

The Senate

Community Affairs
Legislation Committee

Social Services Legislation Amendment
(Welfare Reform) Bill 2017 [Provisions]

September 2017

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MEMBERSHIP OF THE COMMITTEE

45th Parliament

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Participating members for this inquiry

Senator Richard Di Natale	Victoria, AG
Senator Skye Kakoschke-Moore	South Australia, NXT
Senator Jacqui Lambie	Tasmania, JLN

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ABBREVIATIONS

ACOSS	Australian Council of Social Service
AMA	Australian Medical Association
AOD	alcohol and other drug
CDP	Community Development Program
EM	Social Services Legislation Amendment (Welfare Reform) Bill 2017 Explanatory Memorandum
RACP	Royal Australasian College of Physicians
TFN	tax file number
the Bill	Social Services Legislation Amendment (Welfare Reform) Bill 2017
the committee	Senate Community Affairs Legislation Committee
WANADA	Western Australian Network of Alcohol and Other Drug Agencies

LIST OF RECOMMENDATIONS

Recommendation 1

2.68 The committee recommends that the Bill be passed.

Chapter 1

Introduction

Background

1.1 The 2017–2018 Budget included measures to simplify welfare payments, introduce streamlined administrative processes and a new compliance framework. The Social Services Legislation Amendment (Welfare Reform) Bill 2017 implements these changes.

Key provisions and purpose of the Bill

1.2 The Social Services Legislation Amendment (Welfare Reform) Bill 2017 (the Bill) amends multiple Acts to implement changes to:

- the administration of certain welfare payments;
- cease and transfer recipients from a range of payments to one jobseeker payment;
- alter conditions applying to certain jobseeker and other payment recipients;
- introduce a random drug testing trial for certain income support recipients;
- amend exemptions and reasonable excuse provisions in relation to drug and alcohol dependence in order to encourage people into treatment;
- introduce a new compliance framework;
- streamline administration of information to facilitate the collection of tax file numbers;
- enable the use of certain information for prosecutions without the need to apply for warrants; and
- align social security law with the *Disability Discrimination Act 1992*.

1.3 In his second reading speech, the Minister for Social Services, the Hon. Christian Porter MP, indicated that the Bill is intended to make 'the system simpler, more sustainable, and focussed on supporting people from welfare into employment'.¹

1.4 The Bill is comprised of 18 schedules proposing amendments to the following legislation:

- *Social Security Act 1991*;
- *Social Security (Administration) Act 1999*;
- *A New Tax System (Family Assistance) Act 1999*;
- *A New Tax System (Family Assistance)(Administration) Act 1999*;

1 The Hon. Christian Porter MP, Minister for Social Services, [House of Representatives Hansard](#), 22 June 2017, p. 2.

- *A New Tax System (Medicare Levy Surcharge – Fringe Benefits) Act 1999;*
- *Farm Household Support Act 2014;*
- *Income Tax Assessment Act 1936;*
- *Income Tax Assessment Act 1997;*
- *Income Tax Rates Act 1986;*
- *Child Support (Assessment) Act 1989;*
- *Veterans’ Entitlements Act 1986;*
- *Paid Parental Leave Act 2010;*
- *Student Assistance Act 1973;*
- *Social Security (International Agreements) Act 1999;* and
- *Disability Discrimination Act 1992.*

1.5 The principal amendments provided for in each of the schedules is summarised below.

Schedule 1: Creation of the Jobseeker payment

1.6 This schedule replaces the existing Newstart Allowance and creates a new jobseeker payment for working aged Australians from 20 March 2020. This schedule largely includes amendments to replace reference to 'newstart' or 'newstart allowance' with 'jobseeker' or 'jobseeker payment' in the following acts:

- *A New Tax System (Family Assistance) Act 1999;*
- *Farm Household Support Act 2014;*
- *Income Tax Assessment Act 1936;*
- *Income Tax Assessment Act 1997;*
- *Social Security Act 1991;*
- *Social Security (Administration) Act 1999;* and
- *Veterans’ Entitlements Act 1986.*

Schedule 2: Cessation of Widow B Pension

1.7 This schedule will cease Widow B Pension from 20 March 2020. Before that date, all current Widow B Pension recipients will be of Age Pension age, and will be automatically transferred to that payment.

Schedule 3: Cessation of Wife Pension

1.8 This schedule will cease Wife Pension from 20 March 2020. Recipients at that time will be able to transition to Jobseeker, Carer payment or the Age Pension.

Schedule 4: Cessation of Bereavement Allowance

1.9 Bereavement Allowance will be abolished and equivalent provision will be provided as a one off payment within the new Jobseeker payment.

Schedule 5: Cessation of Sickness Allowance

1.10 Amendments in this schedule cease new grants of Sickness Allowance from 20 March 2020, and cease payment of the allowance from 20 September 2020. Qualification conditions for Jobseeker Payment are modified to allow working age people who are temporarily incapacitated through illness or accident to qualify for Jobseeker Payment under similar conditions to those currently in place in relation to Sickness Allowance.

1.11 Limited mutual obligation may apply for those with some capacity to work, however, a new exemption would be included for people who are undertaking a rehabilitation program in some circumstances.

Schedule 6: Cessation of Widow Allowance

1.12 This schedule closes Widow Allowance to new applicants from 1 January 2018, and ceases the payment from 1 January 2022.

1.13 It also provides for an exemption from the activity test for those recipients who claim Newstart Allowance after 1 January 2018 and who would have otherwise been eligible to receive Widow Allowance to be exempted from activity test requirements.

Schedule 7: Cessation of Partner Allowance

1.14 This schedule ceases Partner Allowance from 1 January 2022. All recipients of this allowance will be of Age Pension age and will transition to the Age Pension by 1 January 2022.

Schedule 8: Minister's Rules

1.15 This schedule allows the Minister to make rules by legislative instrument in relation to the transitional matters in Schedules 1 to 7, including savings or applications provisions.

Schedule 9: Changes to activity tests for persons aged 55 to 59

1.16 Schedule 9 amends the *Social Security Act 1991* to remove the ability of Newstart Allowance recipients and some Special Benefit recipients aged 55 to 59 to satisfy the activity test by engaging only in unpaid voluntary work for at least 30 hours per fortnight. The Bill provides that these recipients will be required to engage in at least 15 hours of suitable paid work and the balance of the 30 hours per fortnight may be satisfied by unpaid voluntary work. These changes commence on 20 September 2018.

Schedule 10: Start day for some participation payments

1.17 This schedule amends the *Social Security (Administration) Act 1999* to change the date from which a person transferring to or claiming Newstart or Youth Allowance, who is subject to RapidConnect², will be paid.

Schedule 11: Removal of intent to claim provisions

1.18 Schedule 11 amends the *Social Security (Administration) Act 1999* to remove the deemed claim provisions that allow claimants to receive payments from the date on which they initially contacted the Department of Human Services.

Schedule 12: Establishment of a drug testing trial

1.19 Schedule 12 provides for a mandatory drug testing trial to be undertaken over two years from 1 January 2018 in three locations for new recipients of Newstart Allowance and Youth Allowance (other).

Schedule 13: Removal of exemptions for drug or alcohol dependence

1.20 Schedule 13 will remove certain exemptions from the activity test for recipients of Newstart Allowance, Youth Allowance (other), disability support pension (under 35 with participation requirements), special benefit (with activity test requirements), and parenting payment single (with participation requirements). Exemptions will no longer be available to these payment recipients where the reason for the exemption primarily relates to drug or alcohol misuse and abuse.

Schedule 14: Changes to reasonable excuses

1.21 This schedule amends the *Social Security Administration Act 1999* to provide the Secretary with a power to make a legislative instrument setting out matters that are not to be taken into account when deciding whether a person has a reasonable excuse for committing a breach under the mutual obligation and participation requirements.

Schedule 15: Targeted compliance framework

1.22 This schedule introduces a new compliance framework with a simpler and fairer 'demerit point' based system.

1.23 Support for vulnerable job seekers will be available.

Schedule 16: Streamlining tax file number collection

1.24 Schedule 16 amends the *Social Security Administration Act 1999* to require claimants of social security payments or seniors health card to provide their tax file number (TFN) or make a TFN declaration as part of the claim. This would mean that a claim could not be assessed until the TFN or declaration is supplied as part of the claim.

2 RapidConnect is a program under which recipients of Newstart or Youth allowance are required to access employment opportunities through an employment services provider, and generally are not paid any allowance until a first appointment has occurred. Income support is payable from the date of the claim.

Schedule 17: Information management

1.25 This schedule aligns the information gathering and protection provisions in the *A New Tax System (Family Assistance)(Administration) Act 1999*, *Paid Parental Leave Act 2010*, *Social Security Administration Act 1999* and *Student Assistance Act 1973* with current Commonwealth policy and drafting standards for such provisions.

1.26 This will allow information or documents obtained about a person under the information gathering provisions in the course of an administrative action to be used in subsequent investigation and prosecution of criminal offences.

Schedule 18: Aligning social security and disability discrimination law

1.27 This schedule amends the *Disability Discrimination Act 1992* to provide consistent exemptions to the *Social Security Act 1991*, the *Social Security (Administration) Act 1999* and the *Social Security (International Agreements) Act 1999*.

Financial impact

1.28 The Explanatory Memorandum (EM) to the Social Services Legislation Amendment (Welfare Reform) Bill 2017 includes an outline of the expected costs and savings over the forward estimates to 2020–21 (See Table 1.1).

Table 1.1: Financial impact of implementation of the Bill to 2020–21

MEASURE	FINANCIAL IMPACT OVER THE FORWARD ESTIMATES
<i>Schedule 1 – Creation of the Jobseeker Payment</i>	Expense of \$11.6 million
<i>Schedule 2 – Cessation Widow B Pension</i>	Expense of \$0.1 million
<i>Schedule 3 – Cessation Wife Pension</i>	Expense of \$6.3 million
<i>Schedule 4 – Cessation of Bereavement Allowance</i>	Savings of \$1.04 million
<i>Schedule 5 – Cessation of Sickness Allowance</i>	Savings of \$6.9 million
<i>Schedule 6 – Cessation of Widow Allowance</i>	Expense of \$4.5 million
<i>Schedule 7 – Cessation of Partner Allowance</i>	Expense of \$1.08 million
<i>Schedule 8 – Minister's Rules (safety net for transitional arrangements)</i>	Nil
<i>Schedule 9 – Relief from activity test for persons aged 55 to 59</i>	Expense of \$47.8 million*
<i>Schedule 10 – Start date for some participation payments</i>	Savings of \$198.0 million
<i>Schedule 11 – Removal of Intent to Claim provisions</i>	Savings of \$68.0 million
<i>Schedule 12 – Establishment of a drug testing trial</i>	Not for publication
<i>Schedule 13 – Removal of exemptions for drug or alcohol dependence</i>	Expense of \$28.8 million
<i>Schedule 14 – Changes to reasonable excuses</i>	Expense of \$4.3 million
<i>Schedule 15 – Targeted Compliance Framework</i>	Savings of \$204.7 million
<i>Schedule 16 – Streamlining Tax File Number collection</i>	Expense of \$5.5 million
<i>Schedule 17 – Information Management (Streamline Prosecution Referrals)</i>	Nil
<i>Schedule 18 – Aligning Social Security and Disability Discrimination Law</i>	Nil

Source: Social Services Legislation Amendment (Welfare Reform) Bill 2017, EM, June 2017, p. 4.

Conduct of the inquiry

1.29 On 22 June 2017, the Senate, pursuant to the Senate Selection of Bills Committee Report and contingent upon introduction in the House of Representatives, referred the provisions of the Social Services Legislation Amendment (Welfare Reform) Bill 2017 Bill to the Senate Community Affairs Legislation Committee (the committee) for inquiry and report by 4 September 2017.³ On Monday 4 September 2017, the Senate amended the reporting date to 6 September 2017.⁴

1.30 The Bill was introduced into the House of Representatives and read a first time on 22 June 2017; the second reading was moved on the same day.

1.31 Details of the inquiry were placed on the committee's website.⁵ The committee wrote to approximately 88 organisations and individuals inviting submissions. The closing date for submissions was 4 August 2017.

1.32 The committee received 63 submissions to the inquiry and held public hearings in Sydney on 30 August 2017 and Melbourne on 31 August 2017. Submitters and witnesses are listed at Appendices 1 and 2.

1.33 The committee would like to thank the individuals and organisations that made submissions to the inquiry and gave evidence at its public hearings.

Consideration by other parliamentary committees

1.34 Two other parliamentary committees are considering the Bill, and have sought advice from the Minister in relation to certain aspects of the Bill and/or its potential impacts.

Senate Standing Committee for the Scrutiny of Bills

1.35 In its report of 9 August 2017, the Senate Standing Committee for the Scrutiny of Bills raised a number of issues for response by the Minister in relation to provisions included in Schedules 12, 14 and 15.⁶

1.36 The issues raised mostly relate to the inclusion of significant matters in delegated legislation, and the delegation of administrative and legislative powers.

1.37 The Standing Committee for the Scrutiny of Bills sought advice from the Minister on these issues. In his response of 28 August 2017, the Minister advised that an amendment to the Bill had been drafted that would address some of the concerns raised.⁷ The committee notes that, at the time of drafting this report, the proposed

3 *Journals of the Senate*, No. 48, 22 June 2017, pp. 1540–1541; Selection of Bills Committee, [Report No.7 of 2017](#), 22 June 2017 (accessed 26 June 2017).

4 *Journals of the Senate*, No. 56, 4 September 2017, p. 1816.

5 See: Community Affairs Legislation Committee, [http://www.aph.gov.au/Parliamentary Business/Committees/Senate/Community_Affairs/WelfareReform](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/WelfareReform) (accessed 25 July 2017).

6 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest 8 of 2017](#), 9 August 2017, pp. 23-31 (accessed 10 August 2017).

7 The Hon. Christian Porter MP, Minister for Social Services, correspondence to Senator Helen Polley, Chair, Senate Scrutiny of Bills Committee, 28 August 2017.

amendment to the Social Services Legislation Amendment (Welfare Reform) Bill 2017 referred to by the Minister was not available for consideration.

Parliamentary Joint Committee on Human Rights

1.38 In its report of 15 August 2017, the Parliamentary Joint Committee on Human Rights considered the Bill and sought additional information from the Minister in relation to:

- Schedules 1–7: right to social security;
- Schedule 10: rights to social security and an adequate standard of living;
- Schedule 12: rights to privacy, social security, an adequate standard of living, equality and non-discrimination;
- Schedule 13–14: rights to equality and non-discrimination, social security and an adequate standard of living, protection of family, rights of the child;
- Schedule 15: rights to social security and an adequate standard of living;
- Schedule 17: right to privacy and right to not incriminate oneself; and
- Schedule 18: right to equality and non-discrimination.⁸

1.39 The Joint Committee on Human Rights had not published its response from the Minister or any further report at the time of drafting this report.

Note on references

1.40 References to the committee *Hansard* are to the proof *Hansard*. Page numbers may vary between the proof and the official *Hansard* transcript.

8 Parliamentary Joint Committee on Human Rights, [Human Rights Scrutiny Report, Report 8 of 2017](#), 15 August 2017, pp. 46-90 (accessed 31 August 2017).

Chapter 2

Key issues

Introduction

2.1 Submitters raised a number of concerns about the Bill in written submissions and in oral evidence to the committee. These issues included:

- creation of Jobseeker Payment and cessation of certain payments;
- changes to activity tests for persons aged 55 to 59;
- start day for some participation payments;
- removal of intent to claim provisions;
- establishment of a drug testing trial;
- removal of exemptions for drug and alcohol dependence;
- changes to reasonable excuses; and
- targeted compliance.

2.2 The order in which these issues are discussed in this chapter reflects the structure of the Bill and Explanatory Memorandum (EM).

Schedules 1 to 7 – Creation of Jobseeker Payment and cessation of certain payments

2.3 Under the proposed changes in Schedules 1 to 7 of the Bill, a number of current welfare payments will cease and a new Jobseeker Payment will be introduced as the main income support payment for working age people.

2.4 The proposed amendments allow for the automatic transfer of some income support recipients to other payments, and will also provide exemptions from some conditions for certain recipients transferring from ceased payments to ensure that these people are not disadvantaged by the changes. The joint submission by the Departments of Social Services, Employment and Human Services (joint departmental submission) states that about 811 000 welfare recipients will transition from an existing payment to the Jobseeker Payment and about 5 000 recipients will transfer to other payments including the Age Pension.¹

2.5 A number of submitters expressed support for the move to simplify or streamline the administration of payments to welfare recipients.²

1 Joint submission by the Department of Social Services, Department of Employment, Department of Human Services, *Submission 5*, p. 4.

2 See for example: Carers Australia, *Submission 1*; Jobs Australia, *Submission 17*; National Social Security Rights Network, *Submission 18*; Chinese Australian Services Society, *Submission 22*; Australian Council of Social Service, *Submission 50*; Good Shepherd Australia New Zealand, *Submission 52*.

2.6 However, some submitters raised concerns in relation to the cessation of specific payments and/or some of the transitional arrangements affecting some payment recipients.³ For example, the Australian Council of Social Service (ACOSS) recommended that:

- a. The transitional payment for Wife and Widow B Pensioners be indexed.
- b. The 200 Wife Pension recipients living overseas continue to receive a pension payment.
- c. The Bereavement Allowance be retained as a separate payment, paid at its current rate with current indexation, and not rolled into the Jobseeker Payment.⁴

2.7 The joint departmental submission indicated that:

Over 99.9 per cent of recipients will have the same or a higher rate of payment under this measure. It will create one set of rules for working-age income support payments for people with capacity to work.⁵

2.8 In addition, the joint departmental submission stated that the new Jobseeker Payment will make using the system easier for welfare payment claimants and recipients. For example, recipients will not need to make a claim for a new payment type should they become temporarily unable to work due to illness or bereavement.⁶

Schedule 9 – Changes to activity tests for persons aged 55 to 59

2.9 The proposed amendments in Schedule 9 would change the activity test requirements for job seekers aged 55 to 59 years, so that from 20 September 2018, someone cannot be excused from looking for paid work by engaging in only volunteering activities.

2.10 These changes will be supported by three new programs targeting mature age workers to be introduced from 1 July 2018:

- Career Transition Assistance Program;
- National Work Experience Program; and
- Pathway to Work pilots.⁷

2.11 The Department of Employment provided the committee with data on the employment participation rate for people aged 55 to 59, which it stated is similar to the overall participation rate.⁸ The key difference for mature age workers aged over 50

3 See for example: National Social Security Rights Network, *Submission 18*; Combined Pensioners and Superannuants Association, *Submission 36*; ACOSS, *Submission 50*.

4 *Submission 50*, p. 2.

5 *Submission 5*, p. 4.

6 *Submission 5*, p. 3.

7 Department of Employment, [2017–18 Budget - Employment Overview](#) (accessed 2 September 2017).

8 Mr Martin Hehir, Department of Employment, *Committee Hansard*, 30 August 2017, p. 53.

is the time taken to find work: the average time taken for job seekers aged 50 and over is around 73 weeks, compared to the overall average of between 40 to 50 weeks.⁹

2.12 Some organisations argued that the proposed changes to the activity test requirements fail to recognise the challenges facing mature age job seekers in finding work.¹⁰ However, the Department of Employment stated that the proposed amendments acknowledge and seek to address these challenges:

The amendments will encourage 55-59 year old job seekers to engage in paid work for 15 hours per fortnight and highlight the importance of individuals' involvement and efforts on improving their own well-being. Many mature age workers have a lot of experience and skills, and this measure aims to increase employment outcomes for them and help change perceptions about the abilities of older job seekers.¹¹

2.13 The Department of Employment also noted that jobseekers who currently fully satisfy activity test requirements through approved volunteer or other suitable paid work are not able to access support through the Employment Fund.¹² The proposed changes would provide a trigger for workers aged 55 to 59 to access this existing means of support.

2.14 Concerns were also raised that the Career Transition Assistance Program would start in 2020, some time after the commencement of the proposed changes to activity tests for persons aged 55 to 59.¹³

2.15 However, the Department of Employment made clear that the Career Transition Assistance Program will actually commence in 2018 in five pilot sites, in order to evaluate and refine the program, before a national roll-out from 2020.¹⁴

2.16 Volunteering Australia, the national peak body for the volunteer sector, expressed concerns about the impact that the proposed changes would have on the volunteer sector.¹⁵

2.17 The joint departmental submission stated that there will be minimal impact on the volunteering sector. The proposed amendments will not prevent any job seekers from undertaking volunteer work, and new activity requirements for job seekers aged

9 Mr Martin Hehir, Department of Employment, *Committee Hansard*, 30 August 2017, p. 54.

10 See for example, Volunteering Australia, *Submission 12*; Jobs Australia, *Submission 17*; Chinese Australian Services Society Limited, *Submission 22*; Australian Council of Social Service, *Committee Hansard*, 30 August 2017, p. 5.

11 *Submission 5*, p. 14.

12 Mr Martin Hehir, Department of Employment, *Committee Hansard*, 30 August 2017, p. 54.

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

14 Mr Martin Hehir, Department of Employment, *Committee Hansard*, 30 August 2017, p. 54.

15 Volunteering Australia, *Submission 12*, pp. 6-7.

60 and over, which also form part of the broader welfare reform package, can be met entirely through approved volunteer work.¹⁶

Schedule 10 – Start date for some participation payments

2.18 Schedule 10 of the Bill provides that, from 1 January 2018, the starting date of some income support payments will generally change to align with the day that a job seeker who is subject to RapidConnect holds their first meeting with their jobactive or Transition to Work provider.¹⁷

2.19 Organisations representing community service providers expressed concern that the proposed amendments would impose waiting times on people at a difficult time and reduce a recipient's first income support payment.¹⁸

2.20 The joint departmental submission stated that the proposed Schedule 10 amendments are intended to encourage those job seekers subject to RapidConnect to engage with their jobactive or Transition to Work provider as soon as possible,¹⁹ noting that there is also an obligation on the service providers to have appointments available for job seekers within two business days.²⁰

2.21 The EM indicates that the proposed changes will not apply to any job seekers who are not subject to RapidConnect, and it will not apply to people who are referred to the Community Development Program (CDP) or Disability Employment Services. In addition, it will not apply to new apprentices or those undertaking full time study who claim Youth Allowance.²¹

Schedule 11 – Removal of intent to claim provisions

2.22 Schedule 11 of the Bill amends the *Social Security (Administration) Act 1999* to remove intent to claim provisions, which currently enable social security payment claimants to receive payments from the date of first contact with the Department of Human Services.²² The joint departmental submission stated that the intention of the amendments is to 'simplify the claim process and encourage social security claimants to provide timely and complete information in support of claims'.²³

2.23 Some submitters expressed concern at the removal of these provisions, particularly for people with limited or no access to the internet, or who otherwise face

16 *Submission 5*, pp. 13-14.

17 *Submission 5*, p. 16.

18 See for example: Mission Australia, *Submission 8*, p. 1; National Social Security Rights Network, *Submission 18*, p. 9.

19 *Submission 5*, p. 16.

20 *Submission 5*, p. 17.

21 Social Services Legislation Amendment (Welfare Reform) Bill 2017 Explanatory Memorandum, June 2017, p. 57.

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

23 *Submission 5*, p. 18.

difficulties in being able to contact the Department of Human Services or provide all the required documentation in a timely way, through circumstances beyond their control.²⁴ Concern was also raised that removal of intent to claim provisions:

will remove any flexibility for decision makers and it also fails to recognise that, even with the most intuitive, quick and simple online system, there will be circumstances where it will be reasonable to backdate payments to the date an applicant established their entitlement. This capacity should remain.²⁵

2.24 In evidence, the Department of Human Services made it clear that there will be scope for discretion where:

someone either can't complete online or has difficulties associated with, for example, going through a change in personal circumstances and they don't have the paperwork et cetera, they would be able to contact the department. The date of claim would still be the date that they contacted the department.²⁶

2.25 Some evidence presented to the committee referred to the sometimes lengthy delays currently experienced by some social security claimants.²⁷ In evidence, the Department of Human Services indicated that the proposed amendments in Schedule 11 will assist to address these delays:

What we believe though is that, for the vast majority of people who will have the convenience of doing this online and at home, the ability to supply all their information to complete the claim will assist us with the processing of the claim and will assist us with giving them a quicker answer.²⁸

Schedule 12 – Drug testing trial

2.26 The proposed amendments in Schedule 12 introduce a mandatory drug testing trial from 1 January 2018 in three locations for new Newstart Allowance and Youth Allowance (other) recipients. In its 2017–2018 Budget information, the Department of Social Services stated that:

This measure will trial the use of random drug testing in three locations as a way of better identifying and supporting those with substance misuse issues... This forms part of a larger measure to better target assistance

24 See for example: Commonwealth Ombudsman, *Submission 11*; National Social Security Rights Network, *Submission 18*, Anglicare Australia *Submission 28*; ACOSS, *Submission 50*.

25 Carers Australia, *Submission 1*, p. 4.

26 Mr Shane Bennett, Acting Deputy Secretary, Programme Design Group, Department of Human Services, *Committee Hansard*, 30 August 2017, pp. 55-56.

27 See for example: Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and their Children, *Committee Hansard*, 31 August 2017, p. 39.

28 Mr Shane Bennett, Department of Human Services, *Committee Hansard*, 30 August 2017, p. 61.

activities to jobseekers, including identifying and resolving barriers to work.²⁹

2.27 A number of issues were raised in submissions and oral evidence in relation to the proposed establishment of drug testing trials, including:

- a lack of evidence to support the use of drug testing;
- the cost, availability and reliability of drug testing;
- availability of treatment services to meet potential increased demand; and
- reliance on delegated legislation to set out significant detail about the operation of the trial; and
- income management.

Evidence

2.28 Critics of the introduction of a drug testing trial have stated that there is no evidence that drug testing will achieve the desired outcome. Submitters referred to drug testing of welfare recipients introduced in, for example, the United States of America and New Zealand, where only small numbers of those tested returned positive test results.³⁰

2.29 The committee heard that, while information relating to the cost and detection rates of the New Zealand drug testing program is available,³¹ outcome data is not available.³² Similarly, results of drug testing programs in, for example, Florida in the United States, have focused on the input costs and savings achieved as a result of the program.³³

2.30 The Department of Social Services noted that the overseas examples of drug testing 'relate to either penalising people on welfare or preventing them from obtaining welfare'.³⁴ By contrast, the department indicated that the proposed drug testing trial is intended to:

29 Department of Human Services, [Better Targeting of Assistance to Support Jobseekers, Budget 2017-18](#) (accessed 25 July 2017).

30 See for example, Australian Medical Association, *Submission 2*; Uniting Communities, *Submission 3*; National Drug and Alcohol Research Centre, *Submission 4*; UnitingCare Australia, *Submission 6*; Catholic Social Services Australia and Catholic Health Australia, *Submission 7*; Mission Australia, *Submission 8*; 360 Edge, *Submission 9*; Salvation Army, *Submission 10*; Australian Injecting and Illicit Drug Users League, *Submission 26*; Royal Australian and New Zealand College of Psychiatrists, *Submission 45*.

31 See for example: Royal Australasian College of Physicians, *Submission 20*, pp.3-4.

32 Professor Alison Ritter, Director, Drug Policy Modelling Program, National Drug and Alcohol Research Centre, University of New South Wales, *Committee Hansard*, 30 August 2017, p. 14.

33 See for example: Salvation Army, *Submission 10*, p. 5.

34 Ms Cath Halbert, Group Manager, Payment Policy, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 47.

assess the value of drug testing as a way of identifying those for whom drug misuse is a barrier to work, and as a means of supporting them to undertake treatment...This trial is not about penalising jobseekers with drug abuse issues. It is about finding new and better ways of identifying these jobseekers and ensuring they are referred to the support and treatment they need.³⁵

2.31 In further evidence, the Department of Social Services stated that the objective of the drug testing trial is to:

provide the evidence as to whether an additional trigger for people who are receiving unemployment payments and have substance abuse problems will encourage them to self-disclose and/or be found to have that problem and to be quickly linked to treatment.³⁶

Drug testing – cost, availability and reliability of tests and avoidance of detection

2.32 Some evidence before the inquiry raised issues in relation to the cost, availability and reliability of drug testing, depending on which type of test will be used,³⁷ and the reliability of testing on its own to identify people with drug dependency problems.³⁸

2.33 The Department of Social Services indicated that the specific type of drug testing and the specific drugs to be tested for would be identified in consultations between the Department of Human Services and the company that secures the contract to deliver drug testing services.³⁹ In relation to the reliability of drug testing to identify and assist people with drug dependency problems, the Department of Social Services stated that the trial will focus on the detection of illicit drug use and is one part of a broader suite of measures being undertaken to assist unemployed people with drug dependence issues which impact on their ability to obtain employment.⁴⁰

2.34 Concerns were raised by some submitters and witnesses about the potential for welfare recipients to seek to avoid drug use detection by shifting to unlisted, and

35 Hon. Christian Porter MP, Minister for Social Services, *House of Representatives Hansard*, 22 June 2017, p. 7428.

36 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 47.

37 See for example: cohealth, *Submission 15*; St Vincent's Health Australia, *Submission 16*; Royal Australasian College of Physicians, *Submission 20*.

38 See for example: Australian Medical Association, *Submission 2*; National Drug and Alcohol Research Centre, *Submission 4*; Rural Doctors Association of Australia, *Submission 19*; National Drug Research Institute, Curtin University, *Submission 23*; Royal Australian and New Zealand College of Psychiatrists, *Submission 45*; People with Disability Australia, *Submission 60*.

39 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 41.

40 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, pp. 42-43.

possibly more harmful drugs.⁴¹ The Department of Social Services stated that the avoidance of testing had been raised by stakeholders, and the department had been unable to find any evidence of this behaviour occurring in other drug testing trials.⁴² However, the department noted that the consequences of a positive test result in the proposed trial – income management, referral for medical assessment and potentially treatment – will be without financial penalty, and therefore 'not a strong incentive' for people to avoid a positive test result by using drugs other than those listed for testing.⁴³

2.35 The Department of Social Services also indicated that a comprehensive evaluation of the drug testing trial will be conducted in parallel with the trial, through which the department will be assessing unintended consequences, 'because the whole point of the trial is to have a positive outcome for those communities'.⁴⁴

Availability of treatment services

2.36 Some submissions have stated that the proposed drug testing will capture both recreational drug users as well as people with a drug dependence problem, the impact of which could be increased demand for drug treatment services not necessarily resourced to meet this demand.⁴⁵

2.37 In response to these concerns, the Department of Human Services indicated that only a second positive drug test would trigger a referral to a medical professional, who would be an addiction specialist.⁴⁶ The department has estimated that of the 5 000 people to be tested over the three trial sites, around 420 to 450 people would test positive once and between 100 and 120 people test positive a second time and be sent for medical assessment.⁴⁷ The department believes that this treatment might involve a range of different services, 'anything from counselling sessions through to, at the most extreme end, residential rehabilitation'.⁴⁸

41 See for example: Professor Alison Ritter, Director, Drug Policy Modelling Program, National Drug and Alcohol Research Centre, University of New South Wales, *Committee Hansard*, 30 August 2017, p. 13.

42 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 40.

43 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 40.

44 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 40.

45 See for example: Australian Medical Association, *Submission 2*; National Drug and Alcohol Research Centre, *Submission 4*; Clinical Associate Professor Adrian Reynolds, President, Australasian Chapter of Addiction Medicine, Royal Australasian College of Physicians, *Committee Hansard*, 30 August 2017, p. 17.

46 Mr Shane Bennett, Department of Human Services, *Committee Hansard*, 30 August 2017, p. 46.

47 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 38.

48 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 38.

2.38 Consultations with the Department of Health and other health services undertaken by the Department of Social Services have indicated that there are services available for the provision of treatment services.⁴⁹ In addition, the department has:

built into the policy that, if you can't access treatment immediately, as long as you are committed to undertaking it, you can be managed until such time as it becomes available.⁵⁰

The Government has also announced a \$10 million fund that will be available to provide additional assistance to drug treatment services in the three trial sites.⁵¹

Delegated legislation

2.39 Some submitters raised concerns about the lack of detail in the Bill in relation to the implementation of the drug testing trial and the reliance on delegated legislation which had not yet been made publicly available for consultation and comment.⁵²

2.40 The Department of Social Services tabled an exposure draft of the Social Security (Drug Test) Rules 2017 at the committee's public hearing on 30 August 2017 in Sydney.

2.41 The rules cover the following aspects of the drug testing trial:

- (a) prescribing up to 3 discrete areas for the purposes of the definition of drug test trial area in subsection 23(1);—
- (b) prescribing substances for the purposes of the definition of testable drug in subsection 23(1);
- (c) giving and taking samples of persons' saliva, urine or hair for use in drug tests;
- (d) dealing with such samples;
- (e) carrying out drug tests;
- (f) giving results of drug tests in certificates or other documents and the evidentiary effect of those certificates or documents;
- (g) confidentiality and disclosure of results of drug tests;
- (h) requirements relating to contracts entered into for the carrying out of drug tests;
 - (i) keeping and destroying records relating to:
 - (i) samples for use in drug tests; or
 - (ii) drug tests.⁵³

49 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 38.

50 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 38.

51 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 38.

52 See for example, Uniting Care, *Submission 6*; Law Council of Australia, *Submission 42*; Mrs Peta Rutherford, Chief Executive Officer, Rural Doctors Association of Australia, *Committee Hansard*, 31 August 2017, p. 14.

2.42 The joint departmental submission indicated that there will be consultation with the contracted testing provider and key stakeholders in the drug and alcohol sector on the exposure draft of the drug testing rules, and that this expert advice would be taken into account.⁵⁴

Income management

2.43 Some submitters raised issues in relation to the potential impacts on some income support recipients who would be placed on income management following a positive drug test result.

2.44 The Commonwealth Ombudsman and the Western Australian Network of Alcohol and Other Drug Agencies (WANADA) made reference to proposed subsection 123UFAA(1C) which provides that the Secretary may determine that a person will not be subject to income management where it will pose a serious risk to the person's mental, physical or emotional wellbeing.⁵⁵ While WANADA strongly supports this provision, the Commonwealth Ombudsman recommends that participants be made aware of the right to request an exclusion from income management.⁵⁶

2.45 Further, the Ombudsman referred to the proposed new subsection 123UFAA(1D), which provides that the Secretary has no duty to consider whether to make a determination under subsection 123UFAA(1C).⁵⁷

2.46 Concern in relation to the interaction of these two provisions was also raised by the Senate Standing Committee on the Scrutiny of Bills and referred for advice to the Minister for Social Services.⁵⁸ In his response, the Minister agreed to amend new subsection 123UFAA(1C) of the Bill, so that the Secretary 'will', rather than 'may', determine that a person is not subject to the income management regime where being subject to the regime would pose a serious risk to the person's mental, physical or emotional wellbeing.⁵⁹

Schedules 13 and 14 – Removal of exemptions for drug or alcohol dependence and Changes to reasonable excuses

2.47 Schedule 13 of the Bill introduces amendments that limit the ability of income support recipients to access exemptions from mutual obligation requirements due to drug and alcohol dependence.

53 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 42.

54 *Submission 5*, p. 21.

55 Commonwealth Ombudsman, *Submission 11*, p 8; WANADA, *Submission 27*, p. 19.

56 *Submission 11*, p. 8.

57 *Submission 11*, pp. 8-9.

58 Senate Standing Committee for the Scrutiny of Bills, [Scrutiny Digest 8 of 2017](#), 9 August 2017, pp. 27-28 (accessed 3 September 2017).

59 The Hon. Christian Porter MP, Minister for Social Services, correspondence to Senator Helen Polley, Chair, Senate Scrutiny of Bills Committee, 28 August 2017, p. 6.

2.48 Schedule 14 provides for the Secretary to make rules setting out what cannot be taken into account in deciding whether a recipient has a reasonable excuse for breaching a mutual obligation requirement – the EM indicates that this would be used to prevent recipients from using drug or alcohol abuse or dependency more than once where that person has chosen not to engage in treatment.⁶⁰

2.49 Some submitters argued against removing exemptions and limiting access to reasonable excuses due to drug or alcohol misuse from activity tests or other forms of mutual obligation.⁶¹ These submitters stated that drug and alcohol dependence is a health problem, and should be dealt with in the same manner as other health conditions.

2.50 The joint departmental submission provided evidence that the number of job seekers being exempted from mutual obligation requirements due to drug and alcohol dependency 'has nearly doubled over the last five years, from 2,920 in September 2011 to 5,256 in September 2016'.⁶² In addition, the submission stated that:

In 2016, 2,258 people tried to use drug and alcohol issues as a reasonable excuse for not meeting their mutual obligations on 4,325 occasions. In 1,351 cases 720 job seekers had their drug or alcohol dependency accepted as a reasonable excuse for not meeting their mutual obligations. In addition, the number of accepted reasonable excuses due to drug or alcohol dependency in 2016 was over twice the 2015 level (1,351 compared to 637).⁶³

2.51 The Minister's second reading speech outlined the rationale for the proposed changes under schedules 13 and 14 of the Bill:

Jobseekers who are no longer eligible for an exemption will instead remain connected to their employment service provider and actively engaged in appropriate activities tailored to their particular circumstances and barriers to work, including their substance misuse issues.⁶⁴

2.52 In addition, the Minister referred to other measures to be implemented which would complement the measures contained in the Bill, including that, for the first time, 'all jobseekers are able to undertake drug or alcohol treatment as an approved activity in their job plan'.⁶⁵

60 Social Services Legislation Amendment (Welfare Reform) Bill 2017 Explanatory Memorandum, p. 85.

61 See for example: Australian Medical Association, *Submission 2*; Mission Australia, *Submission 8*; cohealth, *Submission 16*; Jobs Australia, *Submission 17*; Public Health Association of Australia, *Submission 33*; Dr Alex Wodak, *Submission 51*.

62 *Submission 5*, p. 25.

63 *Submission 5*, p. 27.

64 Hon. Christian Porter MP, Minister for Social Services, *House of Representatives Hansard*, 22 June 2017, p. 7430.

65 Hon. Christian Porter MP, Minister for Social Services, *House of Representatives Hansard*, 22 June 2017, p. 7428.

Broad powers delegated to the Secretary

2.53 A number of submissions have expressed concern at the proposed inclusion of Section 28C in the *Social Security Act 1991* which provides a broad power for the Secretary to determine by legislative instrument 'declared program participants' and to modify how social security law will apply to people so declared.⁶⁶ The EM states that the intention is to prevent participants from certain employment services programs, including CDP, from being subject to the removal of exemptions for drug and alcohol dependence.⁶⁷

2.54 However, as was pointed out by the Human Rights Law Centre in its submission:

the exceptionally broad power given to the Secretary in proposed section 28C to determine *who* 'declared program participants' are and *how* the social security law applies to them goes far beyond what is necessary to achieve the stated purpose of excluding CDP participants from these measures. More fundamentally, it is a power to modify how social security rights and obligations apply, not only to CDP participants, but to other classes of people whom the Federal Government may decide in the future should have different entitlements or be subject to different conditions under social security law.⁶⁸

2.55 The Department of Social Services stated in evidence that Section 28C was drafted as such based on advice that this would avoid the necessity to amend the primary legislation should the name of the program change, indicating that 'it would be possible to narrow that without changing the intent. The intent is just that CDP be excluded'.⁶⁹

Schedule 15 – Targeted compliance framework

2.56 The changes to the compliance framework in schedule 15 include the introduction of graduated sanctions for failure to meet mutual obligation requirements. This seeks to address some deficiencies in the existing framework which can 'unnecessarily penalise' some job seekers, while not addressing ongoing failures of some recipients to satisfy their mutual obligations.⁷⁰ All job seekers, with the exception of CDP participants, will be subject to the new compliance system.⁷¹

2.57 In his second reading speech, the Minister for Social Services stated that:

66 See for example: Commonwealth Ombudsman, *Submission 11*; National Social Security Rights Network, *Submission 18*; Human Rights Law Centre, *Submission 39*; Ms Lisa Fowkes, *Submission 31*.

67 Social Services Legislation Amendment (Welfare Reform) Bill 2017 Explanatory Memorandum, p. 81.

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

69 Ms Cath Halbert, Department of Social Services, *Committee Hansard*, 30 August 2017, p. 59.

70 *Submission 5*, p. 29.

71 *Submission 5*, p. 29.

The new targeted framework is designed to change the behaviour of non-genuine jobseekers, while supporting the majority of jobseekers who are absolutely genuine in their efforts to find work.⁷²

2.58 Some submitters indicated support for the some aspects of this measure, in so far as it will address deficiencies within the existing compliance system.⁷³ However, concerns were raised in relation to the introduction of non-waivable penalties.⁷⁴

2.59 The joint departmental submission states that of the estimated 1.22 million job seekers per annum who will be subject to the new framework, around 1.14 million job seekers will experience more streamlined administration and face no financial penalties. The joint submission estimates that around 83 000 job seekers may receive financial penalties in the first year, ranging from the loss of one week's income support to payment cancellation lasting four weeks.⁷⁵

2.60 However, the Minister for Social Services has stated that there will be a number of points at which an individual's circumstances and the reasons for non-compliance with an obligation can be reviewed and assessed prior to any financial penalty being imposed: 'No penalty will be applied to any jobseeker if they have a reasonable excuse for any failure to observe a mutual obligation'.⁷⁶

Committee view

2.61 The committee notes the views expressed by stakeholders in support of the core principles underlying the Bill: simplification and streamlining of the administration of the welfare system, providing earlier and more targeted support to working age job seekers in need of assistance, and improving the targeted compliance framework.

2.62 The committee acknowledges the Government's intention to promote ready access to support and assistance for people who are seeking work or who are temporarily unable to work. In particular, the committee notes the amendments that will provide for more efficient processing of income support claims and other aspects of social security administration, and the amendments that will enable mature age job seekers to access the targeted support available.

2.63 The committee also notes that concerns have been raised in relation to specific aspects of the Bill, particularly in relation to the drug testing trial.

72 Hon. Christian Porter MP, Minister for Social Services, *House of Representatives Hansard*, 22 June 2017, p. 7430.

73 See for example: National Social Security Rights Network, *Submission 1*; Ms Liz de Chastel, Director, Social Policy, Catholic Social Services Australia, *Committee Hansard*, 30 August 2017, p. 22.

74 National Social Security Rights Network, *Committee Hansard*, 30 August 2017, p. 7.

75 *Submission 5*, p. 31.

76 Hon. Christian Porter MP, Minister for Social Services, *House of Representatives Hansard*, 22 June 2017, p. 7430.

2.64 The committee acknowledges that, in evidence, the Departments of Social Services, Employment and Human Services have indicated that many of the concerns raised will be addressed in the consultations currently under way, in particular in relation to the drug testing trial. The release of the exposure draft of the drug testing rules for consultation during this inquiry is a measure of the departments' intention to engage with stakeholders to address issues raised through this inquiry.

2.65 The committee further notes the undertaking by the Minister to amend certain aspects of the Bill in relation to protecting the wellbeing of participants in the drug testing trial.

2.66 While acknowledging the concerns raised by submitters and witnesses, the committee considers that both the Minister and the responsible departments have indicated a willingness to review aspects of the reforms, where issues have been identified during stakeholder consultations.

2.67 The committee considers the proposed reforms will create a simpler, more efficient and better targeted welfare system. The changes will provide an opportunity to trial and evaluate a new way to assist people who are facing specific challenges in entering or re-entering the workforce.

Recommendation 1

2.68 The committee recommends that the Bill be passed.

Senator Slade Brockman

Chair

Australian Labor Party Senators' Dissenting Report

1.1 Labor Senators on this committee reject the recommendation of the majority report.

1.2 The measures proposed in this Bill will further disadvantage vulnerable Australians and contribute to growing inequality.

1.3 The committee has heard overwhelming evidence from medical specialists, community sector leaders and representatives of Job Service providers that the implementation of measures in this Bill will have serious, negative consequences for many Australians.

Schedule 3: Cessation of Wife Pension

1.4 The committee heard that the Government's proposed transitional arrangements for existing recipients of the Wife Pension are unfair.

1.5 The Wife Pension is currently paid to female partners of Age and Disability Support pensioners who are not eligible for a pension in their own right. The payment closed to new entrants in 1995, and is not activity tested.

1.6 This Schedule would see 2 900 women transfer onto Jobseeker Payment from 20 March 2020. These will be women below pension age who do not meet the activity tests for Carer Payment.

1.7 Transitional arrangements would apply that mean that they will continue to receive the pension rate of payment rather than the lower Jobseeker Payment rate, but its indexation would cease, meaning they would be worse off in real terms over time.

1.8 The Australian Council of Social Service said that recipients of these payments 'will suffer an effective loss.'¹

1.9 This Schedule will leave a further 200 recipients who are living overseas without any form of support.

1.10 The National Social Security Rights Network have argued that grandfathering arrangements should be extended to these participants to enable them to continue receiving payment, and that a failure to do so is fundamentally a change to the rules of portability.²

1.11 The National Social Security Rights Network write that:

The general principle in social security law is that people already overseas are protected from changes to portability rules because they have already committed to living overseas. Schedule 2 of this Bill grandfathers Widow B Pension recipients from changes to the applicable portability rules in this

1 Ms Charmaine Crowe, Senior Policy and Advocacy Officer, Australian Council of Social Service, *Committee Hansard*, 30 August 2017, p. 3.

2 National Social Services Rights Network, *Submission 18*, p. 5.

way. In our view, the same approach should be taken for this small number of Wife Pension recipients.³

1.12 The Australian Council of Social Service also called for grandfathering provisions to be applied to this group of existing Wife Pension recipients, warning that a failure to do so would place them in 'severe financial deprivation.'⁴

1.13 Bereavement Allowance is a short term payment for people whose partner has died. It is paid for a maximum of 14 weeks at the rate of the Age Pension, and subject to the same income and assets test. For a pregnant woman who has lost her partner the allowance is paid for 14 weeks or the duration of her pregnancy, whichever is longer.

1.14 Schedule 4 of this Bill will replace Bereavement Allowance as it currently exists with short term access to the Jobseeker Allowance, paid at the lower rate and with a more stringent means test from 20 March 2020.

1.15 While the schedule provides transitional arrangements that mean that bereaved people receiving the allowance on 20 March will be no worse off, future recipients will receive only the rate of Jobseeker Payment which is \$535 per fortnight, the same as Newstart Allowance.

1.16 This means that a bereaved person in need of income support will receive \$1 300 less over the 14 week period than they do currently.

1.17 The committee heard that grieving, low income Australians would be worse off as a result of the Bereavement Allowance being rolled in to the new Jobseeker Payment.

1.18 According to the Australian Council of Social Service, a grieving person would be at least \$1 300 worse off over a period of 14 weeks if this change proceeds.⁵

1.19 The National Social Security Rights Network submitted that reduced support for people with low incomes while they are bereaved should not be supported, as the financial stresses that this causes are significant.⁶

1.20 The committee heard that:

It's difficult to get a funeral for under \$5,000 or \$6,000...Most of the people in those circumstances are generally on a low income, and it's very difficult financially to cover the cost of a funeral and other associated expenses. Cutting the bereavement allowance will place those people into further hardship and make even more difficult the period of time following a bereavement.⁷

3 National Social Services Rights Network, *Submission 18*, p. 5.

4 Australian Council of Social Service, *Submission 50*, p. 4.

5 Australian Council of Social Service, *Submission 50*, p. 5.

6 National Social Security Rights Network, *Submission 18*, p. 6.

7 Ms Crowe, *Committee Hansard*, 30 August 2017, p. 4.

1.21 The Australian Council of Social Service have indicated that pregnant women whose partner passes away will be the most impacted by this change, as they can continue to be paid the Bereavement Allowance until the birth of their child, even where this means they receive the payment for longer than 14 weeks.⁸

1.22 Labor Senators on this committee reject the Government's attempt to make life more difficult for vulnerable Australians who are trying to come to terms with the death of their partner.

Schedule 9: Changes to activity tests for persons aged 55 – 59

1.23 Schedule 9 removes the ability of Newstart and some Special Benefit recipients between ages 55 and 59 from fulfilling the activity test by volunteering for 30 hours per fortnight.

1.24 Recipients would need to fulfil 30 hours per fortnight of activity with voluntary work and suitable paid work—15 of the 30 hours must be paid work.

1.25 However the Government has not provided any additional concrete support to help them overcome the significant barriers they face.

1.26 Overwhelming evidence provided to the committee on this measure was that mature jobseekers face significant adversity such as ageism when trying to enter the work force.

1.27 The Department of Employment told the committee that the average amount of time that jobseekers search for work is around 40 weeks, but that workers aged 55–59 take approximately 73 weeks to find work.⁹

1.28 The committee heard that it is 'well established that people over 55 are particularly disadvantaged in the labour market. One third of people receiving Newstart payments are aged 50 and over.'¹⁰

1.29 Volunteering Australia told the committee that:

...it is short sighted to change the Activity Requirements without first addressing the causes for unemployment in persons aged 55 to 59, and the pervasive age discrimination that this group experiences.¹¹

1.30 Anglicare told the committee that:

The simple fact is that there are not enough jobs for the number of jobseekers in Australia. It is particularly difficult for older people to find work due to discrimination and often a lack of contemporary skills. As Anglicare Australia's Jobs Availability Snapshot shows, the shortage of

8 Ms Crowe, *Committee Hansard*, 30 August 2017, p. 4.

9 Mr Martin Hehir, Deputy Secretary, Employment, Department of Employment, *Committee Hansard*, 30 August 2017, p. 54.

10 Australian Council of Social Service, *Submission 50*, p. 6.

11 Volunteering Australia, *Submission 12*, p. 3.

positions available for low-skilled job seekers runs at six job seekers for every position advertised.¹²

1.31 The Australian Association of Social Workers told the committee that any policy changes should 'take account of this age-based discrimination, which is beyond the control of the individuals affected.'¹³

1.32 In addition to the increased difficulties that jobseekers aged 55–59 would face as a result of this change, the committee also heard from experts in the volunteering sector who told the committee that they are also very worried the changes may reduce the number of people volunteering in Australia.

1.33 Volunteering Australia raised concern in their submission to the inquiry that 'the tightening of the activity test could move people away from volunteering positions, which will have a profound impact on the volunteering sector.'¹⁴

1.34 Anglicare explained to the committee that,

Volunteers aged 55–64 are the single biggest cohort of volunteers nationally. Forcing people to desist from volunteering and seek jobs that simply aren't there will have a negative impact on their self-worth, and hurt many valuable and treasured community organisations that rely on volunteers to operate.¹⁵

Schedule 10: Start day for some participation payments

1.35 The RapidConnect program requires jobseekers claiming income support to promptly access an employment services provider.

1.36 This Schedule changes the start date from which people can begin to receive income support for those participating in RapidConnect.

1.37 At the moment, a person can receive payment from the date they make their claim or the first day after the end of any waiting period they must serve – including the ordinary one week waiting period that applies to claiming Newstart.

1.38 This measure would push the start date back to when the person had their first interview with their job service provider.

1.39 Labor Senators are concerned about the impact this measure would have on jobseekers who are not able to meet with a job provider straight away.

1.40 In particular, Labor Senators are concerned about job seekers who live in rural and remote communities and have limited access to travel or public transport.

1.41 The committee heard that this measure could place further financial strain on vulnerable Australians, due to the existing lengthy processing times that new applicants are facing. The Australian Council for Social Service explained that:

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

13 Australian Association of Social Workers, *Submission 55*, p. 3.

14 Volunteering Australia, *Submission 12*, p. 2.

15 Anglicare Australia, *Submission 28*, pp. 5–6.

...this measure could impose substantial waiting times for people who are otherwise eligible for a payment, simply because of the time it takes the Department of Human Services (DHS) to process a payment. Latest data shows that OHS processes 82.9% of Newstart claims within 16 days. Processing times for Youth Allowance (Other) are longer, with 81.1% processed within 21 days.¹⁶

1.42 The National Employment Services Association told the committee that there was a need for:

...protection for job seekers where a lack of available and reasonably accessible appointments or reasonable grounds prevents their prompt commencement with employment services.¹⁷

Schedule 11: Removal of intent to claim provisions

1.43 Schedule 11 removes provisions that allow new Centrelink claimants to have their payments backdated to the time they first contacted the Department of Human Services.

1.44 Labor Senators are concerned that this change has the potential to negatively affect the most vulnerable Australians, particularly people who may be:

- Homeless;
- Separated;
- Hospitalised or suffering from ongoing health issues;
- Unable to access technology; and
- Subject to or escaping a situation of family violence.

1.45 Labor believes that for many people in the groups above, having all the required documents on application is an unreasonable ask.

1.46 The National Employment Services Association write:

...this measure will have the greatest impact on the most vulnerable people. This may include people with less access to online services, Indigenous people without access to the internet or a physical Department of Human Services office in remote Australia, people fleeing domestic violence or separating from a partner who do not have all their documents readily available and in a state of crisis, people without stable housing and new migrants who are unfamiliar with the complex requirements of the social security system.¹⁸

1.47 Without provisions that take into account personal circumstances, Labor Senators oppose this measure.

16 Australian Council for Social Service, *Submission 50*, p. 6.

17 National Employment Services Association, *Submission 57*, p. 4.

18 National Employment Services Association, *Submission 57*, p. 9.

Schedule 12: Establishment of a drug testing trial

1.48 Schedule 12 establishes a trial to drug test new recipients of Newstart and Youth Allowance (Other), from 1 January 2018, in three specific locations.

1.49 Labor Senators on this committee note that the trial locations are not specified in the Bill, but were publicly stated by the Government as being Canterbury-Bankstown in New South Wales, Logan in Queensland and Mandurah in Western Australia.

1.50 The committee heard from a large number of addiction medicine and drug treatment specialists, including Professor Alison Ritter, from the University of New South Wales, the Royal Australasian College of Physicians Chapter of Addiction Medicine, St Vincent's Health Australia, Rural Doctors Association of Australia and the Ted Noffs Foundation.

1.51 These experts unanimously raised serious concerns about the Government's proposal to drug test new jobseekers.

1.52 Dr Cassandra Goldie from the Australian Council of Social Service stated that:

...there is...no evidence that this drug testing proposal would improve health, social or employment outcomes for people. Indeed, the evidence is to the contrary. The drug test measure would direct very precious dollars—the overall costs of which are unknown—to a measure which has been widely condemned by leading health experts.¹⁹

1.53 Professor Adrian Reynolds, President of the Australasian Chapter of Addiction Medicine, Royal Australasian College of Physicians said that the Chapter was 'quite honestly at a loss to see why a drug testing trial is considered a necessary or effective way to address these issues.'²⁰

1.54 The Committee also heard that the Government has neglected to consult with medical professionals before announcing these measures:

Addiction medicine specialists in the drug and alcohol sector more generally have not been properly consulted on these measures. We were surprised by these measures. Our analysis and advice is that the measures will be costly and ineffective and that government should consult with the sector on the development of evidence-based solutions to prevent and better address substance use disorders and increase the availability of treatment services across the nation.²¹

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

20 Associate Professor Adrian Reynolds, President, Australian Chapter of Addiction Medicine, Royal Australasian College of Physicians, *Committee Hansard*, 30 August 2017, p. 17.

21 Prof Reynolds, *Committee Hansard*, 30 August 2017, p. 18.

1.55 Father Frank Brennan also shared this view, stating that 'to have a trial where you do not seek the consent or guidance of the health professionals, nor of the local communities, it is no trial, it is simply a political showpiece.'²²

1.56 It is the view of Labor Senators on this committee that the proposed drug trials should not proceed in the face of overwhelming opposition from addiction medicine specialists and other experts.

1.57 Many of the concerns raised are also relevant to the Committee's consideration of the measures contained in schedules 13 and 14 of this Bill.

Lack of evidence

1.58 Witnesses at the public hearings and submissions from experts in addiction medicine emphasised a lack of evidence for these measures.

1.59 Professor Alison Ritter, Director of the Drug Policy Modelling Program at the University of New South Wales said that the proposed measures 'lack an evidence base.'²³

1.60 In addition to overwhelming evidence presented by witnesses over two days of public hearings, submissions from the following groups also point to the lack of evidence supporting drug testing income support recipients as a key point of concern:

- UnitingCare;
- 360Edge;
- Catholic Social Services Australia and Catholic Health Australia;
- The Kirby Institute;
- Cohealth;
- National Drug Research Institute;
- Australian Drug Law Reform Initiative;
- Australian Federation of Aids Organisations;
- Australian Injecting and Illicit Drug Users League;
- Western Australian Network of Alcohol and other Drug Agencies;
- Public Health Association Agency; and
- Dr Alex Wodak.

22 Father Frank Brennan SJ AO, Chief Executive Officer, Catholic Social Services Australia, *Committee Hansard*, 31 August 2017, p. 22.

23 Professor Alison Ritter, Director, Drug Policy Modelling Program, National Drug and Alcohol Research Centre, University of New South Wales, *Committee Hansard*, 30 August 2017, p. 11.

Availability of treatment

1.61 The Committee heard that there is already insufficient treatment available to Australians who are seeking treatment for substance abuse issues, and that the Government's proposals are likely to exacerbate this issue.

1.62 Professor Ritter told the Committee that Australia currently treats 200 000 people for substance abuse issues each year, but that an additional 200 000 to 500 000 people each year would like to receive treatment, which is unavailable to them.²⁴

1.63 Professor Ritter hypothesised that resources in the three trial sites of Canterbury-Bankstown, Logan and Mandurah would need to double to meet existing unmet demand in these three areas.²⁵

1.64 The Committee heard that the lack of treatment places available is compounded by workforce issues.

1.65 Professor Ritter told the Committee that 'the reality is that there isn't a workforce. Already treatment services are full and clinicians are fully occupied.'²⁶

1.66 The Committee also heard that the Government's proposal to spend \$10 million on treatment would not be sufficient to address the existing issues.

1.67 The Committee heard that \$10 million would be a 'drop in the ocean'.²⁷

1.68 Professor Ritter explained further:

Add up the approximate 5,000 people who might be impacted by schedule 13, the perhaps 4,000 or 5,000 people who might be impacted by schedule 14 and maybe the 10 per cent of the 5,000 drug trial recipients under schedule 12. If you divide the \$10 million by that total, you would not actually be left with enough money to treat the target population, even if you could.²⁸

1.69 Professor Reynolds emphasised the lack of availability of treatment options, stating that 'patients needing treatment are regularly waiting six to twelve weeks for that treatment and may need to travel large distances.'²⁹

1.70 Further, Labor Senators on this Committee are deeply troubled by revelations that the Department of Social Services does not know the length of existing waiting lists for drug and alcohol treatment in the three sites for the Government's drug testing trial.³⁰

24 Prof Ritter, *Committee Hansard*, 30 August 2017, p. 11.

25 Prof Ritter, *Committee Hansard*, 30 August 2017, p. 11.

26 Prof Ritter, *Committee Hansard*, 30 August 2017, p. 11.

27 Professor Reynolds, *Committee Hansard*, 30 August 2017, p. 25.

28 Prof Ritter, *Committee Hansard*, 30 August 2017, p. 12.

29 Prof Reynolds, *Committee Hansard*, 30 August 2017, p. 17.

30 Ms Cath Halbert, Group Manager, Payment Policy, Department of Social Services, *Committee Hansard*, 30 August 2017, pp. 39–40.

Failure to understand addiction and dependence

1.71 The Committee heard that the changes proposed in this Bill fail to comprehend substance abuse as a health issue.

1.72 The Victorian Alcohol and Drug Association criticises this Bill, and submitted that the proposals demonstrate 'a lack of understanding on how to address issues relating to illicit substance use.'³¹

1.73 Professor Ritter said that:

An addiction to alcohol or other drugs is an illness...it's a mental health illness...If we replace the words 'alcohol and drug dependence' with 'depression' or 'psychosis' or 'anxiety disorder' I think there would be a very different sense about this bill and its measures.³²

1.74 Professor Reynolds explained that the measures in the Bill will not have the effect of curtailing use of illicit substances, and explained that singling out of substance abusers does not lead to improved outcomes:

The way in which they've been treated by services—healthcare services, police, welfare services—only further increases the likelihood that they will continue to use substances. We have individuals who have told us those stories of increasing substance use in the face of stigma and discrimination.³³

Other social impacts

1.75 In addition to evidence suggesting that the measures in the Bill will not deliver outcomes for those targeted, the Committee also heard that there is a likelihood of the measures worsening the broader drug problem and increasing crime.

1.76 The Committee heard that there is 'evidence in the Australian mining community about workers shifting to other, more harmful forms of drug use...that's a likely unintended consequence, and that's obviously a big worry if they're consuming more harmful substances,'³⁴ because they cannot be detected in the testing.

1.77 Professor Adrian Reynolds explained that pushing people with a substance addiction further into financial hardship would not result in rational decision making to prioritise spending on day to day essentials, but is likely to 'push them over the edge' and 'engage in some sort of other behaviour to maintain their addiction.'

1.78 The Professor told the committee that anecdotally, patients explain to him that they may turn to crime to fund their addiction.³⁵

31 Victorian Alcohol and Drug Association, *Submission 13*, p. 3.

32 Prof Ritter, *Committee Hansard*, 30 August 2017, p. 11.

33 Prof Ritter, *Committee Hansard*, 30 August 2017, p. 13.

34 Prof Ritter, *Committee Hansard*, 30 August 2017, p. 13.

35 Prof Reynolds, *Committee Hansard*, 30 August 2017, p. 18.

...as a clinician, and anecdotally, I do know that when people are addicted and their options are constrained, they may, as a priority, do what they need to do to maintain their addiction....one of those ways that they tell me they do that is by engaging in crime.³⁶

1.79 Matthew Noffs echoed this view:

I spoke to a young boy the other day who robbed 30 houses in one night to [get money for drugs] because every other possibility of finding money to score had been taken away from him. Being threatened with the worst possible sentence doesn't deter him. Will this increase crime? Following the logic: yes.³⁷

Schedule 13: Removal of exemptions for drug or alcohol dependence

1.80 Schedule 13 removes the ability for activity tested income support recipients to be temporarily exempted from activity requirements where he need for the exemption is wholly or predominately attributable to drug or alcohol dependency or misuse.

1.81 Labor Senators on this committee understand that this could also include any sickness or injury, or special circumstances such as eviction, associated with drug or alcohol misuse.

1.82 In light of the evidence presented to the Committee and discussed above, Labor Senators on this committee do not support the measures contained in Schedule 13 of this Bill.

Schedule 14: Changes to reasonable excuses

1.83 Schedule 14 removes the ability of a jobseeker to be exempted from penalties for common 'participation failures' if the jobseeker uses drug or alcohol dependence as an excuse and refuses to take up treatment.

1.84 Labor Senators on this committee understand that jobseekers can have participation in a course of treatment counted towards their participation requirements.

1.85 In light of the evidence presented to the Committee and discussed above, Labor Senators on this committee do not support the measures contained in Schedule 14 of this Bill.

Schedule 15: Targeted compliance framework

1.86 Schedule 15 creates a new compliance framework for income support recipients subject to mutual obligations.

1.87 Labor Senators on this committee are concerned that this reform was produced with very little employment sector consultation, and will negatively impact jobseekers, without any apparent improvement in jobseeker employment outcomes.

36 Prof Reynolds, *Committee Hansard*, 30 August 2017, p. 25.

37 Mr Matthew Noffs, Chief Executive Officer, Ted Noffs Foundation, *Committee Hansard*, 30 August 2017, p. 30.

1.88 The committee heard from key employment service provider, the National Employment Services Association, that the Department had barely discussed the proposed changes to the compliance framework.

1.89 The National Employment Services Association explained further that the changes would require existing members of the workforce to undergo training and that it would be important for 'the Commonwealth [to provide] training to ensure consistent and fair application of demerit points and conduct of capability assessments by the employment services sector.'³⁸

1.90 The committee heard that despite introducing suspensions for the first four demerit points to allow some people to reform their behaviour before receiving a financial punishment, the system will see more people lose payments than before.³⁹

1.91 The committee did not hear any evidence to suggest that cutting financial support to jobseekers will assist them to find work.

1.92 The committee heard that evidence from the United Kingdom showed tougher compliance sanctions:

...were found to increase the risk of participants becoming homeless and had negative outcomes for mental and physical health, self-esteem, relationships and engagement with the labour market. Further, strict sanction regimes harm psychological wellbeing and disrupts people's effort to secure work in unintended ways (such as fulfilling compliance requirement rather than searching efficiently for the best job available).⁴⁰

1.93 Further, the committee heard that the usual waivers and discretion currently given to employment service providers and the departmental staff will be largely removed from the system.⁴¹

1.94 The removal of waivers and discretions reduces the ability to take into account individual jobseeker circumstances and increases the risk that jobseekers are onerously impacted by any errors or arbitrarily harsh decision-making.

1.95 Uniting Care said the removal of waivers was 'punitive' and would have 'sustained impacts on job seekers, as well as any dependents they may have.'⁴²

1.96 Mission Australia said this change could, 'increase the risks of people becoming homeless and have negative outcomes for their physical and mental health, self-esteem, relationships and engagement with the labour market.'⁴³

38 National Employment Services Association, *Submission 57*, p. 8.

39 Mr Matthew Butt, Executive Officer, National Social Security Rights Network, *Committee Hansard*, 30 August 2017, p. 9.

40 Australian Council of Social Services, *Submission 50*, p. 15.

41 Mr Hehir, *Committee Hansard*, 30 August 2017, p. 60.

42 UnitingCare, *Submission 6*, p. 8.

43 Mission Australia, *Submission 8*, p. 2.

1.97 Labor Senators on this committee note that the concept of reforming the compliance framework is not without merit, but cannot recommend that the Senate support the measure in its current form.

Schedule 17: Information management

1.98 Schedule 17 aligns the 'coercive information gathering provisions' in a number of existing Acts and allows information obtained by the Department of Human Services under these provisions to be used in subsequent investigations and prosecutions of criminal offences.

1.99 Victoria Legal Aid has raised significant concerns with the changes in this schedule, which Labor Senators on this committee share.

1.100 These amendments seek to increase investigations and prosecutions against some of the most vulnerable people in our community – typically those on low income and therefore limited access to quality legal representation.

1.101 This amendment seeks to impinge on the common law right of privilege against self-incrimination.

1.102 Victoria Legal Aid submits that 'these changes could extend the practice of shifting the burden of gathering information from the Department to the individual.'⁴⁴

1.103 Victoria Legal Aid raised concerns that the provisions will have an adverse impact on individuals, and potentially result in a term of imprisonment. They write that:

...while this penalty does not apply if a person has a reasonable excuse, or only applies to the extent to which a person is capable of complying with the requirement, the Department has not exercised their powers with restraint to date nor has it demonstrated a level of reasonableness that the community expects.⁴⁵

1.104 The National Social Security Rights Network explained that:

...the schedule contains provisions which expressly abrogate the privilege against self-incrimination, subject to immunity in relation to the use of the information or documents.⁴⁶

1.105 The National Social Security Rights Network submitted that this measure 'should be removed from this bill.'⁴⁷

Recommendations

1.106 The Committee has heard that the changes in this Bill will exacerbate inequality as well as stigmatise and punish the most vulnerable members of our communities.

44 Victoria Legal Aid, *Submission 53*, p. 2.

45 Victoria Legal Aid, *Submission 53*, p. 3.

46 National Social Security Rights Network, *Submission 18*, p. 15.

47 National Social Security Rights Network, *Submission 18*, p. 15.

Recommendation 1:

It is recommended that the Senate reject the Bill.

Senator the Hon Lisa Singh

Senator Murray Watt

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.¹

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.²

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'.³

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.⁴

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.⁵

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.⁶

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.⁷

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.⁸ This applies

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.⁹

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.¹⁰

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.

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.¹¹

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

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.¹²

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.

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

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

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.¹⁴

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.¹⁵

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.¹⁶

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.¹⁷ 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.

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.

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.

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.¹⁸

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 market¹⁹, 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.²⁰

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.

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.

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.²¹

1.63 This measure is estimated to make savings of \$198 million.²² 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.²³

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

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.²⁴

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.

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.²⁵

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.²⁶

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.²⁷

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

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.²⁸

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

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 programs⁴ (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.²⁹

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.³⁰

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

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.³¹

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.³²

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.³³

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

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.

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

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.³⁵

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.³⁶

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

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.³⁷

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.³⁸

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.³⁹

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

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.

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.⁴⁰

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.⁴¹

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.

41 N SSRN, *Submission 18*, p. 15.

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.⁴²

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.⁴³

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

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.⁴⁴

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

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

APPENDIX 1

Submissions and additional information received by the Committee

Submissions

- 1** Carers Australia
- 2** Australian Medical Association
- 3** Uniting Communities
- 4** Drug Policy Modelling Program, National Drug and Alcohol Research Centre
- 5** Department of Social Services, Department of Employment and Department of Human Services
- 6** UnitingCare Australia
- 7** Catholic Social Services Australia and Catholic Health Australia
- 8** Mission Australia
- 9** 360Edge
- 10** The Salvation Army
- 11** Commonwealth Ombudsman
- 12** Volunteering Australia
- 13** Victorian Alcohol and Drug Association
- 14** The Kirby Institute, University of New South Wales
- 15** cohealth
- 16** St Vincent's Health Australia
- 17** Jobs Australia

- 18 National Social Security Rights Network
- 19 Rural Doctors Association of Australia
- 20 Royal Australasian College of Physicians
- 21 Confidential
- 22 Chinese Australian Services Society Limited
- 23 National Drug Research Institute, Curtin University
- 24 South Australian Network of Drug and Alcohol Services
- 25 Community Mental Health Australia
- 26 Australian Injecting and Illicit Drug Users League
- 27 Western Australian Network of Alcohol and other Drug Agencies
- 28 Anglicare Australia
- 29 Centre for Social Research in Health and Social Policy Research Centre
- 30 The Parenthood
- 31 Ms Lisa Fowkes
- 32 Refugee Council of Australia
- 33 Public Health Association of Australia
- 34 Australian Federation of AIDS Organisations
- 35 NSW Council for Civil Liberties
- 36 Combined Pensioners and Superannuants Association
- 37 Welfair
- 38 GetUp
- 39 Human Rights Law Centre (plus an attachment)

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- 40 Australian Drug Law Reform Initiative
 - 41 ANU Students' Association
 - 42 Law Council of Australia
 - 43 Anti-Poverty Network South Australia and Anti-Poverty Network Victoria
(plus an attachment)
 - 44 Community and Public Sector Union
 - 45 Royal Australian and New Zealand College of Psychiatrists
 - 46 Name Withheld
 - 47 Name Withheld (plus two supplementary submissions)
 - 48 Name Withheld
 - 49 Name Withheld
 - 50 Australian Council of Social Service
 - 51 Dr Alex Wodak AM
 - 52 Good Shepherd Australia New Zealand
 - 53 Victoria Legal Aid
 - 54 Aboriginal Health Council of Western Australia (plus four attachments)
 - 55 Australian Association of Social Workers
 - 56 Aboriginal Peak Organisations of the Northern Territory
 - 57 National Employment Services Association
 - 58 National Council of Women of Australia
 - 59 Department of Health and Human Services, Victorian Government
 - 60 People with Disability Australia

- 61 COTA Australia
- 62 National Council of Single Mothers and their Children
- 63 Name Withheld

Additional Information

- 1 Measuring Australia's Digital Divide, The Australian Digital Inclusion Index 2017, from Australian Council of Social Service, received 31 August 2017

Correspondence

- 1 Correspondence supporting submission 26 from the Australian Injecting and Illicit Drug Users League, received from Hepatitis SA, 3 August 2017
- 2 Correspondence supporting submission 26 from the Australian Injecting and Illicit Drug Users League, received from NSW Users and AIDS Association, 4 August 2017
- 3 Correspondence supporting submission 26 from the Australian Injecting and Illicit Drug Users League, received from Northern Territory AIDS and Hepatitis Council, 4 August 2017
- 4 Correspondence supporting submission 26 from the Australian Injecting and Illicit Drug Users League, received from Western Australian Substance Users Association, 4 August 2017
- 5 Correspondence supporting submission 26 from the Australian Injecting and Illicit Drug Users League, received from Canberra Alliance for Harm Minimisation and Advocacy, 4 August 2017
- 6 Correspondence supporting submission 26 from the Australian Injecting and Illicit Drug Users League, received from Scarlet Alliance, Australian Sex Workers Association, 4 August 2017

Answers to Questions on Notice

- 1 Answers to Questions taken on Notice during 30 August public hearing, received from Department of Employment, 4 September 2017
- 2 Answers to Questions taken on Notice during 30 August public hearing, received from Australian Council of Social Service, 4 September 2017
- 3 Answers to Questions taken on Notice during 30 August public hearing, received from Department of Social Services, 4 September 2017
- 4 Answers to Questions taken on Notice during 30 August public hearing, received from Department of Human Services, 5 September 2017
- 5 Answers to Questions taken on Notice during 30 August public hearing, received from Royal Australasian College of Physicians, 5 September 2017
- 6 Answers to Questions taken on Notice during 31 August public hearing, received from Catholic Social Services Australia, 4 September 2017
- 7 Answers to Questions taken on Notice during 31 August public hearing, received from Volunteering Australia, 4 September 2017
- 8 Answers to Questions taken on Notice during 31 August public hearing, received from Law Council of Australia, 4 September 2017
- 9 Answers to Questions taken on Notice during 31 August public hearing, received from Anglicare Australia, 4 September 2017
- 10 Answers to Questions taken on Notice during 31 August public hearing, received from Jobs Australia, 5 September 2017
- 11 Answers to Questions taken on Notice during 31 August public hearing, received from National Employment Services Association, 5 September 2017
- 12 Answers to Questions taken on Notice during 30 August public hearing, received from Department of Social Services, 5 September 2017

Tabled Documents

- 1 Social Security (Drug test) Rules 2017 Exposure Draft, tabled by Department of Social Services, at Sydney public hearing, 30 August 2017
- 2 Social Security (Drug Test) Rules 2017 Explanatory Statement, tabled by Department of Social Services, at Sydney public hearing, 30 August 2017
- 3 What Body Part Do I Need To Sell?, tabled by Jobs Australia, at Melbourne public hearing, 31 August 2017
- 4 The social minimum (in \$2017) graph, tabled by Catholic Social Services Australia, at Melbourne public hearing, 31 August 2017

APPENDIX 2

Public hearings

Wednesday, 30 August 2017

Portside Centre, Sydney

Witnesses

National Social Security Rights Network

BUTT, Mr Matthew, Executive Officer

Australian Council of Social Services

GOLDIE, Dr Cassandra, Chief Executive Officer

CROWE, Ms Charmaine, Senior Policy and Advocacy Officer

National Drug and Alcohol Research Centre, University of New South Wales

RITTER, Professor Alison, Director, Drug Policy Modelling Program

Royal Australasian College of Physicians

REYNOLDS, Clinical Associate Professor Adrian, President, Australasian Chapter of Addiction Medicine

St Vincent's Health Australia

EZARD, Associate Professor Nadine, Clinical Director, Alcohol and Drug Service, St Vincent's Hospital Sydney

Ted Noffs Foundation

NOFFS, Mr Matthew, Chief Executive Officer

FERRY, Mr Mark, Chief Operating Officer

Human Rights Law Centre

WALTERS, Ms Adrienne, Director of Legal Advocacy

Department of Social Services

HALBERT, Ms Cath, Group Manager, Payment Policy

McGUIRK, Ms Emma Kate, Branch Manager, Work and Study Payments

Department of Employment

HEHIR, Mr Martin, Deputy Secretary, Employment

JENSEN, Ms Benedikte, Group Manager, Labour Market Strategy Group

EMERSON, Mr Ty, Branch Manager, Job Seeker Activation and Cluster Support Branch

Department of Human Services

BENNETT, Mr Shane, Acting Deputy Secretary, Programme Design Group
DEININGER, Ms Rosemary, General Manager

Thursday, 31 August 2017

Mantra on Russell Hotel, Melbourne

Witnesses

National Employment Services Association

SINCLAIR, Ms Sally, Chief Executive Officer
GILL, Ms Annette, Principal Policy Adviser

Jobs Australia

THOMPSON, Mr David, Chief Executive Officer

Rural Doctors Association of Australia

RUTHERFORD, Mrs Peta, Chief Executive Officer
RODRIGUES MACIAS, Ms Anita, Senior Policy And Research Officer

Law Council of Australia

MCLEOD, Ms Fiona SC, President
MOLT, Dr Natasha, Senior Legal Adviser, Legal Policy Division

Catholic Social Services Australia

BRENNAN, Father Frank sj AO, Chief Executive Officer
de CHASTEL, Ms Liz, Director, Social Policy

Anglicare Australia

MANDERSON, Mr Roland, Deputy Executive Director
EBSWORTH, Ms Imogen, Director of Policy and Research

Volunteering Australia

PICONE, Ms Adrienne, Chief Executive Officer
KALA, Ms Lavanya, Policy and Communications Coordinator
TOOHEY, Ms Jemma, Chief Executive Officer, Albury Wodonga Volunteer
Resource Bureau Inc
PELLAS, Ms Sharon

National Council of Single Mothers and their Children

EDWARDS, Ms Terese, Chief Executive Officer

The Parenthood

LESSIO, Ms Nicole, Acting Executive Director