



17 April 2018

Committee Secretary
Senate Standing Committee on Community Affairs
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Dear Committee Secretary

Inquiry into the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018

The Refugee Advice & Casework Service (**RACS**) is a specialist refugee legal centre that has been assisting people seeking protection in Australia on a not-for-profit basis since 1988. We welcome the opportunity to comment on the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018 (the **Bill**).

The Bill cuts social security for recent migrants to Australia by:

- increasing the duration of the waiting period before a person becomes eligible to access various income support payments; and
- extending the longer waiting period to a range of payments that are currently immediately available.

RACS has had the opportunity to consider the submissions of the Migration Council of Australia, the National Social Security Rights Network and the Australian Council of Social Services. We endorse the comments and recommendations in those submissions.

In our experience, appropriate and timely support during the first years following migration to Australia is critical to settlement outcomes. RACS is concerned that the Bill forms part of a clear trend toward limiting the rights of non-citizens who live in Australia in a manner that is both discriminatory and contrary to the objective of a healthy and harmonious society.

We note that the Bill was considered by the Parliamentary Joint Committee on Human Rights (PJCHR) in its report of 27 March 2018 and the PJCHR has requested information from the Minister.¹ The Bill raises issues concerning Australia's obligations under international human rights law and we recommend that the Committee take note of the PJCHR's comments and the Minister's response.

¹ Parliamentary Joint Committee on Human Rights, *Human rights scrutiny report: Report 3 of 2018*, 27 March 2018, 70-78.

While the Minister's Second Reading speech emphasised that humanitarian entrants and their families will continue to be exempt from waiting periods,² RACS is concerned about the impact of the Bill on those refugees who hold Safe Haven Enterprise (subclass 790) visas and who, in the future, transition to other substantive visas (after meeting the pathway requirements in s 46A(1A) of the *Migration Act 1958* (Cth)). This concern arises from the statutory definition of former refugee in s 7 of the *Social Security Act 1991* (Cth), which does not extend to the former holders of temporary protection visas (including Safe Haven Enterprise visas). While the *Social Security Act 1991* (Cth) exempts former Safe Haven Enterprise visa-holders from the *newly arrived residents' waiting period* in relation to some payments (by way of Ministerial determination), RACS is concerned that the waiting period may persist for a range of payments despite the affected person's refugee status and long term residence in Australia. An outcome of this kind would be contrary to the stated policy intention of the legislation, both in terms of the timing of the waiting period and the people to whom it applies.

We invite the Committee to clarify this with the Department and to ensure that the legislation does not operate to impose any waiting period on former Safe Haven Enterprise visa-holders for any payment in situations where they transition to family, skilled or student visas in the manner envisaged by the Safe Haven Enterprise visa pathway.

Beyond this concern, the wider rationale for the changes remains unconvincing. RACS considers that the Bill would have a severe impact on many marginalised people who the government recognises as permanent members of the Australian community. It is unclear why, for example, the children of women at risk of family violence, or the children of parents who unexpectedly lose their job, should face greater barriers to receiving vital support because of their visa status. To enlarge the discrepancies between entitlements on the basis of immigration status in this context is inequitable and counter-productive.

The new and existing exemptions to the waiting period do not alleviate these concerns. In our experience, many recent migrants who unexpectedly find themselves in need of support have difficulty accessing the social security system, even for support for which they are clearly entitled. The Bill would exacerbate these barriers, and represent an additional factor contributing to the marginalisation of many migrants in Australia. We recommend that the Bill should not be passed.

Please do not hesitate to contact us for further information.

Sincerely

REFUGEE ADVICE AND CASEWORK SERVICE (AUST) INC

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² House of Representatives, Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018, Second Reading Speech, the Hon Dan Tehan MP, 15 February 2018.