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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT
(EXTENSION OF CORONAVIRUS SUPPORT) BILL 2020**

EXPLANATORY MEMORANDUM

**(Circulated by the authority of the
Minister for Families and Social Services, Senator the Hon Anne Ruston)**

SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT (EXTENSION OF CORONAVIRUS SUPPORT) BILL 2020

OUTLINE

This Bill:

- allows for the extension of the temporary Coronavirus Supplement from 1 January 2021 to 31 March 2021, and ensures the Supplement can be made available to all persons in receipt of youth allowance, whether because they are a student or otherwise (Part 1 of Schedule 1);
- provides that the temporary Coronavirus Supplement and the temporary COVID-19 exemptions from the ordinary waiting period, newly arrived resident's waiting period and seasonal work preclusion period cannot be extended beyond 31 March 2021 (Part 1 of Schedule 1);
- extends (from 1 January 2021 to 31 March 2021) the temporary COVID-19 qualification rules for jobseeker payment and youth allowance (Part 2 of Schedule 1);
- permanently ends the temporary COVID-19 exemptions from the liquid assets test waiting period and assets tests, from 1 January 2021 (Part 3 of Schedule 1);
- allows certain specified provisions of the social security law to be temporarily modified by the Minister by disallowable legislative instrument, as appropriate to respond to the changing economic and social impacts of COVID-19 until 31 March 2021 (Part 4 of Schedule 1);
- introduces a discretionary power under the social security and veterans' entitlements assets tests to extend the principal home temporary absence provisions where a person, for reasons beyond their control, cannot return to Australia within the allowable absence period (Part 5 of Schedule 1); and
- permits JobKeeper information provided to Services Australia on or before 28 March 2021 to continue to be used after that date (Part 6 of Schedule 1).

Financial impact statement

The legislative framework in this Bill will allow Government to extend temporary measures in the income support system to provide additional support to Australians impacted by the coronavirus pandemic. The instrument making power will deliver the policies at a cost of \$3.2 billion to 2024-25.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

**SOCIAL SERVICES AND OTHER LEGISLATION AMENDMENT
(EXTENSION OF CORONAVIRUS SUPPORT) BILL 2020**

NOTES ON CLAUSES

Clause 1 sets out how the new Act is to be cited – the *Social Services and Other Legislation Amendment (Extension of Coronavirus Support) Act 2020* (the Act).

Clause 2 provides a table setting out the commencement dates of the various sections in, and Schedules to, the Act.

Clause 3 provides that each Act that is specified in a Schedule is amended or repealed as set out in that Schedule, and any other item in a Schedule has effect according to its terms.

Schedule 1–Amendments

Part 1–COVID-19 Supplement

The *Coronavirus Economic Response Package Omnibus Act 2020* amended the Social Security Act to make recipients of certain social security payments eligible for a COVID-19 Supplement from 27 April 2020 to 24 September 2020. Those amendments gave the Minister power to make disallowable legislative instruments extending Supplement eligibility for up to 3 months at a time, at a rate specified in a legislative instrument. The Social Security (Coronavirus Economic Response – 2020 Measures No. 14) Determination 2020 extended the Supplement to 18 December 2020 at the rate of \$250 per fortnight.

Until 18 December 2020, the COVID-19 Supplement will be paid at a rate of \$250 per fortnight under the legislative instrument referred to above. An instrument will be made under existing legislation to ensure the payment of the Supplement at a rate of \$250 per fortnight for social security instalment periods that begin during the period 19 December 2020 to 31 December 2020.

Part 1 of Schedule 1 continues the powers for the Minister to extend the COVID-19 Supplement, by disallowable legislative instrument, until 31 March 2021. The provisions enabling the Supplement to be paid will then be automatically repealed. Other provisions in the social security law that only operate while the Supplement is paid will also be automatically repealed on 31 March 2021.

Division 1 – Amendments commencing 1 January 2021

Division 1 of Part 1 of Schedule 1 allows the COVID-19 Supplement to be extended from 1 January 2021 until 31 March 2021, for all persons in receipt of youth allowance, including full time students and new apprentices. The Social Security (Coronavirus Economic Response–2020 Measures No. 1) Determination 2020 currently ensures the Minister has the power to make a legislative instrument paying the supplement to all youth allowance recipients.

Social Security Act 1991

Item 1 amends section 557, to allow COVID-19 Supplement entitlement to be extended for all youth allowance recipients.

Application provision

Item 2 applies the amendment to section 557 made by **item 1** to periods after the amendment commences (1 January 2021).

Division 2–Amendments commencing 1 April 2021

Division 2 of Part 1 of Schedule 1 repeals provisions relating to the COVID-19 Supplement, with effect from 1 April 2021.

Farm Household Support Act 2014

Items 3–8 repeal provisions in the *Farm Household Support Act 2014* relating to the COVID-19 Supplement and the COVID-19 exemptions from the newly arrived resident's waiting period and seasonal work preclusion period, with effect from 1 April 2021.

Social Security Act 1991

Items 9–13 repeal provisions in the Social Security Act relating to the COVID-19 Supplement and the COVID-19 exemptions from the ordinary waiting period, newly arrived resident's waiting period and seasonal work preclusion period for parenting payment, with effect from 1 April 2021.

Items 14–18 repeal provisions in the Social Security Act relating to the COVID-19 Supplement and the COVID-19 exemptions from the ordinary waiting period, newly arrived resident's waiting period and seasonal work preclusion period for youth allowance, with effect from 1 April 2021.

Items 19–25 repeal provisions in the Social Security Act relating to the COVID-19 Supplement and the COVID-19 exemptions from the ordinary waiting period, newly arrived resident's waiting period and seasonal work preclusion period for jobseeker payment, with effect from 1 April 2021.

Items 26 and 27 repeal provisions in the Social Security Act relating to the COVID-19 exemptions from the newly arrived resident's waiting period and seasonal work preclusion period for special benefit, with effect from 1 April 2021.

Item 28 repeals section 1210B of the Social Security Act, with effect from 1 April 2021. Section 1210B gives the Minister the power to make a disallowable legislative instrument making COVID-19 Supplement available to recipients of other social security payments.

Application provision

Item 29 applies the amendments made by this Part to assessing whether benefits are payable for periods on or after the commencement of the amendments (1 April 2021).

Part 2—Qualification for youth allowance or jobseeker payment—coronavirus

Schedule 11 to the *Coronavirus Economic Response Package Omnibus Act 2020* inserted section 540BA and subsections 593(5) to (8) into the Social Security Act providing additional qualification categories for youth allowance and jobseeker payment in response to COVID-19.

The specific qualification requirements are set out in the Social Security (Coronavirus Economic Response—2020 Measures No. 2) Determination 2020. In summary, these additional qualification categories have been accessed by people (including people who are self-employed or sole traders) who have become unemployed, experienced a reduction in work hours or reduced turnover as a result of the adverse economic effects of COVID-19 (or because of a requirement to be in quarantine or self-isolation).

The amendments made by this Part will remove these sections with effect from 1 April 2021.

Division 1 of Part 2 – Amendments commencing on 1 January 2021

Social Security Act 1991

Item 30 amends section 540BA so that, from 1 January 2021, all youth allowance claimants (including full-time students and new apprentices) are able to qualify for youth allowance under the COVID-19 qualification rules established under that section. This is currently the case but the legislative authority for this is currently in a legislative instrument made under item 40A of Schedule 11 to the *Coronavirus Economic Response Package Omnibus Act 2020* (which will have no operation after 31 December 2020).

Application provision

Item 31 is an application provision that provides that the amendments made by this Division apply from 1 January 2021 in determining a person's qualification for youth allowance.

Division 2 of Part 2 – Amendments commencing on 1 April 2021

Items 32–34 amend subsection 7(7), repeal section 540BA and repeal subsections 593(5) to (8). The effect of these amendments is to remove, from 1 April 2021, provisions from the Social Security Act that give effect to the additional COVID-19 qualification categories for youth allowance and jobseeker payment.

Application provision

Item 35 is an application provision that provides that the amendments made by this Division apply from 1 April 2021 in determining a person's qualification for youth allowance or jobseeker payment.

Part 3—Liquid assets test waiting period and assets test exemptions

The Social Security (Coronavirus Economic Response—2020 Measures No. 7) Determination 2020 and the Social Security (Coronavirus Economic Response—2020 Measures No. 14) Determination 2020 instruments modified the Social Security Act to dis-apply the liquid assets test waiting period COVID-19 exemption, and assets test COVID-19 exemption, from 25 September 2020.

Part 3 of Schedule 1 to the Bill permanently removes these COVID-19 related exemptions from 19 December 2020.

Social Security Act 1991

Item 36 amends section 500Q to permanently repeal the COVID-19 assets test exemption for parenting payment in subsection 500Q(6).

Items 37 and 38 amend section 547B to permanently repeal the COVID-19 assets test exemption for youth allowance in subsection 547B(2).

Item 39 amends section 549A to permanently repeal the COVID-19 liquid assets test waiting period exemption for youth allowance in subsection 549A(8).

Items 40 and 41 amend section 598 to permanently repeal the COVID-19 liquid assets test waiting period exemption for jobseeker payment in subsection 598(8C).

Item 42 amends section 611 to permanently repeal the COVID-19 assets test exemption for jobseeker payment in subsection 611(3).

Application provision

Item 43 applies the amendments made by this Part to assessing whether benefits are payable for periods on or after the commencement of the amendments (1 January 2021).

Part 4—Modifications of the social security law

Item 40A of Schedule 11 to the *Coronavirus Economic Response Package Omnibus Act 2020* allows the Minister to make disallowable legislative instruments modifying the social security law in response to COVID-19, until 31 December 2020. That power has been used to introduce temporary concessions in the social security law.

Item 40A will not be extended. Part 4 of Schedule 1 to the Bill introduces a much more limited instrument making power. This highly targeted modifying power will, from 1 January 2021, allow certain provisions of the social security law to be varied, as appropriate to respond to the changing economic and social impacts of COVID-19, and will allow Government to make changes to social security law to give effect to policy measures extending support.

Social Security Act 1991

Item 44 inserts new **Chapter 6—Modification of social security law** into the Social Security Act.

New section 1261—Simplified outline of this Chapter

Chapter 6 allows the Minister to make temporary and targeted modifications to specified provisions of the social security law, to respond to COVID-19.

New section 1262—Minister may determine modifications of social security law

New section 1262 allows the Minister to make a disallowable legislative instrument modifying one or more of the provisions of the social security law.

Modifications to the social security law can be made in relation to the following:

- The newly arrived resident's waiting period and seasonal work preclusion periods for jobseeker payment, parenting payment, youth allowance, austudy and special benefit and the ordinary waiting period for jobseeker payment, parenting payment and youth allowance (sections 500WA, 500WB, 500X, 500Y, 500Z, 549CA, 549CB, 549D, 549E, 553C, 575D, 575E, 575EA, 620, 621, 623A, 623B, 633, 739A and 745M of the Social Security Act);
- The special COVID-19 qualification rules for youth allowance and jobseeker payment (subsection 540BA(4) and subsection 593(8) of the Social Security Act);
- The qualifying residence requirement for parenting payment (paragraph 500(1)(d) and subsections 500(3) and (4) of the Social Security Act);

- Provisions in Part 2.12 and 3.6 of the Social Security Act where this is in relation to working out whether a recipient of jobseeker payment is a member of a couple.
- Determining the period that can be treated as a receiving a social security pension or benefit despite being on a nil rate of payment due to employment income (subsections 23(4A) and (4AA) of the Social Security Act;
- The parts of the Rate Calculators in sections 1067G (youth allowance – but only youth allowance (other)) and 1068 (jobseeker payment) of the Social Security Act dealing with income free areas and taper rates;
- The pension portability provisions in sections 1216, clause 128 of Schedule 1A and Division 3 of Part 4.2 of the Social Security Act;
- The mobility allowance continued qualification provisions in section 1046 of the Social Security Act; and
- Subsection 654(3) of the rate calculator for former wife pension recipients who have transitioned to jobseeker payment.

The Minister may only make a modifying determination in response to circumstances relating to COVID-19. A determination may apply to all people, or a specified class of people.

A determination can apply to a period starting before it is made.

New section 1263–Period of operation of determination

A determination is in force for the period specified in the determination but this period must not end after 31 March 2021. For a determination modifying the nil-rate provisions, the period must not end after 16 April 2021.

The Minister may revoke a determination, for example if it is no longer necessary for a COVID-19 response. A revocation takes effect on the day specified in the instrument of revocation, which must not be earlier than the day that instrument is made.

The Minister may also vary a determination, for example to respond to the changing impact of COVID-19. A variation may take effect before it is made.

Transitional provision

Item 45 ensures that any instrument modifying the parts of the jobseeker payment Rate Calculator in section 1068 of the Social Security Act dealing with income free areas and taper rates does not affect whether a person satisfies the income test for a health care card under section 1071A of the Social Security Act.

Part 5—Extending the period that a residence is the person’s principal home

Part 5 introduces a discretionary power affecting the social security and veterans’ entitlements assets tests to extend the principal home exemption temporary absence provisions where a person, for reasons beyond their control, cannot return to Australia within the allowable absence period.

Social Security Act 1991

Section 11A defines ‘principal home’ for the purposes of the social security assets test. A recipient’s principal home is not included in the asset test, and as a result, does not affect their rate of social security. A person’s principal home is the home where they generally live. They may be absent from that home for a period of up to 12 months, and it will remain treated as their principal home and exempt from the assets test. However, at the expiry of that 12-month period, unless a further exemption applies, it will be asset tested. An exemption applies (under subsection 11A(9A)) where the home is lost or damaged, the person is attempting to rebuild or repair it, and the person has experienced delays beyond his or her control in doing so. This may extend the 12-month period up to 24 months.

This Part inserts a further exemption that may extend the period of allowable absence.

Item 46 consequentially amends paragraph 11A(9)(a) to insert reference to new subsection 11A(9B) (see **item 47** below) as potentially extending the 12 month allowable period provided by subsection 11A(9).

Item 47 inserts new subsection 11A(9B) after subsection 11A(9A). New subsection 11A(9B) applies where the Secretary is satisfied that the person is temporarily absent from that residence because they are temporarily absent from Australia. The Secretary must also be satisfied that the person is unable to return to Australia because of circumstances beyond the person’s control, for example, due to travel restrictions resulting from the pandemic. It will also apply on an ongoing basis to other circumstances in which a person may be prevented from returning to Australia for reasons beyond their control. The Secretary may determine, in writing, a longer period than either the initial 12-month period, or any existing extension period. The period determined would be flexible, guided by the individual’s circumstances. While the determined period applies, the person’s principal home will continue to be exempt from the assets test when calculating the person’s rate of payment.

Application provision

Item 48 provides that the power to extend the allowable period will apply to periods of absence from Australia starting after this item commences, or to periods of absence commencing prior to commencement, where the allowable absence period will end on or after 11 March 2020. This takes into account the World Health Organisation characterisation of COVID-19 as a pandemic on this date and the subsequent effect on individuals' ability to return to Australia as planned.

Veterans' Entitlements Act

Section 5LA defines 'principal home' for the purposes of the assets test for income support payments in the Veterans' Entitlements Act. A recipient's principal home is not included in the assets test, and as a result, does not affect their rate of income support payment. A person's principal home is the home where they generally live. They may be absent from that home for a period of up to 12 months, and it will remain treated as their principal home and exempt from the assets test. However, at the expiry of that 12 month period, unless a further exemption applies, it will be asset tested.

An exemption applies under subsection 5LA(9A) where a person's home is lost or damaged, the person is attempting to rebuild or repair it, and the person has experienced delays beyond his or her control in doing so. This may extend the 12 month period up to 24 months.

This Part inserts a further exemption that may extend the period of allowable absence.

Item 49 consequentially amends subsection 5LA(9A) to insert reference to new subsection 5LA(9B) (see **item 50** below) as potentially extending the 12 month allowable absence period provided under subsection 5LA(9).

Item 50 inserts new subsection 5LA(9B) after subsection 5LA(9A). New subsection 5LA(9B) applies where the Repatriation Commission (the Commission) is satisfied that the person is temporarily absent from that residence because they are temporarily absent from Australia. The Commission must also be satisfied that the person is unable to return to Australia because of circumstances beyond the person's control, for example due to travel restrictions resulting from the pandemic. It will also apply on an ongoing basis to other circumstances in which a person may be prevented from returning to Australia for reasons beyond their control.

The Commission may determine, in writing, a longer period than either the initial 12 month period, or any existing extension period. The period determined would be flexible, guided by the individual's circumstances. While the determined period applies, the person's principal home will continue to be exempt from the assets test when calculating the person's rate of payment.

Application provision

Item 51 provides that the power to extend the allowable period will apply to periods of absence from Australia starting on or after this item commences, or to periods of absence starting prior to commencement, where the allowable absence period will end on or after 11 March 2020. This takes into account the World Health Organisation characterisation of COVID-19 as a pandemic on this date and the subsequent effect on individuals' ability to return to Australia as planned.

Part 6—Continuation of Social Security (Coronavirus Economic Response—2020 Measures No. 5) Determination 2020

Item 28 of Schedule 2 to the *Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020* provides that the Minister for Families and Social Services may, by legislative instrument, determine modifications to Part 5 of the *Social Security (Administration) Act 1999*. Part 5 of that Act covers information management under the social security law, including confidentiality provisions.

The Minister made the Social Security (Coronavirus Economic Response—2020 Measures No. 5) Determination 2020 under this power. This determination authorised the Secretary to obtain JobKeeper information from the Commissioner of Taxation and use this information for the purposes of research, statistical analysis, policy development, service delivery, and to ensure people receive their correct entitlements. The determination also authorised the use of JobKeeper information in connection with a disclosure to a taxation officer in the Australian Taxation Office (ATO) for the purposes of the administration of the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020*. The determination also authorised the use of JobKeeper information (whether alone or in combination with other protected information held by the Secretary) for the purposes of preparing aggregate information.

Item 52 provides for the continuation of these arrangements when the Social Security (Coronavirus Economic Response—2020 Measures No. 5) Determination 2020 ceases operation after 28 March 2021. This item does not authorise the further collection of information from Commissioner of Taxation and only permits JobKeeper information provided to Services Australia on or before 28 March 2021 to continue to be used on and after 29 March 2021. The item ensures that information provided to the Secretary before 29 March 2021 may continue to be used on and after that date and that information in an aggregated form produced before, on and after 29 March 2021 can continue to be used in a way permitted by the Social Security (Coronavirus Economic Response—2020 Measures No. 5) Determination 2020.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

The 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

The Bill:

- (Part 1 of Schedule 1) allows for the time-limited Coronavirus Supplement to be extended from 1 January 2021 to 31 March 2021 for recipients of jobseeker payment; parenting payment single; parenting payment partnered; youth allowance (student and apprentice); youth allowance (other); austudy; widow allowance; special benefit; and farm household allowance;
- (Part 2 of Schedule 1) extends (from 1 January 2021 to 31 March 2021) eligibility changes for jobseeker payment and youth allowance (other) which allows sole traders, the self-employed, stood down employees and those required to self-isolate or care for others to receive payment;
- (Part 3 of Schedule 1) permanently repeals the temporary COVID-19 exemptions from the liquid assets test waiting period and assets tests;
- (Part 4 of Schedule 1) allows certain provisions of the social security law to be varied, as a package or individually, as appropriate to respond to the changing economic and social impacts of COVID-19 until 31 March 2021;
- (Part 5 of Schedule 1) introduces a discretionary power under the social security and veterans' entitlements assets test to extend the principal home temporary absence provisions where a person, for reasons beyond their control, cannot return to Australia within the allowable absence period; and
- (Part 6 of Schedule 1) permits JobKeeper information provided to Services Australia on or before 28 March 2021 to continue to be used after that date.

Human rights implications

The Bill engages the following rights:

- the right of everyone to social security in Article 9, and the right of everyone to an adequate standard of living for an individual and their family, and the continuous improvement in living conditions in Article 11 of the International Covenant on Economic, Social and Cultural Rights;
- the rights of the child in Article 26 of the Convention on the Rights of the Child; and
- the right to privacy in Article 17 of the International Covenant on Civil and Political Rights (ICCPR).

Coronavirus Supplement

Human rights are promoted by extending the Coronavirus Supplement to 31 March 2021, which will assist income support recipients while economic confidence is improving in Australia. The payments are targeted at groups who receive Government assistance.

Qualification for youth allowance or jobseeker payment

Human rights are promoted by eligibility changes for jobseeker payment and youth allowance (other) as they allow sole traders, the self-employed, stood down employees and those required to self-isolate or care for others to receive payment.

Liquid assets test waiting period and assets test exemptions

The permanent repeal of the temporary COVID-19 exemptions from the liquid assets test waiting period and assets tests is consistent with human rights as the economy is beginning to recover and the measure ensures that income support will continue to be targeted to those most in need of assistance.

Power to make modifications to certain provisions of the social security law

The Bill will allow the Minister to make a disallowable legislative instrument modifying certain provisions of the social security law, for the period 1 January 2021 to 31 March 2021, if appropriate in response to the changing economic and social impacts of COVID-19.

Consistent with the principles of Australia's social security system, modifications will engage the right to social security, the right to an adequate standard of living, and the rights of the child.

Extension of period for which a person's residence is the person's principal home

The provision introduces a discretionary power under the social security and veterans' entitlements assets tests to extend the principal home temporary absence provisions. This provision is beneficial as it prevents the inclusion of the principal home in the assets test while a person is unable to return to Australia within the allowable absence period, due to circumstances beyond their control.

JobKeeper information – Continuation of Social Security (Coronavirus Economic Response–2020 Measures No. 5) Determination 2020

Part 12 of Schedule 1 to the Bill permits JobKeeper information provided to Services Australia on or before 28 March 2021 to continue to be used on and after 29 March 2021. This Part engages the right to privacy in Article 17 of the ICCPR.

Article 17 prohibits unlawful or arbitrary interferences with a person's privacy. It also provides that persons have a right to the protection of the law against such interference.

The use of the term "arbitrary" in Article 17 means that any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in all the circumstances. It is recognised that limitations may be imposed on the general prohibition on interference with privacy, provided that such limitations are reasonable, necessary and proportionate.

The continued use of JobKeeper information obtained by Services Australia from the Australian Taxation Office (ATO) is reasonable, necessary and proportionate as a public benefit will flow from the use of this information. Information obtained prior to 29 March 2021 would continue to be used from that date for the purposes detailed in the Social Security (Coronavirus Economic Response–2020 Measures No. 5) Determination 2020. Information would continue to be used for the purposes of research, statistical analysis, policy development, service delivery and in connection with a disclosure to a taxation officer in the ATO for the purposes of the administration of the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020*. It would also continue to be used to ensure that individuals who have benefited from JobKeeper payments have received their correct entitlements under the social security law.

The ability to use information for these purposes is critical to the integrity of the JobKeeper Scheme and the social security law.

The continued use of information is therefore reasonable, necessary and proportionate as it addresses a particular situation where a public benefit will flow from the use of JobKeeper information.

JobKeeper information about individuals can be used to prepare aggregate information (both alone or together with other protected information held by the Secretary about individuals). JobKeeper information (both alone or together with other protected information held by the Secretary about individuals) can also be used to undertake research, statistical analysis and policy development work and to evaluate and update service delivery processes. It can also be used in connection with a disclosure of social security protected information to the ATO for the purposes of the administration of the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* or rules made under that Act.

The ability to use information for these purposes is critical to the integrity of the JobKeeper Scheme, the social security law, family assistance law, the ABSTUDY Scheme and the *Paid Parental Leave Act 2010*. The continued use of JobKeeper information for these purposes ensures there will continue to be an evidence base to inform future Government decision-making in relation to the social security law and other payment schemes.

The Social Security (Coronavirus Economic Response–2020 Measures No. 5) Determination 2020 ensures that information may only be used or disclosed for particular purposes. It did not provide the Secretary with a general power to collect, use and disclose information about people for any purpose. Information can only be publicly released if it is in aggregate form and does not include any identifying information about an individual. The continued use of JobKeeper information obtained by Services Australia before 29 March 2021 would be subject to the same limitations.

Further, the *Privacy Act 1988* continues to apply to the use and disclosure of information that contains personal information (as defined in section 6 of that Act). Information obtained prior to 29 March 2021 under the Social Security (Coronavirus Economic Response–2020 Measures No. 5) Determination 2020 is also subject to confidentiality provisions contained in Part 5 of the *Social Security (Administration) Act 1999*. Criminal sanctions apply for the unauthorised use or disclosure of information under the social security law. Similar sanctions apply for the unauthorised use or disclosure of information under the family assistance law, *Student Assistance Act 1973* and *Paid Parental Leave Act 2010*.

Part 12 does not authorise the collection of further information and only applies to information obtained before 29 March 2021.

Conclusion

This Bill is compatible with human rights because it promotes the protection for human rights for some of the most vulnerable groups in society. To the extent that the right to privacy is limited, those limitations are reasonable, necessary and proportionate for the reasons outlined above.

**Circulated by the authority of the Minister for Families and Social
Services, Senator the Hon Anne Ruston**