



Committee Secretary
Senate Education and Employment Committees
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Parliament House
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9 June 2021

Dear Committee Secretary and Members,

Re: Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Bill 2021

Council of Single Mothers and their Children is pleased to see the government's intentions to clarify this section of the Social Security legislation, which is cumbersome and confusing. We strongly request a proper consultation period to consider the changes being proposed.

We are concerned the parliament has allowed almost no time for the public to consider the proposals and to respond in thoughtful ways. Given our staff work part-time and have existing commitments, and our community members are struggling with the Victorian lockdown, we are unable to give the proposed bill the attention it deserves. Speaking to other agencies and charities who support people directly affected by the changes, we know this to be a shared experience and given current priorities in Victoria, we suspect even our State and local governments will struggle to respond.

This matters to us because every piece of legislation may have unintended consequences and where the incomes and wellbeing of the poorest members of our society are concerned, these can be devastating. We draw to the Committee's attention the fact that in Australia currently 18% of children, or nearly 1 in 5, are living in poverty. Sole parent families have the highest rate of poverty with 35% of single parent families living in poverty. (ACOSS/UNSW Poverty in Australia 2020 report, May 2020).

We therefore request the Committee in the strongest possible terms to urgently recommend to Parliament an extension of twelve (12) weeks to enable reasonable consideration, and barring that, seriously consider the hidden or latent repercussions of the suggested changes to this legislation. Please see our discussion below.

Regards

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Modernising the Social Security legislation

Page 7 of the Explanatory Memorandum contains a coherent rationale for rewriting and improving this section of the Social Security Act. We particularly note and agree with the referred finding of the “Senate Standing Committee on Legal and Constitutional Affairs in 1993 in its report titled *The Cost of Justice: Foundations for Reform*, which emphasised the need for the social security law to be comprehensible to members of the public who rely on it and to those who administer it (paragraphs 52, 53 and 119)”.

On the basis of this and other arguments justifying this amendment, we contend that sufficient time must be allowed to test its comprehensibility with some members of the public who rely on it, including via services such as Council of Single Mothers and their Children who assist people to access and understand their entitlements.

The 104 pages of the Explanatory Memorandum contain continuous references to existing provisions which need to be checked and considered. We urge the Committee to seek the extra time to allow for people affected by the legislation, community organisations working with them, and social security experts to consider the proposed changes and provide informed comment to the government through the Committee process.

Our concerns include the risk that in ‘streamlining’ this legislation, important protections will be lost. We do not have the capacity in this short time to conduct a page-by-page comparison of the Bill and the Amendment and strongly urge the Committee to take this lack of detail seriously.

- An area of particular concern to us, for example, is ensuring maintenance of existing protections for principal carers (e.g. single mothers) that keep activity requirements to 15 hours a week. This can already be onerous where there is only one adult to manage all the night time disturbances (teething, bed-wetting, nightmares etc) in addition to all the day time requirements, preparing children for school and childcare, taking them to appointments, shopping, cooking, housework etc. If this activity requirement were to be extended by even an hour, this could be breaking point in many families. Research on child development shows clearly the negative impacts of unduly and constantly stressed parents. We see no assurance in the Explanatory Memorandum that this will not be altered.
- This example alerts us to the possibilities that the widening of the powers of the Employment Secretary may inadvertently lead to changes that have damaging, albeit possibly unintended, consequences.
- Another example is the widening of the power of the Secretary to approve new programs of work. As these often already occur without workplace protections or minimum wages, we find the notion that more such programs can be created without parliamentary oversight an overstepping of the powers of the government.
- We do not in principle oppose the Employment Secretary having a degree of discretion but remain utterly committed to the notion that appropriate protections are clearly outlined in the legislation.

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We agree this Amendment Bill represents an important rewriting of the Social Security conditions underpinning unemployment and other working age payments. Such legislation has profound implications for those receiving income support who may have their payment reduced, suspended or cancelled, and thereby in some cases, leave their children without sufficient material care, and must not be rushed.

Recommendation 1: That the Committee urgently seek an extension to allow a 3 month consultation period.

Recommendation 2: That the Committee require and make public a detailed side by side comparison of all clauses that is clear and comparable.

- At the very least, that the Committee require this for its own deliberations.
- That the Committee ensure and test with relevant communities that there will be no adverse changes to the exemptions or requirements, particularly in respect of those who most struggle to overcome barriers to employment. These include single mothers and other principal carers; First Nations people; those with a disability; those recovering from violence and other trauma; those for whom English is not their first language; and mature-age workers.

The human rights implications

The Parliamentary Joint Committee on Human Rights is currently examining the **Social Security (Parenting payment participation requirements - class of persons) instrument 2021**. Their findings should be taken into consideration in the preparation of this proposed amendment.

In the Explanatory Memorandum, the compliance system is barely mentioned, and sections are described without any analysis. The conclusion that this legislation does not contravene human rights is unconvincing and does not, in colloquial terms, “pass the pub test”.

We have listed in a number of relevant submissions we have made to government¹ the ways in which our clients and members, all single mothers receiving various payments, most commonly ParentsNext and JobSeeker, find the present compliance system both harsh and unreasonable. We would therefore be lacking in our diligence if we did not seek to thoroughly understand and comment on the proposed amendment.

¹ Please see: Council of Single Mothers and their Children submission including: Income support: https://www.csmc.org.au/wp-content/uploads/2021/06/CSMC_SocSecIncomeSupportBillMarch2021.pdf
ParentsNext Human Rights: <https://www.csmc.org.au/wp-content/uploads/2021/06/CSMC-and-CISVIC-submission-to-PJCHR-Inquiry-into-ParentsNext-May-2021.pdf>
Newstart: <https://www.csmc.org.au/wp-content/uploads/2019/11/CSMC-Submission-re-Newstart-September-2019.pdf>
<https://www.csmc.org.au/wp-content/uploads/2019/11/CSMC-NCSMC-SubmissionSocial-Security-Administration-Amendment-Income-Management-and-Cashless-Welfare-Bill-19.pdf>

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Recent research² concludes that mandatory compliance processes ('benefit eligibility') actually hinder securing and maintaining employment:

"Those subjected to benefit eligibility requirements, despite searching at least as hard, take longer to find employment. Moreover, they spend less time in employment in the first twelve months and, if employed, have jobs with lower wages and fewer hours compared to otherwise similar unemployed without benefit eligibility requirements. Our findings are consistent with cognitive theories that emphasize that benefit eligibility requirements externalize job search motivation and increase stress, both of which reduce employment search effectiveness."

This research concurs with our experience that single mothers trying to meet JobActive and ParentsNext requirements are so stressed that they very often do more poorly in job searching and work readiness activities than they might otherwise do.

The human rights of both the adult and their children, including the right to an income adequate to meet the basic costs of living, are in our view seriously compromised by both the insufficient nature of current social security payments, particularly the JobSeeker Allowance, and the impact of the compliance system on any parent subject to penalty.

Critically for us is that in addition to the difficulties for the adult parent, the impact on the children of any punishment a parent is meted can be significant and potentially a breach of the Convention on the Rights of the Child. It is not only the financial hardship that hits the family when a payment is suspended or breached, but also the impacts of psychological stress and distress that combine to impact upon the parent's capacity to care and the wellbeing of the children themselves. These children go to sleep fearing the rent might not be paid, that hunger is looming, that their mum will be anxious again.

We have addressed this issue further in our recent submission to the Parliamentary Joint Committee on Human Rights. We continue to be perturbed that the government seeks no advice from child development experts on the implications on the wellbeing of affected children of its social security legislation generally, and the compliance regime in particular.

Our quick reading of the amendment suggests some of the rules implicitly require parents to report on the health and education of their children in order to receive their payment. If this reading is correct, it is an unreasonable intrusion of the government into the lives of people who, for whatever reason, are currently economically vulnerable and require the support of our social security system, as most people do at some time in their lives.

We also note that where the Amendment has the opportunity to correct, or at least not continue, items that potentially vilify a class of persons, it instead continues and imbeds these. A human right lens should be carefully applied.

- We find it entirely outrageous, for example, that the original legislation contains a clause actively refuting the right to social security of anyone who blinds themselves for the purpose of obtaining a Disability Support Pension. The amendment makes it worse where it includes the clause as follows:
 - *"Technical amendments to disability support pension (items 15 and 16)"*

² Ruud Gerards & Riccardo Welters (2021): Does eliminating benefit eligibility requirements improve unemployed job search and labour market outcomes?, Applied Economics Letters, DOI: 10.1080/13504851.2021.1927960

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“Although disability support pension is not a participation payment and does not have an activity test, in order to qualify for disability support pension, a person must not have brought about their permanent inability to work or blindness with a view to obtaining an exemption from an activity test for Jobseeker Payment or Youth Allowance (subsections 94(6) and 95(2) of the Social Security Act).”

- It is hard to know what to say about such a clause other than that singling out people who are blind for such attention in legislation seems a form of vilification.

In the seven months to April 2021, a period overlaid with COVID-19 concerns nationwide, we understand there to have been 1,339,841 payment suspensions of people on working age payments. That figure represents a huge number of individual lives, with impacts of distress, distraction from job searching and parenting, and a great deal of wasted tax payer funds in non-productive or misdirected work by JobActive and Services Australia staff seeking to prevent breaches and re-engage individuals, advocates and welfare services at State and Territory levels.

Recommendation 3: That Human Rights experts be commissioned to examine the Amendment in its entirety, including the compliance system and with specific reference to:

- anything impacting adversely on parenting,
- matters concerning children’s rights, and
- adverse representations of groups of people.

Recommendation 4: That child development experts be asked to provide the Committee with advice on the likely short, medium and long term effects of the structure of the job employment system including the obligations and the compliance system.

Unintended consequences

Council of Single Mothers and their Children is all too familiar with the ongoing repercussions of measures to correct perceived ‘inequities’.

In 2012, the Gillard government moved to resolve a perceived inequity between the parents of children over eight years of age applying for social security income support and those already in receipt of such a payment. The result of this action was that parents with a child under eight received Parenting Payment and those whose youngest had turned eight received the lesser JobSeeker allowance, due to a 2006 Howard government legislative change. The other way to deal with the inequity, whilst admittedly costing the government more, would have been to reinstate all single parents on the Parenting Payment until their youngest child was 16. On the one hand, a cost, on the other, saving so many children from living and in some cases growing up in poverty, with all the costs that entails to our society and the individual’s long term participation in it.

This decision, coupled with greater pressure for both groups to find any kind of paid employment, the harm to parents, particularly single mothers, and their children has been dramatic and marked. One measure is particularly telling. Increasing withdrawal of government supports for single parents since 2006 (the original decision by the Howard government) and

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2013 (the Gillard decision taking effect) has seen a rise in the number of children growing up in poverty to 39% of children in single parent families.³

We understand the government is now perceiving another inequity regarding the start date of payments for new applicants, which it sees as saving \$191.6 million over the forward estimates and thus seeks to redress in Schedule 8.

What appears to the government as only a few additional dollars per individual can be the difference between retaining a small financial buffer, sustaining housing and other basic forms of survival for people just at the start of their period of need. This situation and the claims made in the Explanatory Memorandum that delaying the first payment will not make much difference to those claiming must be tested.

We question, for example:

- Whether for example, this delay will remove from applicants or place a financial impost upon the 48 hours thinking time about a Job Plan they are about to sign?
- Will they have to wait for income support until this plan is signed, as it seems will be the case?
- If this is the case, is the government not coercing people in a moment of great vulnerability – particularly but not only those who have children to feed – into signing a document they would otherwise consider, seek advice on and perhaps request changes to?
- If the government does so force them, will it be liable for any foreseeable mistakes this process will cause?
- Has the government considered the very great digital disadvantages facing many Australians, noting that for several years the Australian Digital Index has listed First Nations people, older Australians, single parents and people with a disability as the most disadvantaged overall?

We could go on listing our questions. The problem is that Schedule 8 is not sufficiently clear to address such questions and potentially will seriously delay a large number of applicants receiving their entitlement to social security.

Recommendation 4: That the Committee strongly oppose Schedule 8 until and unless the whole amendment is put to the public, the community sector and the social security experts for comment. That the committee entirely rejects the notion that people must fully commit themselves to a job plan in order to receive their first income payment.

³ ACOSS Poverty in Australia 2020 Part 1: Overview, p.28