

## **BUDGET 2017 – RESIDENCE RULES FOR PENSIONS**

The Government announced in the 2017 Budget that from 1 July 2018 to qualify for the age pension or disability support pension (DSP) a new claimant will need at least 10 years continuous Australian residence and up to 15 years continuous Australian residence in some circumstances.

The Government has estimated savings of about \$119 million over five years.

### **Current residency requirements for age and disability support pension**

Currently, to be eligible for the age pension a claimant must have:

- 10 years continuous Australian residence at any point in the past, or
- A total of at least 10 years Australian residence over two or more periods, with at least one of period five years or more.

There are limited exemptions. The main exemptions are:

- for refugees or former refugees residing in Australia, and
- in the case of DSP, if the claimant was an Australian resident at the time their inability to work or blindness occurred.

Generally to be an Australian resident, a person must be an Australian citizen or permanent resident and reside in Australia.

### **Proposed changes to residency requirements**

Under this measure, from 1 July 2018 a new claimant must have:

- 10 years continuous Australian residence, with at least five years during their Australian working life (that is, between age 16 and age pension age) or
- if less than five years working age residence, 10 years continuous Australian residence and less than five years cumulative receipt of activity tested income support payments or
- 15 years continuous Australian residence.

It has been announced that existing exemptions to the residency requirements will be preserved.

The Government estimates that about 2390 new claimants will be affected each year over the forward estimates by having their eligibility for age or disability support pension delayed. For most the problem will be the need to have at least 10 years continuous Australian residence (currently, only five continuous years is required). A small number of people will now need 15 years continuous Australian residence because they do not have five years working life residence or less than five years in total receiving activity tested income support.

## Analysis

NSSRN opposes this measure.

Residence requirements are fundamental to the Australian social security system. There have been many changes to these requirements over time, and in the past residence requirements for pensions have been longer than the current rules.

Residence requirements operate as waiting periods and bar people in financial need from accessing basic income support in certain circumstances. It is a matter of judgment how to balance these competing principles.

It affects relatively few people. However, in the NSSRN's view, there is no justification for tightening the residence requirements for age pension and DSP. The measure would achieve a small saving, but is likely to cause severe financial hardship to some very vulnerable elderly Australians.

It is likely that this measure will result in more elderly migrants over age pension age relying on the poverty level special benefit payment for extended periods, rather than age pension. This includes some elderly victims of violence, abuse and neglect.

Current residence requirements already mean that some older migrants, particularly if over age pension age, end up on special benefit as they are ineligible for other payments. In our experience this particularly affects elderly migrants under the contributory parent visa scheme.

Special benefit is a discretionary payment paid to people in severe financial hardship who are ineligible for other income support payments. Its maximum rate is the same as newstart allowance. However, it is often less than newstart allowance, which is already poverty level, due to strict means testing policies. It is much lower than the age pension.

Elderly migrants under the contributory parent visa arrangements must have an assurer (usually an adult child in Australia) who guarantees to provide financial support or repay any recoverable social security payments made to the migrant during the first 10 years of Australian residence (the assurance of support scheme).

In our experience, one situation where older migrants may need to access income support is where they are the victim of family violence, neglect or abuse by their assurer or another family member. The government may then recover the amount of special benefit or other recoverable social security payments paid to the person from the assurer, so the cost is not borne by the taxpayer.

It is unclear whether there will be changes to the assurance of support scheme associated with this measure.

There should be exemptions for victims of violence, abuse and neglect from current residence requirements so that they can access the appropriate payment for the age and circumstances, not special benefit. The need for this reform is even more pressing, should this new measure proceed. This could be achieved at minimal cost to the taxpayer, by extending the assurance of support scheme to permit recovery of these amounts from assurers. A set of draft amendments to social security legislation to help establish fairer treatment to elderly migrants who are victims of family violence, abuse or neglect is attached.

The NSSRN is also opposed to this measure because it makes a person's history of income support receipt relevant to eligibility for payments. This may delay access to payments for people simply because they have the misfortune to lose their job, fall ill or experience another circumstance which prevents them supporting themselves through work.

It is unclear why the measure was made needlessly complex. Almost all of the savings from this measure come from the introduction of a minimum requirement of 10 continuous years residence, up from the current five years. In short, almost the same savings could have been achieved from a measure which simply required 10 years continuous Australian residence.

This aspect of the measure reflects the stigmatisation of social security receipt which a number of commentators have noted about the social security measures in this Budget. It seeks to introduce a very concerning precedent, penalising people for previous periods in receipt of income support, into the Australian social security system.

### **Appendix – a fairer approach for victims of family violence, abuse or neglect**

The following draft amendments to social security legislation would help to establish a fairer approach to elderly migrants who are victims of family violence, abuse or neglect.

1. Amend s 43(1) of the *Social Security Act 1991* (Cth) by inserting a new paragraph (e) as follows:

(e) the person is the holder of a visa that is in a class of visas determined by the Minister for the purposes of this sub-paragraph;

2. Make a determination under proposed s 43(1)(e) of the *Social Security Act 1991* (Cth) that:

(1) For the purposes of subsection 43(1)(e) of the *Social Security Act 1991*, classes of visa are:

(a) if the circumstances in subsection (2) are met, Subclass 143 (Contributory Parent).

(2) For paragraph (1)(a), the circumstances are that:

(a) an assurance of support was in force in respect of the person (the assuree) but was cancelled by the Secretary in the circumstances specified by a determination under subparagraph 1061ZZGF(1)(b)(iii) of the *Social Security Act 1991*; or

(b) an assurance of support is in force in respect of the assuree and the person who gave the assurance of support is:

(i) unwilling or unable to provide an adequate level of support to the assuree; or

(ii) it is unreasonable for the assuree to accept that support.

3. Amend the table in s 5(1) of the *Social Security (Assurances of Support)(DEEWR) Determination 2008* to insert item 10, Age Pension under Part 2.2 of the Act.