



Submission to the Senate Community Affairs Legislation Committee
inquiry into the Family and Community Services Legislation
Amendment (Special Benefit Activity Test) Bill 2002

Presented by NUS President
Moksha Watts

Prepared by RMIT Refugee Support Taskforce Project Officer
Jess Whyte

November 2002

The National Union of Students (NUS) is the peak student representative organisation in Australia covering over 650,000 students. NUS welcomes this opportunity to make a submission to the Senate Community Affairs Legislation Committee as it inquires and reports on the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002.

NUS has explicit policy on the treatment of asylum seekers, policy developed and passed by the NUS National Conference:

NUS deplores the denial of access to social security, Medicare, English language assistance classes as well as the imposition of “no work” conditions on the temporary visas of asylum seekers whilst their claims for refugee status are being assessed by the Department of Immigration and Multicultural Affairs. NUS believes that these acts are in breach of the International Covenant on Economic, Cultural and Social Rights, to which Australia is a party, and leave many asylum-seekers with no means or assistance by which to support themselves, and leaving them relying on the goodwill of charitable organizations. NUS further believes that the provision of these basic social services is the responsibility of government, not of private charitable organizations.¹

NUS has grave concerns about the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002. In particular NUS strongly opposes the prospect of the regime of breaching and mutual obligation being extended to TPV holders on Special Benefit. TPV holders are already a highly disadvantaged, and often socially isolated, sector of the population; they will be disproportionately affected by such a regime. In particular, language barriers, compounded by the denial of access to AMEP, will make it difficult for TPV holders to comply with activity test requirements, and to access the appeals process in the event of a faulty breach or penalty.

NUS is concerned that at the heart of the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002, is the continuation of the stated policy of “deterrence” of asylum seekers through the granting to TPV’s. The Bill will negatively impact upon a group of people who already live in poverty, are deliberately excluded from full participation in society, and live in a permanent state of limbo.

¹ NUS, “Policy of the National Union of Students Inc, 2002: International”, NUS, Melbourne, 2002, page 12.

NUS' concerns focus on the following areas:

1. The ability of people to comply with complex mutual obligation requirements:

The lack of support services and in particular, English language support offered to TPV holders has been well recognised. A recent Queensland government report into TPV's found that the lack of settlement services provided to TPV holders contributed to 'social isolation' and 'significant mental health difficulties' amongst visa holders. In particular, the lack of access to English classes was found to be 'a major barrier to TPV entrants' participation in society' and a severe barrier to obtaining employment.² The temporary nature of TPV's also makes it more difficult for these visa holders to find employment as employers are reluctant to hire employees whose position is so insecure. All of these factors are real barriers to TPV holders finding employment and it is crucial that they are addressed. In fact many bodies, including the Refugee Council of Australia, have listed access to employment as among the most pressing needs for TPV holders.³

However the proposed amendments to the Special Benefit payment do nothing to address the barriers that do exist to finding employment. Instead, instituting mutual obligation requirements, activity tests and breaching is essentially a punitive measure aimed at people who are often desperate to find work but unable to do so. We are particularly concerned that such measures may be motivated not by a desire to assist TPV holders find employment, but by a commitment to the deterrence of further undocumented visa applicants.

Language barriers not only mitigate against TPV holders finding employment but also raise serious questions about the ability of such people to successfully fulfil mutual obligation requirements. In particular we are concerned by the requirement that special benefit recipients provide written statements "in a form approved by the Secretary" [section 731A (4)] from each employer whose job vacancy the person applied for. We believe that such a process is overly bureaucratic and difficult for those with little English proficiency, and implies a culture of suspicion of special benefit recipients. We note that TPV holders have no access to free translation or interpreting services, making the prospect of successful completion of mutual obligation requirements more unlikely.

² Mann, Renae, 2002: *Temporary Protection Visa Holders in Queensland*, Dept of Multicultural Affairs.

³ Refugee Council of Australia, *Temporary Protection Visas Position Paper*, September 2000.

2. The impact of breaching and financial punitive measures on already disadvantaged people:

The institution of activity tests and mutual obligation requirements has the potential to subject TPV holders to periods of up to eight weeks with no income whatsoever. Such a scenario is a desperate one for anyone, but more so for people who are unlikely to have strong networks of family or social support. Given the social isolation that many TPV holders already suffer, the ramifications for those who suddenly find themselves with no income for a two-month period are disturbing. In particular the threat of homelessness among people who are unlikely to have anyone to call on, is a serious one. ACOSS has noted that under current Centrelink procedures, it is young people and Indigenous Australians who are breached disproportionately.⁴ We fear that if this bill is adopted, TPV holders will join this list.

We are further concerned at the targeting of a heavily disadvantaged section of society, who generally live in real poverty. According to Centrelink itself, “special benefit helps if you are in severe financial need due to circumstances outside your control.”⁵ Breaching and penalising people who are already in “severe financial need” is likely to have severe ramifications. The special benefit itself is only \$180 per week, and is reduced by any in kind support, such as free board, that TPV holders receive. With the impact of even an initial breach, this amount drops to a level that makes survival incredibly difficult. This scenario will also have a significant impact on the resources of churches, charities and community organisations, who are often the only support for many TPV holders. Such organisations are not sufficiently resourced to provide for current levels of demand, let alone to provide for people whose incomes have been stopped entirely.

3. The ability of Job Network providers to provide language and culturally appropriate employment services:

TPV holders are currently only able to access the most basic of job search facilities (eg. touch screens) and are denied access to the Personal Support Program and Intensive Assistance. Job Networks should develop the resources, including sufficient translating and interpreting services to ensure they are in a position to assist TPV holders to find employment. However such assistance should not be contingent on the institution of mutual obligation and a punitive breaching regime. Rather it should be seen as a necessary step in facilitating the often difficult task of finding employment for TPV holders.

4. The ability of TPV holders to access the review and appeals system:

⁴ ACOSS, *Social Security Breaches: Penalising the Most Disadvantaged*, March 2000.

⁵ Centrelink, *Special Benefit Information Sheet*.

Mutual obligation conditions are complex and can be difficult for those fluent in English. We are concerned that TPV holders, who are not fluent in English, will not be able to comply with these requirements. We are also concerned about the ability of TPV holders to access any appeal processes or to contest breaches. ACOSS has noted that of those breaches from July 1998 to April 1999 that were appealed to the Administrative Appeals Tribunal, 47% were overturned.⁶

This suggests a high degree of error in the breaching process. This error is likely to impact most substantially on those who do not have the resources to pursue the appeals process.

Many TPV holders, who experience language barriers and have no access to translation or interpretation services will be unable to pursue appeals, and will therefore be most at risk of suffering unwarranted penalties.

Recommendations:

Recommendation 1:

The full range of settlement services offered to holders of permanent protection visas should be made available to TPV holders, in order to give them the best chance of finding meaningful employment. In particular, TPV holders should be given access to: the 510 hours of free English classes offered, through AMEP, to permanent visa holders; Centrelink job search facilities; and free interpreting and translation services.

Recommendation 2:

Mutual obligation, breaching and activity tests should not be applied to those on special benefit. Instead they should be given access to the full range of Centrelink job search assistance, including job networks, on a voluntary basis.

Recommendation 3:

Denial of access to social security should never be utilised as a deterrent measure against further undocumented arrivals.

Recommendation 4:

The dollar for dollar income test should be abolished, as should the in-kind means testing eg. the two thirds rate payable for those who receive free board and lodging. Special Benefit should not be means tested more stringently than New Start.

⁶ ACOSS, *Social Security Breaches: Penalising the Most Disadvantaged*, March 2000.

