

1990-91

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

SOCIAL SECURITY (JOB SEARCH AND NEWSTART) AMENDMENT BILL 1991

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved
on Behalf of the Government

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

OUTLINE AND FINANCIAL IMPACT STATEMENT

These amendments with respect to the Social Security (Job Search and Newstart) Amendment Bill 1991 (the Bill) would affect the Social Security Act 1991.

These amendments are minor or technical in nature and have negligible financial impact.

Social Security Act 1991

The amendments would:

- . provide that a Newstart Activity Agreement may be reviewed from time to time at the request of either the Commonwealth Employment Service or a client;
- . ensure that where a decision that a person has failed to enter into a Newstart Activity Agreement is made, the client is given written notice of the reasons for the decision and details of appeal rights;
- . provide that the ordinary waiting period for payment of newstart allowance will not apply where at some time in the 13 weeks immediately before the person last claimed newstart allowance, a job search allowance or newstart allowance stopped being payable to the person; and

- . provide that persons living in areas where there is no locally accessible labour market or locally accessible vocational training courses or labour market programs can be taken to satisfy the activity test except in relation to activities which the person is required by the Secretary to undertake during a particular period.

Also included are other amendments dealing with minor or technical matters.

NOTES ON AMENDMENTS

Amendment 1 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the
Principal Act - Substitution of new Parts 2.11
and 2.12

The amendment omits from subsection 523(1) of Part 2.11 the words "not required" and substitutes the word "taken".

The amendment has the effect of positively stating that a person is taken to satisfy the activity test where the conditions in subsection 523(1) are met.

Amendment 2 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the
Principal Act - Substitution of new Parts 2.11
and 2.12

The amendment omits the reference to "remote area" in subparagraph 523(2)(a)(i) and substitutes a reference to "an area described in subparagraph 522(2)(a)(iii)". This is an area in which there is no locally accessible labour market and no locally accessible vocational training courses or labour market programs.

The amendment aligns the concept of remoteness as outlined in the activity test (section 522 refers) with that in subsection 523(2) which allows the Secretary to exempt certain persons in "remote" areas from satisfying the activity test.

Amendment 3 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the
Principal Act - Substitution of new Parts 2.11
and 2.12

The amendment omits from subsection 523(2) the words "the person is not required" and substitutes "then, unless the person has been notified of a requirement under subsection 522(2) in relation to a period, the person is taken".

The amendment corrects an oversight in translating the equivalent provisions in the Social Security Act 1947 (the 1947 Act) into the Social Security Act 1991.

Subsection 523(2) as introduced enables the Secretary to waive the requirement that a person satisfy the activity test for the purposes of qualification for job search allowance where the Secretary considers it reasonable to assume that a person who is in a remote area is, throughout a period, unemployed, capable of undertaking suitable paid work and willing to do so and where, because of location, transport and communication difficulties and the educational and cultural background of the person, it is unreasonable to expect the person to comply with the requirements of the activity test.

In the 1947 Act, the equivalent provision is expressed as providing relief for remote area clients from the application of the work test. The work test elements in the qualification conditions for job search allowance are contained in subsection 522(1).

It is appropriate, therefore, that the exemption under subsection 523(2) apply only in relation to that qualification condition rather than the activity test in general. The amendment has this effect.

Amendment 4 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the
Principal Act - Substitution of new Parts 2.11
and 2.12

The amendment corrects a drafting error in subsection 525(1) whereby certain allowees over 55 engaged in voluntary work are not required to satisfy the "entry" test.

The amendment omits the word "entry" and substitutes "activity".

Amendment 5 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the
Principal Act - Substitution of new Parts 2.11
and 2.12

The amendment omits from paragraph 593(b) the word "either" and subparagraphs 593(b)(i) and (ii) and substitutes the words "satisfies the activity test".

The amendment is consequential to amendments 6 and 8 which positively state that a person is taken to satisfy the activity test (rather than not being required to satisfy the activity test) in prescribed circumstances. The reference to a person not being required to satisfy the activity test in section 593, therefore, becomes superfluous.

Amendment 6 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the
Principal Act - Substitution of new Parts 2.11
and 2.12

The amendment omits from subsection 603(1) of Part 2.12 the words "not required" and substitutes the word "taken".

The amendment has the effect of positively stating that a person is taken to satisfy the activity test applicable to newstart allowance where the conditions in subsection 603(1) are met.

Amendment 7 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the Principal Act - Substitution of new Parts 2.11 and 2.12

The amendment omits the reference to "remote area" in subparagraph 603(2)(a)(i) and substitutes a reference to "an area described in subparagraph 601(2)(a)(iii)". This is an area in which there is no locally accessible labour market and no locally accessible vocational training course or labour market program.

The amendment aligns the concept of remoteness as outlined in the activity test (section 601 refers) with that in subsection 603(2) which allows the Secretary to exempt certain persons in "remote" areas from satisfying the work test element of the activity test.

Amendment 8 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the Principal Act - Substitution of new Parts 2.11 and 2.12

Amendment 8 omits from subsection 603(2) the words "the person is not required" and substitutes "then, unless the person has been notified of a requirement under subsection 601(2) in relation to a period, the person is taken".

The amendment corrects an oversight in translating the equivalent provisions in the 1947 Act into the Social Security Act 1991.

Subsection 603(2) as introduced enables the Secretary to waive the requirement that a person satisfy the activity test for the purposes of qualification for newstart allowance where the Secretary considers it reasonable to assume that a person who is in a "remote" area (see amendment 7) is, throughout a period, unemployed, capable of undertaking suitable paid work and willing to do so and where, because of location, transport and communication difficulties and the educational and cultural background of the person, it is unreasonable to expect the person to comply with the requirements of the activity test.

In the 1947 Act, the equivalent provision is expressed as providing relief for remote area clients from the application of the work test. The work test elements in the qualification conditions for newstart allowance are contained in subsection 601(1).

It is appropriate, therefore, that the exemption apply only in relation to that qualification condition rather than the activity test in general. The amendment has this effect.

Amendment 9 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the Principal Act - Substitution of new Parts 2.11 and 2.12

The amendment inserts into paragraph 606(5)(c) the words "at the request of either party to the agreement" after the reference to "time to time".

The effect of this amendment is to enable either the Commonwealth Employment Service or the client to seek review of a Newstart Activity Agreement from time to time.

Amendment 10 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the Principal Act - Substitution of new Parts 2.11 and 2.12

The amendment inserts a new subsection 607(2) which imposes certain notification requirements on the Secretary.

The effect of the amendment is to ensure that where a person is taken to have failed to enter into a Newstart Activity Agreement under section 607, that person must be notified in writing of the decision and the reasons for the decision and must be given details of appeal rights.

Amendment 11 - Clause 7 : Repeal of Parts 2.11 and 2.12 of the Principal Act - Substitution of new Parts 2.11 and 2.12

The amendment would insert before "newstart allowance" in paragraph 620(d) a reference to "job search allowance or".

The amendment ensures that a person who has served an ordinary waiting period for job search allowance would not be required to serve another ordinary waiting period for newstart allowance if the person served the job search allowance waiting period within 13 weeks of claiming newstart allowance.



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