

# Dissenting Report by the Australian Greens

1.1 The Australian Greens do not support the majority report on Social Services Legislation Amendment (Welfare Reform) Bill 2017 which contains measures that will:

- Create a single job seeker payment;
- Establish drug testing trials of 5000 people applying for Newstart and Youth Allowance Payments ;
- Remove existing exemptions for jobseekers experiencing drug or alcohol dependence;
- Increase activity requirements for people aged 55-59;
- Increase the waiting times for the start of Newstart and Youth Allowance Payments;
- Establish a new compliance regime.

1.2 The measures in this Bill completely ignore the advice and evidence from both medical professionals and social security experts.

1.3 The Australian Greens are deeply concerned by the Government's repeated rejection of the expertise and evidence given by stakeholders in their continued pursuit of harsh cuts to income support.

1.4 Many of these so called reforms to the social security system are unnecessary and unwarranted and the Australian Greens share the concerns of Anglicare who said in their submission to the Inquiry:

Australia already has one of the most targeted and compliance-heavy social security systems in the world. It also has the second lowest income support rates in relation to average wages in the OECD, leaving people trapped in poverty, endlessly searching for jobs that quite simply, aren't there. The OECD itself has reported that Australia's income support payments are insupportably low. Indeed, the evidence that these payments are too low is almost universally accepted, and the business and community sectors have been calling for an increase for years. These measures not only cut funding from people doing it the toughest in our society, they propose to punish people for a systemic failure by government to provide jobs, viable support, and hope.<sup>1</sup>

1.5 This Bill targets vulnerable people for menial savings and does so as if in a vacuum, without acknowledging the changing nature of employment, that long-term unemployment has tripled since the global financial crisis and that underemployment is growing.<sup>2</sup>

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1 Anglicare Australia, *Submission 28*, p. 4.

2 Dr Cassandra Goldie, Chief Executive Officer, Australian Council of Social Service, *Committee Hansard*, 30 August 2017, p .2.

1.6 Drug testing and changes to claim provisions could have significant flow on impacts resulting in homelessness and negative mental and physical health outcomes. While the Australian Greens are most concerned about the human consequences of such an invasive and punitive approach to people with addiction, the overall financial costs to implementing the drug testing trials and dealing with the negative social outcomes will be large.

1.7 This dissenting report will examine each of the measures in turn.

### **Schedule 1 – Single Job Seeker Payment**

1.8 Schedule 1 replaces Newstart Allowance with a Jobseeker Payment from 20 March 2020.

1.9 At that time Newstart Allowance, Sickness Allowance, Wife Pension, Bereavement Allowance and Widow B Pension will cease and most recipients of these payments will transition to Jobseeker Payment, Age Pension or Carer Payment, depending on their circumstances.

1.10 While it may be bureaucratically sound to stream line these payments and they do reflect societal changes of women being less financially dependent, whether single, widowed or married, the Australian Greens remain concerned that these measures fail to address the inadequate payment rate of the Newstart Allowance, the often harsh and punitive nature of mutual obligation requirements and the barriers faced by older people, particularly older women in entering the workforce, as well as the higher rates of poverty for older women.

1.11 Schedules 1- 7 combine a suite of allowances and pensions into one payment – the Jobseeker Payment, paid at an allowance rate to most recipients. Allowance rates are significantly lower than pensions and subject to lower indexation rates than pensions and would result in many pension recipients being worse off unless they are transferred to another pension.

1.12 The Greens share the concerns of the Australian Council of Social Service (ACOSS) who said in their submission:

We strongly oppose any measures that would move a person needing income support onto a much lower rate payment under the guise of 'simplification'.<sup>3</sup>

1.13 The National Social Security Rights Network (NSSRN) has also expressed reservations in this regard:

The Government has not addressed the critical issue of the unacceptably low rate of payment of Newstart and other allowances which, among other things, undermines the reform to support for the bereaved.<sup>4</sup>

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3 ACOSS, *Submission 50*, p. 4.

4 National Social Security Rights Network, *Budget 2017 – New Jobseeker Payment, Media Release*, 27 May 2017, p. 2.

1.14 The Australian Greens would also like to note the concerns of People with Disability Australia who said in their submission regarding Schedules 1-7:

Due to a lack of consultation with people with disability and their representative organisations the potential implications of these changes on this group are unknown.<sup>5</sup>

1.15 The Australian Greens remain concerned by the failure of Government to provide income support payments that reflect contemporary living costs.

### **Schedule 2 – Cessation of Widow B Pension**

1.16 This schedule ceases Widow B Pension from 20 March 2020 which has been closed to new applicants since 20 March 1997.

1.17 All current recipients of this payment will be age pension age by 20 March 2020 and this schedule provides for them to transfer automatically to the Age Pension. As most recipients are overseas, the schedule also grandfathers them, in effect, from the impact of the Age Pension's different portability rules so that their rate of payment is not reduced.

1.18 As recommended by the Australian Council of Social Services in their submission, and supported by Anglicare Australia, the Australian Greens believe that transitional payments for Widow B Pension should be indexed to ensure that no one is left worse off.<sup>6</sup>

### **Schedule 3 – Cessation of Wife Pension**

1.19 Schedule 3 ceases the payment of the Wife Pension from 20 March 2020.

1.20 The Wife Pension is a non-activity tested income support payment paid at Age Pension rate to female partners of Age Pensioners or Disability Support Pensioners who are not eligible for a pension in their own right.

It is anticipated that there will be approximately 7,750 Wife Pension recipients at 20 March 2020. Transition arrangements may be complex as many Wife Pension recipients live overseas and, although the payment has been closed for more than 20 years, some recipients are relatively young and will not reach pension age for some time.<sup>7</sup>

1.21 It is estimated that approximately 2,250 recipients will have reached pension age by 20 March 2020 and they will automatically transfer to the Age Pension.

1.22 This schedule will also transfer around 2,400 recipients to Carer Payment. This will be done automatically, with Wife Pension recipients who receive Carer Allowance at the transition date deemed to be eligible for Carer Payment. They retain automatic eligibility provided they remain eligible for Carer Allowance.<sup>8</sup> This applies

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5 People with Disability Australia (PWDA), *Submission 60*, p. 5.

6 ACOSS, *Submission 50*, p. 2.

7 NSSRN, *Submission 18*, p. 4.

8 NSSRN, *Submission 18*, p. 4.

whether they meet Carer Payment's more stringent care requirements or not. This measure is welcomed by Carers Australia in their submission.<sup>9</sup>

1.23 The Australian Greens share the concerns of the National Social Security Rights Network who have reservations regarding the complexity of transitional arrangements for the approximately 2900 remaining recipients who will transfer to the new Jobseeker Payment. They said in their submission:

The schedule has a complex set of transitional arrangements for this cohort. It creates a special transitional rate of the new Jobseeker Payment for former Wife Pension recipients, so that these recipients do not suffer a financial loss at the time of transition. Recipients who receive the transitional rate also retain eligibility for the pensioner concession card. However, this rate is frozen as at the date of transition (as are the applicable pension means tests). The schedule then provides for recipients to transition to the Jobseeker Payment rate once the rate is equal to or higher than the transition rate for a sustained period (six weeks). The intent is to ensure that initially Wife Pension recipients are not worse off. However, it appears that over time the transition rate will fall relative to the rate of Newstart Allowance/Jobseeker Payment as it is frozen rather than indexed to CPI like the Jobseeker Payment. The Government's underlying concern may be that some Wife Pension recipients are relatively young and may otherwise need to be grandfathered for some time.<sup>10</sup>

1.24 The Greens support ACOSS's recommendation that the 200 recipients currently living overseas not anticipated to transition to an income support payment continue to receive a payment in line with Schedule 2 of this Bill which grandfathers Widow B Pension recipients from changes to the applicable portability rules.

#### **Schedule 4 – Cessation of Bereavement Allowance**

1.25 This schedule ceases the Bereavement Allowance from 20 March 2020.

1.26 Currently, the Bereavement Allowance is a short-term payment for a person whose partner has recently died generally paid for 14 weeks, depending on the circumstances. It is paid at the Age Pension rate and subject to the pension means test.

1.27 The allowance will be replaced by a one off payment calculated at approximately twice the Job Seeker or Youth Allowance fortnightly rate of payment, paid in addition to the regular payments. Recipients are also exempt from the liquid assets waiting period, the income maintenance period, the seasonal worker preclusion period and activity testing.

1.28 If a pregnant woman's partner dies she may be able to access the Bereavement Allowance from when her partner died over the course of the pregnancy or for 14 weeks, whichever is longer. While this rule will remain, the rate of payment will be much lower; meaning that a pregnant woman whose partner dies could lose up to around \$5500.

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9 Carers Australia, *Submission 1*, p. 3.

10 NSSRN, *Submission 18*, p. 4.

1.29 The Greens welcome the payment of a lump sum and the exemption from waiting periods and activity testing in a difficult time which can often result in people falling into financial crisis.

1.30 However, we are concerned that the total level of support under this proposal is significantly lower than typically provided through the Bereavement Allowance due to the fact that the Bereavement Allowance is paid at the pension rate over 14 weeks or longer.

1.31 As such the Australian Greens do not support changes which will leave bereaved and vulnerable people worse off.

### **Schedule 5 – Cessation of Sickness Allowance**

1.32 Schedule 5 will stop new grants of Sickness Allowance after 20 March 2020. Instead the qualification conditions for Jobseeker Payment will be modified to allow people who are temporarily incapacitated for work to qualify for the Jobseeker Payment.

1.33 The eligibility criteria for the new Jobseeker Payment would be made wider than for Newstart Allowance, which cannot be received by a person who is not unemployed. Sickness Allowance is paid at the same basic rate and under means test for Newstart Allowance, so transitioning recipients will not be financially disadvantaged.<sup>11</sup>

1.34 Recipients who would have previously received a Sickness Allowance and who will now receive the Jobseeker Payment will be subject to the activity test unless exempt.

1.35 Although it would be expected that most would be exempt from the activity test on the ground of temporary incapacity, this exemption should be made automatic in this Bill to ensure fairness and efficiency.

### **Schedule 6 – Cessation of Widow Allowance**

1.36 This schedule closes Widow Allowance to new entrants from 1 January 2018 and ceases it from 1 January 2022. Widow Allowance is a payment for older working age women who lose the support of a partner and do not have recent workforce experience. It is restricted to women born on or before 1 July 1955. It is not activity tested and paid at the same basic rate as Newstart Allowance.

1.37 The transition arrangements in this schedule are unnecessarily complex and arbitrary with one group of people treated differently depending on when their claim was made.

1.38 The Greens share the concerns articulated by the National Social Security Rights Network in their submission:

From 1 January 2018 Widow Allowance will be closed to new entrants.  
Women who are under age pension age may claim Newstart Allowance

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11 NSSRN, *Submission 18*, p. 6.

instead and, if eligible, are exempt from the activity test. In effect, these women are in the same position as if Widow Allowance continued. However, women who are over age pension age who could have claimed Widow Allowance before 1 January 2018 are ineligible for Newstart Allowance and must test their eligibility for Special Benefit. Special Benefit is paid at the same basic rate as Newstart Allowance, but is subject to a much more stringent means test including a general assets cut off of \$5000 in liquid assets and a dollar for dollar deduction for any income. This means that many recipients of Special Benefit in fact receive less than the equivalent rate of Newstart Allowance and some women who may have previously received Widow Allowance will be ineligible for Special Benefit entirely despite having low incomes or little savings.<sup>12</sup>

1.39 This will put a cohort of older women with little workforce experience at risk of poverty. The Greens will not support a measure that will result in older women being put at risk of poverty.

### **Schedule 7 – Cessation of Partner Allowance**

1.40 This schedule ceases Partner Allowance from 1 January 2022. Partner Allowance was an income support payment for certain partners of income support recipients without recent workforce experience. It is not activity tested. It was closed to new entrants in 2003. By 1 January 2022, all Partner Allowance recipients should have reached pension age and transitioned to Age Pension.

1.41 The Australian Greens do not have concerns regarding this schedule.

### **Schedule 8 contains a rule-making provision for the Minister**

1.42 The amendments in Schedule 8 are intended to allow the Minister to make rules of a transitional nature in support of the amendments and repeals made by Schedules 1–7 of the Bill.

1.43 Any rule changes must be given due process and considered by the Parliament thoroughly, not waived through by a single Minister, particularly one who is part of a Government that has repeatedly and relentlessly attacked those on income support.

1.44 The Australian Greens do not support Schedules 1-8.

### **Schedule 9 – Change to the activity tests for persons aged 55- 59**

1.45 Schedule 9 imposes a new activity test on Newstart Allowance and certain Special Benefit recipients aged between 55 and 59.

1.46 Currently, job seekers aged over 55 years satisfy their mutual obligation requirements by undertaking at least 30 hours per fortnight of approved voluntary work, paid work (including self-employment) or a combination of the two. This measure seeks to make it compulsory for a vulnerable cohort of jobseekers to find 15 hours of paid work per fortnight.

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12 NSSRN, *Submission 18*, p. 7.

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1.47 As report after report has shown, there are simply not enough jobs for the number of people seeking work in Australia.<sup>13</sup>

1.48 Older people in particular face significant barriers to finding work which is why our social safety net is so important.

1.49 As Anglicare Australia's Jobs Availability Snapshot shows, the shortage of positions available for low-skilled job seekers runs at six jobseekers for every position advertised.<sup>14</sup>

1.50 Anglicare outlined in their submission that this measure goes nowhere in terms of helping to fix this problem:

Forcing people aged 55 to 59 to complete Work for the Dole or Search for Work programs will not create any new positions or reduce discrimination against older workers. It also devalues and dismisses the value of the voluntary work completed by people in this age bracket in terms of its value to our community, and as an appropriate means of lifting skills, providing meaningful community work and engagement, and potentially finding employment derived from volunteering.<sup>15</sup>

1.51 While we do not want to devalue the contribution of or discourage people aged 55 – 59 from finding employment, as Council of the Ageing outline in their submission:

Placing more stringent activity test demands on older unemployed workers does not in itself change the labour market in which older people find themselves, both in regard to the overall numbers of jobs available and their comparative chance of gaining them.<sup>16</sup>

1.52 These changes fail to recognise the valuable contribution volunteers make to our society and economy, with 31 percent of the adult population engaging in volunteering, making an estimated economic and social contribution of \$290 billion.<sup>17</sup> Volunteering gives people a sense of well-being and belonging in their community as well as an opportunity to develop skills for future employment. These changes do not account for the impact on the social service sector which relies on volunteers to complete a significant portion of their service delivery.

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13 Anglicare Australia (2016) Jobs Availability Snapshot. Available online: [http://www.anglicare.asn.au/docs/default-source/events-documents/aa\\_jobs-availability-snapshot-%C6%92a.pdf?sfvrsn=4](http://www.anglicare.asn.au/docs/default-source/events-documents/aa_jobs-availability-snapshot-%C6%92a.pdf?sfvrsn=4).

14 Anglicare Australia (2016) Jobs Availability Snapshot. Available online: [http://www.anglicare.asn.au/docs/default-source/events-documents/aa\\_jobs-availability-snapshot-%C6%92a.pdf?sfvrsn=4](http://www.anglicare.asn.au/docs/default-source/events-documents/aa_jobs-availability-snapshot-%C6%92a.pdf?sfvrsn=4).

15 Anglicare Australia, *Submission 28*, p. 5.

16 COTA Australia, *Submission 61*, p. 5.

17 Ms Adrienne Picone, Chief Executive Officer, Volunteering Australia, *Committee Hansard*, 31 August 2017, p. 29.

1.53 Volunteering Australia told the Hearing into this Bill:

If you look at who is actually volunteering, it is that older cohort. If you remove that, you're looking at 30 hours a fortnight, so you're cutting it in half. That's going to impact on volunteering support services' and volunteer-involving organisations' service provision and workforce capacity. It has an impact. There are flow-on effects that are going to affect the amount of staff they hire and that are going to affect volunteering in the wider sector in communities. Imagine the effect on SES, for example, or Meals on Wheels. I don't think that that is being considered. You can just look at it, in the small run, as a volunteer who is only doing reception duties or something like that, but that's one volunteer who's no longer engaging in reception duties. You need to find somebody to fill that position. So I just think, in the grand scheme of things, that people aren't really considering what this is actually going to do.<sup>18</sup>

1.54 Volunteering is also an important way for people from disadvantaged backgrounds and people with disability or mental illness to gain skills and confidence to reenter the workforce.

1.55 These changes will disproportionately affect older women, a category of jobseeker particularly disadvantaged in the labor market<sup>19</sup>, who also make up the majority of the volunteer workforce.

1.56 Ms Toohey, CEO of Albury Wodonga Volunteer Resource Bureau told the Hearing into this Bill:

With our Skillsbank database, which would identify that, it's probably about 80 per cent of the cohort that we are speaking about. In my experience, it's generally a female, and it could be after the loss of her husband or moving into town from the farm. I'm not saying men aren't there, but the women absolutely want to get out there and reinvent themselves.<sup>20</sup>

1.57 These changes will have negative outcomes for both the social services sector (and other sectors that rely on volunteers) as well as the people seeking employment. Unemployment is often an isolating experience and volunteering is an important way for people to stay connected to their communities. Cutting down volunteering hours to compel people to look for jobs that are simply unavailable is nonsensical.

1.58 Unemployment requires a multi-pronged and faceted approach rather than punitive measures that result in jobseekers being financially penalised for being unable to fulfil activity requirements due to the unavailability of jobs.

1.59 The Australian Greens do not support this schedule.

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18 Ms Lavanya Kala, Policy and Communications Coordinator, Volunteering Australia, *Committee Hansard*, 31 August 2017, p. 33.

19 Dr Cassandra Goldie, ACOSS, *Committee Hansard*, 30 August 2017, p. 5.

20 Ms Jemma Toohey, Chief Executive Officer, Albury Wodonga Volunteer Resource Bureau Inc, *Committee Hansard*, 31 August 2017, p. 34.

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## **Schedule 10 – Start date for Participation Payments**

1.60 This measure will make the start day for Youth Allowance (other) and Newstart Allowance payments the day the applicant attends their initial appointment with their employment services provider, unless an appointment is not able to be scheduled within two business days, rather than the date on which the claim for payment was made.

1.61 The Australian Greens oppose this measure. It will result in vulnerable people waiting longer and being paid less in their first payment, and even if they comply with these changes, long Centrelink processing times will exacerbate the delay.

1.62 As outlined in the submission of the NSSRN, this measure will affect the most vulnerable and it

Serves no useful purpose, and simply reduces the level of support to an unemployed person at a time when they need the support the most.<sup>21</sup>

1.63 This measure is estimated to make savings of \$198 million.<sup>22</sup> It is once again clear that the Government is seeking to make savings off of the backs of those with the least.

1.64 The Australian Greens do not support this schedule

## **Schedule 11 – Removal of Intent to Claim Provisions**

1.65 Schedule 11 removes the current deemed claim provisions that allow a claimant to receive payments from the date on which they initially contacted the Department of Human Services and indicated that they are intending to claim.

1.66 The rationale for the amendments is that the deeming provisions were introduced at a time when claim forms were mailed to claimants, completed and then returned to Centrelink by mail, allowing people time to gather the required documentation and receiving back pay to the date they contacted Centrelink once the claim was approved. With the progressive rollout of online services, the Government is seeking to make savings by deeming these provisions no longer necessary.<sup>23</sup>

1.67 The Australian Greens do not support this punitive measure as firstly, many low income people face barriers of literacy and access to online services due to the costs involved in maintaining both a computer and internet service, thus relying on the postal method of lodgment. Some older Australians often struggle with using online services. As well as these barriers, we need only look at the so-called robo-debt debacle as an indication of how online services frequently fail.

1.68 Whether or not applications are delivered to Centrelink via postal service or online, social security claim forms are long and complex and require a significant

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21 NSSRN, *Submission 18*, p. 9.

22 Explanatory Memorandum, Social Services Legislation Amendment (Welfare Reform) Bill 2017, p. 4.

23 Explanatory Memorandum, Social Services Legislation Amendment (Welfare Reform) Bill 2017, p. 61.

amount of supporting documentation (particularly claims for disability support) that can take a lengthy period of time to locate and collate, particularly for people who are vulnerable.

1.69 This measure will particularly disadvantage those with disability, Aboriginal and Torres Strait Islander Peoples, women and children escaping domestic violence, people in hospital and those in rural and remote areas.

1.70 As outlined by Anglicare in their submission there is no ethical justification for this measure:

The Government's assertion that the digitising of information makes claiming through Centrelink 'easy' are completely inaccurate, flies in the face of the growing digital divide, and show a profound lack of care and understanding for the individual circumstances of people seeking assistance when they are often at their most vulnerable. There is no ethical justification for this measure.<sup>24</sup>

1.71 The Australian Greens oppose this measure.

### **Schedule 12 - Establishment of a drug testing trial**

1.72 This measure will introduce a two year trial in three regions of mandatory drug testing of 5,000 new recipients of Newstart Allowance and Youth Allowance (other).

1.73 This measure fails to understand, and indeed actively ignores the medical nature of addiction and the complex biological, psychological and social underpinnings of drug addiction.

1.74 Placing people on income management or withholding payments for people who test positive to illicit drugs if they don't comply will not help them to recover from addiction or to stop using drugs, but rather further isolate and stigmatise them.

1.75 There is a distinct lack of any evidence to support the efficacy of drug testing income support recipients. Such measures have failed in the US and proposals have been abandoned in the UK and Canada.

1.76 Representatives of the health, mental health and addiction sector have unanimously expressed significant and deep concern about the impacts these trials will have on income support recipients, and called on the committee to reject this schedule. Doctors and health academics have repeatedly stated and provided long term evidence showing that the best way to treat drug addiction is through the health system. Addiction specialists stated that substance addiction involves loss of control and involves impairment of motivation. The Committee was repeatedly told by the experts that those with substance addiction would be unlikely to fulfil the requirements set out in schedule 12, and that in their opinion this measure would have little to no positive impact, and crucially may have adverse consequences such as pushing people into crime.

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24 Anglicare Australia, *Submission 28*, p. 6.

1.77 Witness after witness to the Committee highlighted the significant lack of appropriate drug and alcohol services across the country. This schedule forces users into mandatory drug treatment despite the fact that many treatment options are simply not available. Alcohol and other drug treatment services in Australia are chronically underfunded and overstretched, despite compelling evidence of their cost effectiveness.<sup>25</sup>

1.78 The Royal College of Australasian Physicians told the Inquiry:

The funding currently provided for alcohol and other drug treatment services is not commensurate with the needs of the population. For example in NSW, mental health treatments receive approximately 10 times the funding of alcohol and drug treatments, despite the fact that these conditions account for similar amounts of the total burden of illness. A review in 2014 found that alcohol and other drug treatment services in Australia met the need of fewer than half of those seeking the treatment. The RACP and the AChAM note that additional funding was provided to the drug treatment sector to support the National Ice Action Strategy, however this funding has not generally addressed the key needs of the drug and alcohol sector as its use is restricted under the terms of the funding agreement. The severe shortage of drug and alcohol rehabilitation services and specialists around Australia persists.<sup>26</sup>

1.79 It is deeply concerning that the Government is not only spending money on measures that the evidence suggest will be ineffective at managing alcohol and drug dependence, they are ignoring the fact that fewer than half of people seeking treatment in Australia can find it. If the Government is serious about helping people out of substance addiction they must drastically increase funding to high quality treatment services.

1.80 The Law Council pointed out that there are considerable concerns regarding procedural fairness and the employment of a third party contractor.<sup>27</sup>

1.81 Despite the fact that two thirds of overdose deaths in Australia arise from prescription opioids, this Bill excludes these pharmaceuticals, creating concern that people may further abuse legal but dangerous prescription opiates in order to circumvent these tests.

1.82 Drug testing will demonise and isolate people struggling with drug addiction and has been overwhelmingly rejected by drug and alcohol addiction experts.

1.83 Mr Noffs, CEO of the Ted Noffs Foundation described these measures as penal populism:

The way that Australians frame a drug user is that they are a person who uses drugs because it was their bad choice. That's not what the evidence says. The evidence says it's poverty or trauma—or all of these other

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25 The Royal Australasian College of Physicians, *Submission 20*, p. 3.

26 The Royal Australasian College of Physicians, *Submission 20*, p. 7.

27 Law Council of Australia, *Submission 40*, p. 3.

scientifically validated reasons why a person becomes addicted to drugs. We still have a large percentage of our population that believes that a person addicted to drugs is addicted because they're a bad person. We know that's not the case, but I can't convince everyone.

What Dr Wodak is saying is that there are probably people in the government—members—who believe that, if the person is not bad but have made a few bad choices, we can correct them. We can simply tell them to say no to drugs and quarantine their money, which is an extension of saying: 'Look. I'm going to stop you being able to spend your money like that so therefore you're going to change your ways.' As I pointed out before, it simply won't work. It would make it worse.

His point is that there might be some people who think they can win some points by doing so and jumping onto the wagon of penal populism—that's what we call it in criminology. Penal populism is the notion that we do want to see sometimes. We do want to kick someone in the pants and say: 'Pull yourself together.' I raise that. I'm a bleeding-heart leftie, but I would say this: in the idea of fairness, if we are going to drug test a person on the taxpayer's dollar, we should do it evenly and not just the poor people. We should drug test every politician and every bureaucrat as well. As I said in that op-ed that Senator Singh mentioned before, while ice use has plummeted, the only drug that's gone up a little bit is cocaine. Who uses more cocaine than anyone else? Canberrans. So I think that, if we did drug test across the board, we'd have some very interesting results. I don't think that's the way to go. I'm not into penal populism—and I wish the rest of the country wasn't—but what we do know is that this country, despite the idea of sometimes being a bit punitive in its approach, is a fair country and we'll find our way with this. Even if it does end up being legislation, like other countries who have abandoned this, I think we will turn around and say, 'That was a bad mistake.' What we were doing before was working, and we need to be augmenting that.<sup>28</sup>

1.84    Addiction is complex health issue closely related to poverty and trauma and we must treat those suffering with compassion through the health system.

1.85    Schedules 12-14 contain compulsory treatment provisions which, as outlined by the National Drug and Alcohol Research Centre in their submission, is a complex issue:

There is a large and complex literature on compulsory treatment: which arises largely because of the variety of models or types that are being referred to. We identify five different types of compulsory treatment approaches, which are 1) diversion programs (including police and court programs) which seek to divert an offender away from a criminal justice system response and into a treatment/health care response; 2) civil commitment (involuntary commitment for health and safety reasons); 3) centre-based compulsory rehabilitation as practised in many Asian and South East Asian countries; 4) quasi-compulsory treatment provided in

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Europe; and 5). incarceration-based treatment (in-prison treatment programs). In Australia, we have comprehensive diversion programs, a number of civil commitment programs (such as the NSW IDAT program), and prison-based treatment. Despite the popularity of all these models of compulsory or coerced treatment, the only one for which there is comprehensive research showing positive effects is the diversion programs<sup>4</sup> (which apply only to offenders, and provide a forced choice). For other forms of compulsory treatment, there is evidence that they do not achieve the outcomes being sought.<sup>29</sup>

1.86 The flaws in this schedule are vast and numerous and the Australian Greens strongly oppose this measure.

### **Schedule 13 – Removal of exemptions for drug or alcohol dependence**

1.87 This schedule removes temporary exemptions from mutual obligation requirements due to an income support recipients drug or alcohol dependence or crisis relating to it. Currently those with activity requirements may receive an exemption of up to 13 weeks, for health issues relating to addiction.

1.88 It is unclear how it will be determined whether a crisis, injury or illness was attributable to drug or alcohol use and it could further demonise and isolate an already vulnerable group who require medical support.

1.89 The Royal Australasian College of Physicians said in their submission:

The RACP holds that it is inappropriate for formal medical documentation (and the expert medical opinion contained within) to be rejected as valid evidence in support of an exemption, particularly where an individual has suffered a significant addiction-related health episode requiring hospitalisation or medical treatment. This selective approach to the consideration of medical documentation, whereby certain health conditions are excluded from recognition within reasonable excuse provisions, is highly concerning. It is also likely to lead to legal challenges on the basis of infringement of rights and arbitrary discrimination.<sup>30</sup>

1.90 This measure is cruel and punitive to those suffering medical and health crises.

1.91 The Australian Greens oppose this measure.

### **Schedule 14 - Changes to the reasonable excuses**

1.92 Where a job seeker's abuse of, or dependence on, alcohol or drugs has been considered a reasonable exemption from activity requirements or mutual obligations, it will not be taken into account for a second or subsequent compliance failure. The job seeker will be given the option of participating in alcohol or other drug treatment. If the job seeker refuses to participate in treatment and fails to meet their mutual

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29 National Drug and Alcohol Research Centre, *Submission 4*, p. 1.

30 The Royal Australasian College of Physicians, *Submission 20*, p. 8.

obligations again, then drug or alcohol dependency will not be considered a reasonable excuse, and sanctions may be applied.

1.93 Schedule 14 gives broad power to the Secretary to determine by legislative instrument 'declared program participants' and to modify social security law to apply to all people so declared, the intention being that this would be how CDP Participants would be excluded from being subject to changes to the reasonable excuse exemptions. However, the details will not be clear until we see the legislative instrument and the Greens hold deep concerns in regards to this exceptionally broad power which goes far beyond what is necessary to achieve the stated purpose.<sup>31</sup>

1.94 This measure singles out alcohol and drug addiction as a single barrier to employment rather than addressing underlying issues and need for service funding.

Many factors such as physical and mental health problems, lack of job skills, perceived discrimination, and lack of transportation are major barriers for employment. A disproportionate emphasis on drug use as a factor for not obtaining employment could be ineffective if these other factors are not addressed as well.<sup>32</sup>

1.95 This measure fails to understand the complicated process of recovery and will only cause harm to vulnerable members of society.

1.96 The Australian Greens do not support this measure.

### **Schedule 15 – Mutual Obligation Requirements**

1.97 Schedule 15 introduces a new compliance process based on a 7 demerit point system where demerit points are lost for non-compliance with payments suspended for each demerit point after the 4th demerit point.

1.98 The Australian Greens have long advocated for an overhaul to mutual obligation requirements and the compliance processes, however, we have deep concerns about this measure.

1.99 Australia already has one of the most onerous and compliance-heavy social security systems in the OECD.<sup>33</sup>

1.100 This measure removes the discretion of Employment Providers to take into account the real impacts of a suspended payment on a person's wellbeing and financial vulnerability before they issue a breach for noncompliance.

1.101 It is expected that up to 80,000 people would lose at least one week's payment if this measure were to go ahead and harsh compliance systems similar to this

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31 Human Rights Law Centre, *Submission 39*, p. 5.

32 S Macdonald, C Bois, B Brands, D Dempsey, P Erickson, D Marsh, S Meredith, M Shain, W Skinner and A Chiu, 'Drug testing and mandatory treatment for welfare recipients', *International Journal of Drug Policy*, 2001, p. 4; L Metsch and H Pollack, 'Welfare Reform and Substance Abuse', *The Milbank Quarterly*, 83(1), 2005.

33 Anglicare Australia, *Submission 28*, p. 4.

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proposal in other countries have resulted in increased homelessness and negative mental and physical health outcomes.<sup>34</sup>

1.102 Discretion is incredibly important in supporting vulnerable people to find employment as outline by ACOSS in their submission:

The proposed system relies very heavily on drawing a clear distinction between people who are willing to comply but face difficulties, and people who wilfully and repeatedly avoid activity requirements. Our experience is in fact more blurred, people's circumstances do change, and many vulnerabilities go unreported. Discretions to tailor responses to non-compliance is essential to ensure that any compliance system remains humane.<sup>35</sup>

1.103 A key concern in this measure is that while the total loss of payment is reduced from the current eight weeks to four weeks, this penalty cannot be waived as it can be currently (nor will payment continue if the person is challenging the correctness of the decision to impose it, unlike the current system).

1.104 National Social Security Rights Network said on the waiver and hardship provisions:

Making suspension the only sanction for most recipients has the potential to be fairer and less harsh than the current system, where a penalty may be imposed for any infraction in the provider's discretion. The proposal recognises, correctly, that suspension is a significant sanction for low income and effective. However, it then undermines its own insight by combining this with nonwaivable loss of income support. The proposal to limit the sanctions for most job seekers to suspension also has great potential to simplify the system and reduce its administrative inefficiency. Currently, a significant amount of an employment services provider's time is spent administering the compliance framework. As noted above, this involves significant inefficiency, with the complexity contributing to a situation where up to half of rejected provider reports are rejected because of procedural deficiencies.<sup>36</sup>

1.105 Any changes to the compliance framework must be done in conjunction with stakeholders and job seekers as well as employment providers, as outlined by the National Council of Single Mothers and their Children at the Inquiry:

The compliance regime just doesn't work. There is an imbalance in power. Because of that we have actually seen organisations and support networks develop around the unemployed person as they go to seek contact with a job provider. Ten years ago you would see your job provider, or the old Job Network, as a place where you could go to talk about your employment and get assistance, and, hopefully, agree on a plan and move forward with that plan. I think all this support is around the compliance—how hard it is and

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34 ACOSS, *Submission 50*, p. 15.

35 ACOSS, *Submission 50*, p. 15.

36 NSSRN, *Submission 18*, p. 13.

how easy it is to breach it inadvertently. Most importantly and most definitely, the compliance is too challenging, it's too hard and it's too difficult. I do support a more sensible approach that the welfare rights have put up. I also think we're missing a real valuable insight in that we just don't ask jobseekers what would actually work for them or for their opinion.<sup>37</sup>

1.106 Anglicare Australian told the Inquiry:

Anglicare Australia strongly believes that the mutual obligation and compliance framework for people who are unemployed needs to be overhauled, but that the new approach proposed in Schedule 15 are going to exacerbate the problems not improve them. One of our key concerns with the Schedule is that it removes the ability of Centrelink and employment service providers to respond to individual circumstances that may be affecting non-compliance. While the Explanatory Memorandum notes the 88% waiving of compliance threat measures as a problem, we would argue the opposite: the very high level of compliance within the system plus the high rate of waiving enforcement measures suggests that the problems in the system are from a command and control response leading to undue hardship, and an overzealous approach to a problem that is largely not there, that is then corrected through waiving of harsh and unproductive punishments in most cases. These matters should be explored through an independent review, including looking at evidence from overseas of effective systems for assisting people back into work.<sup>38</sup>

1.107 A concerning example given at the Inquiry by the Department of Employment was the case study of a Job Provider refusing a sick child as an excuse for missing an appointment:

If there's a decision about what's reasonable, that's not about a waiver; that's about whether the decision about whether there was a reasonable excuse or not is valid. So it goes to the question of the reasonableness. For example, a jobseeker might say, 'My child was sick. I had to take them to the doctor, so I missed the appointment.' And the jobactive provider was to say, 'No, we don't believe that was reasonable. You should have told us in advance.' It's entirely possible for the jobseeker to call the Department of Employment at any point and say, 'I don't think they've listened to my excuse.' And we can contact the jobactive provider and ask them to look at the reasonableness of the excuse again. So at any point they can ask that. It's about the reasonableness of the excuse.<sup>39</sup>

1.108 It is not clear from this example what would be considered a reasonable excuse and how that decision would be made by a job provider and applied consistently across the sector. It is also unclear how a jobseeker would become aware

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37 Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and their Children, *Committee Hansard*, 31 August 2017, p.40.

38 Anglicare Australia, answers to questions on notice, 31 August 2017, p. 2 (received 4 September 2017).

39 Mr Martin Hehir, Deputy Secretary, Employment, Department of Employment, *Committee Hansard*, 30 August 2017, p. 58.

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that they have the right to complain to the Department of Employment, what the processes are for a complaint and how long it should take to be resolved. Such a complaints process would require a jobseeker to have significant negotiation skills.

1.109 The Australian Greens oppose this punitive approach to the compliance framework and support an independent public review into the compliance system for people who are unemployed before any reform of the existing compliance framework occurs.

### **Schedules 12-15 and the Community Development Program (CDP)**

1.110 The Australian Greens are deeply concerned by how Schedules 12- 15 in this Bill will impact Aboriginal and Torres Strait Islander Peoples and Communities particularly those participating in the CDP and share the concerns regarding the issues raised by the Human Rights Law Centre at the Inquiry.

1.111 Those on the Commonwealth Development Program are not specifically excluded from the measures proposed in Schedules 12: drug testing and income management trials and Schedule 14: changes to the use of drugs or alcohol dependence as a reasonable excuse.

1.112 The Bill does however exclude people participating in the Community Development Program from schedules 13 and 15—the removal of temporary drug or alcohol dependence exemptions for activity requirements and the targeted compliance framework.

1.113 This "exclusion" is facilitated by giving the secretary an exceptionally broad power to determine by legislative instrument that remote Work for the Dole program participants are declared program participants and also to modify how social security law will apply to them.

1.114 This is an extraordinary power to give an unelected Government official as Ms Walters, Director of Legal Advocacy at the Human Rights Law Centre pointed out:

The power to be given to the secretary is far broader than what is necessary if the purpose is only to exclude remote participants from schedules 13 and 15 of the bill. The power allows the secretary to modify how social security laws will apply generally, including after a person has left the program. More fundamentally, it delegates far too much legislative power in an unelected government official with only limited parliamentary scrutiny, including a power to create different classes of social security recipients subject to different conditions. This extraordinarily broad power to be given to the secretary would create a dangerous precedent and render it easier for future governments to alter access to basic social security entitlements and protections for remote Aboriginal communities or to other classes of people determined to be declared program participants.<sup>40</sup>

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40 Ms Adrienne Walters, *Committee Hansard*, 30 August 2017, p. 29.

1.115 We are deeply concerned by the extraordinary powers of this provision and cannot support it.

### **Schedule 16 - streamline of tax file number collection**

1.116 The amendments in Schedule 16 repeal existing provisions of the *Social Security Act 1991* which empower the Secretary to request a person to provide their tax file number; and allow the person 28 days in which to do so. Instead a request to provide a tax file number and/or relevant third party's tax file number will be part of a claim for social security payment or senior's health care and to prevent payment or provision of a health card until the request is satisfied.

1.117 The Australian Greens do not oppose this measure.

### **Schedule 17 - Information Management**

1.118 This schedule makes changes to the legislative framework for the Department of Human Services (DHS) information gathering powers with three broad changes.

1.119 This schedule contains provisions which repeal the privilege against self-incrimination, subject to immunity in relation to the use of the information or documents.

1.120 The Greens share the concerns of the National Social Security Rights Network who recommend that this change needs separate and thorough consideration and should be removed from this bill:

It is accepted that social security law does not abrogate the privilege against self-incrimination. DHS officers investigating suspected fraud advise people of their right to silence in standard letters. The provisions in this bill abrogate that privilege in relation to the exercise of the information gathering power in s 192. The explanation given for this is that this power is used to obtain information from third parties. It is correct to say that, as a matter of practice, the power in s 192 is generally used to obtain information or documents from third parties. This is partly because DHS has other powers specifically directed at current recipients and which authorise them to suspend a person's payment if they do not comply. However, there is nothing in the words of s 192 to prevent it being used in relation to current or former social security recipients who are the target of an investigation and therefore potential defendants in a criminal prosecution.<sup>41</sup>

1.121 This type of significant change requires careful consideration by criminal law experts. It should not be dealt with as part of this Bill and the Australian Greens do not support these measures.

### **Schedule 18 – Changes to the Disability Discrimination Act**

1.122 Schedule 18 amends the Disability Discrimination Act 1992 to align Social Security and disability discrimination law.

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41 NSSRN, *Submission 18*, p. 15.

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1.123 The Greens share the concerns of People with Disability Australia:

While this change probably does not change the material situation for people with disability, we do have reservations about what this change could mean in the future and question the need to the exemption in the first place.<sup>42</sup>

1.124 According to the Human Rights Committee:

It should be noted that section 45 of the Disability Discrimination Act already exempts special measures "designed to assist people who have a disability to obtain greater equality of opportunity or provide them with benefits to meet their special needs". An exemption therefore is not required in order to pay benefits to people with disabilities, but would be required for measures which negatively impact people with a disability, such as reducing or suspending payments to those who fail to meet mutual obligation requirements due to their disability where that disability is a drug or alcohol dependency.<sup>43</sup>

1.125 The Greens are concerned that an exemption is required for measures which negatively impact people with a disability, such as reducing or suspending payments to those who fail to meet mutual obligation requirements due to their disability where that disability is a drug or alcohol dependency or to impose mandatory drug testing.

1.126 The Australian Greens do not support this measure.

## Conclusion

1.127 This Bill targets vulnerable people; those with serious health problems, those who have recently lost loved ones, young people and people already living below the poverty line.

1.128 The Government is yet again targeting vulnerable people while continuing to prop up corporations, the wealthy and big business.

1.129 It is disturbing to see the Government introduce such harmful measure, ignoring the overwhelming evidence of a wide range of experts and stakeholders.

1.130 As Professor Reynolds told the inquiry, these drug testing measures are magical thinking:

Addiction is a disorder that's described by the WHO and in the DSM-5—the Diagnostic and Statistical Manual of Mental Disorders—as involving impairment or loss of control; the continuation of use, notwithstanding harm to the individual; and compulsions and cravings, alongside the physiological changes of tolerance and withdrawal. We know that there are structural and functional brain changes that are increasingly identified in the literature. There's work being done through the National Institutes of Health in America. This is not something that is amendable to simply saying, 'We're going to manage your income.' It is, really, magical thinking, or at

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42 PWDA, *Submission 60*, p. 10.

43 Parliamentary Joint Committee on Human Rights, *Report 8 of 2017*, op. cit., p. 77.

least it's uninformed thinking. We're quite gobsmacked by this idea that we have a value system that says we want people to behave well and not spend their money on unhealthy commodities. As a doctor, I wish that the entire Australian community would spend less on unhealthy commodities.<sup>44</sup>

1.131 The evidence to the Senate inquiry has been very clear; these measures will not work and are likely to have a detrimental effect.

1.132 We cannot afford to erode our social safety net.

1.133 This Bill will not only have dire consequences on the lives of vulnerable people, it will affect the economy, costing the tax payer more in the long term because it will push people into poverty increasing inequality. It widely accepted that inequality has an overall long term negative impact on economic growth and productivity.

1.134 The Australian Greens have long campaigned for an increase to the Newstart and Youth Allowance rate, we share the concerns of submitters in regards to the low rate of Newstart exacerbating the already high poverty rate in Australia and increasing inequality.

1.135 The Australian Greens have always stood for vulnerable people and cannot support a Bill that stigmatises people with health conditions, makes savings from people who have recently lost a loved one and forces low income people to wait longer to receive a payment.

1.136 Given the extensive evidence presented to the inquiry on the real world impacts of these measures we cannot support this Bill.

### **Recommendation 1**

**The Australian Greens recommend that the Senate not pass Social Services Legislation Amendment (Welfare Reform) Bill 2017.**

### **Recommendation 2**

**There be an independent public review into the compliance system for people who are unemployed before any reform to the existing framework.**

**Senator Rachel Siewert**

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44 Professor Adrian Reynolds, President, Australasian Chapter of Addiction Medicine, Royal Australasian College of Physicians, *Committee Hansard*, 30 August 2017, p. 22.