

15 August 2014

Welfare System Taskforce
Department of Social Services
PO Box 7576
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Submission on Welfare Review Interim Report

Thank you for this opportunity to comment on the Welfare Review Interim Report.

Anti-Slavery Australia welcomes initiatives to ensure that equitable and more simplified support payments are received by those who are the most marginalised in our society. As a legal service which provides on-going support to victims of human trafficking, slavery, servitude, forced labour and forced marriage, we believe that these victims are among the “people with multiple disadvantages” in the “groups at risk” section referred to on page 36 of the interim report which notes:

Unemployment and dependence on income support is a particular issue for people with multiple levels of disadvantage and complexity in their lives. Some people need to address substantial challenges to improve their chances of leaving income support.

People who are homeless, who experience poor health or mental health conditions, suffer from drug and/or alcohol problems, or have very low literacy and numeracy levels, may have very deep needs and can face extreme difficulties finding and maintaining employment. Some migrants, especially refugees, may also face serious challenges to participating in work, and generally require a high degree of government support and assistance over a prolonged period.¹

Victims of human trafficking and related crimes have complex needs including trauma and associated physical and mental health issues, language difficulties as well as isolation from family and the community. These act as a barrier to employment and education and create the need for a high degree of urgent government support without delay. Victims with access to meaningful support including welfare payments are better able to contribute to the criminal justice process and rebuild their lives.

Anti-Slavery Australia is concerned about the proposed Schedule 9 amendment to the *Social Security Act 1991* relating to ‘Exclusion Periods’ contained in the *Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014*. Proposed section 1157AA gives a wide discretion to the Minister by way of legislative instrument to nominate which recipients of Special Benefits should be exempt from the new six month exclusion period before receiving benefits.

¹ A New System for Better Employment and Social Outcomes: Interim Report of the Reference Group on Welfare Reform to the Minister for Social Services June 2014, page 36

In relation to Schedule 9, the Explanatory Memorandum states:

A person will not be subject to the new waiting period or the new non-payment period if they are subject to an exemption. This Schedule sets out a number of exemptions for a person who does not have a full capacity to work and allows the Minister to specify further exemptions in a legislative instrument. The Minister will also be able to specify temporary exemptions in a legislative instrument which exempt a person from a waiting period or a non-payment period for particular period of time.²

While new Section 1157AF proposes a list of exempt recipients, the list does not specifically include victims of crimes against the person set out in Divisions 270 and 271 of the *Criminal Code Act* such as human trafficking, slavery, servitude, forced labour, forced marriage and debt bondage. While the Minister retains the discretion in Section 1157AF 2(b) to determine an exemption by legislative instrument, Anti-Slavery Australia believes that the amendments require certainty by including these victims in the list of exempt recipients.

Anti-Slavery Australia shares the concern expressed by the National Welfare Rights Network (NWRN) in their submission on the Bill to the Senate Standing Committee on Community Affairs in July 2014³ that victims of trafficking [and victims of crimes set out in Divisions 270 and 271 of the *Criminal Code Act*] could potentially face a six-month wait for Special Benefits if the Minister chose not to exempt them under Section 1157A. Anti-Slavery Australia agrees with the NWRN that

Exemptions are a critical aspect of any measure which denies income support for a six month period. They are part of the fundamental architecture of this scheme. As such, wherever possible, the exemptions should be included in the Bill and be debated by parliament, rather than being left to the Minister to determine at a later date by disallowable instrument.⁴

Additionally, the form of social security payment is linked to visa status. Anti-Slavery Australia remains concerned about the negative impact of visa status on the financial support available to victims of trafficking and related crimes. If a victim-witness holds a Witness Protection (Trafficking) (Permanent) visa and is in receipt of Special Benefit social security payment, then any compensation that they receive, for example, through a statutory victims' compensation scheme, will be treated as income and the Special Benefit will cease during the time that the compensation award is exhausted through day to day living expenses. The intention of a compensation award to a trafficked person should be to assist them in rebuilding their life rather than as a short-term replacement of social security benefits.

By comparison, when a Protection visa is granted to an asylum seeker, he or she is not subject to the 2 year wait period. A better framework would be to reclassify the Witness Protection (Trafficking) (Permanent) visa as a humanitarian visa. This would ensure that

² *Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014* Explanatory Memorandum, 36

³ *National Welfare Rights Network*, Submission 60 to the Senate Standing Committee on Community Affairs, *Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014*, *Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014*, page 10

⁴ *Ibid* 11

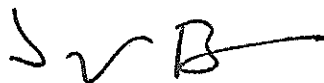
recipients of these visas receive the same level of social security support as those who have been granted humanitarian visas. As we have stated previously:

In light of the link between visa status and social security entitlement, we observe that while victim-witnesses who hold the Criminal Justice Stay visa or who are granted the Witness Protection (Trafficking) (Permanent) visa are eligible to access Medicare and limited social security payments, they are disadvantaged in comparison with holders of other visas granted on refugee or protection grounds. If a victim-witness is certified by the Attorney-General as having made a contribution to a police investigation or criminal prosecution [and satisfies additional criteria], they may be granted the permanent visa, but the visa type is restricted to the grant of Special Benefit and they are subject to the 2 year waiting period for more favourable Centrelink payments.⁵

Anti-Slavery Australia recommends that people granted a Witness Protection (Trafficking) (Permanent) visa be exempt from the 2 year waiting period for access to Centrelink payments. This exemption would recognise their experience as a victim of human trafficking or related crimes, and their contribution to Australian criminal justice processes. We estimate that the financial cost would be minimal noting that since 2009, only 113 grants of the Witness Protection (Trafficking)(Permanent) (subclass 852) have been made to victims of trafficking.

Anti-Slavery Australia would be pleased to discuss these issues in further detail with the Taskforce and in particular provide evidence of specific cases where the payment of Special Benefits have been suspended upon the receipt of a compensation award by the victim.

Yours sincerely



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⁵ Anti-Slavery Australia, submission to the Australian Parliament, Joint Standing Committee on Foreign Affairs, Defence and Trade *Inquiry into Slavery, Slavery-like conditions and People Trafficking*, 2012, para 9.4