

**2013-2014-2015**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**SOCIAL SERVICES LEGISLATION AMENDMENT  
(LOW INCOME SUPPLEMENT) BILL 2015**

**EXPLANATORY MEMORANDUM**

**(Circulated by the authority of the  
Minister for Social Services, the Hon Scott Morrison MP)**



**SOCIAL SERVICES LEGISLATION AMENDMENT  
(LOW INCOME SUPPLEMENT) BILL 2015**

**OUTLINE**

This Bill reintroduces a 2015 Budget measure previously introduced in the Social Services Legislation Amendment (Youth Employment and Other Measures) Bill 2015, which was negated in the Senate on 9 September 2015. The measure will cease the low income supplement from 1 July 2017.

**Financial impact statement**

The measure will produce savings of \$42.9 million over the forward estimates.

**STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

The statement of compatibility with human rights appears at the end of this explanatory memorandum.

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**NOTES ON CLAUSES**

**Clause 1** sets out how the new Act is to be cited – that is, as the *Social Services and Other Legislation Amendment (Low Income Supplement) Act 2015*.

**Clause 2** provides a table setting out the commencement dates of the various provisions in the new Act.

**Clause 3** provides that legislation that is specified in a Schedule is amended or repealed as set out in that Schedule.

## **Schedule 1 – Amendments**

### **Summary**

This Schedule provides for the cessation of the low income supplement from 1 July 2017.

### **Background**

This Schedule ceases the low income supplement from 1 July 2017. The low income supplement is an annual lump sum to be paid to independent adults in low-income households who met residence, income and tax requirements, and who could show that they were not adequately assisted through the tax reform package and the household assistance measures set out with the introduction of the carbon price.

The low income supplement is paid, as an annual tax-exempt lump sum, to adults in low-income households, based on the household's circumstances from the previous income year. The low income supplement was payable to qualifying individuals from 1 July 2012. The amount of the payment was \$300 for each qualifying individual, and was limited to one payment per year.

A person must make a new claim for the low income supplement each financial year, and only during the relevant financial year. That is, a claim for the 2014-15 financial year must be lodged between 1 July 2014 and 30 June 2015, and a claim for the 2015-16 financial year must be lodged between 1 July 2015 and 30 June 2016. A person's claim for the low income supplement is assessed with reference to the claimant's income for the previous financial year. Claims for the low income supplement in respect of more than one financial year cannot be rolled into one claim. Members of a couple cannot make a combined claim, and have to make a claim for the low income supplement separately. The person, at the time the claim is lodged, must be an Australian resident or a special category visa holder residing in Australia and not subject to a newly arrived resident's waiting period. In addition, a person must be in Australia at the time of making a claim.

The payment was originally known as the clean energy low income supplement, and then changed to the low income supplement following the repeal of the carbon price. It is also known by its administrative name of the low income family supplement (as it applies to family tax benefit recipients).

Very few claims for low income supplement have been received, and it is administratively highly complex. Recipients of most Government payments will continue to receive carbon tax compensation through the energy supplement, which provides up to \$14.10 per fortnight depending on individual circumstances.

The amendments made by this Schedule commence on 1 July 2017.

## **Explanation of the changes**

### ***Part 1 – Main amendments***

#### **Amendments to the Social Security Act 1991 (Social Security Act)**

**Item 3** repeals Division 3 of Part 2.18A, which provides qualification criteria for low income supplement.

**Items 1, 2, and 4 to 7** are consequential to item 3, and remove references to low income supplement.

#### **Amendments to the Social Security (Administration) Act 1999 (Social Security Administration Act)**

**Items 8 to 10 and 16** repeal provisions relating only to low income supplement, which become redundant as a result of the repeal of low income supplement.

**Items 11 to 15** omit references to ‘low income supplement’ consequential to the main amendments repealing low income supplement.

### ***Part 2 – Taxation amendments***

#### **Amendments to the Income Tax Assessment Act 1936**

**Item 17** repeals paragraph 202(haa) from section 202 of the *Income Tax Assessment Act 1936* as it facilitated the administration of Division 3 of Part 2.18A of the Social Security Act, which is repealed by item 3.

#### **Amendments to the Taxation Administration Act 1953**

**Items 18 and 19** make minor technical amendments to paragraphs 8WA(1AA)(b), 8WB(1A)(a) and 8WB(1A)(b) of the *Taxation Administration Act 1953* as a consequence of the amendment made by item 18.

### ***Part 3 – Contingent amendments***

#### **Amendments to the Social Security Administration Act**

**Item 20** and **21** are contingent on the commencement of item 57 of Schedule 2 to the *Social Services and Other Legislation Amendment (Student Measures) Act 2015*.

**Item 20** will commence on 1 July 2017, unless item 57 of Schedule 2 to the *Social Services and Other Legislation Amendment (Student Measures) Act 2015* commences on or before 1 July 2017, in which case item 20 does not commence at all. Item 20 removes the redundant reference to low income supplement in subsection 238(1A).

However, **item 21** deals with item 57 of Schedule 2 to the *Social Services and Other Legislation Amendment (Student Measures) Act 2015* commencing after the low income supplement is ceased. Item 21 will commence immediately after the commencement of the remainder of Schedule 4 ceasing low income supplement and immediately after the commencement of item 57 to Schedule 2 to the *Social Services and Other Legislation Amendment (Student Measures) Act 2015* unless item 57 of the *Social Services and Other Legislation Amendment (Student Measures) Act 2015* does not commence at all, in which case item 21 does not commence.

Item 21 repeals paragraph 238(1A)(a), which is inserted by item 57 to Schedule 2 to the *Social Services and Other Legislation Amendment (Student Measures) Act 2015*. That paragraph refers to low income supplement, and would be redundant.

#### **Part 4 – Saving provisions**

**Item 22** sets out a number of saving provisions.

**Subitem (1)** states that, despite the amendment made by item 3, Division 3 of Part 2.18A of the Social Security Act, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to working out qualification for a low income supplement for the 2016-17 income year or an earlier income year. This will ensure that late claims for low income supplement for the 2016-17 income year or an earlier income year may continue to be considered on the basis the person may qualify under this Part.

**Subitem (2)** states that, despite the amendments made by items 4, 5, 6, 7, 20 and 21, sections 1224A and 1231 of the Social Security Act and section 238 of the Social Security Administration Act, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to payments of low income supplement made before, on or after that commencement. This will ensure that any debts due to the Commonwealth for payments of low income supplement may be recovered.

**Subitem (3)** states that, despite the amendments made by items 8, 9 and 10, Part 3 of the Social Security Administration Act, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the making of claims for low income supplement for the 2016-17 income year or an earlier income year. This will ensure that the manner and time limit provisions in place for claims made by a person for the low income supplement may continue to be considered on the basis outlined in this Subsection and Subdivision.

**Subitem (4)** states that, despite the amendments made by items 11, 12, 13 and 14, Part 3 of the Social Security Administration Act, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to making payments of low income supplement for the 2016-17 income year or an earlier income year, and determinations made under that Part before, on or after that commencement in relation to low income supplement. This will ensure that payments of a single lump sum may be made if an individual is qualified for low income supplement for the 2016-17 income year or an earlier income year before, on or after commencement.

**Subitem (5)** states that, despite the amendment made by item 15, Part 4 of the Social Security Administration Act, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a decision under the social security law in relation to low income supplement made before, on or after that commencement. This will ensure that, if an officer makes a decision under the social security law in relation to low income supplement and notice is given to the person concerned, the person is not entitled to make an application under subsection 129(1) for review of the decision more than 13 weeks after the giving of the notice.

**Subitem (6)** states that, despite the amendment made by item 16, section 204B of the Social Security Administration Act, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to claims for low income supplement made for the 2016-17 income year or an earlier income year. This will ensure that the Secretary may continue to require the Commissioner of Taxation to provide the Secretary with information about a person in relation to claims for low income supplement made for the 2016-17 income year or an earlier income year.

**Subitem (7)** states that, despite the amendments made by Schedule 4 to this Bill, subsection 52-10(1L) of the *Income Tax Assessment Act 1997*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to payments of low income supplement made before, on or after that commencement. Subsection 52-10(1L) exempts 'clean energy payments' from income tax. This will preserve the tax-exempt status of such payments.

**Subitem (8)** states that, despite the amendments made by items 17, 18 and 19, sections 8WA and 8WB of the *Taxation Administration Act 1953*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to a person exercising powers or performing functions under, or in relation to, a law of the Commonwealth of a kind referred to in paragraph 202(haa) of the *Income Tax Assessment Act 1936* (as in force immediately before that commencement). This will ensure that tax file numbers may continue to be requested or recorded after the repeal of the low income supplement provisions, where the request or recording of the tax file number is by a person exercising powers or performing functions relating to the administration of the low income supplement provisions in force before the repeal.



## **STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

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

### **SOCIAL SERVICES LEGISLATION AMENDMENT (LOW INCOME SUPPLEMENT) BILL 2015**

This Bill is compatible with the 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 low income supplement inclusive of the low income family supplement is a \$300 annual lump sum supplement claimed by independent adults in low-income households who were not adequately assisted through the tax systems or other Household Assistance Package measures for the cost of living impact of the carbon tax.

This supplement will cease from 1 July 2017.

#### ***Human rights implications***

Individuals eligible for the supplement are now better off following the abolition of the carbon tax. The abolition of the carbon tax has delivered cost of living benefits to low income households that are greater than the value of the supplement they receive.

Individuals eligible for the low income family supplement will continue to receive the energy supplement with their Family Tax Benefit payment.

Individuals receiving an income support or Family Tax Benefit payment automatically receive an energy supplement payment. There is also a range of assistance that individuals and families can access through the social security system to ensure they can maintain a minimum standard of living.

#### ***Conclusion***

There are no human rights impacts as all low income households are better off because there are no longer price pressures from the carbon tax.

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