

1990-91-92

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

DATA-MATCHING PROGRAM (ASSISTANCE AND TAX)
AMENDMENT ACT 1992

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Social Security
the Hon Neal Blewett)

**DATA-MATCHING PROGRAM (ASSISTANCE AND TAX)
AMENDMENT BILL 1992**

OUTLINE AND FINANCIAL IMPACT STATEMENT

This Bill provides for four amendments to the *Data-matching Program (Assistance and Tax) Act 1990* (the Principal Act).

These are:

- (i) extension of the sunset clause, section 21 of the Principal Act, so that the data-matching program can continue until 22 January 1994; and
- (ii) extension of the time allowed for step 5 of a data-matching cycle so as to permit refinement of matching algorithms and so produce more accurate results; and
- (iii) modification of the requirement in section 11 of the Principal Act whereby a source agency must delay action consequent on a discrepancy found in a data-matching cycle until the affected person has had up to 28 days in which to query the result - this amendment will allow an assistance agency to take immediate action with written notice of action to the affected party where the detected discrepancy results solely from the agency's administrative error; and
- (iv) inclusion of a requirement for the provision of a comprehensive report to Parliament on all matters to do with the program before the end of October 1993 by all agencies mentioned in the Principal Act.

Amendment (i) will save the Commonwealth an estimated net \$23.7 million in 1992-93.

Amendments (ii) and (iii) generate negligible net savings.

DATA-MATCHING PROGRAM (ASSISTANCE AND TAX) BILL 1992

1. Preliminary

Clause 1 of the Bill sets out how the amending Act is to be cited and clause 2 when the various sections commence.

Clause 1 also provides that the Data-matching Program (Assistance and Tax) Act 1990 is referred to in the Act as the "Principal Act".

2. Summary of proposed changes

These changes will provide for:

- (i) amendment of section 21 of the Principal Act so that the data-matching program can continue until 22 January 1994; and
- (ii) an extension of the time available to complete step 5 of a data-matching cycle so as to permit testing of preliminary results with a view to refining matching algorithms to produce more reliable results; and
- (iii) exemption from the requirement in section 11 of the Principal Act to provide an affected party with up to 28 days notice before adverse action is taken by an assistance agency where the assistance agency is satisfied that the sole cause of the discrepancy was the agency's own administrative error.
- (iv) provision by each agency of a comprehensive Parliamentary report on the operation of the program by the end of October 1993.

3. Background

Section 21 of the Principal Act, the sunset clause, was included by Parliament to allow an assessment of the success or otherwise of the operation of the Act at this time.

Subsection 9(2) of the Principal Act allows, with a couple of exceptions, only 24 hours for completion of step 5 of a data-matching cycle. Although the matching agency has been able to hold to this time limit it has become clear that on occasions more accurate results would be achieved if preliminary results can be tested and the algorithm changed if necessary before final results are obtained so that the final results can reflect use of the improved algorithm.

All parties involved in the data-matching program recognise that there is nothing to be gained by continuing to provide for up to 28 days Commonwealth assistance for which a person is not eligible where the assistance is currently provided only because of the assistance agency's own administrative error. This amendment will reduce the total quantum of many overpayments.

4. Clauses involved in the changes

Clause 2: specifies the date of commencement for the amendment of section 21 (clause 7) as 22 January 1993 and as the day of Royal Assent for other amendments.

Clauses 3 and 4: provide for the extension of time allowed from 24 hours to 7 days for completion of step 5 of the data-matching cycle and explain how agencies are to operate in the extended period.

Clause 5: provides for exemption of assistance agencies from the requirement in section 11 of the Principal Act to allow an affected person up to 28 days in which to show cause why adverse action against him or her resulting from data-matching should not be taken with continued assistance being provided during the period. The exemption will apply where the cause of wrongful provision of assistance is the assistance agency's own administrative error.

Clause 6: provides for a report to Parliament by the end of October 1993 by each agency mentioned in the Principal Act.

Clause 7: provides for amendment of section 21 of the Principal Act, the sunset clause.

5. Explanation of the changes

Clause 3: makes necessary adjustments to section 7 of the Principal Act to regulate the use to be made of the additional time for completion of step 5 of a data-matching cycle.

Payment and income matchings occur in step 5 and are used to detect whether a person is receiving Commonwealth assistance to which he or she is not entitled, whether a person is not receiving assistance to which he or she may be entitled, or whether the person had made inconsistent declarations of income to different agencies. At present with only 24 hours to do this work the matching agency is limited to one attempt at this matching. If the results are doubtful, in that apparently too many or too few discrepancies are detected, there is no opportunity to adjust matching algorithms to remedy the problem until the next matching cycle.

Clause 3 will allow a source agency to arrange with the matching agency for the latter to provide samples of match results to the source agency. The source agency tests the results and can then suggest changes to the algorithm used by the matching agency which the latter will use when the data is run again.

Clause 3 makes several specific provisions:

- (i) provision of sample results and suggested changes to the algorithm can pass between a source agency and the matching agency more than once in the 7 day period to be allowed for step 5; and
- (ii) information provided by the matching agency to an assistance agency in the extended step 5 is not to include Tax File Number data - this reinforces the limitations on use of Tax File Number data in this data-matching program; and
- (iii) each source agency must destroy the sample results as soon as practicable after the matching in step 5 is complete - this is consistent with the existence of other destruction requirements in the Principal Act and is

designed to guard against the idle accumulation of products from the data-matching program.

Clause 4: provides for the extension of the time to complete step 5 of the data-matching cycle from 24 hours to 7 days.

Clause 5: provides for amendments to the requirement in section 11 of the Principal Act that up to 28 days notice be given of proposed adverse action resulting from a data-matching cycle. There will be no requirement to do this where action is necessary to correct or avoid a result solely caused by an administrative error, eg failure to act on a notification of a changed circumstance, on the part of the assistance agency. New subsection 11(1B) of the Principal Act will require written notice of such immediate action to be given to the affected person before or as soon as practicable after the action is taken.

Clause 6: provides for the tabling of a comprehensive report by all agencies listed in the Principal Act including references to all of the matters identified in Guideline 12 of the Privacy Commissioner's Guidelines of 27 September 1991. This will assist Members of Parliament when they next consider the continued operation of the sunset clause.

Clause 7: provides for amendment of section 21 of the Principal Act, ie extension of the sunset clause so that it will operate as of 22 January 1994.

6. Commencement

The provision for amendment of the sunset clause will commence, or will be taken to have commenced, on 22 January 1993 (**clause 2(2)**).

The other amendments will commence on the day of Royal Assent (**clause 2(2)**).