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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**BUSINESS SERVICES WAGE ASSESSMENT TOOL PAYMENT SCHEME
AMENDMENT BILL 2016**

EXPLANATORY MEMORANDUM

**(Circulated by the authority of the
Minister for Social Services, the Hon Christian Porter MP)**

BUSINESS SERVICES WAGE ASSESSMENT TOOL PAYMENT SCHEME AMENDMENT BILL 2016

OUTLINE

This Bill will provide increased one-off payments to around 10,000 eligible people under the *Business Services Wage Assessment Tool Payment Scheme Act 2015*, and make associated amendments to improve the administration of the payment scheme.

The Bill increases payments from 50 per cent to 70 per cent of the difference between the actual wage paid to the eligible person at the time of their employment and assessment using the Business Services Wage Assessment Tool and the amount they would have been paid had only the productivity component of the Business Services Wage Assessment Tool been applied.

Any person who has already received a payment under the Business Services Wage Assessment Tool payment scheme will receive a top-up payment to reflect the increased payments provided by the Commonwealth as a result of this Bill, without having to make another application or needing to seek further legal advice or financial counselling.

The Bill makes voluntary, rather than compulsory, the current requirement to obtain legal advice before any payment under the payment scheme is made. The requirement to obtain legal advice has made the ability of some people to obtain a payment under the payment scheme unnecessarily onerous and burdensome for people seeking to claim their payment. Legal advice will still be provided, if requested, at the Commonwealth's expense in accordance with the *Business Services Wage Assessment Tool Payment Scheme Rules 2015*.

The Bill will also extend all relevant payment scheme dates by 12 months so people have more time to register for the scheme and submit applications in order to receive a payment (if any).

Importantly, these amendments will give effect to a recently mediated settlement agreement between the Commonwealth and the Applicant in a representative proceeding in the Federal Court of Australia (*Duval-Comrie v the Commonwealth* VID 1367/2013) related to the Business Services Wage Assessment Tool.

If the Bill is passed and the Federal Court of Australia agrees to the terms of the settlement, the representative proceeding will be dismissed.

Financial impact statement

The financial impact of this Bill will depend on the number of individuals who apply for the payment scheme, and the payment amounts determined for eligible applicants.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

The statement of compatibility with human rights appears at the end of this explanatory memorandum.

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NOTES ON CLAUSES

Abbreviations used in this explanatory memorandum

- **BSWAT** means the Business Services Wage Assessment Tool
- **BSWAT Act** means the *Business Services Wage Assessment Tool Payment Scheme Act 2015*
- **BSWAT Rules** means the *Business Services Wage Assessment Tool Payment Scheme Rules 2015*.

Clause 1 sets out how the new Act is to be cited – that is, as the *Business Services Wage Assessment Tool Payment Scheme Amendment Act 2016*.

Clause 2 provides the commencement arrangements for the new Act. In particular, the amendments made by Schedule 1 will commence 14 days after the new Act receives the Royal Assent. This timeframe will allow the Secretary to manage the administrative difficulties that would arise if the new Act commenced immediately after Royal Assent.

Clause 3 provides that each Act that is specified in a Schedule is amended or repealed as set out in that Schedule.

Schedule 1 – Amendments

Summary

Schedule 1 sets out amendments to parts of the BSWAT payment scheme to give effect to the mediated settlement agreement and improve the administration of the legislation, including: increasing one-off payments to eligible people under the BSWAT Act; extending timeframes; removing the requirement that eligible people must obtain legal advice in order to make an effective acceptance of an offer; and amending eligibility requirements for people who were, before their death, eligible to participate in the scheme.

Explanation of the changes

Amendments to the BSWAT Act

Items 1 to 4, 8 to 19, 21 to 22, 24 to 25 and 31 extend all relevant scheme dates by 12 months to allow a person further time to apply for a payment under the BSWAT Act.

Item 5 defines the terms ***Chief Executive Centrelink*** and ***Human Services Department*** for the purposes of the BSWAT payment scheme.

Item 6 provides that a person who was eligible to participate in the BSWAT payment scheme immediately before his or her death, or who would have been eligible if the BSWAT Act had been in force on the day he or she died, continues to be eligible for the BSWAT payment scheme despite his or her death.

It is intended that the BSWAT Rules will provide greater detail about the application of this provision, including in relation to what an alternative amount means for a deceased person. ***Alternative amount*** is defined in section 4 of the BSWAT Act.

Item 7 amends the principle for calculating a payment amount under the scheme to provide that a payment should reflect 70 per cent instead of 50 per cent of the excess of a productivity-scored wage over an actual wage.

Item 20 clarifies that a person has to produce a legal advice certificate that complies with section 36 of the BSWAT Act before an offer can be accepted under the BSWAT payment scheme.

A completed legal advice certificate is required irrespective of whether the person elected to receive legal advice from a legal practitioner.

Item 23 clarifies that the Secretary cannot make an offer or refuse an application on or after a date specified in subsections 21(2) and (3) of the BSWAT Act.

Items 26 to 28 clarifies that, following an internal or external review of a determination, the Secretary may set aside a determination and substitute a new determination in accordance with Division 6, if applicable.

Item 29 removes the requirement that a person obtain legal advice from a legal practitioner before he or she can make an effective acceptance under the BSWAT payment scheme.

Access to free legal advice will continue on a voluntary basis and in accordance with the BSWAT Rules.

A completed legal advice certificate that complies with section 36 of the BSWAT Act will still form part of an effective acceptance. If the person elects not to receive legal advice, the person (or the person's nominee) may complete the certificate. If the person elects to receive legal advice, the legal practitioner will complete the certificate.

Legal practitioner is defined in section 4 of the BSWAT Act.

Item 30 provides a consequential amendment to adjust the numbering of section 38 in view of the insertion of a second subsection by item 32.

Item 32 clarifies that subparagraph 38(1)(c)(iii) of the BSWAT Act does not apply to a person who was the representative party in a relevant representative proceeding if, at the time the person lodges an acceptance:

- the proceeding has been determined, settled or discontinued; and
- the person is not the representative party in any other representative proceeding.

Representative party is defined in section 4 of the BSWAT Act, and has the same meaning as in Part IVA of the *Federal Court of Australia Act 1976*.

Relevant representative proceeding is defined in subsection 9(4) of the BSWAT Act.

Item 33 expands the general power to obtain information to include matters in relation to the registration of another person for the scheme. This amendment will improve the administration of the scheme.

Item 34 clarifies that the Secretary, or another person, is able to obtain, record, use or disclose information held in the records of the Department or the Human Services Department for the purposes of administering the scheme. A notice under section 72 of the BSWAT Act is not required to do this.

Under subparagraphs 202(1)(g) and 202(2)(dd) of the *Social Security (Administration) Act 1999*, the Secretary or another person may obtain, record, disclose or use protected information (as defined by the *Social Security Act 1991*) held by the Human Services Department for the purposes of the BSWAT Act. For example, a Department of Social Services officer administering the scheme may access personal information about a participant held by the Human Services Department for the purposes of determining an application for the payment scheme.

Item 35 repeals section 97 of the BSWAT Act and substitutes a new section 97.

Section 97 sets out the effect a person's death may have in relation to actions that may be taken under the BSWAT Act.

It provides that any act that may be done under or for the purposes of the BSWAT Act by an eligible person may be done on behalf of a person who has died by the person's legal personal representative. The deceased person's eligibility for the BSWAT payment scheme is continued by subsection 6(5) of the BSWAT Act.

Subsection 97(2) provides that any such act has effect, for the purposes of the BSWAT Act, as if it were done by the deceased person.

The money that would have been paid to the person, if the person was eligible and the offer is accepted, will be paid to the person's estate.

Subsection 97(3) states that the BSWAT Rules may make provision for the application of the BSWAT Act in relation to deceased persons. For example, the BSWAT Rules may provide detail as to who can be the deceased person's legal personal representative, if required.

Subsection 97(4) clarifies that reference in section 97 to any act done or any act that may be done, includes a reference to refraining from doing an act in order to give effect to a decision.

Item 36 provides that the Secretary may, in writing, delegate his/her function under section 40 (payment of amount) of the BSWAT Act to the Chief Executive, Centrelink. This will improve the administration of the scheme and ensure that payment amounts are paid as soon as reasonably practicable.

Part 2 – Application and transitional provisions

Item 37 inserts definitions of terms and phrases used in the application and transitional provisions.

Application of amendment of paragraph 8(3)(a)

Item 38 explains that the 70 per cent principle applies in relation to the making of BSWAT Rules on or after the commencement day of this Bill.

It is provided that, during the period from commencement day to the day on which the BSWAT Rules are updated to reflect the 70 per cent principle, the BSWAT Rules continue in effect except that subsection 3.19(1) of the BSWAT Rules is taken to be substituted to reflect the 70 per cent principle for calculating a payment amount.

This transitional arrangement ensures that the BSWAT Rules will operate consistently with the amendments made by this Bill in relation to calculating a payment amount.

Entitlement to top up amount if effective acceptance of pre-commencement offer is lodged

Item 39 provides a top up amount to people who have lodged an effective acceptance of an offer based on the 50 per cent principle.

If a person lodges an effective acceptance of a pre-commencement offer before, on or after the commencement day of this Bill, the Secretary must, as soon as practicable after the commencement day, work out the top up amount and pay it in accordance with section 40 of the BSWAT Act.

The Secretary must also notify the person in writing of the top up amount.

The objective of this provision is to ensure that people who have already accepted a payment amount based on the 50 per cent principle are not disadvantaged by the introduction of the 70 per cent principle.

Example

Jade receives an offer of \$1500 on the 10 January 2016 which was calculated on the principle that the payment amount should broadly reflect the amount that is 50 per cent of the excess of a productivity-scored wage over an actual wage. She lodges an effective acceptance of the offer on 20 January 2016. This Bill receives Royal Assent on 1 February 2016 and commences on 15 February 2016. As soon as practicable after 15 February, the Secretary must work out the top up amount for Jade. The top up amount is the excess of the payment amount worked out for Jade using the 70 per cent principle over the original payment amount of \$1,500. Jade will receive a top up payment of \$600.

Example

The payment amount for Oliver is \$50. This amount was calculated on the principle that the payment amount should broadly reflect the amount that is 50 per cent of the excess of a productivity-scored wage over an actual wage. As this is less than \$100, Oliver receives an offer of \$100 (the minimum payment amount) on the 10 January 2016. He lodges an effective acceptance of the offer on 20 January 2016. This Bill receives Royal Assent on 1 February 2016 and commences on 15 February 2016. As soon as practicable after 15 February, the Secretary must work out the top up amount for Oliver. The top up amount is the excess of the payment amount worked out for Oliver using the 70 per cent principle over the original payment amount of \$100. Oliver will not receive a top up payment. This is because the payment amount remains \$100 regardless of whether the 50 per cent principle or the 70 per cent principle is used.

Review of pre-commencement offers still open on commencement day

Item 40 applies if the acceptance period for a pre-commencement offer made to a person has not ended and the person has not lodged an effective acceptance of the offer and has not applied for a review of the determination included in the offer or withdrawn any such application.

In this case, the Secretary must, as soon as practicable after the commencement day of this Bill, review, under section 23 of the BSWAT Act, the determination of the payment amount offered to the person, using the 70 per cent principle.

If the payment amount worked out on review is higher, the Secretary must substitute a new determination of the payment amount and make a new offer to the person under section 19 of the BSWAT Act.

Subparagraph 23(2)(c) of the BSWAT Act does not prevent the Secretary from reviewing the determination.

Review of pre-commencement offers on application

Item 41 provides for review of pre-commencement offers to be determined using the 70 per cent principle.

If a person applies for a review before the commencement day of this Bill and the decision on review has not been made, or the person applies for a review on or after the commencement day, the review must be done on the basis that the payment amount for the person is to be worked out using the 70 per cent principle.

If the payment amount worked out on review is higher, the reviewer must substitute a new determination of the payment amount and the Secretary must make a new offer to the person under section 19 of the BSWAT Act.

Review of certain refusals given before commencement day

Item 42 provides for the review of certain refusals that were given before the commencement day.

The Secretary must, as soon as practicable after the commencement day, review, under section 23 of the BSWAT Act, the determination of the payment amount using the 70 per cent principle if before the commencement day:

- a person's application for a payment under the BSWAT payment scheme was refused because of a determination that the payment amount for the person was nil; and
- the person has not applied for a review of the determination or withdrawn any such application.

If the payment amount worked out on review is at least \$1, the Secretary must substitute a new determination of the payment amount and the Secretary must make an offer to the person under section 19 of the BSWAT Act.

Subparagraph 23(2)(c) of the BSWAT Act does not prevent the Secretary from reviewing the determination.

Example

Skye's application for payment under the BSWAT payment scheme is refused on 10 January 2016 because of a determination that the payment amount is less than \$1 (90 cents). As soon as practicable after the commencement day, the Secretary must undertake a review of the determination. The payment amount on review, using the 70 per cent principle, is more than \$1 (\$1.26). The Secretary must substitute a new determination of the payment amount and make an offer of \$100 (the minimum payment amount) to Skye.

Review of certain refusals on application

Item 43 provides for the review of certain refusals on application.

The review must be done on the basis that the payment amount for the person is to be worked out using the 70 per cent principle if a person:

- applied for a review of a determination of a payment amount of nil before the commencement day of this Bill and the decision on review has not been made; or
- applies for the review on or after the commencement day.

If the payment amount worked out on review is at least \$1, the reviewer must substitute a new determination of the payment amount and the Secretary must make an offer to the person under section 19 of the BSWAT Act.

Application of amendment of paragraph 36(c)

Item 44 provides that the amendment to paragraph 36(c) of the BSWAT Act applies in relation to acceptances lodged on or after the commencement day of the Bill.

It confirms that reference to a legal advice certificate that complies with section 36 of the BSWAT Act includes a legal advice certificate as in force immediately before the commencement day of the Bill. This means that a person can lodge an effective acceptance with an out-dated legal advice certificate.

Application of amendments of sections 6 and 97

Item 45 provides that amendments to sections 6 and 97 of the BSWAT Act apply in relation to a deceased person regardless of whether the person died:

- before, on or after the day the BSWAT Act commenced; or
- before, on or after the commencement day of the Bill.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Business Services Wage Assessment Tool Payment Scheme Amendment Bill 2016

This Bill 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 Bill

This Bill amends the *Business Services Wage Assessment Tool Payment Scheme Act 2015* (the BSWAT Act) to give effect to a mediated settlement agreement between the Commonwealth and the Applicant in a representative proceeding in the Federal Court of Australia (*Duval-Comrie v the Commonwealth of Australia* VID 1367 of 2013).

The Australian Government provides funding to Australian Disability Enterprises (ADEs) through the *Disability Services Act 1986* to provide employment support to workers with moderate to severe disability. There are 184 organisations supporting around 20,000 workers with disability in employment across Australia. ADEs can use wage tools prescribed in the *Supported Employment Services (SES) Modern Award 2010* to determine pro-rata wages for workers with disability. The Business Services Wage Assessment Tool (BSWAT) was previously used for this purpose.

Two supported employees were found through a court decision in 2012 to have experienced indirect discrimination under the *Disability Discrimination Act 1992* (Cth) because their wages were assessed under the BSWAT (*Nojin v the Commonwealth of Australia* [2012] FCAFC 192). The Court did not consider the difficult question of how any compensation should have been calculated. A claim for financial compensation was abandoned during the proceedings. The BSWAT Act permits the two supported employees to register and apply for a payment under the payment scheme.

In 2013, another supported employee commenced representative proceedings against the Commonwealth, seeking a number of claims, including compensation (*Duval-Comrie v the Commonwealth*). This representative proceeding on behalf of a group of supported employees with intellectual disability remains before the Federal Court of Australia.

The BSWAT Act

On 30 June 2015, the BSWAT Act received Royal Assent and the BSWAT payment scheme commenced in July 2015. The payment scheme provides a payment to ADE workers with intellectual impairment (not just those with intellectual disability) who have had their wages assessed using the BSWAT, which is broader than members of the class in the representative proceeding.

Key administrative elements of the BSWAT payment scheme continue. Once an application for the BSWAT payment scheme has been received, the applicant's eligibility is determined. Once eligibility is established, a payment amount is calculated. If the payment amount is at least \$1, the eligible applicant receives a letter of offer, including a payment amount. If the amount worked out for the person is at least \$1 but less than \$100, the amount the person should retain after tax is \$100. The payment scheme continues to permit the Secretary of the Department of Social Services (DSS) to waive the Commonwealth's right to recover debt in a range of circumstances.

Payment follows once an effective acceptance of an offer is made by an eligible applicant. To ensure that people with disability have the opportunity to provide further information or to raise any concerns, the payment scheme provides both internal and external review processes.

The Bill

The Bill increases payments from 50 per cent to 70 per cent of the difference between the actual wage paid to the eligible person and the amount they would have been paid had the productivity-only component of the Business Services Wage Assessment Tool been applied. It also provides a 'top up' payment for individuals who have received a 50 per cent payment prior to the commencement of this Bill. The Bill recognises that there has been concern over the application of the BSWAT to determine wages of workers with intellectual impairment and provides a payment to provide certainty to those workers in relation to their ongoing employment in ADEs.

The Bill also extends the dates for registering, applying for, and accepting the payments from the payment scheme by 12 months. Currently, people have to register for the payment scheme by 30 April 2016, apply by 30 November 2016, and accept an offer by the date shown on their letter of offer, with all offers to be accepted by 31 December 2017. All these dates will be extended by 12 months.

The Bill makes voluntary, rather than compulsory, the requirement to obtain legal advice. Currently, a person cannot accept an offer if they have not received legal advice from a legal practitioner. Free legal advice remains available to individuals before the acceptance of an offer made under the payment scheme. This provides greater choice and control to applicants.

The Bill clarifies administrative arrangements to assist the Commonwealth to administer the payment scheme, including the Secretary's ability to delegate powers to the Chief Executive Officer of the Department of Human Services (DHS) to make BSWAT payments on behalf of DSS, and DSS's ability to access DHS records to administer the payment scheme.

The Bill allows a deceased person's legal personal representative, to engage with the payment scheme on their behalf. The money that would have been paid to the person (if any), if the person were eligible and the offer accepted, will be paid to the person's estate.

The payment scheme retains key features that work to provide supported employees with choice and control including:

- the applicant's ability to nominate a person to assist them with the scheme and be appointed as a nominee;
- the ability for applicants to seek both internal and external reviews on decisions regarding eligibility and offers of payment;
- extension of times for acceptance period and review period; and
- the ability for applicants to seek financial counselling and legal advice, at the Commonwealth's expense.

The Bill aims to provide payments to eligible supported employees whose wages were assessed using the BSWAT, and increased reassurance to supported employees, and their families and carers, by removing the perceived liability that could impact on the ability of ADEs to deliver ongoing employment support. It is designed to provide choice and control to supported employees by enabling them to accept a payment from the payment scheme, if eligible, or seek legal remedy through the courts. People who elect to opt out of the representative proceedings to seek another legal remedy have every right to do so. However, they cannot also receive a payment from the payment scheme provided by the BSWAT Act.

Human rights implications

The Bill engages the following human rights:

- the right to fair hearing: Article 14(1) of the *International Covenant on Civil and Political Rights* (ICCPR) and Article 13 of the *Convention on the Rights of Persons with Disabilities* (CRPD); and
- the right to protection against arbitrary and unlawful interferences with privacy: Article 17 of ICCPR and Article 22 of the CRPD.

The right to fair trial and fair hearing

The right in Article 14 of the ICCPR provides that all persons shall be equal before courts and tribunals and be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. Article 13 of the CRPD also requires States to ensure effective access to justice for persons on an equal basis, including through the provision of procedural accommodations.

The Bill engages the right to a fair hearing but does not limit that right by implementing the settlement terms of *Duval-Comrie v Commonwealth* of 19 November 2015, including through increasing the rate payable under the payment scheme. The Bill does not affect a person's ability to seek legal recourse separately.

Representative proceedings are governed by the *Federal Court of Australia Act 1976* and the *Federal Court Rules 2011*. The Bill provides choice to individuals, and is only one option available to people with intellectual disability. Individuals can choose to accept an offer under the payment scheme, or commence their own legal proceedings.

Class members in *Duval-Comrie v Commonwealth* have agreed to release the Commonwealth from liability arising from the use of the BSWAT, if the Commonwealth amends the BSWAT Act and the settlement is approved by the Federal Court. However, class members have been given an opportunity to 'opt out' of the representative proceeding.

A court application on 21 December 2015 seeks to permit the Applicant to amend the statement of claim to broaden group membership. These new class members have the additional benefit of knowing what the settlement is when they have an opportunity to opt out before 23 April 2016.

The Bill also allows a deceased person, through their legal personal representative, to engage with the payment scheme on their behalf. This has the effect of broadening the group of people who are potentially eligible for the payment scheme. Deceased persons can be class members in *Duval-Comrie v Commonwealth* and the Bill ensures these people would not be disadvantaged.

On this basis, the Bill engages and does not limit the right to a fair hearing.

It is the Australian Government's position that the payment scheme gives the most favourable outcome for employees, their families and carers, and providers by removing any perceived liability on the part of supported employers (ADEs) who have used the BSWAT to assess the wages of their employees.

The Bill also amends the requirement that applicants must obtain legal advice prior to accepting an offer. Legal advice, with costs covered by the Commonwealth, will remain available to applicants, but will no longer be compulsory. Providing access to voluntary legal advice will reduce the red-tape burden on an individual applicant. The requirement to obtain legal advice may be an impediment to the take-up of offers under the payment scheme and, in any event, members of the representative proceeding who choose to accept a payment under the scheme may not require further legal advice.

The right to protection against arbitrary and unlawful interferences with privacy

The Bill also engages and limits the right to protection against arbitrary and unlawful interferences with a person's privacy, family, home or correspondence in Article 17 of ICCPR and Article 22 of the CRPD. The right may be subject to permissible limitations, provided they are authorised by law and not arbitrary. In order for an interference with the right to privacy to be permissible, the interference must be authorised by law, be for a reason consistent with the provisions, aims and objectives of the ICCPR and be reasonable in the particular circumstances. The United Nations Human Rights Committee has interpreted 'reasonableness' in this context to imply that any interference with privacy must be proportional to the end sought and be necessary in the circumstances of any given case.

The collection, use, storage and sharing of personal information engages this right. The Bill clarifies that the Secretary of DSS or another person is able to obtain, record, use or disclose information held in records of the Department or the DHS for the purposes of the Payment Scheme. This is necessary as it allows DSS to process registrations and assess applications by accessing information collected by the Commonwealth, and will create efficiencies resulting in the Department being able to make payment offers as quickly as possible to eligible applicants. The Bill continues to protect the privacy of individuals where personal information is collected, used, stored or shared.

Given the number of potential applicants and the scheme's target group, people who have an intellectual impairment, this amendment will clarify processes for the administration of the BSWAT Act, providing a better outcome for applicants.

The amendment in the Bill in relation to privacy inserts a note at the end of subsection 69(1) of the BSWAT Act, which clarifies that the Secretary of DSS, or another person, is able to obtain, use or disclose information held in the records of DSS or DHS for the purposes of administering the scheme. A notice, in writing, under section 72 of the BSWAT Act is not required to do this.

Under subparagraphs 202(1)(g) and 202(2)(dd) of the *Social Security (Administration) Act 1999*, the Secretary or another person may obtain, record, disclose or use protected information (as defined by the *Social Security Act 1991*) held by DHS for the purposes of the BSWAT Act. For example, a DSS officer administering the scheme may access personal information about a participant held on Centrelink records for the purposes of assessing an application.

Protected information includes information about a person that was obtained by an officer under the social security law and that is or was held in the records of DSS or DHS (section 23, *Social Security Act 1991*). For example, personal information collected by Centrelink about a person's disability support pension is considered protected information held by DHS.

Therefore, a notice under section 72 of the BSWAT Act is not required for DSS to obtain and use protected information held by DHS for the purposes of administering the scheme (for example, assessing registration or applications for the scheme). The Secretary does not have to rely on the general power to obtain information under section 69 of the BSWAT Act to access personal information held by DHS records for the purposes of the scheme.

Conclusion

The Bill is compatible with human rights because it promotes the protection of human rights and, to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

**[Circulated by the authority of the Minister for Social Services,
the Hon Christian Porter MP]**