ACTU SUBMISSION

Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017

3 March 2017

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INTRODUCTION

Economic decisions don't happen in a vacuum, they are shaped by the ideologies and values of the people making those decisions.

This new iteration of the 'Omnibus Bill' tells us that the Turnbull government is prepared to sacrifice the community of tomorrow for the sake of the privileged today. They are a Government willing to decimate the social safety net and entrench patriarchal gender inequality by implementing cuts that overwhelmingly target women. They are willing to deplete the health, education, infrastructure and public services our community depends on to pay for tax cuts for corporations and the very wealthy who don't currently contribute their fair share.

Despite record profit announcements for large corporations, workers' wages are stagnating. The government's refusal to take measures to ensure that the take home pay of thousands of hospitality and retail workers is not cut will put unconscionable pressure on household budgets. This Omnibus Bill's program of sustained cuts to public services and infrastructure will not only add to the day to day worries of people who are already struggling to get by, they will hinder the chances of future generations to reach their full potential and enjoy decent living standards.

Cuts to Newstart payments have left the unemployed and their families living below the poverty line. Cuts to health and education have compromised families' access to vital health services and the best start in life for our children. Cuts to our higher education, vocational education, TAFEs and apprenticeship programs have limited young people's access to the skills and education they need for the jobs of the future. Cuts to science, research and renewable energy organisations have weakened our global competitiveness, ability to innovate and create good jobs.

We urge the government not to continue to be driven by expenditure cuts that undermine investment in the fundamental social and tangible infrastructure of economic growth that delivers quality jobs, quality services and high living standards. We can't cut our way to prosperity. We can only grow and invest our way to prosperity. The 'trickle down' logic of the government has always been flawed and now it is widely understood to be inconsistent with strong and sustainable economic growth. This has been repeatedly confirmed by recent findings from the World Bank, IMF and the OECD. Every expert and policymaker in the world, with the tragic exception of those that constitute our Government, now understand that growing inequality in wealth and income is one of the biggest social, economic and political challenges of our time and that public expenditure cuts hamper inclusive economic growth and living standards. As IMF Managing Director Lagarde said at the G20 this year "There must be more growth, and it must be more inclusive."[1]

Overseas experience shows that cuts which are unfairly targeted at low and middle income households, such as many of those contained in this Bill, have hollowed out working and middle classes and as a result consumer demand; a crucial driver of economic growth, jobs and higher living standards. As well as being morally unjust, such policies are economically unsound and inefficient.

Rather than one-off, short term savings through cuts which have little long term structural impact on the budget bottom line, this government should be developing a comprehensive, long term plan to invest strategically in high quality health, education, skills and training, research and innovation and clean technology and infrastructure to sustain a strong economy and society in to the future.

[1] http://www.reuters.com/article/us-g20-imf-lagarde-idUSKCN11B1A6

To do this, the government must have the political courage to address corporate tax avoidance, close tax loopholes and reform egregious high income concessions in areas like negative gearing and capital gains. Our revenue base remains less than optimal because we have allowed multinational companies and the very wealthy far too many opportunities to evade and avoid contributing their fair share to the public good. This where the government focus should be - not on short term cuts which undermine the future prosperity of our economy and our society.

WE HAVE A REVENUE CRISIS, NOT A SPENDING CRISIS

The whole premise of the Omnibus Bill is that the government is spending too much. In fact Australia is a low government spending country, with the second lowest government expenditure as a share of GDP of the high income OECD countries, at 36.3% of GDP in 2012, a massive ten percentage points below the OECD average of 46.3%.

Government expenditure on health as a share of GDP in Australia is also below the OECD average. Australia also has one of the lowest shares of government expenditure on education out of the OECD countries, 4.3% of GDP compared with the OECD average of 5.4% in 2011. For primary, secondary and TAFE levels combined, Australia's share of government expenditure in total educational expenditure (85%) was third lowest of all OECD countries.[2] Its share of government expenditure in total for tertiary education (45%) was fifth lowest[3] and in early childhood education and care is half of that recommended by the OECD.[4] Australia has become much more reliant on private spending on education than most other OECD countries which is an obvious cost burden and barrier for ordinary Australian's participating in and gaining the benefits of education.

The unfair shifting of financial burden to households is also a concern for the economy. While the total government health care spend per capita in Australia is about six per cent less than the high income country average, the out of pocket spending on health per individual Australian is a full third higher than the high income country average.[5] Current Reserve Bank Government Phillp Lowe is also concerned with private household debt, saying ""At some point in the future, households having decided that they had borrowed too much, might cut back consumption sharply, hurting the overall economy and employment.[6]

These budget cuts are short-term, lazy thinking. They will not deliver long-term, sustainable economic growth or fiscal solutions. In reality they will undermine the economy by chipping away at domestic demand and placing more households into financial stress. The government, if it is serious about long-term fiscal balance, needs to roll up it sleeves and implement a real jobs and growth plan. One that sets out an agenda of job creation strategies, maps out infrastructure and skills needs that are required for the jobs of the future and looks to build a strong and competitive labour market and economy.

[2] 2011, derived from World Bank http://wdi.worldbank.org/table/2.15#
[3] OECD Education at a Glance 2014 p239
[4] OECD Expenditure Database 2014, Chart PF3.1.A Public expenditure on childcare and early education services, per cent of GDP, 2011
[5] 2013, derived from World Bank http://wdi.worldbank.org/table/2.15#
[6] https://www.finder.com.au/high-household-debt-poses-economic-risk

OMNIBUS MEASURES

Comments on the specific measures in the Social Services Legislation Amendment (Omnibus Savings and Child Care Reform Bill) 2017 are below.

Measures relating to childcare and family payments

The ACTU welcomes increased investment in early education and care and supports reforms to improve the child care payments system including moving to a single subsidy payment. However we have a number of significant concerns about the package and funding arrangement proposed.

Firstly, the ACTU is fundamentally opposed to funding the package by cutting other essential family support mechanisms such as family tax benefits and paid parental leave. Investing in our children's health, well-being and development requires a comprehensive suite of measures that includes paid parental leave, income support and universal access to high quality, affordable early education and care.

Secondly, in our view it is highly inequitable for the Government to target the most vulnerable members of our society in order to provide much-needed support for early learning and development. The reduction in FTB Part B and abolition of end of year supplements will substantially reduce household income for low income and vulnerable families including single parents and families of children with disability and is likely to increase the number of Australian families living below the poverty line. These changes mean that 1.1 million vulnerable families will lose FTB-A supplements of $726 a year. Even those who receive the fortnightly increase (300,00 will not) will be $200 per child per year worse off. Around half of the 1.1 million families affected are sole parents and approximately 500,000 have a family income of less than $52,000. Under these changes, 30,000 sole parents with children aged 17-19 will lose FTB-B completely – costing them $3,186 per family per year. This is an unacceptable reduction in the support provided to struggling families. Instead of reducing income support, the Government should take steps to address generous superannuation concessions for high-income earners; capital gains tax and negative gearing exemptions; and corporate tax avoidance which cost the Government billions of dollars annually in forgone revenue.

We also note the disproportionate impact these proposed measures have on women, further undermining gender equality and women's workforce participation.

Thirdly, key elements of the package will negatively and disproportionally affect the capacity of vulnerable families to access ECEC services. In particular we are concerned about:

- the reduction in childcare assistance from 24 hours per week to 24 hours per fortnight for low income families;
- the impact of the unfair and complex activity test on access to ECEC services, particularly for families who have insecure, unpredictable or varying hours of employment;
- the failure to address workforce challenges including low pay, poor working conditions, high staff turnover, lack of career progression, the high cost of training and unsatisfactory educational outcomes; and
- the absence of direct measures to increase the supply of available places and improve access to early childhood education and care; and

- the impact of withdrawing budget based funding for ECEC services that support Aboriginal and Torres Strait Islander children.

In order to ensure that all families have access to high quality, affordable early education and care and give our children the best start in life, the ACTU recommends the Government implement the following reforms:

a) Increase Australia's investment in early childhood education and care from 0.5% to 1% of GDP, in line with comparable nations such as the United Kingdom and New Zealand;

b) Ensure dedicated funding to professional wages for the sector to support high quality early childhood education and care;

c) Amend the unfair and complex activity test to ensure that low income families and insecure workers are not excluded from accessing quality early childhood education and care, in particular restoring the 24 hours per week of subsidised childcare to low income families;

d) Provide universal access to 15 hours a week of early childhood education and care for children from birth to school age;

e) Ensure the new benchmark price funding model is pegged to real market prices and adjusted every 6 months;

f) Improve access to affordable early childhood education and care by increasing the supply of provider places;

g) Ensure parents and children are able to access consistent quality standards and regulation of early childhood education and care irrespective of where or how it is delivered;

h) Maintain family support payments and extend the existing paid parental leave scheme to provide 26 weeks at no less than the minimum wage including superannuation.

Adjustment for primary carer pay and other amendments/ Removal of parental leave pay mandatory employer role

We note that the Committee has indicated it will take into account previous submissions on this matter and so will respond briefly to this measure.

The ACTU remains strongly opposed to the measure for the following reasons:

- Imposing a 20 week cap on PPL will reduce support for new mothers on modest incomes by up to $12,106.80 and prevent workplaces offering additional PPL to support working families. 72 000 families will affected by these measures.
- Whilst we strongly support increasing the minimum PPL period, it is unacceptable to increase PPL for some families at the expense of others. All working parents should have access to government-funded PPL.
- The proposed changes are inconsistent with the objectives of the Act and the recommendations of the Productivity Commission concerning the structure of the PPL scheme and the need to encourage employers to contribute.
- The amendments undermine an important and highly successful reform that supports working parents to take time off work to care for a newborn baby whilst remaining attached to the workforce.

- Reducing PPL will have a detrimental effect on the wellbeing of mothers and infants and places undue financial pressure on families. The vast majority of working parents will be forced to take significantly less time off work than recommended. The impact of the proposed amendments on low-income families will be especially harsh.
- Removing access to the minimum standard of 18 weeks paid leave is unfair and undermines a fundamental workplace right. Withdrawing the government contribution also creates perverse incentives for businesses not to contribute to PPL.
- Reducing PPL will have a negative effect on labour market outcomes including workplace participation, gender pay equity and economic growth.
- The proposed changes to PPL provide an incentive for employers to reduce their own schemes, resulting simply in a crowd-out of employer schemes. Government savings will be minimal but young families will be substantially worse off.
- Reducing PPL is unlikely to produce significant long-term savings and may increase the burden on tax payers over the longer term through increased childcare, health and education costs.
- It is morally reprehensible to reduce Government support for low-middle income families whilst offering generous tax cuts to companies and wealthy individuals.
- It is widely recognised that Australia's PPL scheme should be extended in line with international norms.
- The proposed changes to the paymaster function are unwarranted given that costs to business are negligible.
- The ACTU has also identified some technical issues with the Paid Parental Leave provisions, which are outlined in Appendix 1.

We urge the Committee to reject the Bill and recommend further improvements to the existing co-funded model including:

- Amendments to ensure that employees have access to 26 weeks paid leave at no less than the national minimum wage plus superannuation at the guaranteed contribution rate;
- An increase to Dad and Partner Pay to provide employees with at least 4 weeks leave; and
- Mandated top-up of the Government component to full wage replacement to ensure a co-contribution from employers.

Ordinary waiting periods/ Income support waiting periods/Other waiting period amendments

These measures will force Australians who often desperately need government support to wait longer for that support than is administratively necessary. Most of the time when someone needs government support, they are already going through a tough time. To make ordinary Australians wait an arbitrary number of extra weeks for support is cruel and unnecessary. The government itself acknowledges that these measures will force vulnerable Australians into crisis – setting up a fund to give out emergency payments. Simply not implementing this measure would be a more sensible approach. As part of these measures, the exemption test for the ordinary waiting period has been raised significantly bill and many young people and families will be put through needless hardship as a result.

This measure reveals a government that simply does not understand the realities for Australian families, young people or workers with a disability. At a time of double-digit youth unemployment, when there are simply not enough jobs for everyone, these measures will have a significant negative impact on young people who need support.

RapidConnect Plus, the Government's justification for the longer waiting period is a sham program. Created purely to justify longer waiting periods, it requires job seekers to undertake activities that are currently part of their first few weeks on income support. Government is now asking them to do these activities as part of mutual obligation' when they are not yet receiving a payment, but at a time when they are being forced to experience significant financial stress.

Closing carbon tax compensation to new welfare recipients/ Indexation freezes

The Clean Energy Supplement (CES) was introduced by the Gillard Labor Government in order to improve the support provided through our targeted welfare system. Its initial justification was to compensate for expected price rises due to the implementation of a carbon price. Many in the community, including the ACTU, saw this as recognition that the adequacy of welfare payments has been falling for a sustained period and as an attempt to partially correct that fact. This view of the CES is reinforced by the fact that; upon its implementation it was the first increase to many affected payments, including Newstart, since 1994.

While this measure is designed to be partially grandfathered, it still represents a decrease in the nominal and real value of welfare payments. This is an abhorrent, misguided and unjust source for cuts to the budget, especially since many of the payments affected are widely viewed as far from sufficient to provide dignity to recipients. For example, the top level of Newstart support for a single person is $37.40 per day. Anyone claiming that this, which is equivalent to less than half the minimum wage, is sufficient to pay for food, accommodation, clothing, transport, let alone the other necessities a person requires to look for and secure employment, is either totally ignorant or being deliberately deceptive.[7]

The freezing of indexation of income-free areas and thresholds is also an unacceptable measure. This represents nothing less than a welfare cut by stealth. The government is betting that inflation and wage growth will disqualify needy families or reduce their support over time, despite no real change in their actual circumstances. At a time when 1 in 5 Australian households have less than $1000 in cash savings, we cannot afford to reduce the support we are giving the most vulnerable in our society.[8]

The ACTU finds it abhorrent that the Government thinks it is sound or fair policy to attempt to balance its own budget on the back of the most vulnerable members of society. The base unfairness of this measure and this approach is made crystal clear when we consider it in context of the Government's plans to provide a $50 billion tax cut to big business.

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[7] It is worth seeing the letter of ACOSS and other to party leaders on this proposal, available at: http://www.abc.net.au/news/2016-08-22/acoss-appeals-for-federal-government-to-keep-carbon-tax-payment/7771458

[8] ME Bank, *Household Financial Comfort Report*, February 2017.

Pensioner education supplement/ Education entry payment

For a Government whose rhetoric has often focused on jobs and on improving the employability of Australians not currently engaged in work, the removal of these payments is a bizarre move. Mature age workers on the aged pension and people with a disability accessing the Disability Support Pension have some of the lowest participation rates in Australian society. These groups are under-represented in our workforce and as a result are often relegated to the fringes of our economic and social affairs.

This measure will remove assistance for people on fixed (low) incomes undertaking training that will make them more employable as well as providing a critical social connection. This measure should be opposed.

Age requirement for various Commonwealth payments

Newstart is already too low for many young people to live on, as outlined earlier in this submission. An independent single person with no children will lose almost $100 a fortnight under this change ($528.70 maximum fortnightly newstart for that cohort and $437.50 fortnightly for Youth Allowance). Forcing more young people onto a lower payment will merely entrench them in poverty and reduce their chances of being able to find a job or undertake education and training to enhance their skills. In a time where national youth unemployment is at 12.3%[9] and the rate has reached 19.3%[10] in North Adelaide and 24.4%[11] in Cairns, making the lives of unemployed young people harder is irresponsible.

This measure mortgages the future of young people to allow the government to fund a tax cut for big business.

AUTOMATION OF INCOME STREAM REVIEW PROCESSES

The government has not provided a significant amount of information about this measure, or its likely effects on Australians who rely on welfare payments. However given the Government's handling of the DHS 'robo-debt' scandal, which has pursued innocent Australians for fictional debts, referred vulnerable Australians to debt-collectors and generally treated Australians experiencing disadvantage as second-class citizens, the ACTU has significant concerns about this program. A more detailed outline of the program, its impacts and the safeguards in place to prevent further targeting of vulnerable Australians are the least steps that would need to be taken to ensure this measure could be supported.

PROPORTIONAL PAYMENT OF PENSIONS OUTSIDE AUSTRALIA/ STOPPING THE PAYMENT OF THE PENSION SUPPLEMENT AFTER SIX WEEKS OVERSEAS

While the ACTU is not, in principle, opposed to the notion of making pensions commensurate with years worked in Australia for those living overseas, the current 26 week period seems to serve this purpose well. Reducing the period to 6 weeks is likely to capture many workers enjoying their retirement with overseas holidays. This will likely have dual impacts, providing uncertainty for pensioners travelling about the income as it will change as trips lengthen as well as cutting their income needlessly.

[9] Department of Employment, *Labour Market Information Portal*, Australian Governmment. Retrieved March 3 2017
[10] Ibid
[11] Ibid

Many pensioners are on fixed incomes and plan their finances precisely on the basis of those incomes. Introducing income insecurity in order to punish pensioners who travel overseas for relatively short periods, perhaps for family reunions or to visit sick relatives, is unreasonable.

SEASONAL HORTICULTURAL WORK INCOME EXEMPTION

Proposals that allow unemployed Australians to increase their income, get more work and enjoy higher living standards should be encouraged. While the ACTU has no substantial objections to the proposed program, we are concerned about the underlying issue of worker exploitation in the agriculture sector especially amongst temporary work visa holders.

Unfortunately the agriculture sector has become a fertile ground for unscrupulous labour hire companies that abuse their workers. This is especially common with Working Holiday makers (WHM's). There is a growing consensus of this problem as can be seen in the March 2016 Senate Standing Committee on Education and Employment "A National Disgrace: The Exploitation of Temporary Work Visa Holders";

"The WHM visa program is a poorly-regulated program, and the bulk of the evidence to the inquiry showed that the WHM visa program has been abused by unscrupulous labour hire companies in Australia with close links to labour hire agencies in certain south-east Asian countries .... (labour hire companies) ......are in fact not only using the program to fill potential shortfalls in labour, but also to gain access to cheaper labour"[12]

There were also some illuminating points from a Fair Work Ombudsman report at the end of last on the systematic exploitation of working holiday makers.

- 28% did not receive payment for work undertaken
- Many 417 visa holders were reluctant to report unsafe working conditions, sexual harassment or underpayment of minimum entitlements
- 35 per cent stated they were paid less than the minimum wage,
- 14 per cent revealed they had to pay in advance to get regional work.
- 66 per cent felt employers take advantage of people on working holiday visas by underpaying them.

Government must take action to end the exploitation in this industry and, if this program goes ahead, ensure that job seekers are not exposed to exploitation and abuse.

[12] Commonwealth Of Australia, *A National Disgrace: The Exploitation of Temporary Work Visa Holders,* Australian Government, 2016

APPENDIX 1 – TECHNICAL ISSUES WITH PAID PARENTAL LEAVE PROVISIONS OF MEASURES 17 & 18

The provisions in the Omnibus Bill concerning the proposed cuts to parental leave are very poorly drafted. There are inconsistencies between the Bill and Explanatory memorandum and it is difficult to foresee exactly how the provisions would operate in practice.

Pursuant to section 11G, if a person's paid primary carer leave is paid at a rate less than the National Minimum Wage, the person will be entitled to a lump sum supplement of PLP representing the difference between their paid leave (up to 20 weeks) and the NMW for that period. The example on page 182 of the explanatory memorandum indicates that Michelle is entitled to a daily PC pay shortfall entitlement of $36 to supplement the amount of PC pay she receives during the 6 week supplement period. Presumably, it is intended that Michelle receive an additional 14 weeks PLP to provide a total of 20 weeks at the NMW. However if the PPL period end date is brought forward by the number of weekdays in her PC leave period pursuant to section 11B, the effect of the provisions is that she is only entitled to a further 8 weeks PPL.

A similar issue arises in relation to subsection 11B(2)(b). The purpose of this provision and new section 11A, inserted by item 17 is that a primary claimant cannot receive Government-funded PLP and employer provided PC pay at the same time. The example on page 177 indicates that because Emma nominated to start her employer-funded carers leave first, she receives only 4 weeks of Government-funded PLP (or a total of 10 weeks leave when combined with the employer contribution).

The provisions concerning top up arrangements and lump sum payments are also highly problematic. The intention appears to be that at the end of the three year transitional period, top-up payments will be taken into account. Page 180 of the explanatory memorandum indicates that subsection 11F(7) treats the employer's top up contribution as PC pay for the purposes of the Act. However subsection 11F(7) relates to a different matter entirely. Hence it is extremely unclear how these arrangements will operate.

Further, while transitional arrangements that enable parents to renegotiate complex workplace arrangements are welcome, grandfathering certain kinds of arrangements will produce highly inequitable results for the duration of the transitional period.

Subsection 11F(8) provides that, if PC pay is payable as a lump sum, then the paid PC leave period will be taken to contain the number of week days equal to that lump sum divided by the daily NMW. If the PC leave period (calculated by reference to the lump sum) is less than a 20 week period, the parent will receive PPL at the NMW rate for the remaining days or weeks of the period.

The application of these provisions to return to work bonuses would be completely unworkable. RTW bonuses are contingent on certain conditions being met and there is no guarantee that an employee who is eligible for such a payment will be able to meet those conditions at the time their entitlement to PLP is assessed. Nor is it possible to anticipate the rate at which a RTW bonus will be payable as this depends on wage increases that occur in the intervening period.

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