and subsection 1073E(6)(b)**

Items 1 to 4, inclusive, make technical amendments consequential to the amendment made by Items 5 and 6 of Schedule 5.

#### **Item 5 – At the end of section 1073E**

Item 5 inserts new subsection (7) into section 1073E of the SS Act.

New subsection 1073E(7) defines the term ***threshold amount***. The threshold amount prescribes the amount above nil that a person can have as their opening balance of working credit applicable them on the day that is their participation day.

New paragraph 1073E(7)(a) provides that the threshold amount is \$3500 if, on the relevant participation day, a youth allowance recipient does not undertake full time study, and is not a new apprentice. New paragraph 1073E(7)(b) provides that in any other case the threshold amount shall be \$1000.

#### **Item 6 – Section 1073F (method statement, step 4)**

Item 6 substitutes step 4 of the method statement under section 1073F used to determine accruals and depletion of working credit for social security beneficiaries.

Currently, step 4 provides that where the participant's rate of total ordinary income on a fortnightly basis for the day is less than \$48, there is an accrual to the participant's working credit balance for the day of an amount equal to one fourteenth of the amount by which \$48 exceeds that rate. Step 4 also currently provides that the maximum working credit balance is \$1,000.

Item 6 increases the maximum working credit balance for certain persons receiving a social security benefit. The new maximum working credit balance will be \$3,500 where the participant became a working credit participant on a day under subsections 1073E(2), (3), (4), (5), (5A) or (6) of the SS Act, and, on that day, the participant was receiving youth allowance, was not undertaking full time study and was not a new apprentice. In any other case, the maximum working credit balance will be \$1,000.

#### **Item 7 – Application**

Item 7 is an application provision which provides that the amendments made by Schedule 5 shall only apply to those who become working credit participants as mentioned in section 1073E of the SS Act on days occurring on or after 1 July 2012.



## **Schedule 6—Parenting payment transitional arrangement**

### ***Social Security Act 1991***

#### **Item 1 – At the end of section 500F**

Item 1 inserts new subsections (5) and (6) into section 500F of the SS Act. Item 1 is a transitional provision inserted to make arrangements for circumstances in which a person ceases to be covered by parenting the current payment transitional arrangements under the SS Act.

New subsection 500F(5) provides that if a person is covered by the parenting payment transitional arrangement in relation to a child immediately before 1 January 2013, the person shall cease to be covered by that arrangement when the person's child turns 12 years of age if that child was aged under 12 on 31 December 2012; or when the person's child turns 13 years of age if that child is aged 12 years on 31 December 2012; or when the person's child turns 16 years if that child is aged 13 or more and under 16 years on 31 December 2012.

New subsection 500F(6) clarifies that new subsection (5) shall not operate to limit the circumstances in which a person may be ceased to be covered by the parenting payment transitional arrangement in relation to a child.

## Schedule 7—Penalty for reconnection failures

### *Social Security (Administration) Act 1999*

#### Item 1 – Subsection 42T(3)

Item 1 amends subsection 42T(3) of the *Social Security (Administration) Act 1999*. Subsection 42T(1) provides that the Minister must, by legislative instrument, determine a method for working out a person's penalty amount in relation to no show or a reconnection failure.

Currently subsection 42T(3) limits the penalty amount for a reconnection failure able to be determined under the instrument to no more than the total of the daily rates of the participation payment payable to the person during the reconnection failure period.

Under the amendment made by Item 1, the limitation is replaced by the following formula:

$$1.4 \times \frac{\text{Amount of the person's instalment of participation payment for the instalment period in which the day occurs}}{\text{Number of days in the person's instalment period}}$$

This is the formula that is also used to calculate the maximum penalty amount for a no show or a pay failure.

#### Item 2 – Application

Item 2 is an application provision which provides that the amendment made by Item 1 of Schedule 7 shall only apply to a determination that a person commits a reconnection failure made on or after commencement of Item 1, where the relevant failure also occurred on or after commencement of Item 1.

## **Schedule 8—Other amendments**

### ***Indigenous Education (Targeted Assistance) Act 2000***

#### **Item 1 – Subsection 14B(1) (table item 4)**

Item 1 amends the figure at table item 4 in the ‘Starting amount’ column of the table under subsection 14B(1) of the *Indigenous Education (Targeted Assistance) Act 2000*.

Under this amendment, new table item 4 provides for the starting amount of \$120,701,000 in respect of the 1 January 2012 to 30 June 2013 appropriation period.

### ***Social Security Act 1991***

#### **Item 2 - Point 1068-B1B**

Item 2 amends point 1068-B1B of the SS Act to make a technical amendment and remove the reference to point 1068-B1A.

Point 1068-B1A provides that certain children who are not young persons are to be treated as dependent children for the purposes of determining the maximum basic rate applicable to a person. Currently, point 1068-B1B provides that its provisions are applicable when determining a person’s maximum basic rate for the purpose of point 1068-B1A.

Under this amendment, the reference to point 1068-B1A will be removed and the provision of point 1068-B1B shall apply generally to the determination of a person’s maximum basic rate.

# Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

## **Social Security and Other Legislation Amendment (Income Support and Other Measures) Bill 2012**

This Bill is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Bill**

The Bill amends the *Social Security Act 1991* to implement income support measures that form part of the broader reforms in the *Building Australia's Future Workforce Package*.

The Bill extends youth allowance to 21 year olds who are unemployed and not full-time students. youth allowance will also be extended to young people aged 21 years with a temporary injury illness or injury.

The Bill increases the income free area and working credit limit value for certain recipients of youth allowance. It decreases the threshold at which youth allowance payments are tapered at the highest rate due to excess income.

The Bill increases the age of qualification for newstart allowance from 21 to 22. It also increases the minimum age of qualification for long term income support for students, and the minimum age of qualification for sickness allowance, from 21 to 22. It reduces the taper rate in relation to income above the income free area for single principal carer parents receiving newstart allowance.

This Bill will enact changes to the eligibility rules for 'grandfathered' parenting payment recipients that will accelerate the closing of the grandfathered conditions.

The Bill increases the amount of daily penalty rates for reconnection failure penalties for participation payment recipients.

The Bill increases the appropriation for non- ABSTUDY payments under the *Indigenous Education (Targeted Assistance) Act 2000* for the period 1 January 2012 to 30 June 2013.

## **Human rights implications**

The Bill engages the following human rights:

### *Right to social security*

Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the right of everyone to social security.

The Bill will promote the right to social security by increasing the income free area and working credit limit value for certain recipients of youth allowance, and by reducing of the taper rate in relation to income above the income free area for single principal carer parents receiving newstart allowance. These measures will entitle relevant persons to higher social security payments than they would previously have been entitled to when earning over certain thresholds.

The Bill limits eligibility of newstart allowance to new claimants aged 22 years to pension age. The right to social security will remain for 21 year olds: youth allowance is being extended to include 21 year olds who are not full-time students or Australian apprentices, and existing 21 year olds in receipt of newstart allowance on 1 July 2012 will be ‘grandfathered’ and continue to receive current entitlements.

This limitation will remove the financial incentive for young people to be on unemployment benefits rather than studying full-time, and ensures benefits are applied consistently for 21 year olds. Practically this amendment limits the rate at which 21 year olds can be paid regardless of whether they are unemployed or in study or training.

The increase of the minimum age of qualification for sickness allowance to 22 will limit new claimants’ right to this payment. However, their right to social security will remain; such 21 year olds are likely to be eligible for youth allowance instead. This is justified because it ensures social security entitlements are applied consistently for young people aged 21 years regardless of their circumstances. The Bill contains provisions to ensure that existing recipients of sickness allowance will be ‘grandfathered’ and continue to receive current entitlements.

The increase in the amount of daily penalty rates for reconnection penalties for participation payment recipients may also reduce a person’s social security payments. However, the reduction will only occur if a person misses an appointment with their employment services provider (having already missed the previous appointment) without giving prior notice of a reasonable excuse. This will have no adverse impact on people who do comply, or genuinely cannot comply, with their participation requirements to attend an appointment with their employment services provider. Further, it will align the daily penalty rates with the maximum penalty amount for a no show no pay failure, which is desirable because it removes disparity in the application of participation failures. It also means that all participation failure penalty daily rates will not include weekends during which a person is unable to comply with their requirements.

The changes to the eligibility rules for ‘grandfathered’ parenting payment recipients will limit access to parenting payment for those who have been in continual receipt of parenting payment since prior to 1 July 2006. The justification for this is to accelerate the closing of the grandfathered conditions for parenting payments which will help to restore equity across the parenting payment population. This limitation is further justified because it will encourage parents with older children to re-enter the workforce earlier, thereby reducing long term welfare reliance and, over time, the prevalence of intergeneration welfare dependency. However, a person’s access to social security is not impacted as recipients who are affected by this measure are entitled to apply for other income support payments, such as newstart allowance.

### *Right to education*

Article 13 of the ICESCR recognises the right of everyone to education.

The amendment of the *Indigenous Education (Targeted Assistance) Act 2000* will provide additional funding for the Student Education Trusts measure as part of the 12 month extension of the Cape York Welfare Reform Trials.

Student Education Trusts are a financial management service whereby parents and care-givers from the remote Indigenous communities of Aurukun, Coen, Hope Vale and Mossman Gorge on Cape York in Far North Queensland are supported and encouraged to save and provide for their children’s education costs from early childhood through to tertiary education, thereby assisting their children to more easily access their right to education. This is an important part of the strategy in Far North Queensland for closing the gap in education outcomes between Indigenous and non-Indigenous people.

### *Right to work*

Article 6 of the ICESCR recognises the right to work.

The increase of the income free area and working credit limit value for certain recipients of youth allowance will encourage those recipients to take up work without their earnings affecting their social security payments up to a certain level. This measure encourages young people to engage with their right to work.

### **Conclusion**

The Bill is compatible with human rights because it generally advances human rights. To the extent that it may have an adverse impact on human rights, that impact is reasonable and for legitimate reasons.