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Australia 2018: Awaiting an Electoral Reboot?

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LIST OF ABBREVIATIONS

- ABS ----- Australian Bureau of Statistics
- AIHW ----- Australian Institute of Health and Welfare
- ALP ----- Australian Labor Party
- ANAO ----- Australian National Audit Office
- AUD ----- Australian Dollar
- CPI ----- Consumer Price Index
- FTB ----- Family Tax Benefit
- MYEFO ----- Mid-Year Economic and Fiscal Outlook
- NSA ----- Newstart Allowance

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1. THE CURRENT ECONOMIC, POLITICAL AND SOCIAL SITUATION

1.1. Overview

The 2018 calendar year witnessed a likely fatal return of political turbulence. A popular moderate Prime Minister (Malcolm Turnbull) was deposed in August, as the conservative Liberal/National Party Coalition Government once again fractured around opposition to policies to combat climate change and other mainstream issues. The instigator of the challenge (from the right wing of the party) did not succeed, beaten by a compromise candidate (the former Treasurer, Scott Morrison).

In October the Government lost the by-election for the former Prime Minister's previously blue ribbon seat, suffering a record-breaking 19 per cent swing – leading to a minority government reliant on support of at least one of six cross-bench independents (most of whom have guaranteed supply and support in a motion of confidence, but leaving the fate of other legislation negotiable). Lacking confidence in its hold on Parliament, the Government scheduled just 10 sitting days in the 8 months prior to calling a likely May 2019 national election. Given adverse polling and major swings against coalition parties in the November Victorian State election, Australia appeared to be on the cusp of electing a Labor Government.

1.2. Statistical Measures

Economic conditions in Australia during 2018 continued to display solid growth in an economy already robust by international standards, demonstrating successful weathering of the transition from a major resources boom (Megalogenis 2015). However, wages growth remained slower than expected, dampening consumer spending and adding to concern about inequality.

The national accounts continued to run a deficit, but strong growth boosted company and mining tax revenue and reduced social security outlays, leading to a lower than originally predicted deficit. The December 2018 mid-point of fiscal year Budget update ('MYEFO') predicted a deficit of AUD\$5.2 billion for fiscal 2017-18 (down from 14.2 billion estimated in the May Budget), with a surplus of AUD\$4.1 billion in 2018-19, building to AUD\$30.4 billion over the four year forward estimates from that year, double the figure anticipated in the May 2018 Budget (MYEFO 2018: 2-3, 29-31, 39, 60). However, this perhaps bravely assumes that the domestic and world economy will continue to deliver the healthy level of growth most recently and briefly experienced.

Economic growth for 2017-18 is projected by MYEFO to run at 2.75 per cent (close to the 2017-18 actual growth of 2.8%) and increase to 3 per cent in 2018-19 and remain at that healthy level in the next two fiscal years (MYEFO 2018: 3). Indeed it was running at an annual figure of 2.8 per cent seasonally adjusted as at the end of the September 2018

quarter, up from 2.4 per cent seasonally adjusted at the end of the September 2017 quarter (ABS 2018a).

Overall employment levels in Australia have remained strong over recent decades, recovering from dips due to recessions; but there are adverse distributional outcomes for certain groups (such as the unskilled and the young) along with greater casualisation and degradation in the conditions of employment (AIHW 2017: 161ff). Unemployment dropped slightly during 2018. Seasonally adjusted unemployment in October 2018 was 5.1 per cent, down from the 5.4 per cent for the same time in 2017 (ABS 2017c; ABS 2018d). Employment growth is forecast in the December 2018 MYEFO to be 1.75 per cent in 2017-18 and 2018-19, before dropping to 1.5 per cent over the next two fiscal years, while unemployment is anticipated to continue to decline over 2018-19 to achieve a full year rate of 5 per cent rather than the 5.4 per cent predicted in the May Budget (MYEFO 2018: 3).

The October 2018 seasonally adjusted workforce participation rate of 65.6 per cent (ABS 2018d) represents a continued rise from that for the previous two years, of 65.1 per cent in October 2017 (ABS 2017c) and 64.4 per cent in October 2016 (ABS 2016). The 2018 MYEFO predicts a participation rate of 65.5 per cent for 2018-19 and also for 2019-20 (MYEFO 2018: 19)), three-quarters of a point higher than had been predicted for 2018-19 just a year earlier (64.75%: MYEFO 2017: 18).

Inflation in the major capital cities, as measured by the 'consumer price index' (CPI), came in as 1.9 per cent over the period September 2017 to September 2018 (ABS 2018c). This is virtually identical to that for the equivalent period in 2016-2017 of 1.8 per cent (ABS 2017b), maintaining the flat line experienced since the 3.5 and 3.6 per cent rates experienced in 2009 and 2010 at the height of the resources boom (ABS 2011). Over comparative May to May periods, wages growth picked up somewhat for 2017-2018 compared to 2016-17, up from a 2.1 to a 2.8 per cent growth of full-time total earnings, and from 1.6 to 2.4 per cent for the all earnings measure (ABS 2017a; ABS 2018b). However, the December 2018 MYEFO predicted just 2.5 per cent increase over 2018-19 (down from 2.75% in the May Budget), casting doubt on the estimated pick-up to 3 per cent in fiscal periods 2019-2020 (MYEFO 2018: 19, 23).

The central bank's official cash rate of interest remained unchanged at 1.5 per cent over the year to December 2018 (unchanged since a 25 basis point reduction in August 2016), and the official interest rate is not forecast to increase until mid-2019 at the earliest. Declining house price values (MYEFO 2018: 20) which could bleed recessionary pressures into the real economy even have some economists leaving open the prospect of a future cut in the cash rate.

2. POLICY AND PROGRAM CHANGES

Very few policy initiatives were introduced in the year under review, and some of those had been in train from 2017 in any event. The Government enacted from 2017 its small tranche of welfare simplification measures based on the McClure Review on Welfare Reform (Australia 2015; further: Carney 2018a): see 2.1 below. Some new measures were passed to ease financial pressures on drought stricken farmers (2.2 below). However, new tighter compliance penalties were introduced (see 2.3 below) and an unlawful and unjust automated debt recovery scheme went unremedied (see 2.4 below). Most other measures were unremarkable (see 2.5 below).

2.1. Welfare Simplification Reform

As previously explained (Carney 2018a), the collapsing of a number of working age payments to create a Jobseeker payment from 20 March 2020 did little more than bring the law into compliance with long-standing administrative practice. It did so by extending the existing conditions of the payment for unemployed people over the age of 25 (Newstart Allowance, NSA) to encompass incapacity due to temporary sickness (for which there had been a separate payment, but rarely paid other than as NSA on 'sickness conditions' anyway) and incorporate other small free-standing categories such as for partner bereavement. Otherwise all that was achieved was to formally end now anachronistic payment categories (e.g. 'widows pension') which had long since been closed off to new entrants.

2.2. Income Support for Farmers

In the face of one of Australia's cyclical (and increasingly frequent) periods of drought, the income support framework for farmers received attention during the year. Government loosened some of the criteria for qualification for household income support payments – akin to workforce age payments (such as Newstart allowance 'NSA' for the unemployed) – by easing various aspects of the special means tests and other conditions for farming operations contained in the *Farm Household Support Act 2014*.

The original scheme provided up to three years of income support for a farmer and their partner, along with case-work assistance and a supplement of up to AUD \$4000 for those engaging in study or training. Eligibility for farm household support allowance hinged on meeting both the same (stringent) income test applying to NSA (unproblematic if the farm has no or negative cash flow) and also a specially crafted asset test. That asset test has two tiers. Non-farm assets are treated exactly the same way as for non-farmers (the quite restrictive NSA asset test applies) but farmers generally will have few such assets anyway. The second tier of the test was a sudden-death eligibility cut-off once farm assets exceeded an indexed figure of AUD \$2.635 million (whether single or partnered).

The first change was to extend to four years the maximum period for which such payments may be made: *Farm Household Support Amendment Act 2018*. This reflects both the fact that droughts may extend for a number of years and that income will not recover immediately after it ends. The second change was to increase the second tier cut-out of the asset test to an indexed figure of AUD \$5million for anyone qualifying over the period 1 November 2018 to 30 June 2019 (payments continue after that date if otherwise eligible); and the third change was to provide for a lump sum supplement (payable in two parts) of AUD \$7,200 for a single and AUD \$12,000 for couples: *Farm Household Support (Temporary Measures) Act 2018*.

2.3. Compliance Penalties for People of Workforce Age

Penalties of total loss of social security payments for a period of time have long been controversial, not least because job services are entirely privatised (accentuating market forces on operators), meaning that operators have no incentive or culture to apply principles of procedural fairness or equity in their administration. Over the two decades of this privatised system, provider payment systems have encouraged 'churning' (repeated servicing of neediest job-seekers) and 'creaming' (favouring of easy-to-place or self-placing job-seekers), as long ago observed (Carney & Ramia 2002) and now finally recognised in December 2018 proposals of an independent review for a new and more sophisticated reward system (Employment Services Expert Advisory Panel 2018: 71).

As was the case in the period of conservative government leading up to the change of government in 2007, rates of compliance penalties have steadily increased over the term of the Abbott–Turnbull–Morrison Government (from 1.47 million in 2014-15 to 2.17 million in 2016-17). The new compliance scheme is predicated on Departmental acceptance that many of these penalties are unwarranted, with only a small minority wilfully doing the wrong thing (Employment Services Expert Advisory Panel 2018: 67). Consequently, under the changes, the principal compliance measure will be to suspend payments on the breach, but reinstate payments with back-payment on compliance. Only persistent offenders or very serious breaches such as refusal of job offers will attract reduction or loss of payments for a period (shorter than before), moving from 50% reduction, then 100%, followed by a non-payment period.

Of potentially greatest momentum is that this revised compliance regime, enacted from July 2018 as part of the *Social Services Legislation Amendment (Welfare Reform) Act 2018*, reduces the ability of Centrelink to overturn some of those penalties, such as the imposition of 'demerit points' which contribute to being deemed persistently in breach (Whyte 2018), or the discretion to waive any unexcused non-payment period. The Opposition has foreshadowed changes such as dropping the work-for-the-dole program and not renewing contracts of certain providers should it win office in 2019 (Bagshaw 2018).

2.4. Machine Learning Online Compliance Initiative (OCI) Debt Recovery

Australia's ill-fated experiment with machine learning algorithms to identify and raise welfare overpayment debts, slated to raise AUD \$2.1 billion over four years from July 2016, escaped closure despite the illegality of raising such debts on the basis of 'averaging' fluctuating earnings and without proper proof of their existence or size (Carney 2018a; 2018b). Some individual debts were overturned at the first level of external appeal, but because such rulings are not public and Centrelink did not take adverse rulings to the next (public) level of appeal, Centrelink was able to continue to extract supposed debts from many vulnerable individuals who in truth owed either nothing at all, or an amount far below the figure sought.

The immorality of continuing a program despite being reversed on appeal, and the failure of accountability measures to halt what one press commentator termed a form of 'extortion' and more recently a senior barrister characterised as a 'sham' (Houston & Vedelago 2018) – remained a serious blot on Australia's copybook (Carney 2018c).

2.5. Other Measures

Few other measures in 2019 proved to be significant in policy terms (for details of all changes implemented see 5.1 below).

Among those changes were those made to intensify the immediacy of signals to parents receiving family payments who fail to immunise children (fortnightly rate reductions in place of a lump sum reduction at the end of the year). Some previously foreshadowed savings measures were also enacted, such as by delaying indexation adjustment or tightening conditions; and these were joined by imposition of a means test on the previously free-of-means-test Carer Allowance (as is already the case for Carer Payment). However, welcome reforms were introduced to unify and better police quality standards in residential and community-based aged care.

At the administration or policy design level, the insurance logic of Australia's National Disability Insurance Scheme (Needham & Dickinson 2018) continued to pose major issues regarding management and legal accountability (Carney & Then et al. 2018). Disability pension reforms also remained problematic in terms of adverse impacts on the vulnerable (Carney 2018d; Soldatic 2018), not least because proxy measures (functional ratings tables) have long been preferred over more *direct* assessments of capacity for work (compare Geiger & Garthwaite et al. 2018). The auditor-general also found that the group of 90,000 or so existing recipients originally targeted for review of eligibility in the expectation of finding one in ten or so to be ineligible, proved badly misconceived in that only 2 per cent were found to be ineligible (ANAO 2018: 43-45). In light of this (and no doubt the trauma and disruption posed by reviews) reviews were abandoned in July 2017 (at roughly the half-way point) and not resumed.

In June 2018 the Government successfully enacted personal income tax cuts worth AUD \$144 billion over the next seven years (to 2024-25). The changes are designed to ameliorate the effect of 'bracket creep' (where tax increases as wage growth pushes people up into a higher tax bracket, the threshold for which has not changed to account for inflation). This objective was pursued through a staged phasing-in of changes to tax offsets for lower income earners, increases to the income range over which lower rates apply, and ultimate abolition of an intermediate rate. The first step involves providing a tax off-set of up to \$530 a year for low and middle-income taxpayers, along with raising the cut-out for the 32.5 per cent rate from \$87,000 to \$90,000. From July 2022 the inflation adjusted off-set would increase from \$445 to \$645, and the threshold for the 19 per cent tax rate would rise from \$37,000 to \$41,000 and that for the 32.5 per cent rate from \$90,000 to \$120,000. Finally, in July 2024 the 32.5 per cent rate would apply to incomes of up to \$200,000, extinguishing the 37 per cent bracket previously applying to those incomes. However, future governments and budgets will determine the ultimate fate of these cuts.

In August the Government obtained a partial victory in winning agreement to accelerate the date of effect of the attenuated version of corporate tax cuts enacted in May 2017 – then slated as an initial cut to 27.5% for companies turning-overs less than AUD 25 million in 2017-18 or less than AUD 50 million over the period 2018-19 to 2023-24, to be followed by a reduction of 0.5% a year to reach 25% in 2026-27 (Carney 2018a). The acceleration enacted by the *Treasury Laws Amendment (Lower Taxes for Small and Medium Businesses) Act 2018* changed this to a reduction from 27.5% to 26% in 2020-21, followed by a 25% rate for the 2021-22 and subsequent income years. It also increased tax offset concessions for unincorporated small business operations. Unable to win cross-bench support in the Senate for wider-planned extensions of tax reductions to businesses with turnovers greater than AUD \$50 million, the Government formally abandoned the attempt.

3. MAJOR POLICY CHANGES IN PROSPECT

Neither Government nor Opposition project any convincing sense of a plan of action for the immediate future, much less any longer-term 'vision' for welfare. The Government has devoted much of its energies to internal affairs and its survival. Minor parties such as the Greens have started to embrace radical ideas such as a guaranteed minimum income, but their electoral appeal is comparatively very small (and on the wane for the time being) and so the idea has little or no traction presently.

Despite the distinct possibility of imminent election of an incoming Labor Government in the offing in early 2019, little guidance exists in terms of its likely social security agenda. Its Draft Platform at the time of writing is either silent on issues or largely reprises policy positions developed during the term of office of the previous Rudd/Gillard/Rudd Labor governments. These general themes include a (lukewarm) embrace of human capital capacity-building,

recognition of the complexity of disadvantage and poverty, and greater emphasis on targeting assistance on particular vulnerable groups or disadvantaged areas (ALP 2018: 133).

More specific (if still quite general) commitments are made to 'help[ing] more people participate in the workforce through a combination of active labour market programs, support, incentives and responsibilities', including by revamping the now completely privatised employment services network to place more weight on evidence-based assessments of effectiveness (ALP 2018: 80). The Platform also identifies the importance of support for high needs groups such as older workers or the long-term unemployed, and of transitions from education into employment; however on the issue of the abysmally low rate of unemployment payments (condemned by industry as well as welfare organisations), the policy goes no further than to state that it will 'make sure that people who are unable to work or who are unemployed get adequate financial support' (ALP 2018: 133).

4. CONCLUSION

Economic growth and fairness – and the respective balancing of these two goals – have been the sleeper issues over recent years in Australia, as greater attention has been paid to the constituents and trend lines of inequality and personal vulnerability (AIHW 2017; Cobb-Clark & Dahmann et al. 2017; Carney 2018d).

With what many boldly predict to be a watershed national General Election looming in early 2019 – pitting a sitting Government's small government, growth and personal tax-cuts against an Opposition's avowedly 'bold' brand of a social democrat agenda built on fairness, tax increases on more privileged sectors and special interest concessions, and investment in government services in education, health and the environment – it remains possible that there will be a national 're-boot' of the polity. However, whether this eventuates (political prediction being notoriously uncertain) and whether any change of government translates into tangible differences in social security policy settings remains to be seen.

After all, Australia's social policy history has over the long run been one of continuity rather than change, of preference for welfare through work over generous welfare support, and for rather more 'conditionality' in social security than is found in Europe (Carney 2019).

5. THE LEGISLATIVE FRAMEWORK

No change has been made in the basic architecture of the legislation governing social security payments (for details of all payments, see: Carney 2013). The legislation continues to be administered by the Department of Human Services through a statutory agency called Centrelink.

Decisions made by officers of Centrelink are reviewable on their merits, with two levels of merits review. The first tier (since July 2015 the Social Services and Child Support Division of the Administrative Appeals Tribunal) now schedules single member hearings for the vast majority of appeals (98% in 2017: Carney & Bigby 2018), with a further level of merits review to the General Division of the Administrative Appeals Tribunal (further, Pearce 2015).

Social security law is currently found in five enactments, each of which is frequently amended:

- *Social Security Act 1991* (Cth)
- *Social Security (Administration) Act 1999* (Cth)
- *Social Security (International Agreements) Act 1999* (Cth)
- *Family Assistance Act 1999* (Cth)
- *Family Assistance (Administration) Act 1999* (Cth)

5.1. Recent Amending Acts

Social Services (Cashless Debit) Amendment Act 2018 (Act No 3 of 2018)

This Act allows extension of the cashless debit card scheme to new trial sites, with additional participants and for longer trial periods, by repealing provisions limiting it to three sites, no more than 10,000 people and an original end date of 30 June 2018.

Social Services Legislation Amendment (14-month Regional Independence Criteria) Act 2018 (Act No 22 of 2018)

This Act amended the *Social Services Legislation Amendment (Simplifying Student Payments) Act 2017* so that both new and existing Youth Allowance recipients have identical benefit of the 14-month 'independence qualification' through engaging in a period of workforce participation earnings above a designated threshold.

Social Services Legislation Amendment (Welfare Reform) Act 2018 (Act No 26 of 2018)

This Act, based on the 2017 Bill of the same name, enacts various of the significant measures announced in the May 2017 Budget which were able to win support of both chambers.

The main measure was to collapse, from 20 March 2020, two existing working age

payments – Newstart allowance and Sickness allowance – together with supplementary bereavement allowances, into a single 'Jobseeker' payment (Schedule 1). It also permanently ends payments already closed to new entrants – Wife pension, Widow B pension and Partner allowance – with recipients transitioning to Jobseeker payment, age pension or carer payment (the abolition of Widow allowance and Partner allowance operating from January 2022): see further (Carney 2018a).

The Act tightened the activity test for people aged 55-59 by removing the ability to satisfy the test through 30 hours a fortnight of voluntary work, replacing it by a requirement that at least 15 of those hours be *paid* work (Schedule 9); delaying commencement of working age payments until a person has met with their employment services provider (unless an appointment cannot be offered within two business days)(Schedule 10); removed, for stipulated payments, the ability to be paid from the date of contact foreshadowing a claim provided the claim was lodged within 14 days of the contact (now to date from the claim itself: Schedule 11); narrowed alcohol and drug excuses for compliance (Schedule 13); requires provision of tax file numbers at the date of claim (Schedule 16); allows Centrelink information to be used in criminal prosecutions for social security (Schedule 17); and exempts social security law from the disability discrimination provisions (Schedule 18).

A new compliance regime is enacted from July 2018, placing greater reliance on suspension of payment until requirements are met (and back pay released) and graded sanctions for the more serious intentional breaches (of halving entitlements in breach fortnights for first offences, eliminating entitlement on a second, and then up to 4 weeks of non-payment for subsequent breaches): see Schedule 15 and 2.3 above.

Family Assistance and Child Support Legislation Amendment (Protecting Children) Act 2018 (Act No 36 of 2018)

This Act amends child support legislation, including by encouraging mediation of departures from court orders about shared care and making recovery of overpayments to payees similar to the basis for recovery of overpayments by a payer. However its main change (from July 2018) is from a system of simply 'withholding' Part A Family Tax Benefit (FTB) assistance payment supplements for failure to immunise a child (an end of financial year penalty for most), replacing this with one delivering an 'immediate' penalty in the form of reduction of fortnightly FTB payments (by loss of an amount of about AUD \$28 a fortnight): Schedule 2.

Social Security Legislation Amendment (Payment for Carers) Act 2018 (Act No 68 of 2018)

This Act imposes for the first time a sudden death means test on the previously free-of-means test Carer Allowance (and its associated health care card). The Allowance, paid at a significantly lower rate than the already means-tested Carer Payment, now ceases to be payable to a family with a combined parental income greater than AUD \$250,000 a year.

Savings are stated to be redirected towards funding early intervention and supporting coordination services for carers.

Aged Care (Single Quality Framework) Act 2018 (Act No 102 of 2018)

This Act introduces a uniform set of aged care standards for all providers (replacing previous service specific standards), as monitored by the Aged Care Quality Agency, continuing the reform process started in the 2015-16 Budget.

Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Act 2018 (Act No 110 of 2018)

This Act expanded the trial sites for the cashless debit welfare card trial to a new region (Bundaberg and Hervey Bay in Queensland) for the period to June 2020 and increased the total number of people in the trial to 15,000.

Social Services Legislation Amendment (Student Reform) Act 2018 (Act No 111 of 2018)

This Act implements the 2018-19 Budget proposal to expand access to Youth Allowance for regional students by increasing the threshold of parental income (from AUD \$150,000 to \$160,000 plus \$10,000 per additional child) below which it is possible to be found to be 'independent' (and not subject to the parental income test) on the basis of needing to live away from home for education and meeting regional workforce participation criteria (14 or 24 months of employment earnings above 'self-support' threshold amounts).

Treasury Laws Amendment (Lower Taxes for Small and Medium Businesses) Act 2018 (Act No 118 of 2018).

This Act accelerated the timing of corporate tax cuts for businesses turning over less than AUD \$50pa, and introduced offsets for small businesses operating as unincorporated entities (See 2.5 above).

Aged Care Quality and Safety Commission Act 2018 (Act No 149 of 2018); Aged Care Quality and Safety Commission (Consequential Amendments and Transitional Provisions) Act 2018 (Act No 150 of 2018)

These Acts establish the independent commission to monitor compliance with aged care quality standards.

Social Services and Other Legislation Amendment (Promoting Sustainable Welfare) Act 2018 (Act No 168 of 2018)

This Act increases the periods of Australian residence to be served by newly arrived residents before variously qualifying for social security payments, including: to 4 years for the working age Newstart payment for the unemployed; to 2 years for carer payment and parental leave; and 1 year for the lower Carer Allowance or Part A Family Tax Benefits.

5.2. Significant Bills Awaiting Passage or Defeated in the Senate

Social Services Legislation Amendment (Maintaining Income Thresholds) Bill 2018

The Bill implements austerity changes foreshadowed in the December 2017 MYEFO mid-year budget update. The Bill would extend the indexation pauses on certain higher income limits for one further year until 30 June 2021. This would apply to the Family Tax Benefit Part A family higher income free area, the Family Tax Benefit Part B primary earner income limit, and the Parental Leave Pay and Dad and Partner Pay income limits. In addition, the annual end-of-year Family Tax Benefit supplements would remain at current levels for three years from 1 July 2018. Annual indexation of the thresholds and supplements would then resume on 1 July 2021.

Social Security Legislation Amendment (Community Development Program) Bill 2018

This Bill would amend the *Social Security Act* and the *Social Security Administration Act* to support the reforms to the Community Development Programme (CDP) and introduce the Targeted Compliance Framework (TCF) to CDP regions, consistent with arrangements in the rest of Australia.

Social Services Legislation Amendment (Drug Testing Trial) Bill 2018

This Bill would reinstate a contentious proposal to make drug testing and treatment a basis for retention of qualification of certain payments (further, Carney 2018a). The measure was dropped from an omnibus reform in order to secure passage of those measures.

Social Services and Other Legislation Amendment (Supporting Retirement Incomes) Bill 2018

This Bill updates means test rules to accommodate new superannuation retirement income products involving investing in 'pooled lifetime income' schemes while preserving the principles already applied to other products. It will catch 60% of yields as being 'income' until the person reaches their expected life expectancy date (or at least 5 years) after which it drops to 30% (Schedule 1). It also increases the work bonus from \$250 to \$300 a fortnight and expands it to cover all income from personal exertion such as consultancy work (Schedule 2); and expands the little used pensioner loan scheme enabling assets to be converted to present income and treated as a debt on death (Schedule 3).

REFERENCES

- ABS (2011) *Consumer Price Index, September 2011*. Canberra. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6401.0>
- ABS (2016) *Labour Force, Australia, October 2016*. Canberra: Australian Bureau of Statistics. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0?opendocument&ref=HPKI>
- ABS (2017a) *Average Weekly Earnings, Australia, May 2017*. Canberra: Australian Bureau of Statistics. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6302.0?opendocument&ref=HPKI>
- ABS (2017b) *Consumer Price Index, Australia, September 2017*. Canberra: Australian Bureau of Statistics.
- ABS (2017c) *Labour Force, Australia, October 2017*. Canberra: Australian Bureau of Statistics. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0?opendocument&ref=HPKI>
- ABS (2018a) *Australian National Accounts: National Income, Expenditure and Product, September 2018*. Canberra: Australian Bureau of Statistics. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/5206.0?opendocument&ref=HPKI>
- ABS (2018b) *Average Weekly Earnings, Australia, May 2018*. Canberra: Australian Bureau of Statistics. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6302.0?opendocument&ref=HPKI>
- ABS (2018c) *Consumer Price Index, Australia, September 2018*. Canberra: Australian Bureau of Statistics. <http://www.abs.gov.au/AUSSTATS/abs@.nsf/mf/6401.0?opendocument&ref=HPKI>
- ABS (2018d) *Labour Force Australia October 2018*. Canberra: Australian Bureau of Statistics. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0>
- AIHW (2017) *Australia's Welfare 2017*. Canberra: Australian Institute of Health and Welfare. <https://www.aihw.gov.au/getmedia/088848dc-906d-4a8b-aa09-79df0f943984/aihw-aus-214-aw17.pdf.aspx?inline=true>
- ALP (2018) *ALP National Platform: Consultation Draft April 2018*. Canberra. https://www.alp.org.au/media/1276/2018_alp_national_platform_-_consultation_draft.pdf
- ANAO (2018) *Disability Support Pension—Follow-on Audit*. Canberra: Australian National Audit Office. <https://www.anao.gov.au/work/performance-audit/disability-support-pension-follow-audit>
- Australia (2015) *A New System for Better Employment and Social Outcomes. Final Report*. Canberra: Department of Social Services [Reference Group on Welfare Reform to the Minister for Social Services]. 1-234. https://www.dss.gov.au/sites/default/files/documents/02_2015/dss001_14_final_report_access_2.pdf
- Bagshaw, E. (2018) "Work-for-the-dole: Labor looks to scrap program for the unemployed". *Sydney Morning Herald*, Friday 2 November, 14,

- Carney, T. (2013) "Social Security (title 22.3)". In: *Laws of Australia* Sydney: Thompson Reuters: i-xiv, 1-318.
- Carney, T. (2018a) *Australia 2017: Incrementalism in Action?* Munich: Max Planck Institute for Social Law and Social Policy. [available at http://www.mpisoc.mpg.de/1315946/SLR_No_1_2018_Australia_final.pdf]
- Carney, T. (2018b) "The New Digital Future for Welfare: Debts without legal proofs or moral authority?" *UNSW Law Journal Forum*, 1-16 <http://www.unswlawjournal.unsw.edu.au/the-forum/>.
- Carney, T. (2018c) "Robo-debt Illegality: The seven veils of failed guarantees of the rule of law?" *Alternative Law Journal* **43**(4): pre-print DOI <https://doi.org/10.1177/1037969X18815913>.
- Carney, T. (2018d) "Vulnerability: False hope for vulnerable social security clients?" *University of New South Wales Law Journal* **41**(3): 783-817 [<http://www.unswlawjournal.unsw.edu.au/wp-content/uploads/2018/09/CARNEY-Advance-Access.pdf>].
- Carney, T. (2019) "Conditional Welfare: New wine, old wine or just the same old bottles?". In: P. Saunders, *After Henderson: Examining Social Security and Poverty in Australia*. Melbourne: Melbourne University Press: forthcoming.
- Carney, T. and C. Bigby (2018) "Social Security and Welfare Rights – What role for social work?". In: S. Rice, A. Day and L. Briskman, *Social Work in the Shadow of the Law*. Sydney: Federation Press: 361-388.
- Carney, T. and G. Ramia (2002) *From Rights to Management: Contract, new public management and employment services* The Hague, Netherlands: Kluwer Law International.
- Carney, T., S.-N. Then, C. Bigby, I. Wiesel, et al. (2018) "National Disability Insurance Scheme Decision-making: Or when tailor-made caseplanning met Taylorism and the algorithms?" *Melbourne University Law Review* **42**(3): forthcoming.
- Cobb-Clark, D., S. Dahmann, N. Salamanca and A. Zhu (2017) *Intergenerational Disadvantage: Learning about Equal Opportunity from Social Assistance Receipt*. Brisbane: : University of Queensland Institute for Social Science Research. <http://www.lifecoursecentre.org.au/wp-content/uploads/2017/10/2017-17-LCC-Working-Paper-Cobb-Clark-et-al.1.pdf>
- Employment Services Expert Advisory Panel (2018) *I Want To Work*. Canberra: Department of Jobs and Small Business. https://docs.jobs.gov.au/system/files/doc/other/final_-_i_want_to_work.pdf
- Geiger, B. B., K. Garthwaite, J. Warren and C. Bamba (2018) "Assessing Work Disability for Social Security Benefits: International models for the direct assessment of work capacity." *Disability and Rehabilitation* **40**(24): 2962-2970.
- Houston, C. and C. Vedelago (2018) "Top QC slams Centrelink's robo-debt program as 'elaborate sham'". *Sydney Morning Herald*, Sunday 2 December 2018,

<https://theworldnews.net/au-news/top-qc-slams-centrelink-s-robo-debt-program-as-elaborate-sham>

Megalogenis, G. (2015) *Australia's Second Chance*. Melbourne: Penguin Australia.

MYEFO (2017) *Mid-Year Economic and Fiscal Outlook 2017-18*. Canberra: Commonwealth Government. http://www.budget.gov.au/2017-18/content/myefo/download/MYEFO_2017-18.pdf

MYEFO (2018) *Mid-Year Economic and Fiscal Outlook 2017-18*. Canberra: Commonwealth Government. <https://www.budget.gov.au/2018-19/content/myefo/index.html>

Needham, C. and H. Dickinson (2018) "'Any One of Us Could be Among that Number': Comparing the Policy Narratives for Individualized Disability Funding in Australia and England." *Social Policy & Administration* **52**(3): 731-749.

Pearce, D. (2015) *Administrative Appeals Tribunal*. Sydney: Lexis/Nexis.

Soldatic, K. (2018). "Policy Mobilities of Exclusion: Implications of Australian Disability Pension Retraction for Indigenous Australians." *Social Policy & Society* **17**(1): 151-167.

Whyte, S. (2018) "Job seekers penalised millions of times by private job services". *Sydney Morning Herald*, Friday 2 November, <https://www.smh.com.au/politics/federal/job-seekers-penalised-millions-of-times-by-private-job-services-20181101-p50dee.html>

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