



**Australian Government**  
**Department of Social Services**

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Deputy Secretary

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Dear Senator Brockman

**SUBMISSION TO THE SENATE COMMUNITY AFFAIRS LEGISLATION  
COMMITTEE**

Please find attached a submission by the Department of Social Services to the Senate Community Affairs Legislation Committee Inquiry into the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018.

Thank you for providing the Department the opportunity to make a submission.

Yours sincerely

Serena Wilson

// April 2018

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## ***Introduction***

The amendments contained in the Social Security Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018 (the Bill) will implement the *Encouraging Self-Sufficiency for Newly Arrived Migrants* measure (the measure) announced by the Government as part of the 2017-18 Mid-Year Economic and Fiscal Outlook.

Under the measure, the existing Newly Arrived Resident's Waiting Period (NARWP) that applies to certain working age income support payments and health care cards will increase from 104 weeks (two years) to 156 weeks (three years). These payments and cards include:

- Newstart Allowance
- Youth Allowance
- Carer Payment
- Austudy
- Sickness Allowance
- Special Benefit
- Farm Household Allowance
- Mobility Allowance
- Pensioner Education Supplement
- Low-Income Health Care Card, and
- Commonwealth Seniors Health Care Card.

The 156 week NARWP will also be applied to income support payments that currently have a two year qualifying residence period. These include Parenting Payment, Bereavement Allowance and Widow Allowance.

A 156 week NARWP will also be introduced for Carer Allowance, Family Tax Benefit, Parental Leave Pay and Dad and Partner Pay. These payments do not currently have any waiting or qualifying residence period.

Migrants subject to a NARWP will not have access to these payments unless they are eligible for an exemption. Once the NARWP has been served, however, affected migrants will be able to access the relevant welfare payments provided they meet all other eligibility requirements.

The new rules will apply to people who are granted a relevant permanent or temporary visa on or after commencement of the Bill (1 July 2018). Migrants already granted a relevant permanent or temporary visa before 1 July 2018 will not be affected by the changes.

There will continue to be a range of exemptions from the NARWP, including for people in vulnerable circumstances, such as refugees and their families, and for people who experience a change of circumstances. Further information on the full range of existing and new exemptions is provided under the *Exemptions* section below.

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## ***Background and policy rationale***

Australia has a residency and needs based welfare payments system that is funded from general revenue rather than a contributory system.

Waiting periods for new migrants are a longstanding part of the payments system and reflect expectations that migrants choosing to settle permanently in Australia should ensure they have the capacity to be financially self-sufficient for an initial settlement period.

The first NARWP was introduced in 1993 and was set at six months. This waiting period was subsequently extended to the current two years in 1997. The length of the waiting period has not been amended since then.

Welfare payment policy parameters, such as waiting and qualifying residence periods, are designed to work in tandem with the migration program and reinforce migration policy objectives.

The eligibility criteria for permanent residency under the skilled and family streams of Australia's Migration Program target the program to people who are more likely to be able to support themselves and their families, whether through work, existing resources or family support.

- Skilled visas are designed for people with skills in demand in Australia with the expectation that they will support themselves and their families through work.
- Family visas are designed for people reuniting with family members already in Australia with the expectation that they will receive support where needed from those family members.

It is important that Australia's welfare payments system remains sustainable into the future and encourages people to support themselves where they are able, including new migrants to Australia.

The amendments in this Bill are designed to strengthen the rules that govern access to welfare payments by encouraging new migrants to support themselves for longer after settling in Australia and by applying consistent rules and expectations across the welfare payments system.

## ***Impact of current policy***

Independent research and analysis conducted since the two year (104 week) NARWP was introduced has looked at migrant reliance on welfare. This acknowledges that at the same time as the waiting period was extended from six months to two years, there were changes to the characteristics of the migration program, increasing the emphasis on skilled migrants, which is also likely to have reduced the reliance of new migrants on welfare. This makes it difficult to isolate the impact of the NARWP.

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A 2016 Productivity Commission report<sup>1</sup> noted that permanent non-humanitarian migrants who arrived between 2000 and 2011 and would have been subject to a two year waiting period (unless exempt) had lower take-up rates of income support in 2011 than the general population. In particular, only three per cent of permanent skilled migrants and 13 per cent of family migrants who arrived between 2000 and 2011 were receiving any form of income support in 2011, compared to 17 per cent for the general population.

When looking only at permanent non-humanitarian migrants who arrived between 2000 and 2008 (and had therefore fully served their NARWP by 2011), there was only a slight increase in the take up rate of income support.

This research indicates that most new migrants who have come under the skilled and family migration program since the introduction of the two year waiting period have been able to support themselves without needing to rely on income support, both during and following their waiting period. This reflects the intention of the waiting period.

By contrast, humanitarian migrants, who have immediate access to income support, had a 65 per cent take up rate of income support, well above both permanent skilled and family migrants and the general population. This shows that humanitarian migrants are particularly vulnerable and in need of financial support when they arrive which is reflected in their exemption from all waiting periods – this exemption is being maintained under the measure.

## ***Impacts of the measure***

The Bill will extend the existing NARWP from 104 weeks to 156 weeks for certain payments and concession cards and introduce a new 156 week NARWP for Parental Leave Pay, Dad and Partner Pay, Family Tax Benefit and Carer Allowance.

Migrants who are granted a permanent visa or a relevant temporary visa on or after the commencement date (1 July 2018) will be subject to the new rules and will be required to serve the 156 week waiting period before they can receive the relevant welfare payments.

The impact on migrants will depend on whether they are a permanent or temporary visa holder. This is because access to different payment and concession card types varies depending on visa type.

### ***Permanent visa holders***

Permanent visa holders residing in Australia can access all income support payments, concession cards and family payments, provided they meet the eligibility requirements and any applicable waiting period or qualifying residence period has been served<sup>2</sup>.

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<sup>1</sup> Productivity Commission, *Migrant Intake Report*, 2016: [www.pc.gov.au/inquiries/completed/migrant-intake/report](http://www.pc.gov.au/inquiries/completed/migrant-intake/report)

<sup>2</sup> Supplementary benefits that are dependent on receipt of a main payment are also subject to the waiting period, including Rent Assistance, Pension Supplement and Energy Supplement.

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- **Working age payments:** a 104 week NARWP or qualifying residence period currently applies to working age payments, such as Newstart Allowance, Youth Allowance and Parenting Payment, and concession cards, such as the Low-Income Health Care Card. A 156 week NARWP will apply to these payments and concession cards under this measure.
- **Carer payments:** a 104 week NARWP currently applies to Carer Payment but no waiting period applies to Carer Allowance. A 156 week NARWP will apply to both under this measure.
- **Family payments:** no waiting period currently applies to Family Tax Benefit, Parental Leave Pay or Dad and Partner Pay. A 156 week NARWP will apply to these payments under this measure.
- **Pensions:** a 10 year qualifying residence period currently applies to Age Pension and Disability Support Pension. These payments will not be affected by this measure<sup>3</sup>.

### ***Temporary visa holders***

Some temporary visa holders can also access certain payments, depending on their visa type.

- **Temporary humanitarian-type visas<sup>4</sup>** can access Special Benefit, Family Tax Benefit, Parental Leave Pay and Dad and Partner Payment, as well as the Low Income Health Care Card, with no waiting period. Under this measure, they will continue to have no waiting periods for these payments and cards.
- **Temporary partner visas<sup>5</sup>** can access Family Tax Benefit, Parental Leave Pay and Dad and Partner Payment, with no waiting period; however, they must serve a 104 week NARWP for Special Benefit. If granted a permanent partner visa, time on the temporary and permanent visa contributes to the waiting period. Under this measure, they will be subject to a 156 week NARWP for all of these payments.
- **New Zealand citizens on a Special Category Visa<sup>6</sup>** can access Family Tax Benefit, Parental Leave Pay and Dad and Partner Pay with no waiting period; however, they must serve a 104 week NARWP for the Low Income Health Care Card. Under this measure, they will continue to have no waiting period for payments but will have a 156 week NARWP for the Health Care Card.

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<sup>3</sup> Changes to the 10 year qualifying residence period for Age Pension and Disability Support Pension were announced in the 2017-18 Budget and are included in the Social Security Legislation Amendment (Payment Integrity) Bill 2017 currently before Parliament.

<sup>4</sup> Temporary humanitarian-type visas are: subclass 785 (Temporary Protection); subclass 786 (Temporary (Humanitarian Concern)); subclass 790 (Safe Haven Enterprise); subclass 449 (Humanitarian Stay (Temporary)); Criminal Justice Stay Visa; subclass 060 (Bridging F); and subclass 070 (Bridging (Removal Pending)).

<sup>5</sup> Temporary partner visas are: subclass 820 (partner) and subclass 309 (partner (provisional)).

<sup>6</sup> Protected SCV holders can access the same payments as permanent visa holders. Protected SCV holders will not be affected and will remain subject to current rules (that is, a 2 year waiting period for working age payments but no waiting period for family payments or Carer Allowance).

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### ***How many migrants will be affected?***

Migration Program planning levels are set annually by the Australian Government through the Budget process. The planning levels are set by stream and category.

The costing for the measure was based on 2016-17 Migration Program planning levels.

While migrants granted a relevant visa on or after commencement of the Bill will be subject to the 156 week NARWP for relevant payments, only migrants who would otherwise have claimed and received one of those payments within their first three years will actually be impacted by the measure.

### ***Communications with affected migrants***

This Bill will apply to people granted a relevant permanent or temporary visa on or after commencement, 1 July 2018. This is intended to provide individuals and families seeking to migrate to Australia time to be aware of the new rules so that they can make an informed decision when applying for permanent residency and make plans to support themselves during the waiting period. Migrants already granted a relevant visa before 1 July 2018 will not be affected (existing rules will continue to apply to these migrants).

The measure was publically announced in December 2017 as part of the 2017-18 MYEFO and was widely covered in the media at the time.

Following the announcement of the measure, an initial phase of communications commenced with information on the proposed changes to the NARWP published on the Department of Social Services (DSS) website at <https://www.dss.gov.au/living-in-australia-and-overseas/upcoming-changes>. This included a brief summary of the upcoming changes and a fact sheet with further details. Information was also placed on the Department of Human Services (DHS) website and the Department of Home Affairs website, directing people to the DSS website for further information.

This initial phase was intended to ensure that prospective migrants, including those who have already applied for a visa, are aware that the rules will be changing, pending the passage of legislation.

The second phase of communications is underway to provide more detailed information across a broader range of channels, including once legislation is passed. DSS is working with the Department of Home Affairs and DHS to ensure that existing visa applicants and prospective applicants will be able to access information on the new rules that will apply to them. This will allow them to make informed decisions about whether to progress with a visa application and make plans for how they will support themselves during their waiting period.

In this phase, more comprehensive information will be provided through relevant departmental websites and will also be disseminated to a range of affected stakeholders who deal with prospective migrants and visa applicants, including Migration Agents, through a range of channels, to raise awareness and understanding of the changes. This will include the development of culturally appropriate and translated products.

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Pending passage of legislation, there will also be updates made to visa application forms and visa grant letters to ensure that new and successful applicants are advised of the waiting period rules that will apply. Information is already included in these forms and letters noting that a NARWP applies for some Government payments.

## ***Exemptions***

As noted above, a range of existing and new exemptions from the NARWP will be provided under this measure.

### ***Automatic exemptions***

There are a range of exemptions currently available for payments subject to a NARWP based on citizenship status or visa type. These exemptions will be retained and extended to the new payment types that will be subject to a NARWP under this Bill.

People who hold Australian citizenship when they claim payment will continue to receive an automatic exemption from this measure for all payments and concession cards. People who are granted citizenship during their waiting period will not have to serve the remainder of the waiting period and will be able to claim and receive payments from that point onwards, subject to meeting other eligibility requirements.

People with a Qualifying Residence Exemption will remain exempt from the NARWP for all payments and concession cards. A person has a Qualifying Residence Exemption if they reside in Australia and are a refugee or a former refugee.<sup>11</sup> Family members of a refugee will also continue to be exempt from the NARWP for all payments and concession cards.

Temporary humanitarian-type visa holders<sup>12</sup> will continue to be exempt from the NARWP for Special Benefit, the Low Income Health Care Card, Family Tax Benefit, Parental Leave Payment and Dad and Partner Pay. These visa holders are generally not eligible for other payments. If a temporary humanitarian-type visa holder moves to a permanent visa in the future, they will remain exempt from the waiting period for these payments. This means that they will still be able to access these payments while they are serving the NARWP for other payment types available to permanent visa holders.

The exemptions for refugees and temporary humanitarian-type visa holders recognise that these visa holders are particularly vulnerable, generally have no other means of support and are not usually able to plan for their own support prior to applying for a humanitarian visa.

Permanent Carer Visa holders (subclass 116 and 836) are currently exempt from the waiting period for Carer Payment under an existing ministerial determination. They will continue to be exempt from the NARWP for Carer Payment and will also be exempt from the new NARWP for Carer Allowance while this determination is in place.

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<sup>11</sup> A refugee means a holder of a permanent visa under the Humanitarian Program.

<sup>12</sup> Temporary Humanitarian Visa holders includes Temporary Protection Visa holders and Safe Haven Enterprise Visa holders plus certain others – see footnote 4.



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### ***Change of circumstances exemptions***

There are a number of exemptions currently available which recognise that people may have a change of circumstances during the NARWP and may no longer be in a position to support themselves as they had originally planned. These exemptions will continue to be available.

People who come to Australia in a relationship but become a lone parent after becoming an Australian resident are exempt from the NARWP for Parenting Payment, Newstart Allowance, Youth Allowance and Farm Household Allowance.

People can be exempt from the NARWP for Special Benefit if they have experienced a substantial change in circumstance since the start of the NARWP. Special Benefit is a payment of last resort that provides support for people in financial hardship who are unable to obtain or earn a sufficient livelihood for themselves and any dependants and who are not eligible for any other income support payment.

This exemption is designed to ensure a safety net for people who find themselves in hardship and have no other means of support for reasons beyond their control. This may include migrants:

- who are the victim of domestic violence
- who experience a prolonged injury or illness and are unable to work, or whose partner or sponsor does
- whose dependent child develops a severe medical condition, disability or injury
- whose sponsor or partner dies, becomes a missing person or is imprisoned leaving the migrant with no other means of support.

### ***Other exemptions provided under this measure***

There are a number of new exemptions being introduced through this Bill in relation to the payments that will be subject to a NARWP for the first time.

People who are receiving a social security pension or benefit or Farm Household Allowance (for example, because they are exempt from the NARWP for that payment) will also be exempt from the NARWP for family payments and Carer Allowance. This exemption ensures that people who are receiving a primary payment can also access supplementary assistance if they have dependent children and/or caring responsibilities. This ensures consistent access to exemptions across welfare payments.

People with a Family Tax Benefit eligible child will be exempt from the NARWP for the Low Income Health Care Card. This new exemption is designed to ensure that low-income families that would previously have qualified for a health care card as part of their Family Tax Benefit can still access health concessions.

People granted a permanent or eligible temporary visa on or after 1 July 2018 will still be able to access Parental Leave Pay and Dad and Partner Pay if they have a newborn or adopt a child between 1 July 2018 and 31 December 2018 (inclusive) and they otherwise qualify for the payment (including meeting the work test and income test).

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This exemption is designed to ensure that people who are already pregnant and have made leave plans before the measure commences can still access leave payments.

New Zealand citizens can enter and stay in Australia indefinitely on a Special Category Visa. Holders or former holders of a Special Category Visa will be exempt from the NARWP for Family Tax Benefit, Parental Leave Pay and Dad and Partner Pay. This exemption only applies for certain payments as Special Category Visa holders are generally not eligible for other payments. Special Category Visa holders will continue to have a NARWP for the Low Income Health Care Card and the Commonwealth Seniors Health Card, although this will be extended to three years.

Special Category Visa Holders who move to a permanent visa will remain exempt from the NARWP for family payments and will continue to have access to these payments while they are serving the NARWP for other payment types available to permanent visa holders.

### ***Claiming exemptions***

People do not apply for a specific exemption. Generally, eligibility for an exemption will be assessed through the claim form. People who want to apply for a payment can do so by lodging a claim with DHS.

The claim form asks for information that enables DHS to determine if the person should be exempt from any waiting period as part of assessing the claim. If the person is eligible for an exemption, and they meet all other requirements for the payment, their claim for payment will be granted.

There are existing processes in place for people who find themselves in need of additional support, including assistance to make claims for payment, access to social workers and support for specific situations.

For example, migrants who experience domestic violence may be eligible for an exemption from the NARWP for Special Benefit, where they meet the qualification requirements. DHS has established processes for referring people claiming Special Benefit due to domestic violence to a social worker for support and assessment. The Department of Home Affairs' Family Violence Unit also assesses family violence claims made by visa applicants and provides referral advice to support services, including in circumstances where the person is not eligible for a visa under the Family Violence Provisions.

Existing review and appeal processes will remain in place and will continue to apply to decisions made in relation to claims or exemptions from the NARWP. This includes internal review by an Authorised Review Officer and further avenues of appeal to the Administrative Appeals Tribunal.

### ***Cameos***

The cameos below provide examples of common scenarios in which a person may qualify for an exemption from the NARWP due to a change of circumstances.

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***Change of circumstances – injured and unable to work***

Wally is from India, is granted a permanent Skilled Independent visa (subclass 189) in August 2019 and is subject to a 156 week NARWP. In January 2021, after only 76 weeks in Australia, he is injured in a car accident and is unable to continue working due to the severity of his injuries. Wally is in severe financial hardship and unable to earn a sufficient livelihood for himself or to cover the significant medical costs he has incurred.

Wally claims Special Benefit and is granted an exemption from the NARWP for Special Benefit as his injury constitutes a substantial change in circumstances since arriving in Australia. Wally continues to be eligible for the exemption for the remainder of the NARWP or until he recovers and can return to work.

***Change of circumstances – domestic violence***

Maria is from the Philippines and is granted a temporary Partner (Provisional) visa (subclass 309) in December 2018 so that she can join her partner in Australia while her permanent visa is processed. She is subject to a 156 week NARWP. After nine months, Maria leaves the relationship after experiencing domestic violence and is granted a Domestic Violence Order. She is subsequently granted a permanent Partner (Migrant) visa (subclass 100) under family violence provisions. Maria has no other support and is in financial hardship.

Maria claims Special Benefit and is referred to a social worker to assess her situation. She is granted an exemption from the NARWP for Special Benefit as she is the victim of substantiated domestic violence and has no other means of support. Maria will continue to be eligible for the exemption for the remainder of the NARWP or until she has other means of support (e.g. she finds work or re-partners).

***Change of circumstances – become a lone parent***

Abdul, Shireen and their daughter, Mina, are granted permanent visas under the Skilled stream in January 2019 and are subject to a 156 week NARWP. Two years later, Abdul and Shireen separate and Shireen retains full-time care of Mina who is four years old.

Shireen claims Parenting Payment Single as she is the principal carer of Mina. She is granted an exemption from the NARWP for Parenting Payment Single because she became a lone parent after becoming an Australian resident. As she is receiving an income support payment (Parenting Payment Single), Shireen is exempt from the NARWP for Family Tax Benefit and is able to receive this additional assistance with the costs of raising Mina.

***Change in circumstances – child becomes sick/injured***

Jessica is a single parent from the UK and is granted a permanent skilled visa in January 2019 along with her 10 year old son, Ruben. After they have been in Australia for 12 months, Ruben is diagnosed with leukaemia and Jessica has to reduce her hours of work to take care of him while he is undergoing treatment. As Jessica's income is reduced, and she has a child eligible for Family Tax Benefit, she becomes eligible for the Low-Income Health Care Card to assist with medical costs associated with her son.

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After two months, Jessica has to cease work completely to care for Ruben full-time as his condition worsens. Jessica depletes all her savings and finds herself in financial hardship. She is unable to earn a sufficient livelihood for herself and Ruben or to cover Ruben's medical costs. Jessica claims Special Benefit and is granted an exemption from the NARWP for Special Benefit as her dependent child has developed a serious medical condition since their arrival in Australia and this constitutes a substantial change in circumstances.

As Jessica is receiving an income support payment (Special Benefit), she is exempt from the NARWP for Family Tax Benefit and for Carer Allowance which provides additional assistance while she is caring for Ruben. Jessica will continue to be eligible for the exemptions for the remainder of the NARWP unless Ruben recovers and no longer requires substantial care such that Jessica is able to return to work.

### ***Broader supports and services for migrants***

The amendments in this Bill will only affect access to relevant welfare payments. Affected migrants will continue to have access to other government-funded services where eligible, such as health care, education, child care subsidies and help to find work.

New permanent migrants will continue to have immediate access to the Medicare Benefits Scheme and the Pharmaceutical Benefits Scheme. This includes:

- a Medicare card
- free treatment for public patients in public hospitals,
- rebates on Medicare Benefit Scheme listed health services, and
- access to subsidised medicines under the Pharmaceutical Benefits Scheme.

Child Care Subsidies will continue to be available to newly arrived migrant families on a permanent visa where they are using approved child care and participating in work, study or other approved activities.

New permanent migrants will also continue to have access to broader Government-funded services, including:

- access to the National Disability Insurance Scheme (where eligible)
- access to jobactive as a volunteer for up to six months, and
- education services (such as Commonwealth supported places for tertiary education and access to primary/secondary schools).