

MINORITY REPORT

AUSTRALIAN LABOR PARTY

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (SPECIAL BENEFIT ACTIVITY TEST) BILL 2002

Minister Anthony's Second Reading Speech explained that the measures contained in the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002 aim to:

*Encourage social and economic participation by treating work force age ... holders of TPV's in a similar way to Australian nationals of work force age: that is, they will be required to be self-reliant and to fulfil a mutual obligation to the Australian community.*¹

The Committee, at the public hearing and in the 52 submissions received in the very tight time frame, heard that this group of people were not treated in a similar way to other Australians.

Under current legislation, the only financial support available to holders of Temporary Protection Visas, people who have been assessed as genuine refugees, is the Special Benefit, a payment described by the National Welfare Rights Network and Australian Council of Social Service (ACOSS) submission as having '*different, tighter eligibility and payment criteria and much stricter income testing policies than any other income support payment*'.²

In particular, the various agencies, which responded to the Committee, noted the income testing arrangements for special benefits – '*Any amount of earnings is directly deducted from entitlements with no free areas applying. This means that a Special Benefit recipient, who earns \$50, has \$50 deducted from their fortnightly Special Benefit entitlement. As the deduction is the amount of gross rather than net income, this means that the Special Benefit income test is the only income test that not only has no income free area or taper, but is also unique in that it leaves a person with earnings worse off financially than if they relied totally on the benefit payment*'.³

Advantages

The proposal to extend the special benefit activity test does include two specific advantages for people on TPV.

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- 1 Second Reading Speech, Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002.
 - 2 *Submission* 35, p.5 (National Welfare Rights Network and ACOSS).
 - 3 *Submission* 35, p.6 (National Welfare Rights Network and ACOSS).

1. Access to English classes

There was considerable evidence that the lack of English classes was a major disadvantage for people on TPV. This was directly contrasted to those people who were on Permanent Protection Visas who were able to access the Adult Migrant English Program (AMEP) provided by the Commonwealth and administered by DIMIA. TPV holders have not been given permanent residence and are not eligible for settlement services including the AMEP. The extension of the activity test includes specific access to DEST English training – In response to a question on notice, the Department has provided specific information on this proposed training and compared the services to those provided by DIMIA. This proposal seems effective and ‘designed to help remove a major barrier to employment or pursuit of further education and training’.⁴ We believe that the provision of the English training is a critical service for the TPV holders and does address a major concern of the agencies that responded to the Committee.

2. Full Time Study

A particular element of the extension of the activity test is the ‘important change to existing legislation by allowing special beneficiaries to undertake full time study without losing their entitlement to special benefit’.⁵ This provision, only available to TPV holders who become eligible after the introduction of the new legislation, addresses another major concern of welfare agencies who described the hardship of TPV holders attempting to increase their skills while maintaining part time jobs. Again in answer to a question on notice, the Department has confirmed that TPV holders are not permanent residents and are not eligible for HECS and are required to pay full fees as overseas students. Certainly a number of courses are not subject to HECS and there are varying approaches to VET systems fees across the States and Territories. The key issue is that new legislation does allow full time study while access to the study is still subject to significant resources barriers.

Penalties

The submissions to the Committee from a range of welfare agencies raised concern about the impact of breaching on current welfare recipients and the implications of extending these processes to TPV holders. These issues have been raised in the majority report. While it is acknowledged that there have been significant reviews of procedures/operations within Centrelink and the statement by the Department about the number of recommendations from the Independent Review of Breaches and Penalties in the Social Security System/ the Pearce Report that have already been implemented, there still remain real concerns about the imposition of penalties on a group of people already deeply traumatised and disadvantaged.

4 *Submission 25*, Answers to Questions on Notice, p.1 (Department of Family and Community Services).

5 *Submission 25*, p.3 (Department of Family and Community Services).

The Department provided evidence of support services available to TPV holders – social workers, language services and the standard appeal rights; however we share the concern about extending a penalty based system to people who are refugees and already affected by significant residential and financial restrictions.

Current Situation

Under the current activity test for special benefits, TPV holders are required to look for work, register with Job Network providers and report 4 job contacts per fortnight. If they fail to meet these conditions, their payment may be cancelled. The proposed changes will extend the requirement to negotiate and enter into a Special Benefit Activity Test – access to Work for the Dole as well as more support through Job Search Network services will be available. Critically TPV holders will not have access to intensive assistance services with the enhanced help to find work. If the stated aim of the changes is to treat every job seeker the same, this difference does limit the support to TPV holders while subjecting them to the same penalty processes.

The National Welfare Rights Network and the Australian Council for Social Service (ACOSS) submission noted that:

- ‘In administering the current activity test for Special Benefit in respect of TPV holders, the Department’s and Centrelink’s approach has been to have regard to the fact that TPV holders – particularly those who have only recently been released from detention – are in a uniquely vulnerable position.’⁶

Areas of Low Employment

The extension of the penalty for moving to areas of low employment caused real concern. Uniting Care, Australia and the National Social Responsibility and Justice noted that:

- ‘It is well recognised that TPV holders move to attempt to establish themselves in work.
- The uncertainty caused by their TPV and their poor literacy and language skills often make seasonal work such as fruit picking the only employment option...Refugees also move to link with supportive ethnic and cultural communities.’⁷

The Department stressed that there would be efforts to communicate effectively with any recipient caught in this situation and that there were efforts to determine reasonable actions and circumstances. However we are worried by the possible impact on TPV holders who would lose all income for an extensive period through genuine efforts to seek work.

6 *Submission 35*, p.3 (National Welfare Rights Network and ACOSS).

7 *Submission 43*, p.3 (Uniting Care Australia).

Conclusion

The current number of TPV holders receiving Special Benefits across the country, provided by the Department is 4,262 out of a total Special Benefit population of 12,155. Special Benefit is a payment designed to meet the needs of people who are unable to access any other form of assistance. In the case of TPV holders, their temporary residency status limits their access to other Centrelink payments and residency services provided through DIMIA.

The concept of mutual obligation involves the participation of people in activities to improve their employment prospects in return for financial support. Currently TPV holders on special benefits, except those exempted for health and caring responsibilities, do participate in regular reporting processes and job seeking with Centrelink and limited access to job matching services through the Job Network.

The proposed extension provides further access to the Job Network and the requirement to Activity Agreements, without the full access to intensive assistance. This extension does provide critical and welcome access to English language classes. However, the extension of the full penalty process, including administrative breaching, is a major concern for the welfare groups currently working with TPV holders across the country. The proposal's aim to treat all job seekers the same is not fulfilled by the legislation – TPV holders on special benefit do not receive the same financial support as job seekers on Newstart or Jobsearch. They do not have access to all Job Network services, in particular intensive assistance.

In light of these limitations, changes outlined in the bill should not proceed until these issues are addressed.

Senator Kay Denman, Tasmania

Senator Claire Moore, Queensland