



Tasmanian Council of Social Service Inc

Submission to the Senate Standing Committee on
Community Affairs inquiry into the **Social Services
Legislation Amendment (Encouraging Self-
sufficiency for Newly Arrived Migrants) Bill 2018**

April 2018



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About TasCOSS

TasCOSS is the peak body for the community services sector in Tasmania. Our membership includes individuals and organisations active in the provision of community services to low income, vulnerable and disadvantaged Tasmanians. TasCOSS represents the interests of its members and their clients to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

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Introduction

TasCOSS welcomes the opportunity to provide input into the Senate Standing Committee on Community Affairs inquiry into the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018.

TasCOSS believes that the bill violates the principle that payment of social security should be according to financial need. Delaying payment to people for up to three years on the basis of their migration status fails this test. We are also concerned that this bill will impact negatively on an already vulnerable population. We therefore recommend that the Committee oppose the bill and that the bill be withdrawn.

Issues of concern

The proposed bill contravenes Australia's international obligations to provide social security to those in need

The Australian social security system is based on the recognition of government and community responsibility to assist those in need—measured by reference to the income and assets of the applicant. Accordingly, an entitlement to social security is viewed as a right based on need.¹ The proposed bill would result in violations of this right if migrants are unable to access social security when they are in financial need.

TasCOSS also believes that the proposed bill would contravene Australia's obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR). According to the Australian Government's own guidelines, the UN Committee on Economic Social and Cultural Rights has interpreted that Covenant to mean:

The Committee has also stated there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under ICESCR. In this context, a retrogressive measure would be one taken without adequate justification that had the effect of reducing existing levels of social security benefits, or of denying benefits to persons or groups who were previously entitled to them. If any deliberately retrogressive measures are taken, the country has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are justified, in the context of the full use of the maximum available resources of the country.²

¹ Australian Law Reform Commission, 'Social Security—Overview and Overarching Issues', 5.14 <https://www.alrc.gov.au/publications/5-social-security%E2%80%94overview-and-overarching-issues/australia%E2%80%99s-social-security-framework>

² Australian Government Attorney General's Department, 'Right to Social Security', <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Pages/Righttosocialsecurity.aspx#5what>

TasCOSS does not believe that the Government has demonstrated that the proposed changes are 'justified, in the context of the full use of the maximum available resources of the country'.

The proposed bill will impact negatively on an already vulnerable population, particularly women and children

The existing two-year waiting period already sends a strong signal to people coming to Australia that they must be able to support themselves. Given the increasing precariousness of the labour market, it is not reasonable to assume that new arrivals will be able to predict and plan in terms of their employment status beyond the current two year period. If, due to circumstances beyond their control, they need to apply for social security they should be entitled to do so.

The changes proposed will also disproportionately affect women, children and carers because it introduces for the first time a three-year waiting period to access Family Tax Benefit, Paid Parental Leave and Carer Allowance. These payments are intended to assist with the costs of raising children and with the costs of caring for someone with a disability or illness. The waiting period will mean that many skilled permanent migrants working in Australia are unable to access the same financial support for their children or their care work as their colleagues.

As a consequence, some - perhaps many - will find it difficult to balance work and caring responsibilities which could lead to them leaving the workforce. It could also result in poor health outcomes for recipients of care if their carers are forced to spend time away from them to support themselves financially. Many of these care workers are supporting people to stay in their own homes when they are aged, dying, chronically ill or have a disability. If the proposed measure goes ahead some of these care recipients will be forced into residential facilities or will need to draw on Commonwealth- and State-funded in-home support services, thus cancelling out some of the anticipated savings from the measure.

Other unintended consequences will flow from people not being able to access the concession cards associated with Commonwealth payments, because this access is a proxy for eligibility for other community goods and services particularly at State level. Driver mentor programs are one example.

Recommendations

TasCOSS recommends that the bill be withdrawn due to its unfair and disproportionate impact on vulnerable populations.