



5 March 2021

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

By email: community.affairs.sen@aph.gov.au

Dear Committee Secretary,

Economic Justice Australia Submission regarding the Social Services Legislation Amendment (Strengthening Income Support) Bill 2021

About Economic Justice Australia

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people on their social security issues and rights. Our members across Australia have provided people with free and independent information, advice, education and representation in the area of social security for over 30 years.
2. EJA provides expert advice to government on social security reform to make it more effective and accessible. Our law and policy reform work:
 - Strengthens the effectiveness and integrity of our social security system;
 - Educates the community; and
 - Improves people's lives by reducing poverty and inequality.
3. In this submission we make comments and recommendations regarding the following Parts of Schedule 1 of the Bill:
 1. **Part 1:** Increasing the maximum basic rates of working age social security payments by \$50 per fortnight;
 2. **Part 2:** Extending until 30 June 2021 the criteria for a person to qualify for youth allowance (other) or jobseeker payment in circumstances where the person is in quarantine or self-

- isolation or caring for a family member or household member in quarantine or self-isolation due to COVID-19; and
3. **Part 3:** Extend until 30 June 2021 the waiver of the ordinary waiting period for jobseeker payment and youth allowance (other).
 4. **Part 5:** Extending until 30 June 2021 the portability period for certain age pensioners and recipients of the disability support pension (for severely disabled persons) temporarily absent from Australia unable to return to, or depart from, Australia within 26 weeks due to the impact of COVID-19.
4. We also make further proposals regarding related Social Security Act provisions relevant to strengthening income support.

SUMMARY OF RECOMMENDATIONS IN THIS SUBMISSION

Recommendation A- Increasing working age payments: Permanently increase social security income support working age payment rates to at least \$65 a day, and provide supplementary payments that reflect specific costs people face, as proposed by ACOSS in its submission to this inquiry.

Recommendation B – Qualification for youth allowance or jobseeker payment – coronavirus: Amend Items 12 to 14 of the Bill so as to remove the 30 June 2021 end-date for the provisions.

Recommendation C – Ordinary waiting periods: amend the Social Security Act so as to permanently remove the ordinary waiting period.

Recommendation D – Portability: Extend indefinitely the discretion to allow unlimited portability period for certain age pensioners and recipients of the disability support pension (for severely disabled persons) unable to return to, or depart from, Australia due to the impact of COVID-19.

Recommendation E: Amend the Social Security Act so as to reduce the Newly Arrived Residents Waiting Period to a maximum of six months; and provide for waiver of any remaining NARWP for people whose NARWP was suspended under the special coronavirus measures.

Recommendation F: Amend the Social Security Act so as to permanently remove the Liquid Assets Test Waiting Period.

Part 1 – Increasing working age payments

5. EJA members, some of which have been providing specialist social security advice and advocacy since the 1980s, are uniquely placed to observe the hardship caused by low income support payment rates – and the impact of the temporary boost to household finances by providing the Coronavirus Supplement as an add-on to basic rates.

6. For many people who must rely on income support payments in the longer term homelessness is an ever-present risk. This is particularly so for sole parents, people with disability and older job-seekers. Sole parents reliant on income support must attempt to budget for reduction in payment rates as the age of their youngest child increases; and there are significant numbers of people with disability with limited work capacity who remain on JobSeeker Payment (previously Newstart Allowance) indefinitely – including people with intellectual disability or cognitive impairments. Entrenched poverty for these cohorts of people affects job-seeking and further undermines already limited prospects of securing work.
7. EJA articulated its members' observations regarding the impacts of rate inadequacy in its *Submission to the inquiry into the adequacy of Newstart and related payments and alternative mechanisms to determine the level of income support payments in Australia*. The submission included numerous case studies highlighting the particular issues faced by people with disability, sole parents and older job-seekers struggling to survive on Newstart and comply with mutual obligation requirements. The submission can be accessed [here](#).
8. EJA's *Submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into homelessness in Australia* focused on the ways in which rate inadequacy can undermine the effectiveness of programs aiming to prevent homelessness among people in vulnerable populations. The submission can be accessed [here](#).
9. Our members continue to see the impact of low basic income support rates on their clients on a daily basis, given the need to probe clients' financial and personal circumstances in assisting with appeals – especially for appeals regarding JobSeeker mutual obligations, Disability Support Pension, compensation preclusion periods, and appeals turning on whether a person is single or a member of a couple. It is clear to our members that the effective doubling of non-pension payment rates under the special coronavirus measures changed the lives of recipients – the rate increase along with relaxation of means testing meant that people newly unemployed due to COVID did not face immediate financial distress pending finding work; and longer-term recipients were able to live with dignity and afford the essentials – food, accommodation and medications.
10. The manifold ways in which the addition of the Coronavirus Supplement addressed hardship and enhanced the lives of people reliant on working age payments have been highlighted by various surveys and research studies, as documented by ACOSS in its submission to this Inquiry. We note that whilst some of these surveys looked at potential impact of returning to the pre-COVID working age payment rate of \$40 a day, the findings are pertinent to this Inquiry because the Bill proposes a mere \$4 a day increase to that rate. In particular we note that:
 - An ACOSS survey (Sept 2020) found that after paying rent, 20% would be left with 0-\$7 per day, to cover everything else, while a further 21% would be left with just \$7-\$14 a day. Adding the increase of \$4 a day proposed under the Bill would make no practical difference to recipients' ability to meet non-rent needs.

- As at August last year there were 168 private rentals affordable for a single person on the current rate of JobSeeker (including Rent Assistance), Australia-wide (Anglicare Australia report, 2020). This represents 0.2% of private rentals surveyed. Adding the increase of \$4 a day proposed under the Bill would make no practical difference to recipients' ability to afford private rental.
 - In a September 2020 ACOSS survey, 95% of people reported that returning to \$40 a day would have an 'extreme' or 'significant' impact on their ability to cover the basics. Adding the increase of \$4 a day proposed under the Bill would make no practical difference to recipients' ability to cover the basics.
11. ACOSS has also documented the breadth of consensus for a significant increase in basic working age payments from various sectors - from leaders representing charities that provide material support and accommodation, and also from other quarters, including:
- Reserve bank of Australia Governor, Dr Philip Lowe, who said that JobSeeker needs to permanently increase (COVID-19 Senate Inquiry, 14 August 2020).
 - Business Council of Australia CEO, Jennifer Westacott, who has called for JobSeeker to be permanently lifted closer to the Age Pension rate. "I think we need a permanent approach to the allowance, to the system, so people can live a dignified life", she said (ABC Radio National, 10 Nov 2020).
 - The Australian Medical Association
 - The Country Women's Association of Australia
 - The Council of Small Business Organisations of Australia
 - The Australian Industry Group
 - Grattan Institute.
12. EJA endorses ACOSS's recommendations to permanently increase basic rates of working age payments. EJA also endorses ACOSS's proposal that supplementary payments be provided that reflect specific costs faced.

Recommendation A: Permanently increase social security income support working age payment rates to at least \$65 a day, and provide supplementary payments that reflect specific costs people face, as proposed by ACOSS in its submission to this Inquiry.

Part 2 – Qualification for youth allowance or jobseeker payment – coronavirus

13. These amendments extend until 30 June 2021 the current temporary measure whereby a person may qualify for Youth Allowance (other) or JobSeeker Payment if due to

COVID-19, they are in quarantine or self-isolation, or caring for a family member or household member who is in quarantine or self-isolation.

14. Although it is possible that there will be no community transmission in Australia by July 2021, when this proposed measure would no longer be in place, there will likely be some transmission and possibly outbreak clusters. The rationale for introducing this measure people, as set out in the Explanatory Memorandum, will still apply in respect of any person required to quarantine or self-isolate, or provide care, as a result of COVID-19 after June, yet they would be precluded from JobSeeker payment or Youth Allowance (other) - leaving them without means of support. Apart from the hardship caused to the person and their family, lack of access to social security income support would potentially be a disincentive to complying with public health orders.
15. We propose that there be no end-date for this measure. As the flexibility for the Minister to extend the operation of the special coronavirus measures no longer applies, it is therefore problematic to impose an arbitrary and premature end date. There will be natural attrition of applications of the measure as COVID-19 community transmissions further decline across Australia, and the provisions will be rarely if ever applied once vaccination is rolled out and herd immunity is achieved. As such the cost implications of removing the end-date will be negligible. However, in the event that there are clusters of new infections, legislation enabling people in isolation or caring for someone due to COVID-19 will already be in place.

Recommendation B: Amend Items 12 to 14 of the Bill so as to remove the 30 June 2021 end-date for the provisions.

Part 3 – Ordinary waiting periods

16. These amendments extend the temporary measure to waive the ordinary seven-day waiting period applying in respect of certain social security working age payments to 30 June 2021 (extended from April).
17. EJA proposes instead that the Social Security Act be amended so as to permanently remove the ordinary seven-day waiting period. Our members observe that this seven-day waiting period is often not anticipated by people newly granted payment, causing budgeting issues and problems with direct deductions from savings accounts. The ordinary waiting period can be waived in special circumstances (relevant once the general waiver ceases), but clients can face severe immediate hardship while awaiting a waiver decision; tight guidelines regarding exercise of the discretion can act as a barrier for vulnerable people seeking waiver; and clients in financial distress can often feel an appeal against a decision not to waive the waiting period is pointless once the seven days has passed.

Recommendation C: Amend the Social Security Act so as to permanently remove the ordinary waiting period.

Part 5 – Portability

18. These amendments introduce a temporary discretionary power, ending on 30 June 2021, allowing the Secretary to extend the period for which age pensioners and certain recipients of the disability support pension who are temporarily absent from Australia, may be paid full rate of pension – i.e. not subject to proportional portability. The discretion will be applied if the person is unable to return to, or depart from, Australia within 26 weeks because of the impact of the coronavirus.
19. Generally, after 26 weeks overseas, the rate of age pension or disability support pension for a pensioner with unlimited portability is recalculated based on their ‘Australian Working Life Residence’ and may be reduced. The portability extension ensures their pension rate and relevant supplements are unaffected after 26 weeks overseas due to the impact of the COVID-19 pandemic.
20. The Secretary will have the discretion to extend the pension portability period beyond 26 weeks if satisfied that the person’s absence from Australia or their usual country of residence is temporary and their inability to return to, or leave, Australia before the end of the 26-week or extended portability period is a result of the impact of COVID-19 (including where the person has previously been granted an extension under the No. 10 and No.16 Determinations). Under the legislation, the Secretary cannot make a determination that results in an extended period that ends after 30 June 2021.
21. We propose that there should be no end-date for determinations applying this discretion.
22. Even if Australia’s and other countries’ international travel restrictions and border closures were lifted soon, there will still be pensioners who have been unable to return to, or depart from, Australia by July 2021 because of COVID-19. Under the proposed legislation these pensioners, who have received their normal pension entitlement under the special COVID-19 measures now in place, will have their pensions reduced – many significantly – from 1 July 2021.
23. The 30 June end-date for this discretionary measure will cause extreme hardship for people with a minimal entitlement under the proportional portability provisions. By definition this cohort consists of people with severe disability and age pensioners who had not planned to live overseas, merely to visit for a period of less than 26 weeks. Many are without secure accommodation and social supports overseas and many will lack the funds to purchase flights back to Australia once borders reopen and international flights become more available.

24. The flexibility for the Minister to extend the operation of the special coronavirus measures by Instrument no longer applies, and imposing an arbitrary and premature end date to this discretionary measure is problematic. Without an end-date, the proposed discretionary power would only apply to people who are genuinely unable to return to, or depart from, Australia due to COVID-19 and is thereby self-limiting. The need to apply the discretion will decline as travel restrictions lift and the pandemic wanes.
25. In considering the cost implications of removing the end-date for this measure, it needs to be taken into account that if not for COVID-19, the people benefitting from the measure would have preserved ongoing entitlement to pension under the ordinary rate by returning to, or travelling from Australia within the required period. Removal of the end-date would ensure that the cohort of people who currently have the benefit of the temporary extended portability measure continue to receive their usual pension entitlement until travel to or from Australia is possible.

Recommendation D – Portability: Extend indefinitely the discretion to allow unlimited portability period for certain age pensioners and recipients of the disability support pension (for severely disabled persons) unable to return to, or depart from, Australia due to the impact of COVID-19.

Further proposal – Newly Arrived Residents Waiting Period

1. The Newly Arrived Residents Waiting Period (NARWP) requires most recently arrived residents to serve a waiting period before they are eligible to receive a range of Centrelink payments or concession cards. There are some exemptions, including for refugees. The NARWP was extended from two years to four years from 1 January 2019.
2. Special Benefit is a discretionary benefit that may be payable to a person who: is not eligible for any other payment; is in severe financial hardship for reasons beyond their control; is unable to earn enough to support themselves or their family; is unable to get another income support payment; and ‘has suffered a substantial change in circumstances beyond his or her control’. Unfortunately, many people who are subject to a NARWP do not know that Special Benefit may be payable, including people who have only recently lost employment, people escaping domestic violence – and people facing or experiencing homelessness.
3. It is notable that the Government suspended application of the NARWP, ultimately until April this year, to deal with employment loss among newly arrived residents as a result of COVID-19. Once the NARWP is reinstated in April, people who have had the benefit of the waiver will have their payment cancelled and be required to serve the remainder of the waiting period. For those in this situation the only social security income support payment that may be available will be Special Benefit and, given tight policy guidelines, it will potentially be difficult to establish eligibility due to the need to establish ‘a substantial change in circumstances beyond his or her control’.

4. Just as the Government's decision to provide the Coronavirus Supplement to income support recipients has exposed the fact that the ordinary basic rate of Newstart/JobSeeker is grossly inadequate, the suspension of the NARWP under the special Coronavirus measures was in recognition of the hardship that can be endured by new migrants without work who are denied income support until they face destitution. COVID-19 has highlighted the inequity of the NARWP.

Recommendation E: Amend the Social Security Act so as to reduce the Newly Arrived Residents Waiting Period to a maximum of six months; and provide for waiver of any remaining NARWP for people whose NARWP was suspended under the special coronavirus measures.

Further proposal – Liquid assets Test Waiting Period

5. The Liquid Assets Waiting Period (LATWP), which applies where a person has available funds upon claiming specified payments (funds in excess of \$5,500 for single people, and \$11,000 for a member of a couple and single people with dependants), was also suspended under the special coronavirus measures – in recognition of the potential hardship caused to new claimants if forced to deplete savings before accessing income support.
6. EJA has long argued that the LATWP is counter-productive, and the fact that application of the LATWP was suspended as a special coronavirus measure reflects recognition of the hardship that can be generated by forcing people to deplete savings in order to access support. Once a person has served the waiting period and is granted payment, their capacity to manage ongoing expenses such as rent, mortgage, loan repayments, and meet health-related costs can be compromised.

Recommendation F: Amend the Social Security Act so as to permanently remove the Liquid Assets Test Waiting Period.

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