



Submission to the Senate Standing Committee on
Community Affairs into the
***Social Services Legislation Amendment (Consistent
Waiting Periods for New Migrants) Bill 2021***

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About UnitingCare Australia

UnitingCare Australia is the national body for the Uniting Church's community services network and is an agency of the Assembly of the Uniting Church in Australia.

We give voice to the Uniting Church's commitment to social justice through advocacy and by strengthening community service provision.

We are the largest network of social service providers in Australia, supporting 1.4 million people every year across urban, rural and remote communities.

We focus on articulating and meeting the needs of people at all stages of life and those that are most vulnerable.

Introduction

UnitingCare Australia welcomes the opportunity to respond to the Inquiry on the *Social Services Legislation Amendment (Consistent Waiting Periods for New Migrants) Bill 2021* (the Bill).

As an organisation committed to social justice and inclusion, we oppose the Bill and recommend that it be rejected in its entirety. We are concerned the proposed measures risk undermining the inclusive and needs-based aspects of our social safety net, increasing housing insecurity and poverty among more vulnerable migrant cohorts, and increasing the burden on frontline support services and charities.

The Bill seeks to reduce access to social security and family payments for migrants granted permanent residency from 1 January 2022 by extending the four-year newly arrived residents waiting period (NARWP) to additional payments, including Carer Payment, Carer Allowance, and Family Tax Benefit (A and B). In addition, a four-year wait period is proposed for new residents before they can access Paid Parental Leave and Dad and Partner Pay. According to the Department of Social Services, these changes will see payments cut to an estimated 45,000 families and 13,200 individuals who are granted permanent visas on or after 1 January 2022. An estimated 88,000 children will also be affected.

We believe these changes are unnecessary and counterproductive, resulting in both short and long-term costs for those directly impacted, and for our nation more broadly. Appropriate and timely support during the initial years following migration is critical to settlement outcomes, yet if enacted this Bill would serve to increase poverty and hardship among migrants, particularly families on low incomes and households with a family member needing full-time care.

This submission is informed by input from UnitingCare Australia's network of organisations, including frontline staff who work directly with those affected by the Bill. Of particular concern to our services are the likely impacts on the most marginalised migrant cohorts, including women experiencing domestic violence, precarious workers vulnerable to exploitation, pregnant women in insecure work, and children living in low-income families. Without access to a safety net, such groups risk being trapped in a cycle of poverty, precarity and vulnerability. Services already experiencing increases in demand, including emergency relief and homelessness services, face the prospect of increased pressures from individuals and families cut off from any income support. And Australia's capacity to welcome new migrants and their families, who are critical to building our nation, will ultimately be reduced, with an underclass of migrants cut off from the basic rights and supports afforded to other residents and citizens.

We believe, in short, that this Bill is unnecessary and unjust, and we urge the Committee to recommend that it be rejected.

Key concerns with the Bill

The objectives of the Bill

The intent of the Bill, as articulated by Minister Tudge in his Second Reading Speech, is “encouraging migrants to be self-sufficient”¹, while providing consistency by standardising waiting periods across social security and family payments. The Explanatory Memorandum also states that extending the waiting periods for payments to new permanent residents is necessary to maintain the sustainability of the welfare payment system.

It is unclear how “self-reliance” will be fostered among new arrivals by cutting off access to family payments, carer payments and paid parental leave. Australia’s migration program produces substantial benefits to the Australian economy, and migrants have higher workforce participation rates than Australian-born residents. Despite this, the initial few years following migration, during which migrants orient themselves to their new country, find housing, employment, and settle into neighbourhoods and schools, are often the most challenging. New arrivals are most vulnerable to financial hardship and destitution in these first few years. However, with the appropriate level of support, social and economic participation rates usually improve. Withdrawing support, however, will make it more difficult for individuals and families to overcome initial challenges and settle successfully. There is a risk that the lack of a safety net will lead to an escalation of disadvantage and cascade of social problems that may be difficult to reverse, creating longer-term support needs and more downstream demand on service systems.

Adverse effects on children, families and carers

Families and carers will bear the brunt of the proposed changes, yet no explanation has been provided to justify why new arrivals who become parents or carers should be more self-sufficient than other Australian residents and citizens who may need support. Introducing a four-year waiting period for access to Family Tax Benefit (FTB), Paid Parental Leave (PPL), and Carer Allowance will mean that many migrants working in Australia will be unable to access the same financial support for their children or for their care work as their colleagues.

The denial of FTB for four years from when a permanent visa is granted will hurt children born in Australia who have migrant parents. The early years of life are the most critical time to lay the foundation for a child’s future, and a focus on the wellbeing and development of the youngest members of migrant families is vital to prevent and reduce subsequent disadvantage and vulnerability. Given that most migrants are now granted permanent residence on-shore, after living in Australia on long-stay temporary visas for many years, introducing a four-year waiting period will mean children born in Australia to new residents may be eight or more years of age before their families are eligible for FTB. Children will be at greater risk of poverty as a result of these changes, as FTB is a critical payment for low-income families, including families in low-paid work. This has potential long-term implications for children’s development, health and social and economic outcomes in later life.

Precluding new resident families from family payments may have a range of additional unintended consequences. For example, receipt of FTB Part A is conditional on a child being vaccinated and on getting a health check before the child’s fifth birthday. Delaying access to FTB payments will mean parents who are new permanent residents will not be targeted by

the Commonwealth childhood vaccination strategy, and delayed childhood vaccinations and health checks may be an unintended policy consequence.

In addition, we are concerned about the effects of imposing a four-year waiting period for new residents who become carers because of a family member's debilitating illness, accident or disability. The adverse effects will be amplified for parent carers of children, including those with a disability, as they will be cut off from both Carers Payments and the Family Tax Benefit. Delaying access to these payments will place acute stress on carers and make it more difficult to support those they care for, with potentially adverse health consequences and difficulties attending to the medical and material needs of those with disabilities or poor health. Moreover, denying financial support to carers may ultimately cost governments more if it results in people ending up in formal care settings like residential aged care.

Ultimately, financial support should be made available for carers and care recipients on all visa categories in Australia to avoid a multi-tiered system in which certain groups of residents and citizens have access to more support than others, and in recognition of the immense economic contribution of all carers in Australia, whether they are new permanent residents or citizens.

Disproportionate effect on women

UnitingCare Australia is deeply concerned about the disproportionate effect of this Bill on migrant women. Carers Payment and Allowance, FTB and PPL are disproportionately relied upon by women. Restricting access to these payments, while at the same time maintaining the existing four-year wait that applies to working age payments, will add to the poverty burden that new residents who are women already disproportionately bear, as well as compounding the structural disadvantages they confront in the labour market and due to their unpaid parenting and caring roles.

While new arrivals experience many barriers to the labour market, the levels of discrimination and disadvantage are magnified for migrant women. They have higher unemployment and underemployment rates and earn substantially less compared to both their male migrant counterparts and non-immigrant women with the same level of qualifications.^{2,3} While women who become new residents are increasingly tertiary qualified and skilled, they are disproportionately concentrated in low-paid, semi-skilled and precarious work.⁴

While some of the challenges to economic participation faced by migrant women are common to those faced by other Australian women, women who are migrants often experience additional layers of discrimination and disadvantage that compound economic exclusion and the resulting social and health harms. Given these structural barriers to employment and economic participation, access to the social safety net is vital to ensure women who are recent permanent residents have a basic level of economic security and financial autonomy.

This Bill, however, will accentuate the economic exclusion experienced by new arrivals who are women. With women's homelessness on the rise, and continued gendered gaps in income and lifetime earnings, this Bill is at odds with the Government's recent commitment to "increase economic security for all Australian women". According to the *Women's Budget Statement 2021-22*, this commitment is to be achieved through an approach that "reflects the social and cultural diversity of Australian women, ensuring that opportunities and protections are available to *all* women" [emphasis in original].⁵ Yet the proposed changes will serve to amplify the economic insecurity of migrant women, increasing their

vulnerability to poverty and accentuating gender disparities. In the absence of a financial safety net, some may also feel compelled to take whatever work is available or accept underpayment when the alternative is destitution or homelessness.

A particular concern raised by services from UnitingCare Australia's network is the effect on women experiencing domestic and family violence. Reducing women's financial security will increase their dependency on partners and family, leaving them more vulnerable to controlling and violent relationships:

We believe [these measures] will severely impact families and women escaping domestic violence as they will be dependent on the perpetrators. These families and women will struggle moving out of refuge as they would have no income to cover rent. They would also struggle to find employment as they may not have the experience, skills or language skills.

We acknowledge the Bill includes specific provisions for women experiencing domestic violence, including access to Special Benefit. However, the exemptions proposed are inadequate, with various practical challenges and evidentiary requirements ultimately limiting access to the Special Benefit Payment. Immigrant women are far less likely to report violence⁶, yet access to the exemption is contingent on disclosing domestic violence and providing evidence to substantiate claims. The prospect of having to navigate an unfamiliar and cumbersome application process, in which a woman must demonstrate she is experiencing violence and for which the outcome is not guaranteed, will deter many from seeking support and leaving their situation.

In addition, the threshold for demonstrating domestic violence and the associated bureaucratic processes fail to take into account how dependency issues, isolation, lack of information, fear of engaging with authorities, language and cultural issues, and perpetrators' threats and controlling behaviours prevent many immigrant women from using service systems which require them to disclose violence. If they do successfully navigate this system and meet the high threshold for eligibility, the disincentives built into the Special Benefit payment to take on casual or part-time work will only exacerbate the difficulties experienced by women who are trying to gain or maintain their workforce attachment.

Further delaying access to carer payments and PPL will also disproportionately impact migrant women. A significant contributor to the gender income gap is the reduced workforce participation of women due to the unpaid caring work they do for children, family and household members with a disability, and those who are chronically ill or frail due to old age. This care burden tends to fall even more heavily on women from migrant backgrounds, who are more likely to be engaged in multiple caring and child-caring responsibilities with limited social and family support network.⁷ Migrant women will therefore bear the brunt of delayed access to carers payments.

Moreover, we believe PPL is an essential component of any attempt to address the gendered wealth gap, improve women's workforce engagement, and ensure positive health outcomes for mothers and their children. Access to PPL is particularly crucial for migrant women given their pronounced economic disadvantages and the additional structural barriers they already experience in the Australian labour market.

As indicated in the Explanatory Memoranda to the Bill, access to PPL is a human right and an international obligation to which Australia has committed. The proposal to delay access to PPL for new permanent residents directly contravenes that human right, undermining women's economic and reproductive rights. Selectively applying such a measure to new arrivals perpetuates labour market disadvantages for migrant women and reinforces a two-tier system of labour rights.

Increasing the burden on frontline support services

We believe it is a false economy to further defer access to essential income support and family payments. The evidence from our member organisations is that removing these payments will merely push some individuals and families into deeper financial hardship, shifting the burden and cost of providing support onto community organisations providing emergency relief, homelessness services, and other vital support services. As one of our service providers in Western Australia noted,

This waiting period will... increase the demand for ER [Emergency Relief] and agencies that are already struggling will not be able to assist. The demand for ER has now reverted to pre-COVID levels and we are already seeing a new group of clients who have never accessed community services before (people who have lost jobs, people at risk of being homeless due to the rent increases, people struggling with the increased cost of living). Clients that are having to wait longer to be entitled for benefits will need to access ER services regularly and they would then have to compete with the other new group of clients agencies are already seeing... Clients that engage with financial counsellors will also have limited options as not having any form of an income will reduce their capacity to negotiate any urgent debts. We have seen clients who have had to stop medical treatment as they have an outstanding medical bill and the medical facility will not proceed with treatment until a payment is made.

Undermines needs-based and non-discriminatory nature of our social security and family payments system

We believe that maintaining needs-based criteria in the allocation of income support and family payments is critical. Those who do draw on social security benefits or family payments should be able to do so because they have a demonstrated need and have met the means test and other eligibility criteria. Similarly, low-income migrant families are subject to the same financial pressures and costs that affect all low-income families raising children. As Ben Saul has noted in his analysis of migrant rights under social security law in Australia:

...the preservation of human dignity should not be contingent upon citizenship, permanent residence, or immigration status... Responding to political or public concerns about the access of new migrants to public welfare – for example, notions that they have not ‘earned’ public welfare through membership of the community over time, or they are not yet sufficiently ‘Australian’ to deserve it – is not a sufficiently strong ground for a government to deprive a person of an adequate standard of living, to bring about their impoverishment, and to undermine their basic human dignity.

Access to social security should be determined on the basis of need, not on the basis of false distinctions between the ‘deserving’ and ‘undeserving’ or arbitrary social demarcations based on immigration status or length of residency. This fundamental tenet is undermined by this Bill.

Exemptions are inadequate

We do not believe the exemptions included in the Bill are sufficient to prevent adverse impacts on the most vulnerable and marginalised new arrivals. The exemptions apply to humanitarian entrants and refugees on temporary visas; individuals who become lone parents after acquiring permanent residency; and migrants from New Zealand. In addition, the Bill allows for Special Benefit payments to be made to new residents who are in severe financial hardship and, after the start of the waiting period, experience a “substantial change in circumstances” that is “beyond their control”.

In our view, the exemption for new residents experiencing financial hardship is too limited in scope and difficult to attain. The threshold for demonstrating a substantial change in circumstances is onerous and must be substantiated with documentation, often with an independent assessment from a social worker. According to the Department’s Guidelines,

individuals experiencing destitution are not eligible for the payment if their financial hardship is because of their “failure to obtain or maintain employment” (unless there is an “exceptional delay”), or if they “are limited by the amount of funds they can bring with them when leaving their emigrating country” (as, according to the Guidelines, it “is reasonable to expect that they would be aware of the regulations imposed by their emigrating country and make appropriate arrangements for their support in Australia, before migrating”).

For new residents who arrive on a family visa, a key concern is their heightened dependence on sponsors and their increased susceptibility to abuse or neglect. Limited access to Special Benefit does not alleviate these concerns, particularly given those in situations of abuse or family conflict “must demonstrate that they have made every effort to get adequate support from their sponsor before being granted Special Benefit”.

The rate of the Special Benefit payment is also insufficient to ameliorate the poverty of those experiencing financial distress. While the maximum rate is equivalent to JobSeeker, Special Benefit is usually less due to much more stringent means-testing criteria that take into account in-kind support (such as free board and charitable assistance from others). In addition, Special Benefit has a dollar-for-dollar income test which reduces the payment rate for any employment and in-kind support. Unlike other payments, there is no income free area and no taper rate to both encourage and reward employment and participation.

Ultimately, people’s circumstances should not have to degenerate to a situation of severe hardship and destitution before they qualify for a payment. It is cruel and futile to wait until a person’s deterioration in health or material circumstances is severe enough to be deemed substantial. Yet even if people are experiencing such hardship, this Bill does not guarantee they will be able to access financial support, nor is the level of support provided under the proposed exemptions sufficient to lift them out of a state of destitution.

Eligibility is deferred even longer for migrants who first entered Australia on temporary visas

While the Bill’s Explanatory Memorandum repeatedly states that four years is a reasonable period to expect migrants to support themselves and their families, the reality is that many of those affected will be waiting much longer than the nominal four years before they can access social protections.

Several services from our network noted many of the migrants they support arrived on temporary visas and have faced exorbitant delays and substantial costs in processing their applications for permanent residency. This includes people from refugee-like backgrounds who have entered Australia via a non-humanitarian visa category. The pathways between temporary and permanent residency have also become more restrictive, protracted, and difficult to traverse, further adding to the number of people who have been living in Australia for eight or more years before they are granted permanent residency.⁸

One of our services also noted that escalating fees for family visas were placing families under considerable financial strain, including families from refugee backgrounds who are living in Australia and seeking reunification with family members offshore. Visa categories with lower processing fees and exemptions from waiting periods were also deemed inaccessible due to blow-outs in processing times. For example, while the Bill exempts permanent residents on a Remaining Relative visa from the NARWP, this is not a viable pathway to permanent residency for most people given the 50-year waiting time for processing Remaining Relative visa applications.

References

¹ (2021). *Second Reading Speech (Alan Tudge MP), Social Services Legislation Amendment (Consistent Waiting Periods for New Migrants) Bill 2021*. House of Representatives Hansard, Thursday 24 June 2021.

² Colquhoun, A., (2015). *Gender and migration in OECD countries: literature review*. Migration Council of Australia: Canberra. http://migrationcouncil.org.au/wp-content/uploads/2016/06/2015_Colquhoun.pdf

³ Women's Health West, (2016). *Promoting economic participation and equity for women from refugee and migrant backgrounds*. Women's Health West: Melbourne. <http://whwest.org.au/wp-content/uploads/2016/05/WHWeconomic-participation-report-LOW.pdf>

⁴ O'Dwyer, M., & Mulder, S., (2015). *Finding satisfying work: the experiences of recent migrants with low level English*. AMES Australia: Melbourne. <https://www.ames.net.au/-/media/files/research/ames-australia-finding-satisfyingwork.pdf?la=en>

⁵ Commonwealth of Australia, (2021). *Women's Budget Statement 2021-22*. Canberra. https://budget.gov.au/2021-22/content/womens-statement/download/womens_budget_statement_2021-22.pdf

⁶ Bartels, L., (2010). *Emerging issues in domestic/family violence research*. Research in Practice, Australian Institute of Criminology: Canberra. <http://www.aic.gov.au/publications/current%20series/rip/1-10/10.html>

⁷ University of Melbourne & Multicultural Centre for Women's Health, (2016). *Submission on a draft service delivery model for a proposed new carer support service system*. Melbourne. <https://engage.dss.gov.au/wp-content/uploads/2016/12/MCWH-Submission-DSS.pdf>

⁸ Sherrell, H., (2019). *Migration—permanent and temporary visa trends*. Briefing Book: Key Issues for the 46th Parliament, pp. 128–131. Canberra: Parliament of Australia.