

3 March 2017

Committee Secretary
Senate Standing Committees on Community Affairs

By email: community.affairs.sen@aph.gov.au

Dear Committee Secretary

NSSRN submission in relation to the *Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017*

The National Social Security Rights Network (NSSRN), formerly the National Welfare Rights Network, is the peak community organisation in the area of income support law, policy and administration. Our members are community legal centres across the country which provide free and independent legal assistance to current and former social security and family assistance recipients. The NWRN draws on this front line experience in developing its submissions and policy positions.

Overview

Many of the social security and family assistance measures in the *Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017* (the Bill), such as phasing out the family tax benefit (FTB) supplements, imposing a five week period with no income on young unemployed people and cutting the energy supplement, have been proposed in some form or other to this Parliament before. They attracted widespread criticism in the community and were rejected because they were harsh and unfair, especially in light of the continued failure of this Government to make meaningful progress on taxation reform. The reintroduction of these proposals yet again suggests a Government deaf to the concerns of the community about fairness. This Bill does not represent a considered, comprehensive approach to tax-transfer reform.

We address the schedules which propose changes to income support payments (Schedules 1-3, 5-16) below. All these schedules should be rejected by this Parliament, except Schedules 11 and 12. The NSSRN does not oppose Schedules 11 and 12, subject to our comments in relation to each below.

Schedules 1, 2 and 3 – changes to family tax benefit

Schedules 1 to 3 make changes to family tax benefit (FTB), and certain other social security payments to young people under age 18. They need to be evaluated as a package, so that their overall impact on families with children can be assessed. They:

- Increase the maximum fortnightly payment rates of family tax benefit part A (FTB-A) by \$20.02 per child from 1 July 2018, with corresponding rate increases for certain youth allowance and disability support pension recipients aged under 18 and living at home (Schedule 1)

- Cease family tax benefit part B (FTB-B) for single parent families from the end of the calendar year their child turns 16 from 1 July 2017 (except for single parents aged at least 60, and grandparent and great-grandparent carers) (Schedule 2), and
- phase out the FTB-A and FTB-B supplements by 1 July 2018.

The net impact of these changes is to reduce payments to families. Although there is an increase to the fortnightly rate of FTB-A of about \$20 per fortnight for the majority of families,¹ this is more than offset by the loss of the FTB-A supplement from 1 July 2018, currently \$726 per child per year.

Single parents and single income families with pre-school and primary school age children will lose more, as they also lose the FTB-B supplement, currently \$354 per year per family. Single parent families with older children in year 11 or year 12 (depending on the child's age) will lose even more, as they lose eligibility for FTB-B entirely from the end of the year their child turns 16.

For the majority of families receiving FTB, who have household incomes under \$80,000, this is a loss of income support of at least \$200 per year per child, more if they are a single parent.

If this Bill proceeds, the impact will be even harsher because other measures in it will further cut the incomes of the poorest families in our community. Close to half of all families receiving FTB also receive an income support payment (such as parenting payment, carer payment or disability support pension). The closure of the energy supplement to new social security recipients will further cut the income of those households by between \$228 and \$366 per year (at current rates).

The NSSRN opposes these cuts. They are harsh and unfair and affect the poorest families in our community. Cuts of this kind need a very strong rationale, which the Government has not provided.

It has suggested that these changes, which it continues to link to its *Jobs for Families Child Care Package*, will improve overall workforce participation. It is true that families with children who do increase workforce participation in response to either cuts to family payments or child care reform may be better off. However there are a number of problems with this argument.

First, estimates of the workforce participation effect of the child care reforms have varied over a wide range and the Government's optimistic estimate seems to be based on scaling up a phone survey about people's responses to the 2015 Budget.

Second, many families will not be successful in getting more work through no fault of their own. About 44% of families receiving FTB also receive an income support payment, with some of those families receiving carer payment or disability support pension, making it very hard for them to increase hours of work. These families will be pushed further into poverty by these changes.

Third, the Government continues to suggest that the supplements are no longer necessary because of improvements to Centrelink and ATO computer systems. But this IT upgrade has not happened yet, so we simply do not know whether these computers will in fact work as planned and reduce the number of end of year debts the supplements were introduced to offset.

Fourth, the simple reality is that after a decade of cuts – especially the disastrous decision to switch to CPI indexation for FTB by the previous Labour government – the supplements are propping up the

¹ Not all FTB-A recipients, as it does not apply if paid under the base rate income test.

² Department of Social Services, Annual Report 2015-16, at <https://www.dss.gov.au/about-the->

adequacy of FTB. Cutting them without addressing this issue will inevitably lead to more child poverty.

The family payments system should no longer be seen as a legitimate target for major cuts like this. If “middle class welfare” ever was a useful description of the family payments system, it is certainly inaccurate now. Cuts in the last decade include:

- Restriction of FTB-B to families where the main earner earned less than \$150,000 per year from 2008, and then to \$100,000 per year in 2014
- Changing indexation of FTB from an earnings related formula to a lower CPI based formula in 2009
- Abolition of the Schoolkids Bonus from December 2016
- The restriction and then abolition of the Large Family Supplement, and the FTB-A per child add-on (which reduced the withdrawal rate for families with two or more children)
- Removal of FTB-B for couple families with a youngest child aged 13 and over (except for grandparent and great-grandparent carers)
- Restricting the FTB-A supplement to families with income under \$80,000.
- Closure of the energy supplement for families who start receiving FTB after 20 September 2016.

The end result is a highly targeted family payments system and a concerning trend of fewer families with children covered by the FTB program.² About three quarters of families receiving FTB receive less than the median gross income for all households of about \$80,000 and about 44% receive an income support payment, meaning its support is largely going to the poorest families with children in our community.³ In fact, the Government’s own estimates indicate that these cuts will fall on many families and children in households earning far less than that. Information provided in relation to an earlier version of this proposal shows that the average income of the households who would lose both supplements and therefore face the biggest losses is around \$44,000 per year.⁴

Schedules 5 and 10 – changes to portability

Schedules 5 and 10 make changes to the portability rules by:

- Reducing from 26 to 6 weeks the length of time the age pension and certain other payments with unlimited portability are paid at their normal rate before being adjusted based on working life residence (Schedule 5), and
- Stopping payment of the pension supplement after 6 weeks temporary absence overseas, or immediately on permanent departure from Australia (schedule 10).

The NSSRN opposes both these measures. The rules concerning payment of income support overseas (known as portability) have been progressively tightened over a number of years, especially since 2004. We consider that the rules already place great weight on the principle of residence and this further tightening is unjustified because it does not give enough weight to the importance of travel overseas, especially for the many older Australians who are migrants and have strong ties to family and communities overseas.

² Department of Social Services, Annual Report 2015-16, at <https://www.dss.gov.au/about-the-department/publications-articles/corporate-publications/annual-reports/dss-annual-report-2015-16-0> (p 29).

³ Department of Social Services, Payment Trends and Profile Reports – Family Tax Benefit, at <https://data.gov.au/dataset/dss-payment-trends-and-profile-reports>.

⁴ Senate Community Affairs Committee, Answers to Estimates Questions on Notice, Social Services Portfolio, 2016-17 Supplementary Estimates Hearings, Question No: SQ16-000323.

We also note our grave concern at the departure from basic principle in Schedule 10. Individuals already overseas have always been protected from the potential detrimental impact of portability changes. Schedule 5 is consistent with this principle, and only applies to departures after it commences. Schedule 10 departs from this principle unacceptably, as it applies to all pensioners whether overseas on date of commencement or not. Many of these pensioners will have already exercised the right they have under Australian social security law to choose their country of retirement and this will cut their incomes even though they may be unable to do anything about it.

The first measure (Schedule 5) would reduce the period before which an age pensioner, or recipient of certain other payments in some circumstances, has their rate of payment adjusted based on working life residence. Currently the rate is adjusted after 26 weeks for pensioners with less than 35 years working life residence in Australia. Instead the rate would be adjusted after 6 weeks (for instance, after 6 weeks someone with 25 years working life residence would receive only 25/35 or 71% of their normal means tested rate of payment).

This change will also affect disability support pensioners with less than 35 years working life residence who are terminally ill or permanently and severely impaired, but whose disability occurred overseas.

Residence is a basic principle of Australian social security law. However, in the last decade or so, the portability rules have already been significantly tightened, especially for the disability support pension. Although generally the age pension was protected from these changes, from 1 July 2014 the minimum residence requirement to continue to be paid the normal means tested rate of pension overseas indefinitely was raised from 25 to 35 years working life residence.

Our experience is the older low income Australians from migrant communities may plan longer trips back to their country of birth to spend time with family and in communities. This change will impact on their ability to do this, and it will have a disproportionate impact on them.

The second measure (Schedule 10) stops payment of the pension supplement after 6 weeks temporary absence overseas, or immediately on permanent departure from Australia.

Currently the pension supplement reduces to the basic amount after 6 weeks temporary absence or immediately on permanent departure from Australia. The pension supplement was introduced in 2009 as part of the pension reform package, and combined telephone, utilities and pharmaceutical allowances and goods and services tax (GST) supplement. It reduces from the maximum rate (currently \$65.10 per fortnight for singles, \$98.20 per fortnight for couples combined) to the basic amount after 6 weeks or immediately on permanent departure (currently \$22.70 per fortnight for singles, \$37.40 per fortnight for couples combined). The basic amount represents the former GST supplement and it can currently be paid indefinitely overseas.

We consider that the current rules strike a reasonable balance, with the former allowances for certain costs in Australia ceasing, while the former GST supplement continued overseas indefinitely. This helps to ensure an adequate standard of living for pensioners overseas long term or indefinitely. Our system has always recognised that pensioners have a right to choose their permanent place of residence on retirement. It should support this right by providing an adequate standard of living.

If the measure does proceed, it should be grandfathered, so as not to apply to pensioners who are already living overseas unless they return to Australia for an extended period of 26 weeks or more.

Schedules 6 and 7 – abolition of pensioner education supplement and education entry payment

Schedules 6 and 7 reintroduce measures to abolish pensioner education supplement and education entry payment. These measures have attracted continued opposition from the community and failed to win the approval of Parliament.

The NSSRN continues to oppose these measures. These supplements assist income support recipients to engage in education and training. This can improve their prospects of entering the labour market, as well as providing the other social and personal benefits of education. The social security system should provide additional support to engage in education and training for income support recipients who do not receive a student payment.

The Minister argues that the introduction of the HECS-HELP scheme and similar student loan schemes has removed the relevance of these supplements. Although these schemes are critical, this argument fails to take into account the value of these supplements in assisting with a range of additional costs of study, such as additional travel costs and course material and equipment costs.

Schedule 8 – pausing indexation of income free areas for working age, parenting and student payments

Schedule 8 reintroduces two proposals from the 2014-15 Budget to:

- Freeze the income free areas for working age allowances and parenting payment single for three years from 1 July 2017 (if the bill commences before then), and
- Freeze the income free areas and other means test thresholds, including the income bank limits, for student payments for three years from 1 January 2018 (if the bill commences before then).

The NSSRN opposes this measure. It will reduce income support and the rewards from work for many working age payment recipients and students who are already on poverty level payments.

We are particularly concerned about the impact on students from low income backgrounds. The level of income support for students has already been cut significantly, due to the abolition of the student start-up scholarship (and its replacement with a loan). The freezing of the income free area will have a further impact on support for students. Indexation pauses may sound innocuous but when this measure was last introduced, the Department of Social Services estimated that more than 60,000 students would see an average loss of \$4.70 per fortnight in the first year.⁵ This is a significant cut for someone on an already very low level of income.

Schedule 9 – closure of energy supplement to new social security recipients

Schedule 9 reintroduces this measure which would close energy supplement to new social security recipients from 20 March 2017.

The NSSRN is opposed to this measure. We are particularly disappointed that the Minister continues to state that this measure simply removes compensation no longer needed because of the repeal of the carbon tax. That this is incorrect (because normal indexation of the basic payment rates did not occur at the time the supplement was introduced) has been pointed out numerous times in the media and by experts in this area.

⁵ Senate Community Affairs Committee, Answers to Estimates Questions on Notice, Social Services Portfolio, 2016-17 Supplementary Estimates Hearings, Question No: SQ16-000341.

In any case, it is unacceptable to see a proposal to cut income support without addressing the disgracefully low rate of newstart and other allowances, and the inadequacy of rent assistance.

Schedule 11 – automation of income stream review processes

Schedule 11 contains amendments to support automation of the income stream review process. It gives the Department of Human Services (DHS) the power to obtain income stream information from income stream providers, and the Minister has indicated that there will be a rollout of a new electronic data collection process from 1 January 2018.

The NSSRN does not oppose this measure. Obtaining the kind of complex information necessary to assess income streams direct from the provider is a sensible reform – the same approach generally works well in relation to personal injury compensation, where compensation payers provide information directly to DHS. It can reduce the burden on individuals and shift it to the providers who are more able to manage it, and also help to ensure regular and timely updates of income stream information which can contribute to debt prevention.

However, in light of the widely reported problems with DHS' online compliance intervention (OCI) system, we recommend that this Committee request assurances from DHS and the Ministers for Human Services and Social Services to the Parliament that this new system will not be used retrospectively to review income stream data in the way that the OCI system has been used for employment income. Technology is only as good as the underlying policy it reflects. The retrospective use of the OCI was, and continues to be, a fundamental policy failure. We are very concerned that this new automated income stream review process not be used in the same way and think this warrants further investigation by this Committee.

Schedule 12 – incentives for seasonal workers

Schedule 12 provides the legislative framework for a two year trial of incentives to increase the number of job seekers who take up horticultural seasonal work such as fruit picking. The trial begins on 1 July 2017, capped at 7600 participants. It provides that newstart and youth allowance recipients in receipt of payment for at least 3 months can:

- take up eligible horticultural seasonal work and earn up to \$5000 per year without it being assessed as income, and
- receive a living away and travel allowance of up to \$300 per year, if the work is more than 120km from their home, also exempt from the income test.

Incentives like this have generally been unsuccessful in the past (the Job Commitment Bonus for example), because there are other far more significant factors affecting the take up of work. They are also a departure from very fundamental principles of payment according to need and can therefore lead to inequity. However, the NSSRN is prepared to support this as a trial, provided it is rigorously evaluated at its conclusion.

However we note our view that the Committee should seek further clarification from the Department of Social Services about the drafting of this measure and its intent. The impact of this measure depends in part on how it interacts with the existing "seasonal worker preclusion period" (SWPP) in s 16A of the *Social Security Act 1991* (Cth). In our view it is unclear whether the exemption of the first \$5000 of annual income applies to the calculation of the SWPP as well. This needs to be clarified as if participants in the trial may later be subject to an SWPP this affects the nature and extent of the incentive the measure offers. It is also something that needs to be highlighted for participants at the outset so they can plan financially for a possible preclusion period.

Schedules 13 to 16 – youth employment measures

Schedules 13 to 16 reintroduce measures which:

- Apply the ordinary waiting period to youth allowance (other) and parenting payment, limit the circumstances in which it can be waived and ensure it is served on top of other waiting periods (Schedule 13)
- Raise the minimum age for newstart and sickness allowance to 25, so that job seekers aged 22 to 24 will receive youth allowance (other) instead (Schedule 14), and
- Impose a four week waiting period, with compulsory pre-benefit activities, on “job ready” job seekers (Schedules 15 and 16).

The NSSRN opposes these measures.

This is policy based on a fiction, the fiction that there are large numbers of young people who are unemployed because they lack motivation to find work. Last year the Government itself justified the abolition of the job commitment bonus, a lump sum bonus aimed at giving young job seekers an incentive to take up work, by saying that it simply did not increase young people’s motivation to find or stay in work. The reason it did not do this was because it was already the case that their *main motivation was to move from welfare into work*.⁶

These measures represent major cuts in support for young unemployed people, a group which includes some the most disadvantaged young people in our community. They will impact hardest on young people from low income families who have the least financial capacity to help them. They will cause financial hardship, debt and stress to the young people who are unable to quickly find a job through no fault of their own and their families. The Department of Social Services estimates that one-third of young job seekers subject to this measure, or about 25,000 young people will be forced to rely on emergency handouts to get through the new waiting period.⁷ This is shameful, nor will emergency handouts stop some young people ending up in debt or rent arrears.

The ordinary waiting period (OWP) is a one week waiting period currently applicable to newstart and sickness allowance. Its effect is normally to make a claimant’s first pay half the normal fortnightly amount. It may be waived if a claimant is in severe financial hardship.

Schedule 13 extends the OWP to parenting payment and youth allowance (other), which is paid to young job seekers under age 22 who are not full-time students or apprentices. It makes this waiting period consecutive on other waiting periods and also changes the circumstances in which it can be waived. In addition to severe financial hardship, the claimant must also be experiencing a “personal financial crisis” which is defined to mean: being subjected to domestic violence, incurring unavoidable or reasonable expenditure or any other circumstance specified by the Secretary in a legislative instrument for this purpose.

The intention of these amendments should be recognised. They are intended to ensure that most claimants serve a one week waiting period on top of any other waiting periods, and that it cannot be waived even if they are in severe financial hardship.

⁶ Explanatory memorandum to the *Budget Savings Omnibus Bill 2016*, p 35.

⁷ Senate Community Affairs Committee, Answers to Estimates Questions on Notice, Social Services Portfolio, 2016-17 Supplementary Estimates Hearings, Question No: SQ16-000326.

This should be rejected. It is a fundamental departure from the principle of need, the basic principle of the Australian social security system. The existing rule for waiver of the OWP is sound and consistent with this basic principle and should be retained.

The test of waiver if the hardship results from “unavoidable or reasonable expenditure” is the current test for waiver of income maintenance periods which are imposed following a lump sum termination or redundancy payment. Our experience with this test is that, as currently drafted, it makes it almost impossible to have waiting periods waived. The main reason is that “reasonable” expenditure is capped at the fortnightly rate of newstart allowance, no matter what a person’s normal reasonable expenses are. As the fortnightly rate of newstart allowance is well below the minimum wage, the inevitable result is peoples’ rent by itself far exceeds this cap and by definition they are unable to show their expenditure was reasonable.

Schedule 14 raises the minimum age for newstart and sickness allowance to from 22 to 25. This means that job seekers aged 22 to 24 will instead be eligible for youth allowance (other). The stated intention is to encourage young people to engage in study or training by aligning the rate of payment for job seekers aged 22 to 24 with the rate of payment for full-time students, who currently receive youth allowance until age 24 (or older, if a continuing student).

Again this is policy based on a fiction. In our view, it is a fiction that the higher rate of newstart allowance acts as a significant disincentive to people aged 22 to 24 taking up study. Young people who undertake study do so on the understanding that it is a period of reduced income for the purpose of the long-term benefits in terms of employment and income of further education and training. In any case, the Government could reduce the disparity between the support for students and the unemployed by restoring start up scholarships for students.

Schedules 15 and 16 reintroduce the Government’s proposal for a four week waiting period for “job ready” young job seekers claiming youth allowance (other) or special benefit in some cases. It also imposes “pre-benefit” activities on young people (RapidConnect Plus) during the four week waiting period.

As noted above, this is poor policy based on a fiction. It should be rejected. Our experience is that unemployed people are desperate to find work and avoid the poverty, hardship and exclusion from community life that results from receiving youth allowance or newstart allowance.

The NSSRN has long experience helping people who fall into hardship during the existing waiting and preclusion periods in social security law. Our experience is that surviving from one week to the next quickly becomes an all-consuming task for people with no income: asking landlords for more time to pay rent, exacerbation of mental health conditions due to severe stress and anxiety and so forth. These are the natural consequences of putting someone into severe financial hardship. They interfere with job search and are likely to lead to some people becoming vulnerable and being exempted from the four week waiting period part way through, an absurd outcome.

What young people need is adequate income support so they can get on with what they want to do – looking for work.