

1998-99

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**FURTHER 1998 BUDGET MEASURES LEGISLATION AMENDMENT
(SOCIAL SECURITY) BILL 1999**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

**(Circulated by authority of the Minister for Family and Community Services,
Senator the Hon Jocelyn Newman)**

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OUTLINE AND FINANCIAL IMPACT STATEMENT

Schedule 1—Amendments relating to special maintenance

This amendment changes the commencement date for the measure outlined in Schedule 1 from 1 July 1999 to 1 October 1999.

The financial impact of this change is \$0.414m (costs).

**Schedule 2—Amendments relating to Community Development Employment
Projects**

These amendments ensure that the “no-double-dipping” policy in relation to people who are receiving both a social security payment as well as a Community Development Employment Projects (CDEP) payment is applied equitably in relation to those persons receiving Youth Disability Supplement.

There are no financial implications for these amendments.

Schedule 4—Introduction of crisis payment

These amendments make technical amendments to Schedule 4 and also provide for the taxation treatment of crisis payment. The amendments also include an application provision.

Schedule 12—Administrative provisions

These amendments insert new Schedule 12 into the Further 1998 Budget Measures Legislation Amendment (Social Security) Bill 1999. These amendments ensure that people in gaol or psychiatric confinement for at least 14 days have sufficient and immediate financial support when they are released. The amendments provide for the grant and payment of claims for social security pensions, social security benefits and crisis payment prior to the claimant’s release.

The financial implications for these amendments are as follows:

1999 - 00	\$0.566m (costs)
2000 - 01	\$0.173m (savings)
2001 - 02	\$0.167m (savings)

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NOTES ON AMENDMENTS

(Amendments relating to change of commencement date)

Amendment No. 1

This amendment changes the commencement date of Schedules 1, 4 and 12 from 1 July 1999 to 1 October 1999.

(Amendments relating to Community Development Employment Projects)

Amendment Nos. 2 and 3

Section 1188C in the Further 1998 Budget Measures Legislation Amendment (Social Security) Bill 1999 (the Bill) applies a “dollar-for-dollar” deduction to a Community Development Employment Projects (CDEP) participant affected by the section. This means that their social security payment is reduced “dollar-for-dollar” for every CDEP dollar earned, up to the person’s threshold. The purpose of this provision is to prevent a “double-dip”, since both the social security payment and the CDEP payment are funded by the Commonwealth.

The provision as drafted achieves this by setting the “threshold” at the maximum basic rate. This works as intended where the maximum basic rates are fixed. However, the maximum basic rates for the disability support items (see Items 3 and 4 of Table A in section 1188C) are variable according to whether the recipient is in receipt of Youth Disability Supplement – see point 1066A-C1.

To ensure the “no-double-dipping” policy is maintained evenly in relation to those persons receiving Youth Disability Supplement, amendment Nos 2 and 3 ensure that Items 3 and 4 of Table A take account of the possibility that some of the recipients may have their maximum basic rate increased by reason of receiving the Youth Disability Supplement. The effect of the amendments is that, where the person’s maximum basic rate is increased by reason of receiving the Youth Disability Supplement, the person’s threshold is raised to that extent, so that the “dollar-for-dollar” deduction applies to the amount of the Supplement as well.

Amendment No 4

Amendment No 4 makes a technical amendment to Schedule 2.

(Amendments relating to crisis payment)

Amendment Nos. 5, 6, and 7

These amendments to Schedule 4 of the Bill make technical amendments to the *Social Security Act 1991*.

Amendment No. 8

The *Income Tax Assessment Act 1997* is amended by this amendment to provide for the income tax treatment of crisis payment, making crisis payment exempt for income tax purposes.

Amendment No. 9

This amendment provides that crisis payment is not payable to a person who is released from gaol within 14 days of the commencement of Schedule 4 and who is eligible for a payment due to the operation of existing paragraph 1158(1)(b) and that payment relates to the last day in the period of imprisonment or confinement on which such a payment would normally be paid to the person. Currently, where a pensioner is in gaol for a period, the Social Security Act provides for the payment of an instalment of pension on the first and last days that would have been the person's usual pension during that period in gaol. As the crisis payment is intended to replace that approach, this application provision ensures that a person cannot get both the pension instalment as well as the crisis payment in respect of the same period in gaol.

(Amendments relating to administrative provisions to deal with early claims and early payments of social security payments)

Amendment No. 10

This amendment inserts new Schedule 12 to the Bill. Item 1 provides for the early payment of social security benefits. Usually payments are made to claimants at the end of each relevant instalment period. This amendment allows the Secretary to make a payment to a claimant before the end of the first instalment period where the Secretary is satisfied that the person would suffer severe financial hardship if he or she had to wait until the end of the instalment period. The same approach is available where, following an earlier decision to cancel or suspend a person's payment, the Secretary makes a decision to resume the person's payments, provided the Secretary is satisfied that the person would suffer severe financial hardship if he or she was required to wait until the end of the instalment period.

Item No 2 ensures that people in gaol or psychiatric confinement for at least 14 days have sufficient and immediate financial support when they are released. New section 1159A allows a person who is in gaol or psychiatric confinement to make a claim for payment while the person is still in gaol. Provided the person becomes qualified within 21 days from the date of the claim, the claim is taken to have been made on the first day the person became qualified.

New section 1159B provides for the grant of social security pensions, benefits or crisis payment where a person is in gaol or psychiatric confinement and the person is expected to be in gaol or confinement for at least 14 days. The person must be expected to be qualified, and the payment expected to be payable, immediately on the person's release.

New section 1159C provides that, where a claim has been granted pursuant to section 1159B, the Secretary may pay the pension, benefit or crisis payment prior to the person's release if the Secretary is satisfied that it is necessary in order to ensure that the person will not suffer severe financial hardship on release. The amount of pension or benefit payable to the person may not exceed the amount that would be payable for the first 7 days of the pension or benefit. Where an amount is paid due to the operation of this section, the payment is a payment of the pension, benefit or crisis payment.

Where a person claims a pension or benefit within 7 days of the person's release from gaol or psychiatric confinement, new section 1159D allows the Secretary to advance to the person an amount of pension or benefit payment where the Secretary is satisfied that the person would suffer severe financial hardship if the person was required to wait until the end of the instalment period. The amount may not exceed the amount that would be payable to the person in respect of 7 days of the relevant pension or benefit. The same approach is available where, following an earlier decision to cancel or suspend a person's payment, the Secretary makes a decision to resume the person's payments after the person's release from gaol or psychiatric confinement. The Secretary must be satisfied that the person would suffer severe financial hardship if he or she was required to wait until the end of the instalment period.

Items 3 and 4 detail the circumstances when a payment made pursuant to section 1159C will be a recoverable debt. They provide that, where a payment is made pursuant to section 1159C and, on their release day, the person was not qualified for the payment or the payment was not payable, the amount paid is a debt due to the Commonwealth. The amendments also provide that, where the payment was not payable due to the fact that the person was not released as expected, the payment is a debt due to the Commonwealth.

Items No 5 and 6 provide for transitional arrangements. Item 5(1) ensures that a valid claim lodged prior to the commencement of this Schedule remains a valid claim following the commencement of the Schedule. Item 5(2) ensures that, where a claim has been lodged prior to the commencement of this Schedule, the Secretary may still grant and pay that claim while the claimant is still in gaol provided the requirements of sections 1159B and 1159C are satisfied.

Item 6 provides for the circumstances where a person is released from gaol or psychiatric confinement before the commencement of this Schedule and, after the commencement of the Schedule, lodges a claim for one of the payments referred to in existing paragraph 1161(1)(b) within 7 days of being released. Where the claim is to be granted, the rate of payment is determined according to section 1161 as in force immediately before the commencement of the Schedule. That approach ensures that claimants are not disadvantaged by providing that people who are released from gaol or psychiatric confinement before the commencement of the crisis payment measure, but who claim after that scheme has commenced, still receive the payments they were entitled to receive before the scheme commenced.