

26 July 2021

Committee Secretary
Senate Community Affairs Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

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

Dear Committee Secretary,

Economic Justice Australia (EJA) Submission to the Inquiry into the Social Services Legislation Amendment (Consistent Waiting Periods for New Migrants) Bill 2021

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice regarding social security issues and rights. Our members across Australia have provided free and independent information, advice, education and representation in the area of social security for over 30 years.
2. EJA draws on its members' casework experience to identify systemic policy issues and provide expert advice to government on reforms needed to make the social security system more effective and accessible. Our law and policy reform work:
 - Strengthens the effectiveness and integrity of our social security system;
 - Educates the community; and
 - Improves people's lives by reducing poverty and inequality.
3. EJA welcomes the opportunity to make this submission to the Committee's inquiry into the *Social Services Legislation Amendment (Consistent Waiting Periods for New Migrants) Bill 2021* (the Bill).

Newly Arrived Residents Waiting Period

4. The term "newly arrived residents waiting period" (NARWP) refers to the waiting period that generally applies before a migrant may access social security income support payments and concessions.
5. A NARWP of 26 weeks was introduced from 1 January 1993 for specified social security payments. From 4 March 1997, the NARWP was extended to two years and a wider range of payments, with Carer Payment, Carer Allowance and FTB remaining exempt from the NARWP.

6. From 1 January 2019, the NARWP was extended to four years for most working age payments, including Jobseeker Payment, Youth Allowance, Austudy, Parenting Payment, and Special Benefit. (The NARWP for Special Benefit may be waived in limited circumstances where a claimant is in severe financial hardship). A two-year NARWP was also introduced for a range of other payments from 1 January 2019 – including for Carer Payment; and a one-year NARWP was introduced for Carer Allowance and FTB Part A.
7. The Bill contains amendments giving effect to a key social security savings measure announced in the Federal Budget by applying a “consistent four-year Newly Arrived Resident’s Waiting Period across most welfare payments”. The extension of the four-year newly arrived residents waiting period (NARWP) to additional payments, including Carer Payment, Carer Allowance and Family Tax Benefit (FTB) is budgeted to result in savings of \$671.1 million over five years.
8. The payments to be newly subject to a four-year NARWP are shown in the table below.

Payment	Current NARWP	New NARWP
Carer Payment	2	4
Carer Allowance	1	4
Family Tax Benefit A	1	4
Family Tax Benefit B	0	4
Parental Leave Pay	2	4
Dad and Partner Pay	2	4

9. The four-year NARWP for these payments will only apply to people granted a permanent visa, or a temporary visa that attracts an entitlement, on or after 1 January 2022. People with such visas granted prior to 1 January 2022 will be subject to current NARWP legislation, as per the table above. Humanitarian visa holders are not subject to a NARWP.
10. Our previous submission opposing the January 2019 extension of the four year NARWP to most working age payments¹ explained that such changes:
 - Ignore the evidence that a lack of coordination between Australia’s migration system and employment policies has made it difficult for some migrants to secure ongoing well-paid employment, even where they have qualifications and experience to match skills shortages.
 - Further disadvantage migrants, increasing the inequality between them and the rest of the community and increasing their vulnerability to exploitation.
 - Do not adequately take into account the effect these measures will have on children, or those who require care and assistance to manage day-to-day living.

¹ <https://www.ejaustralia.org.au/wp/policy-submission/nssrn-submission-on-the-proposed-extension-to-the-newly-arrived-residents-waiting-period/>

- Disadvantage individuals who have already taken steps to migrate to Australia, or those who have indicated a willingness to provide an Assurance of Support.
 - Fail to recognise the lifetime contribution of migrants to Australia's economy and community.
11. EJA maintains the view that the anticipated savings resulting from the introduction of such measures constitute a false economy as they are likely to lead to increased poverty and social problems which result in greater costs in the provision of emergency relief including food, housing, counselling, health care and other services by charitable and community organisations or other government-funded services.
 12. The 2019 extension of the NARWP to additional payments did not cover FTB and payments for carers – deliberately. The policy rationale for excluding these payments from a four-year NARWP remain compelling.

Family Tax Benefit

13. Extension of the NARWP for Family Tax Benefit (FTB) to four years will mean that a cohort of Australian children will be at risk of poverty purely because their parents or carers are migrants, or New Zealanders living and working in Australia.
14. FTB targets children, and aims to ensure that no child living in Australia lives in poverty. Applying a NARWP of four years for FTB means that the children of many migrant families with self-supporting parents on low incomes will live in poverty. Given that many people are now granted permanent residence on-shore, after living in Australia on long-stay temporary visas, such as skilled visas for many years, introducing a four-year NARWP for FTB means that children born in Australia to new residents may be eight or nine years of age before they attract FTB.
15. While most income support payments are subject to the ordinary income test, which includes an "income free area" where the first part of a person's income will have no effect on their payment and any income after that will reduce the payment at a smaller percentage, the income test for Special Benefit is much less generous. For every dollar of income a person on Special Benefit earns, they lose a dollar of their Special Benefit payment. This dollar-for-dollar income test means that people with any kind of casual work are likely to lose most or all of their Special Benefit. The only reliable source of ongoing income for families in this position was FTB A. The job losses resulting from the current prolonged Sydney COVID restrictions highlight the precarious position of casual migrant workers in this position and the likely impact on their children if the four year NARWP is applied to FTB A.
16. There are also flow-on issues created by precluding new resident families from FTB Part A. Perhaps the most significant is that parents of children who do not attract FTB A for many years will not be targeted by the Commonwealth childhood vaccination strategy. This is

because payment FTB A in respect of a child is conditional on the child being vaccinated; and on getting a health check before the child's fifth birthday, as part of the Healthy Start to School Health Check Requirement.² Delayed childhood vaccinations and health checks may be an unintended policy consequence of extending the NARWP for FTB.

17. Overall, the protracted wait for FTB will undermine new resident families' efforts to settle in Australia and take part in community life, with potential consequences for children's health and wellbeing.

Carer Payment and Carer Allowance

18. Extension of the NARWP for Carer Payment and Carer Allowance to four years will mean that fewer Australian families will be able to provide high-level care in the home for loved ones, despite the fact that providing a high level of care in the home for a frail older person, or a child or adult with disability, makes economic sense and relieves pressure on services and residential care.
19. When the NARWP was extended from two to four years for most social security payments, Carer Payment and Carer Allowance were exempted. The rationale for this exemption remains a compelling one. Providing a high level of care in the home for a frail older person, or a child or adult with disability, makes economic sense and relieves pressure on services and residential care. Introducing a four-year NARWP for Carer Payment and Carer Allowance will mean that fewer Australian families will be able to provide high-level care in the home for loved ones.

Domestic violence

20. Extension of the four year NARWP to payments for families and carers is likely to disproportionately affect migrant women who predominately hold responsibility for caring roles and are more likely to experience family and domestic violence.
21. A recent large-scale study of migrant and refugee women in Australia conducted by Monash University's Migration and Inclusion Centre in collaboration with Harmony Alliance³, found that roughly a third of the 1,392 women surveyed from September to November 2020 said they had experienced domestic and family violence. Of that group, 91 per cent experienced controlling behaviours, while 42 per cent had experienced physical or sexual violence.

² <https://www.dss.gov.au/our-responsibilities/families-and-children/benefits-payments/strengthening-immunisation-for-young-children#:~:text=To%20meet%20immunisation%20requirements%20and,or%20have%20an%20approved%20exemption>

³ Segrave, M., Wickes, R. and Keel, C. (2021) ['Migrant and refugee women in Australia: The safety and security study'](#), June 2021.

22. While exemptions to the NARWP exist, including in cases of domestic violence, obtaining a waiver of the NARWP for Special Benefit, even in cases of domestic violence, is difficult to achieve. The person subject to the NARWP needs to be able to establish a substantial change of circumstances beyond their control since being granted permanent residency. This may be difficult to establish where the domestic violence was pre-existing and may have escalated, as illustrated by the case study from our member centre below.

Two years added on to NARWP for woman fleeing domestic violence

Justina is a survivor of domestic violence who separated from her partner in September 2018 after he made threats to kill her and their unborn child. She had moved from Papua New Guinea to Australia to be with her partner. Once she arrived in Australia, her partner's behaviour became jealous and controlling and there was increasing domestic violence. Whenever she tried to leave the relationship and seek help, her partner would threaten to have Justina deported.

The EJA member centre advised Justina on her rights and assisted her to successfully obtain her permanent residency in February 2019. Centrelink told her that she would be able to apply for Parenting Payment after two years of permanent residency, i.e. in February 2021, as she would have satisfied the two-year newly arrived resident's waiting period (NARWP).

Justina claimed Parenting Payment Single in February 2021 and was granted.

What Justina didn't know was that the NARWP for Parenting Payment had been extended from two to four years from January 2019, and she was only able to be granted Parenting Payment in February 2021 because the NARWP had been temporarily waived – as a special coronavirus income support measure in response to the COVID-19 pandemic. This meant that when the special coronavirus income support measures were wound back in March this year, Justina's Parenting Payment was cancelled from 1 April because the waiver no longer applied. Justina was advised that she was now subject to a four-year NARWP for Parenting Payment – running to February 2023.⁴

Our member centre proceeded to apply for Special Benefit on Justina's behalf, and also for an exemption from the four-year Parenting Payment NARWP – options that Centrelink had not offered to Justina. The Parenting Payment exemption was granted and two months after the cancellation of Justina's Parenting Payment Single, her payments were reinstated.

⁴ Data provided to Senate Estimates by DSS shows that from March 2020 to Feb 2021 there were 56,300 people who had their NARWP waived under this COVID-19 special measure; on 26 Feb 2021, there were 25,900 with a waiver who still had part of their NARWP to serve. The percentage of these people with dependent children is not known but would have been significant. FTB would have been the sole ongoing reliable income for many sole parents in this cohort.

When Justina's Parenting Payment was cancelled, she at least had some support by way of FTB A and B. The changes proposed in the Bill would mean that single parents in vulnerable situations like Justina would not even have access to this basic payment which is meant to ensure that no child lives in poverty in Australia.

Conclusion

23. The rationale for introducing a four-year NARWP for additional income support payments and for FTB, to provide "consistency", "certainty" for new residents, and to encourage self-sufficiency, only makes sense superficially. It ignores the reasons why FTB and payments for carers were not included in the previous extensions of the NARWP to working age payments - to avoid child poverty among migrant communities and support new resident families' efforts to settle in Australia.
24. It is no secret that migration is one of the key elements to Australia's post-pandemic economic recovery, for filling critical skills shortages in the short term and for sustained population and economic growth in the longer term. It is not in anyone's interests to disincentivise migrants from choosing Australia as their new home or undermining their chances for positive settlement outcomes when they arrive.

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