

2013-2014

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT
(2014 BUDGET MEASURES No. 6) BILL 2014**

EXPLANATORY MEMORANDUM

**(Circulated by the authority of the
Minister for Social Services, the Hon Kevin Andrews MP)**

**SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT
(2014 BUDGET MEASURES No. 6) BILL 2014**

OUTLINE

This Bill will reintroduce the following measures, previously introduced in the Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014 and the Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014, in Schedules numbered as set out below.

Budget measures

1. From 20 September 2014, rename the clean energy supplement as the energy supplement, and permanently cease indexation of the payment.
2. Implement the following changes to Australian Government payments:
 - from 1 July 2015 – pause indexation for two years of the assets value limits for all working age allowances, student payments and parenting payment single; and
 - from 1 July 2017 – pause indexation for three years of the assets test free areas for all pensions (other than parenting payment single).
3. From Royal Assent, review disability support pension recipients under age 35 against revised impairment tables and apply the Program of Support requirements.
4. From 1 January 2015, limit the six-week overseas portability period for student payments.
5. Generally limit the overseas portability period for disability support pension to 28 days in a 12-month period from 1 January 2015.
6. Exclude from the social security and veterans' entitlements income test any payments made under the new Young Carer Bursary Programme from 1 January 2015.
7. Include untaxed superannuation income in the assessment for the Commonwealth Seniors Health Card (with products purchased before 1 January 2015 by existing cardholders exempt from the new arrangements), and extend from six to 19 weeks the portability period for cardholders.
8. From 1 January 2015, remove relocation scholarship assistance for students relocating within and between major cities.
9. Implement the following family payment reforms from 1 July 2015:
 - limit the family tax benefit Part A large family supplement to families with four or more children;
 - remove the family tax benefit Part A per-child add-on to the higher income free area for each additional child after the first; and
 - improve targeting of family tax benefit Part B by reducing the primary earner income limit from \$150,000 a year to \$100,000 a year.

Social and Community Services Pay Equity Special Account

Schedule 10 to the Bill will add the Western Australian Industrial Relations Commission decision of 29 August 2013 as a pay equity decision under the *Social and Community Services Pay Equity Special Account Act 2012*, allowing payment of Commonwealth supplementation to service providers affected by the decision.

Financial impact statement

MEASURE	FINANCIAL IMPACT OVER THE FORWARD ESTIMATES
<i>Budget measures</i>	
1. Clean energy supplement renamed energy supplement and indexation ceased	Saving of \$369.2 million **
2. Pause asset value limits and assets test free areas for various Australian Government payments	Saving of \$78.0 million ***
3. Disability support pension – ability to work	Expense of \$46.4 million over five years **
4. Limit the six-week portability period for student payments	Saving of \$143.1 million **
5. Disability support pension – reduce portability to 28 days in a 12-month period.	Saving of \$5 million **
6. Young Carer Bursary Programme – income exemption	The programme will cost \$3.0 million over four years
7. Commonwealth Seniors Health Card – include untaxed superannuation in assessment	Saving of \$20.9 million
8. Remove relocation scholarship assistance for certain students	Saving of \$290.1 million
9. Family payment reforms, starting 1 July 2015	\$1,834.3 million **
<i>Social and Community Services Pay Equity Special Account</i>	No further financial impact from this Bill (\$104 million was set aside in the contingency reserve in the 2013 Budget to cover the cost of supplementation until 2020-21)

Note:

* indicative only – indicative financial impact refers to administered funding for affected social security payments only and is not net of implementation funding

** indicative only – indicative financial impact refers to whole-of-government financial impact, including administered and implementation funding

*** indicative only – indicative financial impact for item 1 refers to administered funding for affected social security and Veterans' Affairs payments only and is not net of implementation funding

STATEMENTS OF COMPATIBILITY WITH HUMAN RIGHTS

The statements of compatibility with human rights appear at the end of this explanatory memorandum.

**SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT
(2014 BUDGET MEASURES No. 6) BILL 2014**

NOTES ON CLAUSES

Abbreviations used in this explanatory memorandum

- **Family Assistance Act** means the *A New Tax System (Family Assistance) Act 1999*
- **Family Assistance Administration Act** means the *A New Tax System (Family Assistance) (Administration) Act 1999*
- **Farm Household Support Act** means the *Farm Household Support Act 2014*
- **Military Rehabilitation and Compensation Act** means the *Military Rehabilitation and Compensation Act 2004*
- **Social Security Act** means the *Social Security Act 1991*
- **Social Security Administration Act** means the *Social Security (Administration) Act 1999*
- **Veterans' Entitlements Act** means the *Veterans' Entitlements Act 1986*

Clause 1 sets out how the new Act is to be cited – that is, as the *Social Services and Other Legislation Amendment (2014 Budget Measures No. 6) Act 2014*.

Clause 2 provides a table setting out the commencement dates of the various sections in, and Schedules to, 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 – Energy supplement replacing clean energy supplement

Summary

This Schedule ceases indexation of the clean energy supplement, and renames the clean energy supplement as the energy supplement from 20 September 2014. The energy supplement is then set at the amount of clean energy supplement, as applicable from 1 July 2014 or 20 September 2014. This Schedule also makes minor changes to the partner income free area from 20 September 2014.

Commencement on 20 September 2014 merely reflects the fact that the various rates of energy supplement are dependent on primary payments whose rates were indexed on that date (or on 1 July 2014 for family payments). All rates of energy supplement are fixed at the rates applying after that indexation process. No person will be adversely affected by any apparent retrospectivity in the commencement of the Schedule.

Background

The clean energy supplement is a component of the former Government's clean energy package, and paid as compensation to offset the impact of the carbon tax. The clean energy supplement is being renamed as the energy supplement and retained to provide ongoing assistance to government payment recipients. The value of the renamed energy supplement will not be subject to indexation from 20 September 2014. These changes commence on 20 September 2014.

Minor amendments are also made to the partner income free area (PIFA), which is part of the income testing arrangements for social security benefits. In broad terms, the PIFA is the amount of income that would preclude payment of the relevant allowance or benefit to a person's partner. If the partner's ordinary income exceeds the PIFA, the amount of the excess reduces the person's rate of social security benefit. The amendments ensure that, where the partner is not receiving a social security benefit, the PIFA is calculated taking into account partner's maximum basic rate, energy supplement and pension supplement (if relevant). This will better align the legislation with existing policy which disregards other rate components, such as pharmaceutical allowance, rent assistance and youth disability supplement (as applicable), when calculating the PIFA. These amounts are disregarded as it is not possible to establish reasonably whether the partner would meet the qualification requirements for these components while the partner is not receiving a social security benefit. These changes commence on 20 September 2014.

Explanation of the changes

Part 1 – Energy supplement under the social security law

Amendments to the Social Security Act

Subsection 17(8) of the Social Security Act provides a formula that is used to define the ***income cut-out amount*** for the purposes of the compensation provisions in the social security law. The formula refers to a clean energy supplement component and defines that term. **Item 1** recasts subsection 17(8) to reflect the changed name of the clean energy supplement.

Subsection 23(1) of the Social Security Act defines ***clean energy pension rate*** by reference to section 20B, which then provides a formula for working out the amount. The clean energy pension rate is effectively the amount of clean energy supplement to be added to a pensioner's rate of payment. These provisions become redundant because the amount of energy supplement will be specified in the relevant pension rate calculator by other amendments made by this Schedule (see, for example, the amendments to point 1064-C3 made by **item 46**). **Item 2** therefore repeals section 20B and **item 6** repeals the definition.

The definitions of ***clean energy (under pension age) rate*** and ***clean energy (youth disability) rate*** are similarly repealed by **items 8 and 9** because the relevant amounts of energy supplement will be specified in the applicable rate calculator by other amendments made by this Schedule.

Items 3, 4, 5, 7, 10, 11 and 12 also amend, or repeal and replace, various clean energy-related definitions in subsection 23(1) of the Social Security Act to reflect the renaming.

Items 13 to 26 amend various payment modules to reflect the renaming. Existing references to quarterly clean energy supplement are replaced with references to quarterly energy supplement.

Division 2 of Part 2.18A sets out the circumstances in which a person can be paid their clean energy supplement as a quarterly payment and a method for working out the amount of the quarterly payment. The same rules will apply in relation to the energy supplement. **Items 27 to 38** replace existing references to clean energy supplement and quarterly clean energy supplement in Division 2 with references to energy supplement and quarterly energy supplement.

Items 39 and 40 omit references to clean energy supplement in paragraph 916D(5)(c) and in the method statement in subsection 1061ECA(2), and substitute references to energy supplement.

Items 40A to 40H provide for the calculation of the clean energy component of seniors supplement, and effect renaming of the supplement, by inserting the rate of energy supplement into the rate calculator for seniors supplement in section 1061UB.

The Pension Rate Calculator at the end of section 1064 is used to calculate the rate of age, wife and carer pensions, disability support pension for a person who has turned 21 or is under 21 with a dependent child, mature age allowance in certain circumstances and mature age partner allowance. Under the current rules, an amount of clean energy supplement, calculated by reference to formulas and definitions, is added in working out a person's rate of pension.

Items 41 to 45 amend various provisions in the Rate Calculator at the end of section 1064 to omit existing references to clean energy supplement and quarterly clean energy supplement and substitute references to energy supplement and quarterly energy supplement.

Item 46 repeals point 1064-C3, which currently provides for the calculation of the clean energy supplement, and replaces it with a table setting out the amount of the energy supplement, depending on the person's family situation. The amounts in the table are current as at 20 September 2014 and will not be subject to indexation.

The Rate Calculator at the end of section 1065 is used to calculate the rate of age pension for a person who is permanently blind and disability support pension for a blind person who has turned 21 or is under 21 with a dependent child. The Rate Calculator at the end of section 1066 is used to calculate the rate of bereavement allowance and widow B pension.

Items 47 to 58 amend these pension rate calculators in the same way as section 1064 is amended (as described above).

The Rate Calculator at the end of section 1066A is used to calculate the rate of disability support pension for a person who has not turned 21 and has no dependent children.

Items 59 to 63 amend various provisions in the Rate Calculator at the end of section 1066A to omit existing references to clean energy supplement and quarterly clean energy supplement and substitute references to energy supplement and quarterly energy supplement.

Item 64 repeals points 1066A-BA2 and BA3, which currently provide for the calculation of the clean energy supplement. These provisions are replaced by new point 1066A-BA2, which includes a table setting out the amount of a person's energy supplement, depending on their family situation. The family situations in the table refer to the family situations relevant in determining the person's maximum basic rate, rather than reproducing all relevant family situations. The amounts in the table are current as at 20 September 2014 and will not be subject to indexation.

The Rate Calculator at the end of section 1066B is used to calculate the rate of disability support pension for a permanently blind person who has not turned 21 and has no dependent children.

Items 65 to 70 amend this rate calculator in the same way as section 1066A is amended (as described above).

The Youth Allowance Rate Calculator in section 1067G is used to calculate the rate of youth allowance.

Items 71 to 75 amend various provisions in the Youth Allowance Rate Calculator to omit existing references to clean energy supplement and quarterly clean energy supplement, and substitute references to energy supplement and quarterly energy supplement.

Item 76 repeals points 1067G-BA2 to BA6, which currently provide for the calculation of the clean energy supplement. These provisions are replaced by two new tables in new points 1067G-BA2 and BA4, the first applicable where an amount of youth disability supplement is not added to the person's rate, and the second where youth disability supplement is added. The tables set the amount of a person's energy supplement, depending on their family situation. Again, the family situations in the tables refer to the family situations relevant in determining the person's maximum basic rate, rather than reproducing all relevant family situations.

Item 76 also inserts a new point 1067G-BA3, which sets the amount of energy supplement for certain people whose maximum basic rate is worked out by reference to parenting payment single. The amounts in the tables and new point 1067G-BA3 are current as at 20 September 2014, and will not be subject to indexation.

The Austudy Payment Rate Calculator in section 1067L is used to calculate the rate of austudy payment.

Items 77 to 81 amend various provisions in the Rate Calculator in section 1067L to omit existing references to clean energy supplement and quarterly clean energy supplement, and substitute references to energy supplement and quarterly energy supplement.

Item 82 repeals points 1067L-BB2 to BB4, which currently provide for the calculation of the clean energy supplement. These provisions are replaced by two new tables in new points 1067L-BB2 and BB3. The table in new point 1067L-BB2 sets out the amount of energy supplement for a person who has reached pension age, by reference to the same family situations that are relevant in determining the amount of energy supplement for age pension. The table in new point 1067L-BB3 sets out the amount of energy supplement for a person who has not reached pension age, by reference to their family situation for maximum basic rate. The amounts set out in these tables are current as at 20 September 2014 and will not be subject to indexation.

The Rate Calculator at the end of section 1068 is used to calculate the rate of newstart, sickness, partner and widow allowances and mature age allowance in some circumstances.

Items 83 and 85 to 88 amend various provisions in the Rate Calculator at the end of section 1068 to omit existing references to clean energy supplement and quarterly clean energy supplement, and substitute references to energy supplement and quarterly energy supplement.

Item 84 makes a technical correction to the method statement in point 1068-A1.

Item 89 repeals points 1068-C2 to C5, which currently provide for the calculation of the clean energy supplement. These provisions are replaced by two new tables (in new points 1068-C2 and C3) and a new point 1068-C4. The table in new point 1068-C2 sets out the amount energy supplement for a person who has reached pension age, by reference to the same family situations that are relevant in determining the amount of energy supplement for age pension. The table in new point 1068-C3 sets out the amount of energy supplement for a person who has not reached pension age, by reference to their family situation for maximum basic rate. However, if the person's maximum basic rate is determined by reference to parenting payment (single), then their amount of energy supplement is the amount specified in new point 1068-C4. The amounts set out in these new provisions are current as at 20 September 2014 and will not be subject to indexation.

The Rate Calculator at the end of section 1068A is used to calculate the rate of parenting payment – pension (PP) single.

Items 90 to 94 amend various provisions in the Rate Calculator at the end of section 1068A to omit existing references to clean energy supplement and quarterly clean energy supplement, and substitute references to energy supplement and quarterly energy supplement.

Item 95 repeals points 1068A-BB2 to BB4, which currently provide for the calculation of the clean energy supplement. These provisions are replaced by new point 1068A-BB2, which sets the amount of energy supplement for a person who has reached pension age, and new point 1068A-BB3, which sets the amount of energy supplement for a person who has not reached pension age. These amounts are current as at 20 September 2014 and will not be subject to indexation.

The Rate Calculator at the end of section 1068B is used to calculate the rate of parenting payment – benefit PP (partnered).

Items 96 to 101 amend various provisions in the Rate Calculator in section 1068B to omit existing references to clean energy supplement and quarterly clean energy supplement, and substitute references to energy supplement and quarterly energy supplement.

Item 102 repeals points 1068B-DB2 to DB4, which currently provide for the calculation of the clean energy supplement. These provisions are replaced by two new tables in new points 1068B-DB2 and DB3. The table in new point 1068B-DB2 sets out the amount of energy supplement for a person who has reached pension age, by reference to the same family situations that are relevant in determining the amount of energy supplement for age pension. The table in new point 1068B-DB3 sets out the amount of energy supplement for a person who has not reached pension age, by reference to their family situation for maximum basic rate. The amounts set out in these tables are current as at 20 September 2014, and will not be subject to indexation.

Items 1AD to 1AI in the indexed and adjusted amounts table in section 1190 of the Social Security Act identify the clean energy amounts that are indexed or adjusted and provide a relevant abbreviation. That abbreviation is then used in the CPI indexation table in section 1191 to identify amounts that are to be indexed in accordance with movements in the Consumer Price Index (CPI). The clean energy amounts are listed in items 1D to 1J of the CPI indexation table. **Items 103 to 107** remove these items from the tables, and make some amendments consequential on the removal of these items. The new energy amounts specified in the relevant Rate Calculators will not be subject to indexation.

Section 1210 sets out the order in which relevant components of rate, including the clean energy supplement, are affected by means testing and how the reduction works if a person elects to receive certain payments on a quarterly basis. **Items 108 to 119** make consequential amendments to reflect the renaming. Existing references to clean energy supplement and quarterly clean energy supplement are replaced with references to energy supplement and quarterly energy supplement. References to CE Module are changed to ES Module.

There are some references to clean energy supplement in clauses 146 and 149 of Schedule 1A to the Social Security Act (savings and transitional provisions). **Items 120 to 123** make consequential amendments to reflect the renaming. Existing references to clean energy supplement are replaced with references to energy supplement.

Amendments to the Social Security Administration Act

There are a number of references to the clean energy supplement and quarterly clean energy supplement in the Social Security Administration Act. An example is section 48, which sets out the payment rules for a quarterly clean energy supplement.

Items 124 to 137 make consequential amendments to reflect the renaming. Existing references to clean energy supplement and quarterly clean energy supplement are replaced with references to energy supplement and quarterly energy supplement. Otherwise, the operation of amended provisions would not change.

Item 138 sets out the application and transitional rules that apply in relation to the amendments made by Part 1. These rules facilitate the transition from clean energy supplement to energy supplement on 20 September 2014. This item includes provisions which ensure that an energy supplement or quarterly energy supplement is paid (as appropriate) in relation to days occurring on or after 20 September 2014 and that the existing provisions continue to apply, despite the amendments, after commencement, in relation to days occurring before commencement. Also included is provision to ensure that an election by a person to receive their clean energy supplement as a quarterly payment has effect as if it were an election to receive their energy payments quarterly.

Part 2 – Energy supplement under the family assistance law

Amendments to the Family Assistance Act

An approved care organisation's clean energy supplement for an individual is worked out under subsection 58(2B). **Item 140** repeals this provision and sets the annual rate of energy supplement. The specified rate is current as at 1 July 2014, and is not subject to indexation. **Item 139** makes a consequential amendment to paragraph 58(2)(b) to reflect the renaming of clean energy supplement to energy supplement.

Section 58A allows certain individuals to elect to receive their clean energy supplements quarterly. There is a reference to clean energy supplement quarterly in the heading of the section and other references to clean energy supplement in note 1 at the end of subsection 58A(1). **Items 141 and 142** update these references to reflect the renaming of clean energy supplement as energy supplement. **Item 143** repeals a spent note.

There are numerous references to clean energy supplement in Schedule 1 to the Family Assistance Act. There are also terms and definitions that refer to clean energy (such as the clean energy supplement amount referred to in step 4A of the method statement in clause 24N and the base FTB clean energy child amount referred to in clause 38AB of Schedule 1). With the renaming of clean energy supplement to energy supplement, consequential changes are required to these provisions, terms and definitions to reflect the new name. The relevant amendments are made by **items 144 to 159, 161 to 164, 166 to 179 and 181 to 183**.

Clause 31B of Schedule 1 to the Family Assistance Act provides a method for determining the amount of clean energy supplement (Part B) to be added in working out an individual's Part B rate. **Item 160** repeals subclauses 31B(1) and (2), and substitutes a new subclause 31B(1), which sets the amount of energy supplement (Part B) to be added in working out an individual's Part B rate, depending on whether the individual's youngest child is aged under five years or five years and over. The specified amounts are current as at 1 July 2014 and will not be subject to indexation.

Clause 38AA of Schedule 1 provides a method for determining the amount of clean energy supplement (Part A) to be added in working out an individual's Part A rate under Method 1. **Item 165** repeals subclauses 38AA(1) and (2), and substitutes a new subclause 38AA(1). The new provision specifies an FTB energy child amount for each category of FTB child and provides a method for calculating an individual's energy supplement (Part A). An individual's energy supplement (Part A) is the sum of the relevant FTB energy child amounts for each FTB child of the individual. The specified amounts are current as at 1 July 2014, and will not be subject to indexation.

Clause 38AF of Schedule 1 provides a method for determining the amount of clean energy supplement (Part A) to be added in working out an individual's Part A rate under Method 2. **Item 180** repeals subclause 38AF(2), and substitutes a new provision, which specifies the FTB energy child amount. An individual's energy supplement (Part A) is the sum of the FTB energy child amounts for each FTB child of the individual. The specified amount is current as at 1 July 2014 and will not be subject to indexation.

Item 184 makes a consequential amendment to paragraph 7(j) of Schedule 3 to reflect the renaming of the clean energy supplement as the energy supplement.

Items 185 to 188 repeal provisions in Schedule 4 to the Family Assistance Act that currently apply to index the various clean energy supplement amounts. The equivalent energy amounts will not be subject to indexation.

Amendments to the Family Assistance Administration Act

Section 32A of the Family Assistance Administration Act sets out the FTB reconciliation conditions that must be satisfied before the FTB Part A and Part B supplements can be added in working out an individual's rate of family tax benefit. However, existing subsection 32A(2) ensures that this rule does not apply in working out the amount of an individual's clean energy advance, clean energy supplement (Part A) or clean energy supplement (Part B). As the renamed energy supplement (Part A) and energy supplement (Part B) will be specified amounts, they do not need to be mentioned in subsection 32A(2). **Item 189** makes the required amendment.

The heading of section 105B and a note at the end of subsection 105B(1) refer to clean energy supplement. **Items 190 to 191** change these references to energy supplement. **Item 192** repeals a spent note.

Item 193 sets out the application and transitional rules that apply in relation to the amendments made by Part 2. These rules facilitate the transition from clean energy supplement to energy supplement on 20 September 2014.

Subitems 193(1) and (2) ensure that the amendments made to rate provisions for approved care organisations apply in working out their energy supplement for days on or after commencement (20 September 2014). The old rules would continue to apply after commencement in relation to days occurring before commencement.

Subitems 193(3) and (4) ensure that amendments to rate provisions in Schedule 1 to the Family Assistance Act apply in working out an individual's energy supplement (Part A) or energy supplement (Part B) for days on or after commencement (20 September 2014). The old rules would continue to apply after commencement in relation to days occurring before commencement.

Subitem 193(5) provides that the specified amendments apply in working out an individual's maintenance income ceiling day on or after commencement.

Subitem 193(6) provides that the amendment made to the definition of tax free pension or benefit applies in relation to a payment made on or after commencement.

Subitem 193(7) provides that an election under section 58A of the Family Assistance Act (to receive clean energy payments quarterly) that was in force before commencement continues to be in force on and after commencement.

Part 3 – Energy supplement under the Veterans’ Entitlements Act

Amendments to the Veterans’ Entitlements Act

Item 197 repeals section 5GB. Section 5GB of the Veterans’ Entitlements Act defines and provides the formula for working out the ***clean energy pension rate*** for recipients of a service pension and the various rates of ***clean energy supplement*** that are payable to disability pensioners and war widows and war widowers.

The provisions of section 5GB become redundant because the amount of ***energy supplement*** will be specified in the service pension rate calculators by other amendments made by this Schedule (see, for example, the amendments to point SCH6-BB3 made by **item 260**).

The rates of ***energy supplement*** for disability pensioners are set out in amendments to subsection 62A(3) (made by **item 216**).

The rates of ***energy supplement*** for war widows and war widowers are set out in amendments to subsection 62B(3) (made by **item 221**).

Items 194, 195 and 196 make consequential amendments to the section 5 (index of definitions) by omitting the references to the determination of the CES 22(3), CES 22(4), CES 23(4), CES 24(4) and the CES 30(1) rates of ***clean energy supplement*** in subsection 5GB(1) and omitting the references to ***clean energy pension rate***, ***clean energy supplement*** and ***quarterly clean energy supplement*** in subsections 5GB(6) and 5Q(1).

Items 198, 199, 200, 201, 202, 203 and 204 also amend, or repeal and replace, various clean energy-related definitions in subsection 5Q(1) of the Veterans’ Entitlements Act to reflect the renaming of clean energy payments.

Item 205 makes consequential amendments to subparagraphs 58A(6)(a)(ii) and 58A(6)(c)(ii) to reflect the renaming of clean energy supplement as energy supplement.

Item 206 amends the indexed and adjusted amounts table in section 59A of the Veterans’ Entitlements Act to remove table item 2C referring to the clean energy pension rate.

Item 207 amends the CPI indexation table in subsection 59B(1) to remove table item 2, referring to the clean energy pension rate.

Item 208 repeals subsection 59C(2AC), referring to the initial indexation of the clean energy pension rate on 20 September 2013.

The new amounts of the energy supplement specified in the relevant Rate Calculators and the provisions of Part III E will not be subject to indexation.

Item 209 is a consequential amendment to the definition of *point SCH6-BB3 amount* in paragraph 59Q(7)(b) to replace a reference to clean energy supplement with a reference to energy supplement.

Subdivision A of Division 2 of Part III E provides for the payment of clean energy supplement to recipients of a disability pension or a war widow or war widower pension. **Items 210 to 215 and 217 to 220** replace existing references to clean energy supplement in the headings and sections 62A and 62B of Subdivision A of Division 2 of Part III E with references to energy supplement.

Item 216 repeals subsection 62A(3), and substitutes a new subsection, including a table which sets out the fortnightly rate of energy supplement payable to recipients of a disability pension.

Item 221 repeals subsection 62B(3), and substitutes a new subsection, which sets out the fortnightly rate of energy supplement payable to a person in receipt of a war widow or war widower pension.

Items 222 to 225 replace existing references to clean energy supplement in section 62D with references to energy supplement.

Subdivision B of Division 2 of Part III E sets out the circumstances in which a person in receipt of a service pension can be paid their clean energy supplement as a quarterly payment and a method for working out the amount of the quarterly payment. The same rules will apply in relation to the energy supplement. **Items 226 to 233** replace existing references to quarterly clean energy supplement in Subdivision B of Division 2 of Part III E with references to quarterly energy supplement.

Division 4 of Part III E sets out the circumstances in which a person who is dissatisfied with a decision of the Repatriation Commission in relation to a clean energy payment, except quarterly clean energy supplement, may request the Repatriation Commission to review the decision. **Items 234 to 236** replace existing references to quarterly clean energy supplement in Division 4 of Part III E with references to quarterly energy supplement.

Items 236A to 236E provide for the calculation of the clean energy component of seniors supplement for Veterans payments, and effect renaming of the supplement, by inserting the rate of energy supplement into the rate calculator for seniors supplement in section 118PB.

Items 237 to 241 amend section 121, which provides for the payment of pensions and other benefits under the Veterans' Entitlements Act by instalments. The amendments replace existing references to clean energy supplement and quarterly clean energy supplement with references to energy supplement and quarterly energy supplement.

Items 242 and 243 replace the heading to section 198, and repeal subsections 198(9), (9A) and (11) to remove the reference to the indexation of clean energy supplements and the provisions that indexed the rates payable to recipients of disability pension and war widow or war widower pension under Part III E.

There are some references to clean energy supplement in clauses 30 and 34 of Schedule 5 to the Veterans' Entitlements Act (which houses savings and transitional provisions). **Items 244 to 248** make consequential amendments to reflect the renaming. Existing references to clean energy supplement are replaced with references to energy supplement.

Items 249 to 252 are minor consequential amendments to subclauses 1(1) and 4(5) of Schedule 6 to replace existing references to clean energy supplement and quarterly clean energy supplement with references to energy supplement and quarterly energy supplement.

Items 253 to 259 amend payment modules A and BB of Schedule 6 to reflect the renaming. Existing references to clean energy supplement and quarterly clean energy supplement are replaced with references to energy supplement and quarterly energy supplement.

Item 260 repeals and substitutes point SCH6-BB3 of Schedule 6, which currently provides for the calculation of the clean energy supplement and replaces it with a table setting out the amount of energy supplement payable to a person in receipt of a service pension, depending on the person's family situation. The amounts in the table are current as at 20 September 2014 and will not be subject to indexation.

Item 261 sets out the application and transitional rules that apply in relation to the amendments made by Part 3. These rules facilitate the transition from clean energy supplement to energy supplement on 20 September 2014. This item includes provisions which ensure that an energy supplement or quarterly energy supplement is paid (as appropriate) in relation to days occurring on or after 20 September 2014, and that the existing provisions continue to apply, despite the amendments, after commencement, in relation to days occurring before commencement. Also included is provision to ensure that an election by a person to receive clean energy supplement as a quarterly payment has effect as if it were an election to receive their energy payments quarterly.

Part 4 – Energy supplement under the Military Rehabilitation and Compensation Act

Amendments to the Military Rehabilitation and Compensation Act

Items 262 to 266 amend, or repeal and replace, various clean energy-related definitions in subsection 5(1) of the Military Rehabilitation and Compensation Act to reflect the renaming of the energy supplement.

Schedule 1 – Energy supplement replacing clean energy supplement

Section 83A provides for the payment of clean energy supplement to recipients of permanent impairment compensation under Part 2 of Chapter 4 of the Military Rehabilitation and Compensation Act. **Items 267 to 269** replace existing references to clean energy supplement in the heading and in subsection 83A(1) with references to energy supplement.

Item 270 repeals subsection 83A(3), and substitutes a new subsection, which sets out the daily rate of energy supplement payable to a person in receipt of permanent impairment compensation.

Item 271 is a consequential amendment to subsection 204(2) to replace a reference to a person in receipt of a clean energy supplement under section 83A with a reference to the receipt of an energy supplement.

Section 209A provides for the payment of clean energy supplement to recipients of a Special Rate Disability Pension under Part 6 of Chapter 4 of the Military Rehabilitation and Compensation Act. **Items 272 to 274** replace existing references to clean energy supplement in the heading and in subsection 209A(1) with references to energy supplement.

Item 275 repeals subsection 209A(2), and substitutes a new subsection, which sets out the daily rate of energy supplement payable to a person in receipt of a Special Rate Disability Pension under Part 6 of Chapter 4.

Section 238A provides for the payment of clean energy supplement to wholly dependent partners of deceased members under Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act. **Items 276 to 278** replace existing references to clean energy supplement in the heading and in subsection 238A(1) with references to energy supplement.

Item 279 repeals subsection 238A(3), and substitutes a new subsection, which sets out the daily rate of energy supplement payable to wholly dependent partners of deceased members.

Items 280 and 281 replace the heading to section 404, repeal subsections 404(1A) and (2), and substitute a new subsection 404(2), to remove the reference to the indexation of clean energy supplements and the provision that indexed the rate of clean energy supplement payable to recipients of permanent impairment compensation under section 83A.

Item 282 is a consequential amendment to subsection 430(3AA) to replace the reference to the payment of quarterly clean energy supplement into a bank account with a reference to the payment of quarterly energy supplement.

Item 283 sets out the application and transitional rules that apply in relation to the amendments made by Part 4. These rules facilitate the transition from clean energy supplement to energy supplement on 20 September 2014. This item includes provisions which ensure that an energy supplement or quarterly energy supplement is paid (as appropriate) in relation to days occurring on or after 20 September 2014, and that the existing provisions continue to apply, despite the amendments, after commencement, in relation to days occurring before commencement. Also included is provision to ensure that an election by a person to receive clean energy supplement as a quarterly payment has effect as if it were an election to receive their energy supplement quarterly.

Part 5 – Energy supplement consequential amendments

Amendments to the Farm Household Support Act

Items 284 to 288 make consequential amendments to various provisions in the Farm Household Support Act to reflect the renaming of clean energy supplement. References to clean energy supplement and quarterly clean energy supplement are replaced with references to energy supplement and quarterly energy supplement.

Amendments to the Income Tax Assessment Act 1997

Items 289 to 293 make consequential amendments to various provisions in the *Income Tax Assessment Act 1997* to replace existing references to clean energy supplement with references to energy supplement.

Item 294 sets out the necessary application and transitional rules that apply in relation to the tax amendments. These ensure that the tax provisions, as amended, apply on and after commencement as if they also still referred to the clean energy supplement.

Part 6 – Energy supplement under schemes

Military Rehabilitation and Compensation Act Education and Training Scheme 2004

Items 295 to 297 make consequential amendments to paragraphs 3A.13.1 and 3A.18.1 to remove references to the indexation of payments of clean energy supplement under the Scheme.

Veterans' Children Education Scheme

Items 298 to 300 make consequential amendments to paragraphs 3A.13.1 and 3A.18.1 to remove references to the indexation of payments of clean energy supplement under the Scheme.

Part 7 – Other amendments

Amendments to the Social Security Act

The partner income free area (PIFA) is part of the income testing arrangements for social security benefits. If a person's partner is receiving a social security benefit, the PIFA is the amount of income that would preclude payment of the relevant allowance or benefit to the partner. If a person's partner is not receiving a social security benefit, then the PIFA is the amount of income that would preclude payment to the partner of newstart allowance or youth allowance (depending on the partner's age), assuming that the partner were qualified for that payment.

Point 1067G-H26 defines the PIFA for the purposes of youth allowance. **Item 301** inserts two new provisions (new points 1067G-H26A and 1067G-H26B), which set out how the PIFA is to be calculated in situations where the recipient's partner is not receiving a social security benefit. These provisions ensure that partner's maximum basic rate, energy supplement and pension supplement (if relevant) are taken into account in calculating the PIFA, by disregarding other possible components of the maximum payment rate.

Item 302 inserts similar provisions after point 1067L-D25, which defines the PIFA for the purposes of austudy payment.

Item 303 inserts similar provisions after point 1068-G9, which defines the PIFA for the purposes of newstart allowance and the other social security benefits calculated using Benefit Rate Calculator B.

Item 304 inserts similar provisions after point 1068B-D22, which defines the PIFA for the purposes of benefit (PP) partnered.

These changes apply for the purposes of working out the rate of a person's social security payment for days on or after 20 September 2014 (**item 305** refers).

Schedule 2 – Indexation

Summary

This Schedule pauses for two or three years the indexation that occurs on 1 July of various asset test thresholds that apply to some social security payment types. There are comparable provisions in the Veterans Entitlements Act and the Farm Household Support Act which are also paused. When indexation recommences, it will apply to the (paused) thresholds and there will be no catch-up in respect of indexation that would otherwise have occurred during the two or three year pause.

Part 3.16 of the Social Security Act provides for the indexation and adjustment of amounts. Division 2 deals with CPI indexation, which affects various amounts set out in section 1190, and applies acronyms for the purposes of the table in section 1191, which describes the rules and timing for the relevant indexation.

This measure takes effect from 1 July 2015 and 1 July 2017.

Explanation of the changes

Part 1 – Amendments commencing on 1 January 2015

Amendments to the Farm Household Support Act

Item 1 amends table item 5 of section 95, omitting 1 July 2015 and substituting 1 July 2017, to mirror the amendments to the Social Security Act.

Amendments to the Social Security Act

Item 2 repeals table items 21A, 21B and 21C from subsection 1191(1) because they are redundant. The relevant indexation will be effected by section 1204 (see item 4).

Item 3 adds a further subsection to section 1192.

New subsection (5AB) affects indexation provided for by items 21, 22 and 23 (benefit 'single' and 'partnered' assets value limit for homeowners and non-owners) of the CPI Indexation Table in subsection 1191(1). The amounts under these items are not to be indexed on 1 July 2015 and 1 July 2016.

Item 4 repeals and replaces section 1204, which provides for the adjustment of benefit asset value limits. The formulae in current section 1204 use the pension ‘partnered’ homeowner asset value limit, the pension ‘partnered’ non-homeowner asset value limit and the pension ‘single’ homeowner asset value limit. It is intended instead that the benefit assets value limits will be based upon relevant other benefit asset limits from 1 July 2014. However, the various pension asset value limits currently forming the basis for the adjusted benefit asset value limits will continue to be indexed until 1 July 2017, unlike the benefit asset value limits. Accordingly, this item re-bases the adjustment in benefit asset value limits on related benefit asset value limits with effect from 1 July 2014. This then means that these adjusted thresholds will not be indexed until 1 July 2017, when indexation will again resume.

The formulae in new section 1204 use the benefit ‘partnered’ homeowner asset value limit, the benefit ‘partnered’ non-homeowner asset value limit, and the benefit ‘single’ homeowner asset value limit (as relevant) in deriving an adjusted benefit asset value limit generated by other provisions of the Act.

New subsection 1204(1) substitutes a figure for the benefit ‘single’ non-homeowner asset value limit, applying a formula which relies upon various other values as at 1 July.

The benefit ‘partnered’ (item 3) homeowner asset value limit is the current figure, as at that 1 July, for the benefit ‘partnered’ (item 3) homeowner asset value limit.

The benefit ‘partnered’ (item 3) non-homeowner asset value limit is the current figure, as at that 1 July, for the benefit “partnered (item 3) non-homeowner asset value limit.

The benefit ‘single’ homeowner asset value limit is the current figure, as at that 1 July, for the benefit ‘single’ homeowner asset value limit.

These terms are abbreviations defined in section 1190.

New subsection 1204(2) substitutes a value for the benefit ‘partnered’ (item 2) homeowner asset value limit. The formula involves adjustment based upon the value of the benefit ‘partnered’ (item 3) homeowner asset value limit as at 1 July. This is an abbreviation defined in section 1190.

New subsection 1204(3) substitutes a value for the benefit ‘partnered’ (item 2) non-homeowner asset value limit. The formula involves adjustment based upon the value of the benefit ‘partnered’ (item 3) non-homeowner asset value limit as at 1 July. This is an abbreviation defined in section 1190.

Part 2 – Amendments commencing 1 July 2017

Item 5 adds a further subsection to section 1192.

New subsection (5AE) affects indexation provided for by items 18 (pension ‘single’ homeowner asset value limit), 19 (pension ‘partnered’ homeowner asset value limit) and 20 (pension ‘partnered’ non-homeowner asset value limit) of the CPI Indexation Table in subsection 1191(1). The amounts under these items are not to be indexed on 1 July 2017, 1 July 2018 and 1 July 2019.

Amendments to the Veterans' Entitlements Act

Item 6 repeals subsections 59C(2A) and (3) and substitutes a new subsection 59C(3), which affects indexation provided under items listed in the CPI Indexation Table in subsection 59B(1): item 6, which deals with the pension 'single' homeowner asset value limit; item 7, which deals with the pension 'partnered' property owner asset value limit; item 8, which deals with the pension 'partnered' non-property owner asset value limit;. The amounts under these items are not to be indexed on 1 July 2017, 1 July 2018 and 1 July 2019.

Schedule 3 – Disability support pension

Summary

This Schedule introduces changes in relation to disability support pension, from the day after Royal Assent, to review disability support pension recipients under age 35 against revised impairment tables, and apply program of support requirements.

Background

The *Family Assistance and Other Legislation Amendment Act 2011* introduced the requirement that people who made a claim (or are taken to have made a claim) for disability support pension on or after 3 September 2011, and who do not have a severe impairment, must have actively participated in a program of support.

This Schedule extends the requirement to actively participate in a program of support to certain disability support pension recipients who made a claim (or are taken to have made a claim) for disability support pension before 3 September 2011 and whose pension start date was after 2007. These recipients will need to provide evidence that they have actively engaged in activities designed to build their work capacity, including training, work-related activities and activities aimed at addressing non-vocational barriers impacting on work capacity (for example, substance dependence) through active participation in a program of support.

The requirement to have actively participated in a program of support will apply to a person for whom certain conditions are met – notably, that the person is under 35 at the time a notice is given in relation to review of their qualification, and that the Secretary is satisfied as a result of the review that the person does not have a severe impairment and is able to work for at least eight hours a week.

This Schedule also introduces a requirement that, for the Secretary to be satisfied a person has actively participated in a program of support, the person must undertake a program of support that was wholly or partly funded by the Commonwealth.

The amendments made by this Schedule commence on the day after Royal Assent.

Explanation of the changes

Part 1 – Participation by certain persons reviewed on or after the day after Royal Assent

Disability support pension provides income support to people who, because of an ongoing physical, intellectual or psychiatric impairment, are prevented from working or from being re-trained for work. The qualification for disability support pension requires, amongst other things, that a person has a continuing inability to work because of an impairment.

Schedule 3 – Disability support pension

Long-term dependence on disability support pension is not the best outcome for people who have skills and capacity to participate in the labour market or who are able to build such skills with appropriate assistance. This measure extends the requirement to actively participate in a program of support to certain people receiving disability support pension who have not had the opportunity to actively participate in such a program.

Presently, a person who claims disability support pension is considered to have a continuing inability to work because of an impairment if the Secretary is satisfied that, where they do not have a severe impairment, they have actively participated in a program of support, that the impairment is of itself sufficient to prevent the person from doing any work independently of a program of support within the next two years, and either: (i) the impairment is of itself sufficient to prevent the person from undertaking a training activity during the next two years; or (ii) if the impairment does not prevent the person from undertaking a training activity – such activity is unlikely (because of the impairment) to enable the person to do any work independently of a program of support within the next two years.

The requirement to have actively participated in a program of support will apply to a person for whom certain conditions are met – notably, that the person is under 35 at the time a notice is given in relation to review of their qualification, and that the Secretary is satisfied as a result of the review that the person does not have a severe impairment and is able to work for at least eight hours a week. The review will reassess a person's level of impairment under the current Impairment Tables and also their work capacity. People who have been granted the pension due to a severe and manifest disability will not be subject to this measure.

If the abovementioned review determines that a person has a severe impairment, they will not be required to actively participate in a program of support. A person has a severe impairment if the person's impairment has been assessed under the Impairment Tables and been assigned an impairment rating of 20 points or more, of which 20 points or more have been assigned under a single Impairment Table.

Likewise, if the review determines that a person cannot work for at least eight hours a week on wages that are at or above the relevant minimum wage, they will not be required to actively participate in a program of support.

The intent of this measure is, where appropriate, to require a person receiving disability support pension to demonstrate that they have undertaken and actively participated in a program of support.

Amendments to the Social Security Act 1991

Item 4 inserts a new definition ***reviewed 2008-2011 DSP starter*** into subsection 94(5) for the purposes of the amendments made by this Schedule.

A person will be a reviewed 2008-2011 DSP starter if:

- (a) the person made (or is taken to have made) a claim for disability support pension before 3 September 2011;

Schedule 3 – Disability support pension

- (b) a determination granting the claim took effect after 2007;
- (c) on or after 1 July 2014 the person was given a notice in relation to assessing the person's qualification for that pension;
- (d) when the notice was given, the person was under 35 years of age;
- (e) before the notice was given, either:
 - (i) there was a record that the Secretary was satisfied that the person was able to do work for at least 8 hours per week; or
 - (ii) there was no record that the Secretary had considered whether the person was able to do work described in subparagraph (i);
- (f) after the notice was given, the Secretary decided not to determine that the disability support pension for the person is to be cancelled;
- (g) as a result of the assessment involving the notice, the Secretary is satisfied that the person:
 - (h) does not have a severe impairment;
 - (i) is able to work for at least 8 hours per week; and
 - (j) the person does not have a dependent child under six years of age.

Of note is that paragraph (a) of the new definition operates to exclude people who claimed disability support pension after 3 September 2011 from the new provisions. This is because people who claimed disability support pension on or after 3 September 2011 are already required to actively participate in a program of support due to amendments introduced by the *Family Assistance and Other Legislation Amendment Act 2011*.

Paragraph (e) of the new definition refers to the record kept of the Secretary's decision about the person's qualification for disability support pension before any notice as described in paragraph (c) is given to the person for the purpose of reviewing their qualification.

Paragraph (f) of the new definition refers to a decision by the Secretary after a notice is given as described in paragraph (c) in relation to assessing the person's qualification. That is, following review of that person's qualification. A person will only satisfy paragraph (f) if the person continues to be qualified for disability support pension.

Item 1 adds the words 'or is a reviewed 2008-2011 DSP starter' at the end of subparagraph 94(1)(da)(i). This insertion means that a person who is a reviewed 2008-2011 DSP starter is required to meet any participation requirements that apply to the person under section 94, where existing subparagraphs 94(1)(da)(ii) and (iii) also apply in relation to the person.

Item 2 adds to paragraph 94(2)(aa), following '(3B)', the words 'or the person is a reviewed 2008-2011 DSP starter who has had an opportunity to participate in a program of support'. This amendment means that, for the Secretary to be satisfied that a reviewed 2008-2011 DSP starter has a continuing inability to work, the person must show they have actively participated in a program of support within the meaning of subsection 94(3C).

The qualification that paragraph 94(2)(aa) applies in relation to a reviewed 2008-2011 DSP starter 'who has had an opportunity to participate in a program of support' ensures that a reviewed 2008-2011 DSP starter who has not yet had this opportunity (for example, by being referred to an appropriate employment assistance service provider) will not cease to be qualified for disability support pension by reason only of not having actively participated in a program of support within the meaning of subsection 94(3C) upon becoming a reviewed 2008-2011 DSP starter.

Subsection 94(3C) provides that a person has actively participated in a program of support if the person has satisfied the requirements specified in a legislative instrument made by the Minister for the purposes of that subsection. This means that, to be satisfied that a person who is a reviewed 2008-2011 DSP starter who has had the opportunity to participate in a program of support has done so, the Secretary must have regard to whether the person has satisfied the requirements of a legislative instrument made under subsection 94(3C).

Item 3 inserts a new paragraph (c) into subsection 94(3A). Presently, under subsection 94(3A), if a person is receiving disability support pension and the person is issued with a notice in relation to reviewing the person's qualification, they are not required to have actively participated in a program of support as stipulated in paragraph 94(2)(aa). The new paragraph (c) means that this exemption will not apply to a person who meets the definition of 'reviewed 2008-2011 DSP starter' in subsection 94(5). The effect of the new paragraph (c) is therefore that paragraph 94(2)(aa) applies to a reviewed 2008-2011 DSP starter.

Item 5 inserts a new subsection 96(3). Section 96 allows for the continuation of a person's qualification for disability support pension if the person obtains paid work of at least 15 hours but less than 30 hours a week.

New subsection 96(3) specifies that section 96 will not apply where, in the period beginning when the person becomes a reviewed 2008-2011 DSP starter and ending when the person's qualification is first reviewed after that occurrence, the person would, if not for subsection 96(2), cease to be qualified because the person obtains paid work that is for at least 15 hours but less than 30 hours per week.

Item 6 sets out provisions which provide for the application of the amendments made by Division 1 of this Schedule as follows:

- Sections 94 and 96 of the Social Security Act, as amended, apply for the purposes of determining a person's qualification for disability support pension in respect of days occurring on or after the commencement of Division 1 of this Schedule.

- Section 94 of the Social Security Act, as amended, applies whether a person claimed disability support pension before, on or after 3 September 2011. Section 94 operates in this way despite item 12 of Schedule 3 to the *Family Assistance and Other Legislation Amendment Act 2011*, which introduced paragraph 94(2)(aa) and subsections 94(3A) to (3E) and provided for these amendments to the Social Security Act to apply to a person who claimed disability support pension on or after 3 September 2011.

Part 2 – Commonwealth-funded program of support

It is proposed that only programmes wholly or partly funded by the Commonwealth, including Disability Employment Services, Job Services Australia and Australian Disability Enterprises, will be programs of support for the purposes of active participation in a program of support under paragraph 94(2)(aa). Generally, non-government programmes do not provide a comprehensive tailored plan for the participant, taking into account the person's disability, designed to prepare or re-train them for work. This reinforces the principle that people with mild to moderate disability should participate in a comprehensive tailored program of support to try to build their capacity to work.

Item 7 inserts in paragraph 94(2)(aa), following '(3C)', the words 'and the program of support was wholly or partly funded by the Commonwealth'. This addition limits the definition in subsection 94(5) of program of support for the purposes of paragraph 94(2)(aa) to being one that was wholly or partly funded by the Commonwealth.

Item 8 is a saving provision, which provides that, despite the amendment made by item 7, a person is qualified for disability support pension if, before the commencement of this Part, they started a program of support that was not wholly or partly funded by the Commonwealth and would qualify if the program had been wholly or partly funded by the Commonwealth.

Schedule 4 – Portability for students and new apprentices

Summary

From 1 January 2015, this Schedule limits the six-week overseas portability period for student payments.

Background

The portability rules in the Social Security Act provide for when a person can continue to receive particular social security payments while absent overseas. Currently, a person can continue to receive youth allowance (as paid to a person undertaking full-time study) and austudy payment while absent overseas for a period of up to six weeks, irrespective of the reason for the absence. This Schedule will limit this six-week portability rule to absences that are for the purpose of seeking eligible medical treatment or attending to an acute family crisis.

A person can also continue to receive a number of social security payments for an unlimited period while overseas if the absence is for the purpose of undertaking studies that form part of a course of education at an educational institution. This Schedule provides that the Secretary may, by legislative instrument, make principles that must be complied with when deciding how much of a period of absence is for the purpose of undertaking studies that form part of the course of education.

This Schedule will also align the portability rules, for a person qualified for youth allowance or austudy payment on the basis that they are a new apprentice, with the portability rules for a person qualified for any of those payments on the basis that they are undertaking full-time study.

The amendments made by this Schedule commence on 1 January 2015.

Explanation of the changes

Amendments to the Social Security Act

Items 1 and 3 are consequential amendments to the insertion of section 1218BA by item 4 of this Schedule.

These items refer the reader to section 1218BA when considering the maximum portability period for youth allowance for a person who is not undertaking full-time study and for austudy payment. New section 1218BA provides an exception to the portability rules for a person who is receiving youth allowance or austudy payment on the basis that they are a new apprentice.

Item 2 repeals the cells in column 5 of table items 13 and 14 of section 1217, and substitutes new cells.

This item limits when an absence overseas will be an allowable absence for the purpose of the portability rules for youth allowance, granted on the basis that the person is undertaking full-time study, and for austudy payment. Currently, any absence overseas for a period of up to six weeks is an allowable absence, irrespective of the reason for the absence (the repealed cells refer to 'Any temporary absence'). This item restricts allowable absences to those undertaken for the purpose of:

- seeking eligible medical treatment; or
- attending to an acute family crisis.

This item does not otherwise affect the maximum portability period of six weeks.

This item will generally align the portability rules for student payments with those that currently exist for newstart allowance and youth allowance, granted on the basis that the person is not undertaking full-time study and is not a new apprentice.

Item 4 inserts a new subsection 1218(4).

Section 1218, as in force before these amendments, provides an exception to the portability rules. An exception will apply if a person is receiving a specified social security payment and is absent from Australia for the purpose of undertaking studies that form part of a course of education that the person was undertaking before they left Australia.

New subsection 1218(4) provides that the Secretary may, by legislative instrument, make principles that must be complied with when deciding how much of a period of absence is for the purpose of undertaking studies that form part of the course of education. Such principles could, for example, provide that a short period of time before the commencement of an overseas unit of study is for the purpose of undertaking studies. If such principles were made and a person were to travel overseas a significant time before the commencement of their overseas unit of study, then a decision-maker could decide that some of that time is not for the purpose of undertaking studies. If this were to occur, the exception to the portability rules in section 1218 would not apply, and the social security payment may not be payable for some of the period that the person is overseas.

Item 5 inserts a new section 1218BA.

New section 1218BA applies to a person who is qualified for youth allowance or austudy payment on the basis that they are a new apprentice. The effect of this section is that a new apprentice may continue to receive these payments for so much of a period of absence overseas that is for the purpose of undertaking the person's full-time apprenticeship, traineeship or trainee apprenticeship. New subsection 1218BA(3) provides that the Secretary may, by legislative instrument, make principles that must be complied with when deciding how much of a period of absence is for the purpose of undertaking a full-time apprenticeship, traineeship or trainee apprenticeship.

Schedule 4 – Portability for students and new apprentices

This item aligns the portability rules for a person qualified for youth allowance or austudy payment on the basis that they are a new apprentice with the portability rules for a person qualified for those payments on the basis that they are undertaking full-time study.

Item 6 provides that the amendments made by this Schedule apply in relation to a period of absence from Australia beginning on or after the commencement of the Schedule (from 1 January 2015).

Schedule 5 – Portability of disability support pension

Summary

This Schedule introduces a change in relation to disability support pension generally to limit the overseas portability period for disability support pension to 28 days in a 12-month period from 1 January 2015.

Background

Division 2 of Part 4.2 of the Social Security Act provides for the portability of social security payments. The portability period refers to the length of time that social security payments can be paid to a person while that person is outside Australia. A person's payment is not payable for any period of absence that occurs after the end of the person's portability period for a payment (section 1215).

Current portability rules for disability support pension state that, in the general case, a person in receipt of the disability support pension can continued to be paid during any temporary absences, provided each period of absence is no longer than six weeks in length.

In addition, certain exceptions to the general rule apply, which allow for absences of longer than six weeks. For example, unlimited portability period applies for severely impaired disability support pensioners (section 1218AAA). A person's portability period may also be extended (under section 1218C) if the person is unable to return to Australia for specified reasons beyond their control and which occurred while the person was absent from Australia and before the end of their general portability period.

If a disability support pensioner's absence from Australia exceeds their portability period, their pension is not payable and will be cancelled after the end of their portability period.

The amendments made by this Schedule will commence on 1 January 2015.

Explanation of the changes

The amendments in this Schedule are intended to limit the portability period for Australian resident disability support pensioners. Generally, the maximum portability period is a total of 28 days (whether consecutive or not) in the last 12 months. There is no limit to the number of times a person may be absent from Australia, so long as the number of days in each period of absence over the past 12 months, when added together, do not exceed 28 days.

Where an absence is for the purposes of seeking medical treatment, to attend to an acute family crisis or for a humanitarian purpose, the maximum portability period is four weeks. It is intended that, if a person has already been absent for a period for the purposes of seeking medical treatment, to attend to an acute family crisis or for a humanitarian purpose, these days of absence are to count towards the 28 days of absence that is allowed for any purpose.

These portability rules are subject to the existing exceptions under sections 1218AAA, 1218AA, 1218AB, 1218, 1218C or 1218D. That is, the current rules allowing unlimited portability in exceptional circumstances, or an extension to the portability period under certain circumstances, will continue to apply.

Amendments to the Social Security Act

Item 3 repeals existing paragraph 1217(2)(b), and substitutes new paragraph 1217(2)(b). Existing paragraph 1217(2)(b) provides that a person's absence is an **allowable absence** if the absence does not exceed the period specified in column 5 of the table. The new paragraph 1217(2)(b) provides that, in the case of item 2, an absence is an allowable absence if the absence does not cause the total number of days (whether consecutive or not) of the person's temporary absence from Australia in the last 12 months to exceed 28 days. The counting of the 28 days would include any days of absence for purposes of seeking eligible medical treatment; to attend to an acute family crisis or for a humanitarian purpose.

The rule in new paragraph 1217(2)(b) (that an absence is only an allowable absence if it does not exceed 28 days in the last 12 months) does not apply if an exception rule in Subdivision B of Division 2 of Part 4.2 applies. That is, an absence is an allowable absence even if it exceeds 28 days in the last 12 months if any one of the following provisions applies:

- section 1218AAA – unlimited portability for severely impaired disability support pensioners;
- section 1218AA – unlimited portability for terminally ill overseas disability support pensioner;
- section 1218AB – extended portability period for disability support pension;
- section 1218 – full time students outside Australia for purposes of Australian course;
- section 1218C – extension of person's portability period – general; or
- section 1218D – life saving medical treatment overseas.

Item 4 makes a technical amendment to subsection 1217(4) by omitting the words 'a period of weeks', and substituting 'not an unlimited period'. **Item 5** also makes a technical amendment to subparagraph 1217(4)(b)(ii) by deleted the words 'of weeks'. These amendments are required because the portability period for disability support pension (general) is now calculated in days rather than in weeks.

Item 6 provides for the amendment of the table at the end of section 1217, by the repeal of existing item 2 of the table and the substitution of new items 2 and 2AA.

New item 2 provides that, for disability support pensioners generally, their maximum portability period is the period that is a total of 28 days (whether consecutive or not) of temporary absence from Australia for any purpose in the last 12 months. The 28 days is not to include days on which the person was not receiving disability support pension. It is intended that these 28 days would include any days of absence, including if they are for the purpose of seeking medical treatment, to attend to an acute family crisis or for a humanitarian purpose.

New item 2AA provides that, for disability support pensioners who are absent for one of the purposes in column 4 of item 2AA (that is, to seek eligible medical treatment, to attend to an acute family crisis, or for a humanitarian purpose), their maximum portability period is a continuous period of four weeks of absence from Australia. It is intended that any previous days of absence, regardless of the purpose of the previous absence/s, would not affect the right to continue to be paid during future periods of absence, provided the future absence is for any of the purposes listed in column 4 of item 2AA, and each future period of absence is no longer than four weeks.

Item 7 repeals existing subsection 1218AA(3), and substitutes new subsection 1218AA(3). Existing subsection 1218AA(1) provides that the Secretary may determine that a person has an unlimited portability period if all of the qualifying circumstances exist. Existing subsection 1218AA(2) provides that the Secretary may revoke the determination if any of the qualifying circumstances ceases to exist.

New subsection 1218AA(3) provides that, if the Secretary revokes the determination, the person's maximum portability period would be worked out under whichever one of items 2, 2AA and 2A of the table in section 1217 applies. If the person was absent from Australia at the time of the revocation, the person's absence is taken to have started on the date of effect of the revocation. If item 2 of the table in section 1217 applies, the person is taken not to have been absent from Australia at any time in the 12 months before the revocation.

Amendments to the Social Security Administration Act

Item 10 provides for the application and transitional provisions. The amendments are to apply in relation to temporary absences that start on or after 1 January 2015. In applying the amendments in relation to temporary absences that start on, or in the first 12 months after, the commencement of this Schedule, days of temporary absence that occurred before that commencement are to be ignored.

The effect of **subitem 10(3)** is that, where a person has, on or before the day this measure was announced, booked travel outside Australia, which involves transport of the person back to Australia before 1 January 2016, the amendments made by this Schedule would not apply. That is, the existing six-week portability rule would continue to apply to any such person.

Schedule 6 – Young Carer Bursary Programme

Summary

This Schedule amends the Social Security Act and the Veterans' Entitlements Act to ensure that a payment of a bursary under the programme established by the Commonwealth and known as the Young Carer Bursary Programme is not counted as income.

Background

The Young Carer Bursary Programme is a 2014 Budget measure which will provide bursary payments to young carers aged 25 years and under to relieve the financial pressure on them to undertake part-time work in addition to their educational and caring responsibilities. The funding will provide 150 bursary payments of up to \$10,000 a year from January 2015, and will target young carers in greatest financial need.

The Young Carer Bursary Programme will have positive long-term financial impacts through the expected contribution to educational retention among young carers, and will assist an estimated 450 young carers over three years.

The amendments made by this Schedule will ensure that a payment of a bursary under the Young Carer Bursary Programme is not to be treated as income for the purposes of the social security law and the Veterans' Entitlements Act.

The amendments made by this Schedule commence on 1 January 2015.

Explanation of the changes

Amendments to the Social Security Act

Subsection 8(8) of the Social Security Act lists amounts that are not income for social security purposes. **Item 1** inserts a new paragraph (jai) into subsection 8(8) to ensure that a payment of a bursary under the programme established by the Commonwealth and known as the Young Carer Bursary Programme does not count as income for the purposes of the social security law.

Amendments to the Veterans' Entitlements Act

Item 2 inserts a new paragraph (pabc) into subsection 5H(8) of the Veterans' Entitlements Act to ensure that a payment of a bursary under the programme established by the Commonwealth and known as the Young Carer Bursary Programme does not count as income for the purposes of the Veterans' Entitlements Act.

Schedule 7 – Seniors health card

Summary

This Schedule will include untaxed superannuation income in the assessment for the Commonwealth Seniors Health Card (with products purchased before 1 January 2015 by existing cardholders exempt from the new arrangements), and extend from six to 19 weeks the portability period for cardholders.

Background

This Schedule will include tax-free superannuation income in the assessment of income for qualification for the seniors health card, ensuring people on similar incomes will be treated the same for concession card purposes. The income will be calculated using the same method as for income support payments from 1 January 2015, using income deemed to be generated by various account-based superannuation income streams, regarding them as financial investments.

From 1 January 2015, various long-term financial assets which produce an income stream will be counted as financial investments, and subject to the deemed income rules. The products to be treated in this way are an asset-tested income stream (long term) that is an account-based pension within the meaning of the *Superannuation Industry (Supervision) Regulations 1994*, and an asset-tested income stream (long term) that is an annuity (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) provided under a contract that meets the standards, if any, determined under subsection 9(1EA).

Holders of a seniors health card immediately before commencement of this measure will not have the deemed rate of their tax-free superannuation income for products held prior to commencement counted in the income test from commencement, unless they cease to be the holder of a card after this time. However, if they have a partner who does not hold a seniors health card, then their partner's income from a superannuation product will be counted from commencement. Income from superannuation products cardholders purchase following commencement will be included in the test.

A related measure will extend the period for which seniors health card holders may travel temporarily overseas without losing qualification for the card from six weeks to up to 19 weeks. This will ease the regulatory burden for cardholders whose qualification for the card has remained unchanged, apart from the fact they have temporarily travelled overseas for more than six weeks. Currently, the supplement paid to holders of the card stops accruing after six weeks, and this will remain the case with this change.

The amendments made by this Schedule commence on 1 January 2015.

Explanation of the changes

Part 1 – Seniors health card income test

Division 1 – Main amendments

Amendments to the Social Security Act

Items 1 to 4 amend section 1071, which provides the seniors health card income test. **Item 1** inserts two new steps into the method statement at point 1071-1. New step 1A identifies whether the person or their partner at the test time has at least one ***long-term financial asset***. This term is defined at new point 1071-13, inserted by **item 4**, to mean a financial investment within the meaning of paragraph (i) or (j) of the definition of ***financial investment*** in subsection 9(1). These paragraphs will be inserted into the Act at 1 January 2015 by the *Social Services and Other Legislation Amendment Act 2014* (see item 4 of Schedule 11), to mean:

- (i) an asset-tested income stream (long term) that is an account-based pension within the meaning of the *Superannuation Industry (Supervision) Regulations 1994*; or
- (j) an asset-tested income stream (long term) that is an annuity (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) provided under a contract that meets the requirements determined in an instrument under subsection (1EA).

The new definition in paragraph (i) of the definition of financial investment in subsection 9(1) is modified by requiring that the asset-tested income stream (long term) arises under a ***complying superannuation plan*** (within the meaning of the *Income Tax Assessment Act 1997*) that is not a ***constitutionally protected fund*** (within the meaning of that Act). These terms limit the type of fund which will come within the definition to avoid the possibility that assessable income may also be produced by the income stream.

A note to this provision alerts the reader that this Schedule contains provisions preserving the rules in the Calculator for a certain kind of long-term financial asset that was being provided to a person immediately before 1 January 2015 where the person held a seniors health card immediately before that day, provided that, since that day, the person has held a seniors health card.

New step 1B adds the person's deemed income amount under point 1071-11A or 1071-11B to the person's adjusted taxable income amount generated at step 1 of the existing method statement.

If the person is not a member of a couple, and has such an asset, their deemed income from the asset is worked out under new point 1071-11A, inserted by **item 3**. If the person is a member of a couple, and either they or their partner has such an asset, their deemed income amount is worked out under new point 1071-11B, also inserted by item 3.

New point 1071-11A works out an unpartnered person's deemed income amount using a method statement. The method involves working out the total value of all the person's long-term financial assets at the test time, and then applying existing section 1076 to generate an amount of ordinary income the person would be taken to receive per year on the assumption that the only financial assets of the person were their long-term financial assets. This amount of ordinary income is then the person's deemed income amount for the purposes of the seniors health card income test.

New point 1071-11B works out a partnered person's deemed income amount, also using a method statement. The method involves working out the value of all of the person's long-term financial assets and the value of the person's partner's long-term financial assets, if the partner has reached the minimum age mentioned in section 301-10 of the *Income Tax Assessment Act 1997*. Currently, section 301-10 specifies age 60, so that, if a person aged 60 or over receives a superannuation benefit, the benefit is not assessable income. This ensures that only tax-free income of a cardholder's partner is included in the seniors health card income test as a deemed income amount in addition to taxable income already captured by the test. No age need be specified for the cardholder because, to be qualified for a seniors health card, a person must have reached pension age, which is a minimum of 60 years.

The method then applies existing section 1077 to generate an amount of ordinary income for the couple, on the assumption that the only financial assets of the couple were their long-term financial assets. The total ordinary income deemed for the couple is then divided by two to give the person's deemed income amount for the purposes of the seniors health card test. This matches the approach taken in existing point 1071-11 where, if a person is a member of a couple, the couple's adjusted taxable incomes are added and then divided by two to work out the amount of the person's adjusted taxable income for the reference tax year.

Item 2 amends steps 3, 4 and 5 of the method statement, such that the method statement compares the sum of the person's adjusted taxable income and their deemed income from long-term financial assets against the person's seniors health card taxable income limit generated at step 2.

Item 5 provides for the application of these amendments. The amendments are prospective only, applying to working out whether a person is qualified for a seniors health card on a day on or after 1 January 2015. However, some exceptions to this will apply. If a person held a seniors health card immediately before 1 January 2015, and a relevant long-term financial asset was being provided to the person immediately before 1 January 2015, then that asset is not to be included in the seniors health card income test, if it would otherwise be caught by the test. This only applies while the person continuously holds a seniors health card. If the person ceases to hold a seniors health card under the Social Security Act, then the amendments would apply to the income test for any card they later hold.

Amendments to the Veterans' Entitlements Act

Items 6 to 9 amend section 118ZZA, which provides the seniors health card income test. **Item 6** inserts two new steps into the method statement at point 118ZZA-1. New step 1A identifies whether the person or their partner at the test time has at least one **long-term financial asset**. This term is defined at new point 118ZZA-12, inserted by **item 9**, to mean a financial investment within the meaning of paragraph (i) or (j) of the definition of **financial investment** in subsection 5J(1). These paragraphs will be inserted into the Veterans' Entitlements Act at 1 January 2015 by the *Social Services and Other Legislation Amendment Act 2014* (see item 35 of Schedule 11), to mean:

- (i) an asset-tested income stream (long term) that is an account-based pension within the meaning of the Superannuation Industry (Supervision) Regulations 1994; or
- (j) an asset-tested income stream (long term) that is an annuity (within the meaning of the Superannuation Industry (Supervision) Act 1993) provided under a contract that meets the requirements determined in an instrument under subsection (1G).

The new definition in paragraph (i) of the definition of financial investment in subsection 5J(1) is modified by requiring that the asset-tested income stream (long term) arises under a **complying superannuation plan** (within the meaning of the *Income Tax Assessment Act 1997*) that is not a **constitutionally protected fund** (within the meaning of that Act). These terms limit the type of fund which will come within the definition in order to avoid the possibility that assessable income may also be produced by the income stream.

A note to this provision alerts the reader that this Schedule contains provisions preserving the rules in the Calculator for a certain kind of long-term financial asset that was being provided to a person immediately before 1 January 2015 where the person held a seniors health card immediately before that day, provided that, since that day, the person has held a seniors health card.

New step 1B adds the person's deemed income amount under point 118ZZA-10A or 118ZZA-10B to the person's adjusted taxable income amount generated at step 1 of the existing method statement.

If the person is not a member of a couple, and has such an asset, their deemed income from the asset is worked out under new point 118ZZA-10A, inserted by **item 8**. If the person is a member of a couple, and either they or their partner has such an asset, their deemed income amount is worked out under new point 118ZZA-10B, also inserted by **item 8**.

New point 118ZZA-10A works out an unpartnered person's deemed income amount using a method statement. The method involves working out the total value of all the person's long-term financial assets at the test time, and then applying existing section 46D to generate an amount of ordinary income the person would be taken to receive per year on the assumption that the only financial assets of the person were their long-term financial assets. This amount of ordinary income is then the person's deemed income amount for the purposes of the seniors health card test.

New point 118ZZA-10B works out a partnered person's deemed income amount, also using a method statement. The method involves working out the value of all of the person's long-term financial assets and the value of the person's partner's long-term financial assets, if the partner has reached the minimum age mentioned in section 301-10 of the *Income Tax Assessment Act 1997*.

Currently, section 301-10 specifies age 60 so that, if a person aged 60 years or over receives a superannuation benefit, the benefit is not assessable income. This ensures that only tax-free income of a cardholder's partner is included in the seniors health card income test as a deemed income amount in addition to taxable income already captured by the test. No age need be specified for the cardholder because, to be qualified for a seniors health card, a person must have reached pension age, which is a minimum of 60 years.

The method then applies existing section 46E to generate an amount of ordinary income for the couple, on the assumption that the only financial assets of the couple were their long-term financial assets. The total ordinary income deemed for the couple is then divided by two to give the person's deemed income amount for the purposes of the seniors health card test. This matches the approach taken in existing point 118ZZA-10 where, if a person is a member of a couple, the couple's adjusted taxable incomes are added and then divided by two to work out the amount of the person's adjusted taxable income for the reference tax year.

Item 7 amends steps 3, 4 and 5 of the point 118ZZA-1 method statement, such that the method statement compares the sum of the person's adjusted taxable income and their deemed income from long-term financial assets against the person's seniors health card taxable income limit generated at step 2.

Item 10 provides for the application of these amendments. The amendments are prospective only, applying to working out whether a person is qualified for a seniors health card on a day on or after 1 January 2015. However, some exceptions to this will apply. If a person held a seniors health card immediately before 1 January 2015, and a relevant long-term financial asset was being provided to the person immediately before 1 January 2015, then that asset is not to be included in the seniors health card income test. This only applies while the person continuously holds a seniors health card. If the person ceases to hold a seniors health card under the Veterans' Entitlements Act, then the amendments would apply to the income test for any card they later hold.

Division 2 – Technical amendments

This Division makes amendments to rename the income test for the seniors health card the 'seniors health card income test', omitting the word 'taxable', to reflect the fact the test will now include tax-free elements.

Items 11 to 28 make technical amendments to the Social Security Act to substitute 'seniors health card income test' and 'seniors health card income limit' for the existing labels which include the word 'taxable'.

Item 29 makes a technical amendment to the table in point 118ZZA-11 of Veterans' Entitlements Act to reference correctly the 'seniors health card income limit table'.

Part 2 – Portability

Non-cancellation of concession cards for temporary overseas absences is provided for by Division 4 of Part 2A.1 of the Social Security Act. Section 1061ZUB sets a **maximum non-cancellation period** of up to six weeks beginning on the day the person leaves Australia. The person ceases to be qualified for the card after the end of the period of six weeks beginning on the day the person leaves Australia (see subsection 1061ZUB(2)).

Item 30 makes a consequential amendment, narrowing the application of subsection 1061ZUB(2) to concession cards other than a seniors health card.

Item 31 inserts new subsection 1061ZUB(2A), providing that person is not qualified for a seniors health card for any period of absence after the end of the period of 19 weeks beginning on the day the person leaves Australia.

Item 32 substitutes two subparagraphs for former paragraph 1061ZUB(3)(b), to provide for a maximum non-cancellation period of six weeks for concession cards other than a seniors health card, and 19 weeks for a seniors health card.

Item 33 provides that the amendments made by items 30, 31 and 32 apply to periods of absence from Australia beginning on or after the commencement of those items. The amendments also apply to periods of absence from Australia beginning before the commencement of those items, where the person is continuously absent from Australia during the period beginning on the day the person leaves Australia and ending immediately before 1 January 2015, and the length of that absence if less than 19 weeks.

In other words, if a person leaves Australia in September 2014, and returns on 31 December 2014, their card will have been cancelled, and they will have to reapply for a card. They would need to be re-granted a card on 31 December 2014 if they are to retain the benefit of the provisions preserving the previous application of the income test for continuing cardholders. However, if the person leaves Australia in late 2014, and returns in January 2015, having been continuously absent in the intervening period, the new provisions may apply, provided the person was absent for fewer than 19 weeks in total. In these cases, where the person's card had been cancelled in 2014 because they had been absent for more than six weeks, and they return in 2015, having been continuously absent for less than 19 weeks, the Secretary may retrospectively reinstate their card.

Schedule 8 – Relocation scholarships

Summary

This Schedule will restrict qualification for the relocation scholarship payment to students relocating to or from regional or remote areas from 1 January 2015. Students relocating from major cities will only remain qualified for a relocation scholarship payment if they relocate to a regional or remote area.

Background

This measure will continue to recognise the reduced level of course and institution choice in regional and remote areas and the higher proportion of regional or remote students who need to relocate to study, compared to students from major cities.

Students from major cities are more likely than students from regional or remote areas to have a suitable education institution near to their parental home.

The relocation scholarship payment is currently paid at a rate of \$4,145 in the first year the student is required to live away from home and \$1,036 each year thereafter for students relocating from major cities (2014 rates). Recognising that they may have higher costs, students relocating from regional or remote areas are paid at a higher rate of \$2,073 in the second and third year they are required to live away from home to study.

Qualification for the relocation scholarship payment is restricted to recipients of youth allowance (or ABSTUDY recipients under equivalent provisions in the ABSTUDY policy manual) undertaking higher education or higher education preparatory courses.

The amendments made by this Schedule commence on 1 January 2015.

Explanation of the changes

Item 1 amends section 592K of the Social Security Act to add further circumstances in which a person is not qualified for a relocation scholarship payment despite being otherwise qualified under section 592J.

The first circumstance, as dealt with by new subsection 592K(6), covers people who are not **independent** (as defined in section 1067A) but who are 'required to live away from home' at the time their qualification is to be determined. Such people are not qualified for a relocation scholarship payment where, on the day the person started to undertake the course that would have otherwise qualified them for payment under paragraph 592J(d), each of the person's parents lived in a **major city location** (as defined by new subsection 592K(9)), and the person's place of study (as decided in accordance with principles made under new subsection 592K(8)) is also in a major city location. This rule is intended to ensure that, for persons who are not independent but are required to live away from home, they are not paid a relocation scholarship payment when they have relocated from a major city (where their parents live) to the same or another major city.

The second circumstance, as dealt with by new subsection 592K(7), covers people who are independent, but only as a result of one of a certain range of subsections in section 1067A of the Social Security Act: subsection (3), (5), (6), (7), (8), (9) or (11)). Such people are not qualified for a relocation scholarship payment if, six months before starting to undertake the course that would have otherwise qualified them for payment under paragraph 592J(d), the person's usual place of residence was in a major city location and, at the qualification time, the person's place of study is also in a major city location. This rule is intended to ensure that people, who are independent under the provisions referred to in new paragraph 592K(7)(a) are not paid a relocation scholarship payment where they have remained in a major city location, or relocated between major city locations, to study.

New subsection 592K(8) will provide power to the Secretary to make a legislative instrument outlining principles that must be complied with by decision-makers when deciding a person's place of study at a particular time. These principles will be able to address a range of study scenarios, including when a person is studying through attending classes, conducting research or fieldwork, or is studying online. A legislative instrument will enable the rule-maker to adapt the principles flexibly to various study scenarios as they arise.

New subsection 592K(9) defines the term **major city location** as used in new subsections 592K(6) and (7). The term will mean a location categorised as one of the 'Major Cities of Australia' under the 'Remoteness Structure' referred to in subsection 1067A(10F) of the Social Security Act. Under subsection 1067A(10F), the default Remoteness Structure is as described in the Australian Bureau of Statistics publication, *Statistical Geography Volume 1 Australian Standard Geographical Classification (ASGC) July 2006*, or other Australian Bureau of Statistics document that may be declared under subsection 1067A(10G) as a replacement document (for example, if new data becomes available from a more recent census).

As at the date of introduction of the Bill, there is some useful information on the Australian Bureau of Statistics website about the 'Remoteness Structure' here: <http://www.abs.gov.au/websitedbs/D3310114.nsf/home/remoteness+structure>, and on the Doctor Connect website here: <http://www.doctorconnect.gov.au/internet/otd/Publishing.nsf/Content/locator>.

Item 2 is an application provision to clarify that the amendment made by the Schedule applies from commencement of the Schedule onwards in relation to qualification for a relocation scholarship payment following that date (irrespective of whether qualification is, following commencement, being determined for a person who has received qualification payments prior to commencement).

Schedule 9 – Family tax benefit

Summary

This Schedule implements the following family payment reforms from 1 July 2015:

- limit the family tax benefit Part A large family supplement to families with four or more children;
- remove the per-child add-on that currently applies for each child after the first under the income test for the base rate of family tax benefit Part A;
- better target the family tax benefit Part B by reducing the primary earner income limit from \$150,000 per annum to \$100,000 per annum;

Background

Limit large family supplement

The large family supplement is a component of family tax benefit Part A that is paid for the third and each subsequent FTB child in a family. From 1 July 2015, the large family supplement will no longer be paid for the third child but families with four or more children would continue to receive the large family supplement.

Remove child add-on amount

Under the current income test, families are able to receive the base rate of family tax benefit Part A until their annual income reaches the higher income free area of \$94,316, plus a child add-on amount of \$3,796 for each FTB child after the first. The per-child add-on will be removed from 1 July 2015.

Primary earner income limit for family tax benefit Part B

Family tax benefit Part B is currently limited to families where the higher earner in a couple, or a single parent, has an income of \$150,000 per annum or less. From 1 July 2015, this income limit will be reduced to \$100,000.

Explanation of the changes

Amendments to the Family Assistance Act

Limit large family supplement

Clause 34 of Schedule 1 to the Family Assistance Act provides for eligibility for the large family supplement, and is triggered if an individual has three or more children. **Item 5** amends clause 34 to ensure that the provision only applies if an individual has four or more children.

A consequential amendment is made by **item 6** to the formula in clause 35 so that a large family supplement is only paid in respect of the individual's fourth and subsequent FTB child/ren. The reference in the formula to '2' is changed to '3'.

Remove child add-on amount

Under the current income test, families are able to receive the base rate of family tax benefit Part A until their annual income reaches the higher income free area plus a child add-on amount for each FTB child after the first. Clause 2 of Schedule 1 to the Family Assistance Act defines an individual's higher income free area by reference to a 'basic amount' and an 'additional amount' for each FTB child after the first. The relevant amounts are in the table at the end of that provision.

Items 1 and 2 amend clause 2 so that an individual's higher income free area is the basic amount worked out under the table. The additional amount is removed from the table in clause 2.

The additional amount currently referred to in clause 2 of Schedule 1 is indexed in accordance with movement in the Consumer Price Index (CPI) each 1 July. As this amount is being removed, consequential amendments are also made to relevant provisions in Schedule 4 to remove indexation arrangements for the amount. The relevant amendments are made by **items 7, 8 and 9**.

Primary earner income limit for family tax benefit Part B

Family tax benefit Part B is currently limited to families where the higher earner in a couple, or a single parent, has an income of \$150,000 per annum or less. The relevant rule is in clause 28B of Schedule 1 to the Family Assistance Act. **Item 4** amends subclause 28B(1) to change the income limit to \$100,000, while **item 3** makes a consequential amendment to the heading to clause 28B to reflect the new limit. The \$100,000 primary earner income limit for family tax benefit will then next be indexed on 1 July 2017.

Application and saving provisions

Item 10 provides some application and saving provisions that apply in relation to the amendments made by Part 2 of this Schedule.

Item 10 provides that the amendments made to specified provisions which affect the calculation of rate apply in relation to working out the rate of family tax benefit for days on or after 1 July 2015.

Schedule 10 – Social and Community Services Pay Equity Special Account

Summary

This Schedule provides that a State pay equity order (Western Australia) is a pay equity order for the purposes of the Social and Community Services Pay Equity Special Account (the Account), and amends the amounts by which the Account will be credited accordingly.

This will enable the Account to be used to fund the Commonwealth's share of pay increases provided by a State pay equity order (Western Australia) by way of additional funding to Commonwealth programs, including those funded through the States and Territories.

Background

The State pay equity order (Western Australia)

In November 2012, the Social and Community Services Pay Equity Special Account was established (under the *Social and Community Services Pay Equity Special Account Act 2012*) to pay Commonwealth Government supplementation to service providers affected by the:

- Fair Work Australia Social, Community and Disability Services (SACS) Industry Equal Remuneration Order (the National Case); and
- the transitional pay equity order (Queensland).

Subsequently, the Western Australian (WA) Industrial Relations Commission made the decision on 29 August 2013 to bring the WA State SACS awards (the *Social and Community Services (Western Australia) Interim Award 2011* (2013 WAIRC 00776) and the *Crisis Assistance, Supported Housing Industry – Western Australian Interim Award 2011* (2013 WAIRC 00775)) into line with the National Award.

The decision was effective immediately, with 1 December 2013 being the latest date employers could implement the 2013-14 increase, with a back pay component to the date of the decision. The Commonwealth Government has committed to paying supplementation to eligible service providers, for the life of the roll-out of the annual increases (to 2020-21), as per the National Case.

The amendments made by this Schedule commence on the day this Act receives Royal Assent.

Explanation of the changes

Amendments to the Social and Community Services Pay Equity Special Account Act 2012

Item 1 provides, by addition of a new paragraph (c), that a **pay equity order** as defined in subsection 4(1) includes 'a State pay equity order (Western Australia)'.

Item 2 adds to subsection 4(1) the following definition of the term **State pay equity order (Western Australia)**:

- (a) the order made by the Western Australian Industrial Commission on 29 August 2013 (2013 WAIRC 00776) varying the *Social and Community Services (Western Australia) Interim Award 2011*; or
- (b) the order made by the Western Australian Industrial Commission on 29 August 2013 (2013 WAIRC 00775) varying the *Crisis Assistance, Supported Housing Industry – Western Australian Interim Award 2011*.

Item 3 substitutes items 4 to 9 of the table set out in section 6 with new entries reflecting the revised amounts by which the Social and Community Services Pay Equity Special Account will be credited from 1 July 2015. The revised amounts set out in column 2 of items 4 to 9 reflect the requirements of the pay equity orders as amended by items 1 and 2 from 1 July 2015. This item also inserts a new item 3A in the table to provide for the required amount in respect of the pay equity orders as amended by items 1 and 2 for 2014-15 to be separately credited to the Social and Community Services Pay Equity Special Account upon commencement. Item 3A reflects the fact that the Social and Community Services Pay Equity Special Account was credited under the Act on 1 July 2014 with an amount for existing pay equity orders.

Items 4 and 13 add 'Schedule 1AA' to the headings at Part 1 of Schedule 1 and Part 1 of Schedule 2. This amendment limits Part 1 of Schedule 1 and Part 1 of Schedule 2 to programmes listed in Schedule 1AA of the relevant regulations.

Items 5 and 14 insert a note into Part 1 of Schedule 1 and Part 1 of Schedule 2 to clarify that the item numbers listed in Part 1 of each of those Schedules correspond with the item numbers set out in Schedule 1AA of the relevant regulations.

Items 6 to 12 and 15 to 17 delete the department titles from Schedules 1 and 2 as these arrangements have been superseded by machinery of government changes. Department titles are not required in order to identify those programmes within the scope of subclauses 7(2) and 7(3).

STATEMENTS OF COMPATIBILITY WITH HUMAN RIGHTS

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

SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT (2014 BUDGET MEASURES No. 6) BILL 2014

Schedule 1 – Energy supplement replacing clean energy supplement

This Schedule 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 Schedule

This Schedule (in Parts 1 to 6) renames the clean energy supplement (CES) as the ‘energy supplement’ and removes indexation arrangements to freeze permanently the rate of payment at the relevant amounts payable before 1 July 2014.

The Schedule (in Part 7) also makes minor changes to the partner income free area from 20 September 2014.

Human rights implications

The Schedule engages the following human rights:

Right to social security

Article 9 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognises the right of everyone to social security.

The Schedule has no effect on the right to social security.

Energy supplement

The energy supplement is paid as part of the primary social security, family assistance or veterans’ entitlements payment to provide compensation to households for the cost of living impacts of the carbon tax.

This Schedule removes indexation of the energy supplement from 1 July 2014. Energy supplement will provide ongoing assistance to pensioners, seniors, allowees, veterans and families at a fixed rate.

Recipients will be better off because there will no longer be price pressures from the carbon tax and people will continue to receive the energy supplement.

There are no human rights impacts, as recipients will be better off after the carbon tax is repealed.

Partner income free area (PIFA)

The PIFA is part of the income testing arrangements for social security benefits. The PIFA determines the impact that the income of a person's partner has on the person's rate of payment – partner income below the PIFA has no impact, while income above the PIFA reduces the person's rate of payment by 60 cents in the dollar. The PIFA is calculated based on the rate of newstart or youth allowance that the partner would receive if they were qualified for payment.

This Schedule ensures that, for the purposes of calculating the PIFA, the partner's notional rate of newstart or youth allowance includes the maximum basic rate, the pension supplement (if relevant) and the energy supplement. The inclusion of these amounts is beneficial to recipients as it increases the amount the partner can earn before payment is affected.

Other possible rate components (pharmaceutical allowance, rent assistance and youth disability supplement) are disregarded as these components have specific qualification requirements and it is not possible to determine reasonably the partner's eligibility if they are not receiving payment. Disregarding these rate components will not reduce the amount of the PIFA as these components are already disregarded under existing policy. Recipients will not have their rate reduced as a result of these amendments.

There are no human rights impacts, as recipients will not be negatively affected by the amendments.

Conclusion

The amendments in the Schedule are compatible with human rights because they do not limit access to social security.

Schedule 2 – Indexation

This Schedule 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 Schedule

The Schedule will have the effect of fixing the value of assets test free areas and thresholds for certain Australian Government payments for two or three years.

From 1 July 2015 this measure will fix for a period of two years:

- assets value limits for working age allowance payments and student payments and the assets value limit for parenting payment (single).

Indexation using the Consumer Price Index will resume after two years.

From 1 July 2017 this measure will fix for a period of three years:

- assets test free areas for social security pension payments (other than parenting payment (single)) and equivalent Veterans' Affairs pension payments;

Indexation using the Consumer Price Index will resume after three years.

Human rights implications

The Schedule engages the following human right:

Right to social security

Article 9 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognises the right of everyone to social security.

The Schedule has no effect on the right to social security.

The changes to the value of assets test free areas for certain Australian Government payments assist in targeting payments according to need. Payments will not be reduced unless customers' circumstances change, such as their income or assets increasing in value.

Conclusion

The amendments in the Schedule are compatible with human rights because they do not limit access to social security.

Schedule 3 – Disability support pension

This Schedule 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 Schedule

This Schedule will amend the Social Security Act to extend program of support requirements to certain disability support pension recipients following a review of their qualification. This measure will be targeted to those pension recipients who are under 35 years of age at the time a notice is given in relation to review of their qualification and who made a claim for disability support pension before 3 September 2011 and were granted the pension after 2007.

This Schedule will also introduce a requirement that, in order for the Secretary to be satisfied a person has actively participated in a program of support, the person must undertake a program of support that was wholly or partly funded by the Commonwealth.

Human rights implications

This Schedule engages the following human rights:

Right to social security

Article 9 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognises the right of everyone to social security.

Extending the requirement to undertake a program of support, as provided by Part 1 of this Schedule, will help to ensure that assistance to develop work capacity is provided to those disability support pension recipients most likely to benefit from employment assistance. Assisting those people, who are able, to participate economically and socially will help ensure that the social security system remains sustainable and that available funds will be targeted to those recipients with the greatest need.

Right to equality and non-discrimination

This measure engages the right to equality and non-discrimination under Article 2(2) of the ICESCR and more generally under Article 26 of the *International Covenant on Civil and Political Rights*.

The measures in this Schedule reinforce the principle that labour market participation of people with disability, including disability support pension recipients with some work capacity, should be encouraged and supported.

Statements of compatibility with human rights

Targeting the requirement to participate in a program of support to disability support pension recipients who are under 35 years of age at the time of a review of their qualification ensures those at the greatest risk of spending extended periods of time dependent on income support and most likely to benefit from employment assistance, participate in a program of support.

Evidence indicates that the impairment levels of disability support pension recipients who have been receiving this pension for long periods worsen over time, so those most recently granted the pension are more likely to have more work capacity and be able to participate economically and socially.

Recipients assessed as having an ability to work at least eight hours a week will be provided with the support needed to assist them develop their work capacity while still receiving disability support pension. This will assist people to build their capacity and may increase their chance of gaining employment.

Conclusion

This Schedule is compatible with human rights because it advances the protection of human rights and does not limit or preclude people from gaining or maintaining access to social security in Australia.

Schedule 4 – Portability for students and new apprentices

This Schedule 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 Schedule

This Schedule will generally align the portability rules for student payment recipients (youth allowance and austudy payment) with the portability rules for jobseekers, so that recipients of student payments will no longer be eligible for payment while overseas for a period of up to six weeks, regardless of the reason for the absence. This Schedule limits the six-week portability period to absences that are for the purpose of seeking eligible medical treatment or attending to an acute family crisis.

The Schedule also allows the Secretary to make principles that must be complied with when deciding how much of a period of absence is for the purpose of undertaking studies that form part of the course of education.

Students and apprentices will still be able to travel overseas for other purposes, using their own resources.

The purpose of student payments is to assist students financially while they study, with additional incentives for students to work while on study breaks.

Human rights implications

Right to education

The measure is compatible with the right to education in Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). Students will remain eligible for all payments (both within Australia and overseas) while undertaking approved study or training. Eligibility is only affected while overseas and not undertaking an approved activity, such as study.

Right to freedom of movement:

The measure engages the right to freedom of movement, which is contained in Articles 12 and 13 of the *International Covenant on Civil and Political Rights*. Students will remain able to move freely, whether within Australia or overseas. However, they will no longer receive youth allowance or austudy payment while overseas, unless they are undertaking eligible study, receiving eligible medical treatment or attending an acute family crisis.

Any impact on students' freedom of movement is reasonable and consistent with the policy objectives.

Right to social security

The measure engages the right to social security contained in Article 9 of the ICESCR.

Statements of compatibility with human rights

The right to social security requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to cover essential living costs.

The changes to eligibility for overseas payment do not affect students' ability to access social security within Australia. The measure ensures that social security is appropriately targeted and only affects those recipients of youth allowance and austudy payment who elect to travel overseas for a purpose other than studying, receiving eligible medical treatment or attending an acute family crisis.

Conclusion

These amendments are compatible with human rights. To the extent that they may adversely impact on a person's access to education, social security or freedom of movement, the limitation is reasonable and proportionate.

Schedule 5 – Portability of disability support pension

This Schedule 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 Schedule

This Schedule introduces new rules that generally limit the period a person who is outside Australia can be paid disability support pension (DSP). Under the new rules, most DSP recipients will be limited to a total of 28 days payment overseas every 52 weeks.

The change will not apply to DSP recipients assessed as having a severe and permanent disability and no future work capacity, or to those who are terminally ill and returning to their country of origin or to be with family. The change includes safeguards consistent with similar provisions for other payments. The change will also not affect severely disabled DSP recipients paid under Australia's international social security agreements. In limited circumstances currently specified in legislation, disability support pension recipients will be able to be paid for more than 28 days.

Human rights implications

This Schedule has considered the human rights implications particularly with reference to the right to social security contained within Articles 9 of the *International Covenant on Economic, Social and Cultural Rights*, the right to freedom of movement contained in Articles 12 and 13 of the *International Covenant on Civil and Political Rights*, and the rights of persons with disabilities contained in Article 18 of the *Covenant on the Rights of Persons with Disabilities*. It is concluded that the Schedule does not place limitations on human rights.

Right to freedom of movement

The measure engages the right to freedom of movement, which is contained in Articles 12 and 13 of the *International Covenant on Civil and Political Rights*. Disability support pensioners will remain able to move freely, whether within Australia or overseas. However, they will no longer receive DSP while overseas, if they are absent from Australia for more than 28 days in a 12 month period.

The policy objective of this measure is to strengthen the residence basis of Australia's social security system by requiring most DSP recipients to be present in Australia for the great majority of the year and, where they have the capacity to do so, engage in activities that will assist them to participate socially and economically.

The impact on a disability support pensioner's freedom to leave Australia for more than 28 days in a 12-month period due to the loss of disability support pension is considered to be proportionate and reasonable. This is because of the range of exceptions to the general 28 days portability rule.

Where a disability support pensioner is absent for the purposes of seeking eligible medical treatment, to attend to an acute family crisis or for a humanitarian purpose, there is no limit to the total number of days of absence from Australia, so long as each continuous period of absence is no longer than four weeks. Severely impaired disability support pensioners and terminally ill disability support pensioners have an unlimited portability period. Disability support pensioners who are undertaking full-time studies overseas can continue to receive the pension throughout the period of study.

Further, the Secretary may extend a disability support pensioner's portability period, in the situation where the person is unable to return to Australia due to serious accident or illness of the person or a family member, the death of a family member of the person, the person is undertaking life-saving treatment, the person is involved in legal proceedings, or where there is a natural disaster, political or social unrest, industrial action or war in the country in which the person is located.

Rights of persons with disabilities

This measure also engages the right of persons with disabilities in relation to liberty of movement, contained in Article 18 of the *Convention on the Rights of People with Disabilities*. Disability support pensioners will remain free to leave Australia. Any impact on a disability support pensioner's freedom to leave Australia due to the loss of disability support pension is reasonable and consistent with policy objectives as discussed above.

Right to social security

The measure engages the right to social security contained in Article 9 of the *International Covenant on Economic, Social and Cultural Rights*.

The right to social security requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to cover essential living costs.

The changes to the portability period for disability support pensioners do not affect their ability to access social security within Australia. The measure ensures that social security is appropriately targeted, and only affects disability support pensioners who elect to travel overseas for more than 28 days in a 12-month period, and where the range of exceptions to the 28-day portability rule do not apply.

Conclusion

This Schedule is compatible with human rights because it advances the protection of human rights, it does not limit or preclude people from gaining or maintaining access to social security in Australia and any impact on freedom of movement is reasonable and consistent with the policy objectives.

Schedule 6 – Young Carer Bursary Programme

This Schedule 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 Schedule

This Schedule amends the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986* to ensure that a payment of a bursary under the programme established by the Commonwealth and known as the Young Carer Bursary Programme is not counted as income.

Human rights implications

Right to social security

The amendments made by this Schedule will engage Article 9 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

Article 9 of ICESCR recognises the right to social security for all persons. The amendments to the Social Security Act and Veterans' Entitlements Act engage with the right to social security under ICESCR.

The amendments to the Social Security Act make clear that a payment of a bursary under the Young Carer Bursary Programme is not income for the purposes of the Social Security Act. This amendment promotes the right to social security in ensuring that the entitlement to a social security benefit is not affected by a payment of a bursary under the Young Carer Bursary Programme.

Similarly, the amendments to the Veterans' Entitlements Act make clear that a payment of a bursary under the Young Carer Bursary Programme is not income for the purposes of the Veterans' Entitlements Act. This amendment promotes the right to social security in ensuring that the entitlement to a social security benefit is not affected by a payment of a bursary under the Programme.

Conclusion

This Schedule is compatible with human rights because it advances the right to social security for all persons.

Schedule 7 – Seniors health card

This Schedule 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 Schedule

This Schedule includes tax-free superannuation income in the assessment of income for qualification for the Commonwealth Seniors Health Card. Income generated from various account-based superannuation income streams will be deemed, using the same method as for income support payments, from 1 January 2015. Veterans who hold a Seniors Health Card will also be affected by this measure.

People who are seniors health cardholders immediately before commencement of the measure will not have the deemed rate of their tax-free superannuation included in the income test, unless they cease to be the holder of a card after this time. Income from superannuation products purchased following commencement of the Schedule will be included in the test.

The Schedule will also extend the period for which seniors health cardholders may travel temporarily overseas without losing qualification for the card from six weeks to up to 19 weeks.

Human rights implications

Right to social security

This Schedule ensures people on similar incomes will be treated the same for qualification for the seniors health card.

The Schedule engages Article 11 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), which provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Holders of a seniors health card are entitled to a range of concessions, including concessions on pharmaceutical and health services.

Conclusion

The Schedule is compatible with human rights because it maintains the right to health. The Schedule is compatible with human rights.

Schedule 8 – Relocation scholarships

This Schedule 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 Schedule

This Schedule will restrict qualification for the relocation scholarship payment to students relocating to or from regional or remote areas from 1 January 2015. Students relocating from major cities will only remain qualified for a relocation scholarship payment if they relocate to a regional or remote area.

The measure will continue to recognise the reduced level of course and institution choice in regional and remote areas and the higher proportion of regional or remote students who need to relocate to study, compared to students from major cities.

Students from major cities are more likely than students from regional or remote areas to have a suitable education institution near to their parental home.

The relocation scholarship payment is currently paid at a rate of \$4,145 in the first year the student is required to live away from home and \$1,036 each year thereafter for students relocating from major cities (2014 rates). Recognising that they may have higher costs, students relocating from regional or remote areas are paid at a higher rate of \$2,073 in the second and third year they are required to live away from home to study.

Qualification for the relocation scholarship payment is restricted to recipients of youth allowance (or ABSTUDY recipients under equivalent provisions in the ABSTUDY policy manual) undertaking higher education or higher education preparatory courses.

Human rights implications

Right to education

The Schedule engages the right to education in Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

Students who relocate within or between major cities will no longer be eligible for the relocation scholarship payment, which assists with the costs of relocating to study.

Although this measure will reduce the level of relocation assistance available to students who relocate within or between major cities, this measure remains compatible with the right to education because other assistance remains available for students who relocate away from home to study, including the higher 'away from home' rate of youth allowance, and rent assistance (depending on their rental situation).

The measure will continue to recognise the reduced level of course and institution choice in regional and remote areas and the higher proportion of regional and remote students who need to relocate to study, compared to students from major cities. As such, this measure focuses relocation assistance on students who need it most. Any impact on students from major cities and their ability to access education will be limited and proportionate to the policy objectives.

Right to equality and non-discrimination

The measure engages the right to equality and non-discrimination under articles 2 and 26 of the *International Covenant on Civil and Political Rights* (ICCPR).

While the measure makes a distinction in qualification for the relocation scholarship payment based on the location of students' parental homes and whether they move to a major city or a regional or remote area to study, it will help to ensure the financial sustainability of student payments while further recognising the reduced level of course and institution choice in regional and remote areas and the higher proportion of regional and remote students who need to relocate to study, compared to students from major cities. In focussing relocation assistance on those who need it most, the measure is compatible with the right to equality and non-discrimination.

Right to freedom of movement

To remove doubt, the measure does not engage the right to freedom of movement, which is contained in articles 12 and 13 of the ICCPR. Students will remain able to move freely, whether to study or otherwise. Students from major cities who relocate within or between major cities will remain eligible for other assistance to live away from home to study, including the higher 'away from home' rate of youth allowance, and rent assistance depending on their rental situation.

Right to adequate standard of living

The measure engages the right to an adequate standard of living, contained in article 11(1) of the ICESCR.

Students relocating within or between major cities will no longer be eligible for the relocation scholarship payment, currently paid at a rate of \$4,145 in the first year the student is required to live away from home and \$1,036 each year thereafter for students relocating from major cities (2014 rates). This will reduce the total value of support available to these students to support their standard of living. However, this reduction is reasonable and proportionate to the policy objective of prioritising funds to assist students relocating to or from regional or remote areas.

Students affected by the measure will retain access to other assistance to assist them with the costs of an adequate standard of living while studying, such as youth allowance, ABSTUDY and rent assistance.

Right to social security

The measure engages the right to social security contained in article 9 of the ICESCR.

Statements of compatibility with human rights

The right to social security requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to cover essential living costs.

The changes to the relocation scholarship payment will help to ensure that the social security system remains sustainable and that available funds will be targeted to those recipients with the greatest need. Students who lose access to the relocation scholarship payment will retain access to youth allowance and ABSTUDY and a range of other income support.

Conclusion

These amendments are compatible with human rights. To the extent that they may adversely impact on a person's access to education, social security, an adequate standard of living or the right to equality and non-discrimination, the limitation is reasonable and proportionate to the policy objectives.

Schedule 9 - Family tax benefit

This Schedule 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 Schedule

This Schedule amends the *A New Tax System (Family Assistance) Act 1999* to implement a number of reforms to the family tax benefit. These reforms will improve the sustainability of the family payments system over the long term, while continuing to provide assistance to families in need and encouraging increased workforce participation.

The amendments in this Schedule will enable the following family payment reforms from 1 July 2015:

- limit the family tax benefit Part A large family supplement to families with four or more children;
- remove the family tax benefit Part A per-child add-on to the higher income free area for each additional child after the first;
- improve targeting of family tax benefit Part B by reducing the primary earner income limit from \$150,000 a year to \$100,000 a year;

Human rights implications

These amendments engage the human right discussed below.

Right to social security

Article 9 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognises the right of everyone to benefit from social security.

Article 26 of the *Convention on the Rights of the Child* (CRC) requires countries to recognise the right of the child to benefit from social security. Benefits should take into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child.

The United Nations Committee on Economic, Cultural and Social Rights has stated that a social security scheme should be sustainable and that the conditions for benefits must be reasonable, proportionate and transparent.

Changes to family tax benefit Part A will have the effect of better targeting the payment. The removal of the per-child add-on that currently applies under the family tax benefit Part A income test means that the higher income free area (currently \$94,316) will remain, but without the add-on of \$3,796 for a second or subsequent child. To the extent that this limits the right to social security, this is reasonable and proportionate.

Statements of compatibility with human rights

Limiting the family tax benefit Part A large family supplement better targets this supplement to families with four or more children. To the extent that this limits the right to social security, this change is reasonable and proportionate. Very large families will have extra support.

Reforms to family tax benefit Part B are intended to better target the payment to low and middle-income families, and to families with young children. To the extent that reducing the primary earner income limit for family tax benefit Part B from \$150,000 to \$100,000 limits the right to social security, this is reasonable and proportionate, as it will not impact on families most in need. Families with a primary earner earning income above the new limit rely less on family tax benefit Part B to meet everyday expenses.

These reforms will help ensure the sustainability of the family payments system.

Conclusion

These amendments are compatible with human rights because they advance the protection of human rights and, to the extent that these changes limit access to family payments, these limitations are reasonable and proportionate.

Schedule 10 – Social and Community Services Pay Equity Special Account

This Schedule 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 Schedule

This Schedule provides that the State pay equity order (Western Australia) is a pay equity order for the purposes of the Social and Community Services Pay Equity Special Account (the Account), and amends the amounts by which the Account will be credited accordingly.

This will enable the Account to be used to fund the Commonwealth's share of pay increases provided by the State pay equity order (Western Australia) by way of additional funding to Commonwealth programs, including those funded through the States and Territories.

Human rights implications

This Schedule engages and promotes the human right, Right to work and rights in work.

Fair Work Australia determined that Social and Community Service industry workers historically received significantly less remuneration for performing comparable work to public sector employees. Equal remuneration is set out under Article 7 of the *International Covenant on Economic, Social and Cultural Rights*, and includes remuneration which provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value without distinction of any kind – in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.

The Social and Community Services Pay Equity Special Account essentially facilitates the administration of funding to affected Commonwealth-funded employers with Social and Community Services workers, and enhances transparency to government. This Schedule extends these arrangements to workers affected by the State pay equity order (Western Australia).

Conclusion

This Schedule is compatible with human rights as it does not raise any human rights issues.

Minister for Social Services, the Hon Kevin Andrews MP