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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

SOCIAL SECURITY AMENDMENT BILL 1992

EXPLANATORY MEMORANDUM

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



SOCIAL SECURITY AMENDMENT BILL 1992

OUTLINE AND FINANCIAL IMPACT STATEMENT

This Bill will amend the *Social Security Act 1991* to give effect to a number of measures announced in the 1992-93 Budget concerning the education leavers waiting period.

The financial implications of the measures in this Bill are indicated below after a brief summary of each measure.

SOCIAL SECURITY ACT 1991

Education leavers waiting period

- . Periods of paid part time and/or casual work will be taken into account when calculating reductions in the education leavers waiting period.

Estimated program costs of this measure are \$1.4m in 1992-93 and \$1.2m in 1993-94.

- . Persons who claim job search allowance or sickness allowance after leaving secondary education, who are under 21, not a member of a couple and do not have a dependent child would be eligible for payment 13 weeks after the date of leaving education or 15 February in the following year, whichever is the earlier. Other secondary education leavers claiming job search allowance or sickness allowance would be eligible for payment 6 weeks after the date of leaving education or 15 February in the following year, whichever is the earlier.

Estimated program costs of this measure are \$1.4m in 1992-93 and \$1.2m in 1993-94.

- . Persons who return to income support within 12 months of cancellation of their DSS payment, having undertaken a course of education for longer than 6 months within that 12 months, will not be required to serve an education leavers waiting period.

Estimated program costs of this measure are \$ 0.2m in 1992-93 and \$0.2m in 1993-94.

- . Job search allowance or sickness allowance claimants who would otherwise qualify for special benefit during the education leavers waiting period will not be required to serve an education leavers waiting period.

Estimated program costs of this measure are \$0.5m in 1992-93 and \$0.5m in 1993-94.

These education leavers waiting period measures will come into effect on 2 November 1992.

SOCIAL SECURITY AMENDMENT BILL 1992

Clause 1 of the Bill sets out how the amending Act is to be cited and indicates that, in the amending Act, the "Principal Act" means the *Social Security Act 1991*.

Clause 2 indicates that the amendments to the Principal Act made in the Bill will commence on 2 November 1992.

Clause 3 is an application provision which sets out how certain clauses in the Bill will apply.

AMENDMENTS TO THE SOCIAL SECURITY ACT 1991 - EDUCATION LEAVERS WAITING PERIOD

1. Summary of proposed changes

This Bill contains a number of measures relating to the education leavers waiting period applicable to education leavers who claim job search allowance or sickness allowance. In short, the Principal Act will be amended to -

- (a) allow periods of paid part time and/or casual work to be taken into account when calculating reductions in the education leavers waiting period;
- (b) enable persons who claim job search allowance or sickness allowance after leaving secondary education to be eligible for payment 13 or 6 weeks (depending on the person's age and family situation) after the date of leaving education or 15 February in the following year, whichever is the earlier;
- (c) waive the requirement to serve an education leavers waiting period for persons who, having undertaken a course of education for longer than 6 months, return to income support within 12 months of cancellation of their previous DSS payment; and
- (d) provide that job search allowance or sickness allowance claimants who would otherwise qualify for special benefit during the education leavers waiting period will not be required to serve an education leavers waiting period.

These measures are discussed below.

(a) Reduction in education leavers waiting period for periods of part-time/casual work

2. Background

The Principal Act allows a person who claims job search allowance or sickness allowance to serve a reduced education leavers waiting period where the person has been employed on a full-time basis. Where the person would ordinarily be subject to a 13 week education leavers waiting period, the duration of that waiting period can be reduced by periods of full-time employment undertaken after ceasing the relevant course of education. Where the person would ordinarily be subject to a 6 week education leavers waiting period, the duration of that waiting period can be reduced by periods of full-time employment undertaken at any time.

A 13 week waiting period is applicable to an education leaver who has not turned 21, is not a member of a couple and does not have a dependent child. The 6 week waiting period is applicable to other education leavers.

These current arrangements will be altered to provide more incentive for education leavers to seek out part-time and/or casual work opportunities on leaving education and thereby develop some early attachment to the workforce.

If the amount of part-time and/or casual work undertaken by a person amounts to at least 35 hours (regarded as one week's full-time work) the employment would be taken into account in reducing the waiting period by one week. If more than 35 hours is worked, a further pro rata reduction in the waiting period would be allowed. If the amount of part-time and/or casual work amounts to less than 35 hours then the waiting period would not be reduced.

3. Clauses involved in the changes

Job search allowance

Clause 2: specifies 2 November 1992 as the commencement date of this measure.

Clause 3: outlines the application provisions relevant to **clause 6** of the Bill.

Clauses 5(b), (c) and (d) : amends section 541 of the Principal Act.

Clause 6 : inserts new section 541A into the Principal Act.

Sickness allowance

Clause 2: specifies 2 November 1992 as the commencement date of this measure.

Clause 3: outlines the application provisions relevant to **clause 9** of the Bill.

Clauses 8(b), (c) and (d) : amends section 696 of the Principal Act.

Clause 9 : inserts new section 696A into the Principal Act.

4. Explanation of the changes

Job search allowance

Section 541 of the Principal Act outlines the duration of the education leavers waiting period applicable to education leavers who are not secondary school leavers and the situations in which the waiting period can be reduced.

Clause 5(c) will amend section 541 of the Principal Act by inserting new subsections 541(5A), (5B) and (5C).

New subsection 541(5A) will provide that the education leavers waiting period is to be reduced by a period worked out under new subsection 541(5B) if the person has worked at least 35 hours of part-time work.

New subsection 541(5B) will set the reduction in the waiting period at one week for the first completed 35 hours of part-time work completed and an extra day for each further 7 full hours of part-time work completed.

New subsection 541(5C) will specify the period of time during which a person, subject to an education leavers waiting period, can perform part-time work in order to attract a reduction in the waiting period applicable. If a person is subject to the 13 week waiting period, part-time work undertaken from the date the person stopped the course is taken into account.

For a person subject to the 6 week waiting period, any part-time work undertaken by the person is relevant for the purposes of the reduction.

Clause 5(d) will insert a new subsection 541(8) into the Principal Act which will define "part-time work" as work other than full-time work and including casual work.

Clause 5(b) is a consequential amendment to Note 1 to subsection 541(1) of the Principal Act.

New section 541A outlines the duration of the education leavers waiting period applicable to secondary school leavers and the situations in which the waiting period can be reduced.

New section 541A will be inserted into the Principal Act as part of proposal (b) - Duration of the education leavers waiting period - secondary school leavers - which is discussed later in this explanatory memorandum.

Clause 6 will insert new subsections 541A(8), (9), (10) and (12) into the Principal Act. These new provisions mirror those which will apply to education leavers who are not secondary education leavers.

Sickness allowance

Like their job search allowance counterparts, education leavers who claim sickness allowance may be required to serve an education leavers waiting period before sickness allowance is payable.

Sections 696 and 696A outline the duration of the education leavers waiting period applicable to education leavers who are not secondary school leavers and who are secondary school leavers respectively and the situations in which the waiting period can be reduced.

Sections 696 and 696A will be amended to allow periods of part-time work to be taken into account for the purpose of reducing the duration of the waiting period applicable to education leavers who claim sickness allowance. The amendments mirror those applicable to education leavers who claim job search allowance (see **clauses 8(b), (c), and (d)** and new subsections 696A(8), (9), (10) and (12) inserted by **clause 9**).

5. Commencement

These amendments will commence on 2 November 1992 (**clause 2**).

(b) Duration of education leavers waiting period

2. Background

Job search allowance and sickness allowance claimants who have recently left full-time education courses of at least 6 months duration are required to serve an education leavers waiting period before allowance is payable. The maximum waiting period is 13 weeks for single claimants aged under 21 years without dependents and 6 weeks for others.

A criticism of current arrangements centres around the requirement that young people leaving secondary education must serve a 13 or 6 week waiting period from the person's provisional commencement day. A person's provisional commencement day can be the day after the last day the person was undertaking the course, the day on which the person becomes registered as unemployed with the CES or the date of claiming allowance, depending on when the person lodges a claim for payment.

This can cause financial hardship for some young people who fail to claim income support as soon as they leave secondary education, either because they are poorly informed of available assistance, unsure of their future education plans or misunderstand the education leavers waiting period provisions.

The amendments in the Bill will provide that persons claiming job search allowance or sickness allowance who have recently left secondary education would be eligible for payment 13 or 6 weeks from the date of leaving education (whichever period is applicable to the person) or from 15 February in the following year, whichever is the earlier.

If the person claims job search allowance or sickness allowance after a period of 13 or 6 weeks from the date of leaving education or after 15 February (assuming education ceased prior to that date), the person would not be required to serve an education leavers waiting period.

3. Clauses involved in the changes

Job search allowance

Clause 2: specifies 2 November 1992 as the commencement date of this measure.

Clause 3: outlines the application provisions relevant to **clauses 5(a) and 6** of the Bill.

Clause 5(a) : amends section 541 of the Principal Act.

Clause 6 : inserts new section 541A into the Principal Act.

Clause 10 : consequential amendments contained in the Schedule arising as a result of the insertion of new section 541A .

Sickness allowance

Clause 2: specifies 2 November 1992 as the commencement date of this measure.

Clause 3: outlines the application provisions relevant to **clauses 8(a) and 9** of the Bill.

Clause 8(a) : amends section 696 of the Principal Act.

Clause 9 : inserts new section 696A into the Principal Act.

Clause 10 : consequential amendments contained in the Schedule arising as a result of the insertion of new section 696A.

4. Explanation of the changes

Job search allowance

Clause 6 will insert a new section 541A into the Principal Act. The new section will introduce special rules about the duration of the education leavers waiting period for secondary school leavers who claim job search allowance.

New section 541A is based on section 541 of the Principal Act but will differ from that provision in two major respects.

First, the education leavers waiting period applicable to secondary school leavers will start on the day after the day on which the person stopped the course of education at secondary school (see new subsection 541A(2), (3) and (4)). Under section 541, the waiting period starts on the person's provisional commencement day.

Second, if the person's education leavers waiting period would end later than 15 February of the year following cessation of secondary schooling, then the person's waiting period would end on that 15 February (see new subsection 541A(6) and the definition of "waiting period start day" in new subsection 541A(12)).

These new rules will apply to a person only if the course of education that the person stops is a full-time course of education at a secondary school (new subsection 541A(1) refers).

Clause 5(a) will insert a consequential amendment to section 541 of the Principal Act by ensuring that section 541 applies only where new section 541A is inapplicable.

Sickness allowance

Clause 9 will insert a new section 696A into the Principal Act. The new provision will introduce special rules concerning the duration of the education leavers waiting period applicable to secondary school leavers who claim sickness allowance.

New section 696A is based on section 696 but will differ from that provision in the same way as new section 541A differs from section 541 (see above under job search allowance).

The education leavers waiting period will start on the day after the day on which the person stopped secondary schooling (see new subsections 696A(2), (3) and (4)) and would end no later than 15 February in the following year (see new subsections 696A(6) and (12)).

These new rules will apply to a person only if the course of education that the person stops is a full-time course of education at a secondary school (new subsection 696A(1) refers).

Clause 8(a) will insert a consequential amendment to section 696 of the Principal Act by ensuring that section 696 applies only where new section 696A is inapplicable.

5. Commencement

These amendments will commence on 2 November 1992. **(Clause 2)**

**(c) Waiver of education leavers waiting period where person
returns to income support within 12 months**

2. Background

Job search allowance and sickness allowance claimants who have recently left full-time education courses of at least 6 months duration are required to serve an education leavers waiting period before allowance is payable. The maximum waiting period is 13 weeks for single claimants aged under 21 years without dependants and 6 weeks for others.

The current arrangements provide insufficient incentive for job search/newstart allowance recipients to undertake longer-term education and training courses. This is because persons who undertake courses of greater than 6 months duration are required to serve an education leavers waiting period if they return to job search allowance or sickness allowance at the end of the course.

The amendments in this Bill will provide that an education leavers waiting period would not be required in cases where an income support recipient returns to income support within 12 months of cancellation of payment. This proposal would pick up cases where a person on income support leaves income support to undertake a course of education, the duration of which is greater than 6 months, and then returns to income support within 12 months of ceasing to receive income support.

Income support in this context will mean any social security payments except for child related payments.

3. Clauses involved in the changes

Job search allowance

Clause 2 : specifies 2 November 1992 as the commencement date of this measure.

Clauses 4(a) and (c) : amends section 540 of the Principal Act.

Sickness allowance

Clause 2: specifies 2 November 1992 as the commencement date of this measure.

Clauses 7(a) and (c) : amends section 695 of the Principal Act.

4. Explanation of the changes

Job search allowance

Section 540 of the Principal Act outlines the situations in which an education leavers waiting period is applicable to an education leaver who claims job search allowance.

Clause 4(c) will insert a new subsection 540(4A) into the Principal Act. The new subsection will provide that an education leavers waiting period is not applicable to a person if the person is receiving a social security pension or social security benefit, the person stops receiving that payment, undertakes a course of education of at least 6 months duration, stops the course and has a provisional commencement day within 12 months of ceasing to receive the social security pension or benefit.

"Social security pension" and "social security benefit" are defined in subsection 23(1) of the Principal Act. The reader will be directed to subsection 23(1) of the Principal Act by Note 1 to new subsection 540(4A).

The meaning of "provisional commencement day" is determined by reference to section 533 of the Principal Act and can be the day after the last day the person was undertaking the course, the day on which the person becomes registered as unemployed with the CES or the date of claiming allowance, depending on when the person lodges a claim for payment. The reader will be directed to section 533 of the Principal Act by Note 2 to new subsection 540(4A).

Clause 4(a) will make a consequential amendment to subsection 540(1) of the Principal Act by including a reference in that provision to the new subsection 540(4A).

Sickness allowance

Section 695 of the Principal Act outlines the situations in which an education leavers waiting period is applicable to an education leaver who claims sickness allowance.

Clause 7(a) will make a consequential amendment to subsection 695(1) of the Principal Act by making that provision subject to the new subsection 695(3).

Clause 7(c) will insert a new subsection 695(3) into the Principal Act. The new subsection mirrors new subsection 540(4A) discussed above.

5. Commencement

These amendments will commence on 2 November 1992. **(Clause 2)**

(d) Education leavers waiting period not applicable to persons who qualify for special benefit during the waiting period

2. Background

A person who is subject to an education leavers waiting period may qualify for special benefit for the duration of the waiting period.

In general terms, a person can qualify for special benefit if the person is not entitled to another social security pension or benefit, is unable to earn a sufficient livelihood and meets certain residence requirements.

Under current rules, therefore, a person may receive special benefit for the duration of the education leavers waiting period and then transfer to job search allowance or sickness allowance as appropriate.

While on special benefit, recipients are subject to a more stringent income test (dollar for dollar reduction). This may dissuade special beneficiaries from taking up part-time and/or casual employment opportunities should they arise.

The amendments in this Bill will provide that an education leaver who would qualify for special benefit during the period of the education leavers waiting period would not be required to serve the waiting period.

3. Clauses involved in the changes

Job search allowance

Clause 2 : specifies 2 November 1992 as the commencement date of this measure.

Clauses 4(b) and (d) : amends section 540 of the Principal Act.

Sickness allowance

Clause 2: specifies 2 November 1992 as the commencement date of this measure.

Clauses 7(b) and (c) : amends section 695 of the Principal Act.

4. Explanation of the changes

Job search allowance

Section 540 of the Principal Act outlines the situations in which an education leavers waiting period is applicable to an education leaver who claims job search allowance.

Clause 4(d) will insert a new subsection 540(6) into the Principal Act. The new provision will provide that a person is not subject to an education leavers waiting period if the Secretary is satisfied that special benefit would be payable to the person during the waiting period if the person were required to serve such a waiting period.

A Note to new subsection 540(6) will direct the reader to the definition of "education leavers waiting period" in subsection 23(1) of the Principal Act.

Clause 4(b) will insert a reference to new subsection 540(6) in subsection 540(1) of the Principal Act which will facilitate the exclusion of a person who comes within the ambit of new subsection 540(6) from the application of an education leavers waiting period.

Sickness allowance

Section 695 of the Principal Act outlines the situations in which an education leavers waiting period is applicable to an education leaver who claims sickness allowance.

Clause 7(c) will insert a new subsection 695(4) into the Principal Act. The new subsection mirrors new subsection 540(6) discussed above.

A Note to new subsection 695(4) will direct the reader to the definition of "education leavers waiting period" in subsection 23(1) of the Principal Act.

Clause 7(b) will insert a reference to new subsection 695(4) in subsection 695(1) of the Principal Act which will facilitate the exclusion of a person who comes within the ambit of new subsection 695(4) from the application of an education leavers waiting period.

5. Commencement

These amendments will commence on 2 November 1992. **(Clause 2)**

Clause 10 will provide that the **Principal Act** is further amended as set out in the Schedule.

SCHEDULE

The amendments to various provisions in the **Principal Act** listed in the Schedule are consequential on the insertion of new sections 541A and 696A into the **Principal Act** (see **clauses 6 and 9**).