

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SOCIAL SECURITY (JOB SEARCH AND NEWSTART) AMENDMENT BILL 1991

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and new Clauses to be Moved
on Behalf of the Government

(Circulated by authority of the Minister for Social Security
Senator the Hon Graham Richardson)

SOCIAL SECURITY (JOB SEARCH AND NEWSTART) AMENDMENT BILL 1991

OUTLINE AND FINANCIAL IMPACT STATEMENT

Amendment are to be made to to the Social Security (Job Search and Newstart) Amendment Bill 1991 to bring decisions as to the terms of a Newstart Activity Agreement that is in force within the jurisdiction of the Social Security Appeals Tribunal (the SSAT). The SSAT will be able to review such a decision and must either affirm the decision or set aside the decision and send the matter back to the Secretary in accordance with any directions or recommendations of the Tribunal.

These amendments are estimated to have negligible financial impact.

NOTES ON AMENDMENTS AND NEW CLAUSES

1 New Clause - Clause 12A : Application of Part-

Section 1245 of the Principal Act provides that, unless otherwise stated, Part 6.2 of the Principal Act (Review by the Social Security Appeals Tribunal) applies to all decisions of officers under the Act including rate of return decisions.

New clause 12A would amend section 1245 of the Principal Act by omitting the words "including a rate of return decision" and substituting a reference to a rate of return decision and a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force.

New clause - Clause 12B : Application requirement for certain decisions

New clause 12B would insert a new subsection 1248(2) into the Principal Act.

New subsection 1248(2) would provide that the SSAT may only review a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force where the application is expressed to be an application for review of that decision.

2 Amendment - Clause 13 : Non-reviewable decisions

Clause 13(b), as introduced, would amend section 1250 of the Social Security Act 1991 to insert a new paragraph 1250(ca) which would have the effect of taking decisions relating to the terms of a Newstart Activity Agreement that is in force out of the jurisdiction of the SSAT.

The amendment would omit paragraph 1250(ca).

3 Amendment - Clause 15 : SSAT review powers (decisions other than rate of return decisions)

Clause 15, as introduced, would insert a new paragraph 1253(4)(ca) into the Principal Act.

The amendment would omit this new paragraph.

New clause - Clause 15 : SSAT review powers (decisions other than rate of return decisions and Newstart Activity Agreement decisions)

New clause 15 would amend subsection 1253 of the Principal Act by omitting from subsection 1253(1) the reference to "rate of return decision" and substituting the words "decision referred to in subsection (7)".

A new subsection 1253(7) would be added. The effect of the new provision would be to ensure that section 1253 (SSAT review powers) does not apply to a rate of return decision (as is currently the case) or a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force. Instead, the powers of the review powers of the SSAT in relation to such decision under section 606 would be outlined in new section 1254A (inserted by new clause 15A).

New clause - Clause 15A : SSAT review powers (Newstart Activity Agreement decision)

New clause 15A would insert a new section 1254A into the Principal Act which would outline the powers of the SSAT when reviewing a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force. In these review situations, the SSAT must either affirm the decision or set aside the decision and remit the matter back to the Secretary to reconsider in accordance with any recommendations of the Tribunal. The recommendations of the SSAT would be considered by the Department but would not be binding.

The effect of this clause would be that the SSAT, when reviewing a Newstart Activity Agreement decision cannot rewrite the terms of such an agreement by varying the terms of an agreement or substituting its own terms into an agreement.

New clause - Clause 15B : Date of effect of SSAT decisions (other than rate of return decisions and Newstart Activity Agreement decisions)

New clause 15B would omit subsection 1255 of the Principal Act and substitute a new subsection 1255(6).

The effect of the new provision would be to ensure that section 1255 (date of effect of SSAT decisions) does not apply to a rate of return decision (as is currently the case) or a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force. Instead, the date of effect of SSAT decisions in relation to the the terms of a Newstart Activity Agreement that is in force would be outlined in new section 1256A (inserted by new clause 15C).

New clause - Clause 15C : Date of effect of SSAT decision
(Newstart Activity Agreement decision)

New clause 15C would insert a new section 1256A into the Principal Act which would outline the rules on the date of effect of SSAT decisions relating to the terms of a Newstart Activity Agreement that is in force.

New subsection 1256A(1) would provide that a decision by the SSAT comes into operation immediately on the giving of the decision.

New subsection 1256A(2) would qualify the operation of new subsection 1256A(1) by enabling the SSAT to specify in a decision that the decision is to come into force on a later day. If the SSAT does so, the decision comes into effect on that later day.



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