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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

SOCIAL SECURITY AMENDMENT BILL (NO.2) 1992

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Family Support  
the Hon David Simmons MP)

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## SOCIAL SECURITY AMENDMENT BILL (NO.2) 1992

### OUTLINE AND FINANCIAL IMPACT STATEMENT

This Bill will amend the *Social Security Act 1991* to give effect to a measure announced in the 1992-93 Budget.

The financial implications of the measure in this Bill are indicated below, after the summary of the measure.

#### Family Payment Advance

From 1 January 1993, a person may choose to claim a portion of his or her family payment, currently known as family allowance, as a lump sum advance for up to a six month period.

This amount will consist of half the amount of the base rate of family payment, known as the first child maximum basic rate (MBR). The remainder of the person's family payment would continue to be paid in fortnightly instalments.

To be entitled to an advance, the family payment recipient must be in receipt of the first child MBR or its equivalent on the first family payment payday in the standard advance period, except where the birth of a child creates entitlement to family payment.

The standard advance periods commence from 1 January to 30 June 1993, from 1 July to 31 December 1993, and for each six month period thereafter. Advances will be paid only on request and will be able to be paid for one advance period only or on an ongoing basis for each advance period. A request for a further advance can be withdrawn at any time. If a request is withdrawn the person would revert to receiving fortnightly payments of family payment from the start of the next standard advance period.

The advance is not paid in relation to any particular child. Only one advance for each advance period would be payable.

Estimated program costs of this measure are \$0.6m in 1992-93 and \$1.1m in 1993-94.

## SOCIAL SECURITY AMENDMENT BILL (No.2) 1992

### 1. Summary of the proposed changes

From 1 January 1993, a person who receives family payment (at the moment called "family allowance") will be able to claim half of what is known as the first child "maximum basic rate" of her or his family payment as a lump sum advance for up to a 6 month period. The family payment advance would not be available to approved care organisations.

If the person receives the family payment advance the remainder of the person's family payment in that period would continue to be paid to the person in fortnightly instalments.

The lump sum would be paid on request. The payment would be made as soon as practicable after the request on a family payment payday. The maximum family payment advance would be \$135.85 each half year (at 1993 rates). A person could request an advance for a particular six month period or on an ongoing basis. If a person requests the advance on an ongoing basis he/she could, at any time, request the Department of Social Security to end the advance payments and, at the end of the period in question, the person would revert to fortnightly payments of family payment.

### 2. Background

Family payment aims to ensure that families with dependent children receive fair financial assistance towards the costs of their children.

Under this initiative the family payment system would be flexible, in giving families the option to decide whether or not they wish to receive the family payment advance with reference to their own particular budgetary needs. Limiting the family payment advance to half the equivalent of the first child maximum basic rate would ensure that families would continue to receive considerable fortnightly payments to assist with the day-to-day costs of raising children.

### 3. Clauses involved in the changes

**Clause 2:** specifies that the commencement date is 1 January 1993, immediately after the commencement of the Social Security (Family Payment) Amendment Act 1992.

**Clause 3:** inserts definition of "first child MBR" and "standard advance period" in section 6 of the Principal Act, the Social Security Act 1991.

- Clause 4:** inserts new section 864A (Family payment advance) and section 864B (Amount of family payment advance).
- Clause 5:** amends section 895 (Lump sum payable in some circumstances) which deals with the interaction of family payment advances and bereavement payments.
- Clause 6:** amends point 1069-B1 (Maximum basic rate) and inserts new point 1069-B2 (Maximum basic rate - family payment advance to person) and point 1069-B2A (Maximum basic rate - family payment advance to partner).
- Clause 7:** Consequential amendments inserted in the Schedule

#### **4. Explanation of the changes**

Under this initiative, an eligible person must request the family payment advance. When the person makes the request, he or she can request the family payment advance in respect of one family payment advance period only or to continue receiving the family payment advance at the beginning of each family payment advance period. If the person chooses to continue receiving the advance payment, the request continues in effect until the person asks for the advances to discontinue. See the new subsection 864A(4) inserted by clause 4.

This can be illustrated as follows:

Janet receives family payment and has 3 children all under 13 years, Jim, Graham and Peter, all of whom are qualifying children for family payment. She also receives additional family payment (currently known as family allowance supplement (FAS)) as a low income earner.

1) If Janet requests the family payment advance before the first payday in January her family payment for the advance period would be \$135.85 by way of the advance payment and \$52.25 by way of continuing family payments.

(a) The family payment advance is calculated as follows:

$$\begin{array}{r}
 \text{Number of family} \\
 \text{payment paydays} \quad \times \quad \text{First child MBR*} \\
 \\
 = 13 \text{ fortnights} \times \text{Half of item 1 of Table B1 of point 1069-B1} \\
 \\
 = 13 \text{ (fortnights)} \times \$10.45 \text{ (1993 rates)} \\
 \\
 = \$135.85 \text{ (Clause 4)}
 \end{array}$$

\*MBR means maximum basic rate.

(b) Janet's fortnightly rate of family payment for the following 6 months would be:

Half of \$20.90 pf (in respect of the first child) + \$20.90 x 2 pf (ie full rate for the other 2 children)

= \$10.45 + \$41.80

= \$52.25 pf (Clause 6)

2) If Janet chose not to receive the lump sum payment, her rate would be:

\$20.90 pf x 3 = \$62.70 pf, (ie, the fortnightly rate of family payment for 3 children which would apply from 1 January 1993.)

NB. Janet's payments of additional family payment (ie currently family allowance supplement, additional pension or additional benefit) are completely unaffected by the advance payments. Additional family payment cannot be paid in advance.

The features of the family payment advance are as follows:

New section 864A will be inserted to provide that, after 1 January 1993, a person may request a family payment advance if the following conditions are satisfied:

- (1) the person is receiving family payment on the first payday in the family payment advance period;
- (2) the person's maximum basic rate of family payment is equal to or greater than the first child maximum basic rate;
- (3) the person has requested the family payment advance (and the request has not been withdrawn).

Note 1 to proposed subsection 864A(1) points the reader to the provisions concerning the standard advance period.

Note 2 points the reader to the definition of "first child MBR".

Note 3 indicates that a person may be entitled to less than the first child MBR.

Note 4 indicates that where an advance has been paid, a partner's rate of family payment may be reduced.

A person may be taken to be "receiving" family payment on the first payday if it is "payable" on that day ie even though they may not actually receive an instalment on that day - section 23 of Principal Act.

Generally a family payment advance period runs from 1 January to 30 June and 1 July to 31 December in any given year. These are defined as "standard advance periods".

However, if a person lodges a claim for the family payment advance after the first payday in the family payment advance period, the family payment advance period is calculated from the first available family payment advance payday after the person lodges the claim for the advance until the end of the family payment advance period (see new subsection 864A(6)).

Furthermore, if the Secretary is satisfied that a person's qualification for family payment is likely to cease during a family payment advance period (eg, if the child will be turning 18), the family payment advance is to be calculated from the beginning of the person's family payment advance period to the date when qualification will cease (see new subsections 864B(4) and (5)).

The lump sum is to be calculated using the formula in new subsection 864B(1). This subsection provides that the family payment advance is worked out by multiplying the number of family payment paydays in the family payment advance period by half the first child maximum basic rate (MBR) (as laid down in item 1 of Table B1 of point 1069-B1 in the family payment rate calculator). A note informs the reader that First Child MBR (a term used in the formula) is defined in subsection 6(1). Section 6 contains Family Payment definitions.

The family payment advance is to be paid from the first family payment payday after the person makes the request on which it is practicable that the lump sum can be paid (see new subsection 864B(6)).

A person must be receiving family payment and the person's maximum basic rate must be equal to or greater than the first child MBR in order to claim the family payment advance. The advance is not paid in respect of any particular child. The following examples, using 1993 rates, demonstrate this rule:

Sarah has two children, Damian and Graham, and she shares family payment with Michael.

#### Example 1

The Secretary has made a declaration specifying that Sarah is to receive 50% of the family payment in relation to both children. Michael is also to receive 50%.

Sarah, therefore, has 2 x 50% (ie 100%) of the full child rate which is equivalent to the first child MBR.

Therefore, Sarah could claim the family payment advance payment. So could Michael.

#### Example 2

The Secretary has made a determination specifying that Sarah is to receive 40% of the family payment in respect of each child. Michael is to receive 60% for each child.

Therefore, Sarah receives 2 x 40% of the full child rate which is equivalent to 80% of the first child MBR.

Sarah could not claim the family payment advance payment but Michael could claim as he has a payment equal to, or greater than, the first child MBR (ie 120%).

### Example 3

The Secretary has made a determination specifying that Sarah is to receive 40% of the family payment in respect of Damian and the full rate in respect of Graham.

Sarah, therefore, receives the equivalent of 140% of the first child MBR.

Sarah could claim the family payment advance payment.

Where care and control of a child moves from one person (the first recipient) to another (the second recipient), the person gaining care and control of the child (ie the second recipient) will be able to claim the family payment from that point in respect of the child. Any lump sum paid to the first recipient will be ignored in calculating the basic rate for the second recipient (except in the case of partners, see below). Furthermore, if the child was the only FP child of the second recipient, that person could not claim a family payment advance until the next standard family payment period (this is because a person must be qualified for family payment on the first family payment payday in a standard advance period). This situation can be illustrated as follows:

Jenny has care and control of one child, Karen, and therefore receives family payment. She requests the lump sum be paid for ongoing family payment advance periods and received her advance for the first period in early January. However, in March, Craig is given care and control of Karen. Craig does not have any other children.

Jenny can no longer receive family payment as she no longer has a qualifying child. Craig can claim ordinary family payment on a fortnightly basis but cannot request a family payment advance because he was not in receipt of family payment on the first family payment payday in the standard advance period. The advance would be paid to Craig, if he so requested, only from the next advance period, ie 1 July to 31 December.

Proposed subsection 864A(5) specifies that a person cannot get more than one family payment advance in respect of the same family payment advance period. This rule is important when considered in relation to the above situation where care and control of the child moves from one party to another. Using the above example, if care and control was to revert to Jenny in May and she had previously been paid a lump sum in respect of that family payment advance period, she would not be qualified for a further lump sum until the next family payment advance period.

Section 895 of the Family Payment payment module of the Principal Act provides that a lump sum bereavement payment is payable to a person on the death of a dependent child.

**Clause 5** of the Bill will amend section 895 to provide that a person who receives the reduced rate of family payment (because the recipient had earlier received the family payment advance) receives an adjusted amount of the bereavement lump sum.

The bereavement lump sum would be calculated as follows:

- . For the period from the death of the child until the end of the family payment advance period, the bereavement lump sum would be calculated with reference to the reduced fortnightly rate.
- . At the end of the family payment advance period (and until the end of the bereavement period), the bereavement lump sum would be based on the full rate of family payment that would have been payable in respect of the child.

Note 1 to the new section 895 explains why it is necessary to insert the new subsection, while notes 2 and 3 signpost the proposed provisions which specify 'family payment advance' and 'family payment advance period'. (**Clause 5**)

Proposed points 1069-B2 and 1069-B2A are to be inserted in the Family Payment Rate Calculator. These new points specify that, if a family payment advance is paid to a person or, in certain circumstances, to the person's partner, the maximum basic rate is to be reduced by 50% of the amount referred to in column 3 of Item 1 of Table B1. (**Clause 6**)

Notes 1 and 2 signpost the proposed provisions which specify 'family payment advance' and 'family payment advance period'.

## **5. Commencement**

These changes will come into effect on 1 January 1993, immediately after the commencement of the Social Security (Family Payment) Amendment Act 1992.

**Clauses 7** will provide that the Principal Act is further amended as set out in the Schedule.

## **SCHEDULE**

### ***FURTHER AMENDMENTS***

The amendments to various provisions in the Principal Act listed in the Schedule are consequential on the insertion of new sections 864A and 864B and new points 1069-B2 and 1069-B2A into the Principal Act (see **clauses 4 and 6**).