

Federal budget submission 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.

RECOMMENDATIONS

Recommendation A: Lock in permanent increases to Jobseeker Payment and Youth Allowance rates, and commensurate increases to pension rates.

Recommendation B: Extend the Coronavirus Supplement until the rate of JobSeeker Payment is permanently increased to an adequate level.

Recommendation C: Extend the suspension of the Liquid Assets Waiting Period (LAWP) until the job market improves, at least until 31 December 2020, in line with the extension of the Coronavirus Supplement and waiver of the Ordinary Waiting Period and Newly Arrived Resident's Waiting Period.

Recommendation D: Exempt from LAWP assessment any amounts withdrawn from superannuation (under the early release of super due to COVID19 measure, or emergency withdrawals) via Ministerial Determination exercising the Minister's powers under the Omnibus Act Schedule 11, Part 1, CI 40A.

Recommendation E: Waive the remainder of residential waiting periods for people still on payment when the suspension period finishes on 31 December 2020, at the very least for people on Special Benefit.

Recommendation F: Relax eligibility requirements for Special Benefit to ensure that the payment can be more readily accessed by those subject to the NARWP once the temporary suspension is lifted.

Recommendation G: Maintain the suspension of all mutual obligations compliance activity at least until the JobKeeper Payment ends.

Recommendation H: Provide that where a person is deemed not to have fulfilled an obligation, they have three working days to give an explanation to the provider before their payment is suspended.

Recommendation I: Extend to principal carers the temporary coronavirus measure to increase the income test free area to \$300 per fortnight from 25 September 2020.

Recommendation J: Abolish the CDP and replace it with the comprehensive alternative model originally prepared by the Aboriginal Peak Organisations NT (APONT), the Fair Work and Strong Communities: Remote Development and Employment Scheme (RDES).

Recommendation K: Provide all New Zealand citizens living in Australia with access to Special Benefit

Recommendation L: Extend the list of visa sub-classes which attract Special Benefit, with extended coverage including:

- i. Bridging Visas, all sub-classes
- ii. Student Visa
- iii. Temporary Resident (Skilled Employment) Visa
- iv. Pacific and Seasonal Worker Visa
- v. Temporary Graduate Visa.

Recommendation M: Amend s737(1) of the Social Security Act to enable full-time students to access Special Benefit. In the alternative, we propose that policy guidelines regarding administration of section 729 of the Social Security Act be amended by the Secretary of the Department of Social Services to enable full-time students holding a Safe Haven Enterprise Visa access to Special Benefit.

Recommendation N: Implement the recommendations made in EJA's report, 'How well does Australia's Social Security System support victims of family and domestic violence?', in full.

Recommendation O: Implement the recommendations made in EJA's report, 'Homeward Bound', in full.

Recommendation P: Allocate substantial additional funding to enable Services Australia to employ additional Centrelink social workers, particularly given the COVID-19 crisis and rise in risk and incidence of DFV and homelessness.

Recommendation Q: Invest in adequate staffing to provide oversight of automated decision-making processes, and decisions made in the social security system.

Recommendation R: Provide funding to enable establishment of a nationwide specialist hotline for community legal centre advocates.

Recommendation S: Inject \$5 million per annum of ongoing core funding to the 15 specialist social security community legal centres and programs across Australia and to Economic Justice Australia as the peak organisation.

Raise the rate for good

3. EJA has commended the Government for the provision of additional financial assistance to many Australians financially impacted by COVID-19. The introduction of the Coronavirus Supplement, a \$550 per fortnight supplementary payment, effectively doubled the ordinary rate payable to the over 1.6 million people who receive JobSeeker Payment. There have been widespread reports of people's lives being transformed as a result of being able to buy fresh fruit and vegetables and pay for safe accommodation and medical treatment. However, this temporary measure is set to be reduced to \$250 per fortnight from 25 September, before being phased out altogether at the end of the year.
4. The basic rate of JobSeeker Payment (previously Newstart Allowance) has not materially increased since 1994 and before the outbreak of COVID-19, households relying on social security payments were five times more likely to live in poverty than those with breadwinners earning a wage.¹ EJA members have seen first-hand the impact of the low rate of payment on the lives of many people in our community. It is impossible to budget household expenses on the 'normal' rate of \$550 per fortnight. After housing costs, households whose main income was Newstart Allowance were \$124 a week below the poverty line.²
5. EJA endorses ACOSS's proposals to increase maximum basic rates of income support permanently post-COVID, and index income support payments to wages.

Recommendation A: Lock in permanent increases to Jobseeker Payment and Youth Allowance rates, and commensurate increases to pension rates.

¹ *Poverty in Australia*. Australian Council of Social Service, in partnership with the University of New South Wales. 2018. https://www.acoss.org.au/wp-content/uploads/2018/10/ACOSS_Poverty-in-Australia-Report_Web-Final.pdf

² *NSSRN submission to the inquiry into the adequacy of Newstart and related payments*. National Social Security Rights Network (EJA). October 2019. <http://ejaustralia.org.au/wp/wp-content/uploads/2020/01/Newstart-Inquiry-Submission-NSSRN.pdf>

Coronavirus measures

Extend the Coronavirus Supplement beyond 31 December 2020

6. If a permanent increase to JobSeeker Payment is not achieved by 31 December 2020, the Coronavirus Supplement needs to be continued, to prevent people who are unemployed from falling off a financial cliff. The earlier this decision is made and announced, the more time people will have to make informed decisions about how they will organise their finances to survive.

Recommendation B: Extend the Coronavirus Supplement until the rate of JobSeeker Payment is permanently increased to an adequate level.

Extend waiting period suspensions

7. The temporary suspension of the **Liquid Assets Waiting Period (LAWP)** was a welcome initiative that contributed to preventing many Australians from falling into an even more precarious financial position after losing their job due to the pandemic.
8. Whatever the merits of the rationale for applying the LAWP in times of economic growth, the current recession will mean long-term unemployment and reliance on income support for many. Suspension of the LAWP has meant that claimants have been able to retain savings as a buffer for meeting ongoing living costs. The planned reintroduction of the LAWP on 25 September 2020 will mean that new claimants with savings will be required to wait up to 13 weeks for access to income support – despite the fact that the economic impacts on the job market have further deteriorated since the LAWP was suspended.
9. Economic Justice Australia’s member community legal centres have assisted many people affected by the LAWP over the years, observing that there are particular groups for whom the impacts are harsh:
 - Older people who haven’t reached pension age and who are forced to use up a significant portion of their retirement savings before qualifying for income support, then facing age-related barriers to employment
 - Younger people in insecure work who are forced to decimate savings, including any superannuation they may have drawn down, to make ends meet
 - Single parents who may not have strong support networks and who are without a financial buffer to enable them to adequately provide for their children, keep up to date with utility payments, and meet unexpected expenses such as car repairs
 - Domestic violence victims, who are forced to expend much-needed savings that could be better applied to re-establishing a safe home.

Recommendation C: Extend the suspension of the LAWP until the job market improves, at least until 31 December 2020, in line with the extension of the

Coronavirus Supplement and waiver of the Ordinary Waiting Period and Newly Arrived Resident's Waiting Period.

Recommendation D: Exempt from LAWP assessment any amounts withdrawn from superannuation (under the early release of super due to COVID19 measure, or emergency withdrawals) via Ministerial Determination exercising the Minister's powers under the Omnibus Act Schedule 11, Part 1, CI 40A.

10. The temporary suspension of the **Newly Arrived Migrants Waiting Period (NARWP)**, initially to September and extended to 31 December 2020, has been a welcome initiative to deal with employment loss among newly arrived residents as a result of COVID-19. The NARWP normally requires most recently arrived residents to serve a waiting period of up to four years before they are eligible to receive Centrelink payments or concession cards.
11. 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 waiver of the NARWP until September/October points to the hardship that can be endured by new migrants without work who are denied income support until they face destitution. The impact of the NARWP on newly arrived residents' capacity to settle and find long-term work in Australia needs to be reviewed – particularly in the light of the recession associated with COVID-19.
12. Once the NARWP is reinstated, 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 it will potentially be difficult to establish eligibility due to the need to establish 'a substantial change in circumstances beyond his or her control'.

Recommendation E: Waive the remainder of residential waiting periods for people still on payment when the suspension period finishes on 31 December 2020, at the very least for people on Special Benefit.

Recommendation F: Relax eligibility requirements for Special Benefit to ensure that the payment can be more readily accessed by those subject to the NARWP once the temporary suspension is lifted.

Extend suspension of mutual obligation compliance activity

13. The temporary suspension of compliance activity for mutual obligations from March was an important step toward adapting our social security system to the realities of COVID-19.

14. Suspending compliance activity has allowed providers to direct their focus towards establishing relationships with new claimants and supporting them in engaging with an unfamiliar system at an unstable time. It has also meant that recipients, and their dependants, do not risk falling into rent arrears, or accruing debt due to payment suspensions and cancellations.
15. Before the suspension of compliance activity, many vulnerable new payment recipients faced significant hardship as a result of the compliance regime.
16. The re-introduction of compliance activity for mutual obligations threatens to expose people to circumstances where their financial security, mental health and ability to care for dependants is jeopardised. Many of the people currently receiving payments have not previously had contact with either Centrelink or jobactive. They are experiencing information overload from agencies advising on their public health obligations and services changing their operation due to the pandemic. Many of these people have lost all their sources of income and are facing an uncertain financial future. A significant proportion of them have existing vulnerabilities, such as serious medical/psychiatric conditions or family violence, or are spending time caring for children during school closures.
17. These are not circumstances in which recipients and providers are able to accurately track obligation requirements and exemptions. Our member centres report that clients are confused about mutual obligation requirements, and fear regarding potential compliance penalties. They have also had clients who have been threatened with compliance penalties by providers while the suspension was in place. Reintroducing mutual obligations in the current context will inevitably mean that many vulnerable people will have their payment suspended due to misunderstandings and miscommunication. This will place considerable strain on recipients, their dependants - and on providers and Centrelink staff.
18. The reintroduction of any compliance activity should be timed with the revival of job vacancies and the ending of lockdown arrangements. At the very least, when compliance activities are reintroduced, they should allow sufficient time for recipients and providers to understand the reason for non-compliance before suspending payments. Currently, payments are suspended if no explanation is provided within one day. Giving recipients and providers more time would help prevent suspensions from occurring due to miscommunication or misunderstandings.

Recommendation G: Maintain the suspension of all mutual obligations compliance activity at least until the JobKeeper Payment ends.

Recommendation H: Provide that where a person is deemed not to have fulfilled an obligation, they have three working days to give an explanation to the provider before their payment is suspended.

19. EJA endorses ACOSS's recommendations to bring forward elements of the Employment Services Expert Panel recommendations to improve employment services. In 2018, the Employment Services Expert Panel undertook a major review of Department of Employment programs, after collecting substantial evidence from service providers and users, peak bodies and labour market experts. Its report recommends major changes to jobactive and other services when the current funding round ends in 2020. In the interim, the New Employment Services Trials are under way to test the effectiveness of a new model of employment assistance. The bushfires, COVID-19 lockdowns, and much higher unemployment have disrupted these plans, underscoring the need for major reform of employment services along the lines proposed.
20. In consultation with service providers and users, peak bodies and experts, ACOSS has recommended that elements of the new employment services model should be advanced in response to the more challenging labour market conditions we now face, including:
- A shift from excessive compliance and penalties to personal agency, including simple and flexible activity requirements that take account of local and personal circumstances, and the removal of automated payment suspensions;
 - Two streams of service, a digital service (with personal support as needed) for people less disadvantaged in the labour market and a more intensive face-to-face service for people long-term unemployed and those at risk;
 - Purchasing arrangements that provide more funding in advance, facilitate specialist and locally-based providers, and greatly reduce caseloads; and
 - An enhanced Employment Fund to assist with investments to overcome barriers to employment.

Extend changes to income test free area to principal carers of children

21. Under the special coronavirus measures, the income test for JobSeeker Payment recipients has been relaxed, with two sets of changes – one in place until 24 September 2020 and further changes to take effect from 25 September 2020. Under these changes, the fortnightly threshold at which the income test cuts in is more generous for people who are not the principal carer of a child/children, than the income test for principal carers – for JobSeeker Payment, Youth Allowance (job seeker) and for Parenting Payment Single.
22. According to the Services Australia and Treasury information available online at the time of writing, from 25 September 2020:
- If a person is single and not a principal carer the income test free area for JobSeeker Payment and Youth Allowance (job seeker) will increase to \$300 per fortnight, with payment reducing by 60 cents for each dollar over this
 - If a person is single and a principal carer of at least one dependent child the income test free area for JobSeeker Payment and Youth Allowance (job seeker)

will remain at \$106 per fortnight, with payment reducing by 40 cents for each dollar over this (continuation of the current taper rate).

23. The Parenting Payment income test will remain the same, with income test free areas depending on the number of dependent children (the income test free area for three dependent children is \$241.80 per fortnight).
24. The rationale for excluding single principal carers from temporary COVID-19 initiatives designed to soften the blow of economic impacts of the pandemic is hard to fathom – especially given that a higher incidence of domestic violence is another impact of COVID-19. The social security system should support people to escape violence and abuse, and establish and maintain secure alternative housing.
25. We propose that the temporary \$300 per fortnight income test free threshold be extended to principal carers.

Recommendation I: Extend to principal carers the temporary coronavirus measure to increase the income test free area to \$300 per fortnight from 25 September 2020.

Permanently suspend the Community Development Program

26. The Community Development Program (CDP), the Australian Government’s employment and community development service for people who receive unemployment social security payments and live in remote Australia, was suspended from 23 March 2020 as a measure to stop the spread of coronavirus. The CDP is now gradually recommencing in a limited capacity, with no CDP-related penalties or suspensions applied to job seekers who do not meet their mutual obligations until full services resume.
27. In February 2020, EJA published a research report, developed in partnership with the North Australian Aboriginal Justice Agency, exploring the impact of the CDP penalty system on Aboriginal and Torres Strait Islander people living in the Northern Territory (NT).³
28. As noted in the report, as of 2017 one in ten CDP participants had a disability, while Aboriginal and Torres Strait Islander people made up 82.5% of CDP participants nationally and 93% in the Northern Territory. The research interviews expose the reality for many CDP participants and their communities that the CDP program, rather than alleviating these structural barriers, appears to be creating further obstacles. For those interviewed, the CDP penalties system:

³ *Community Development Program — The impact of penalties on participants*. National Social Security Rights Network (EJA). February 2020. http://ejaustralia.org.au/wp-content/uploads/2020/03/NAAJA-NSSRN-Report_FINAL.pdf p.5

- Creates financial hardship for families and broader communities which negatively impact on their food and housing security, physical and mental health and well-being
- Is little understood by the people subject to it
- Seems to have little relevance to participants' hopes of finding paid work
- Does not adequately take into account the cultural, geographic and historical context of the overwhelmingly Indigenous participant population
- Does not provide participants with the same rights as other workers
- Is racially discriminatory, requiring participants to engage in more job activity hours than jobseekers in non-remote areas and subjecting participants to strict non-compliance measures.

29. The suspension of the CDP due to the pandemic provides an opportunity to permanently suspend the flawed CDP and replace it with a more effective model.

Recommendation J: Abolish the CDP and replace it with the comprehensive alternative model originally prepared by the Aboriginal Peak Organisations NT (APONT), the Fair Work and Strong Communities: Remote Development and Employment Scheme (RDES).

Extend access to Special Benefit for most vulnerable groups

30. There is a cohort of people in Australia on long-stay temporary visas, who have been residing here for some time who have lost employment/cannot work due to the COVID-19 public health restrictions but are not covered by the social security measures introduced as part of the Omnibus Act; and are not able to access Special Benefit.

31. These people may have been in Australia for rolling periods of 3 to 5 years (or in the case of New Zealand citizens, for many years), and have worked/paid tax and effectively settled here.

32. Without support, these people are at risk of extreme poverty. Due to the pandemic and their precarious financial and living situations, their health and safety is also at risk.

Recommendation K: Provide all New Zealand citizens living in Australia with access to Special Benefit

Recommendation L: Extend the list of visa sub-classes which attract Special Benefit, with extended coverage including:

- i. Bridging Visas, all sub-classes
- ii. Student Visa
- iii. Temporary Resident (Skilled Employment) Visa
- iv. Pacific and Seasonal Worker Visa
- v. Temporary Graduate Visa

Recommendation M: Amend s737(1) of the Social Security Act to enable full-time students to access Special Benefit. In the alternative, we propose that policy guidelines regarding administration of section 729 of the Social Security Act be amended by the Secretary of the Department of Social Services to enable full-time students holding a Safe Haven Enterprise Visa access to Special Benefit.

Priority areas of reform

33. The pandemic has seen an increase in risk and incidence in two of the priority areas of focus for EJA's research projects, namely **domestic and family violence (DFV)** and **homelessness**.
34. In 2018, EJA undertook research considering the intersection of social security and domestic violence. The EJA research project drew on 93 cases from our member centres where DFV was identified as a factor, as well as a survey of member centres and a review of relevant Administrative Appeals Tribunal cases. The resulting research report makes 32 recommendations, which seek to address systematic inadequacies in the ability of the social security system to support DFV victims.⁴
35. EJA was pleased to see some of the recommendations contained in this report were quickly implemented by the Department of Social Services; however, key recommendations remain unimplemented. EJA has renewed these calls in its recent submission to the senate inquiry into domestic violence.

Recommendation N: Implement the recommendations made in EJA's report, 'How well does Australia's Social Security System support victims of family and domestic violence?', in full.

36. In 2019, EJA undertook research, which examined the experiences of 567 clients who sought legal assistance from member centres in Canberra. The report reveals how social security policies and practices can substantially increase the risk of homelessness for vulnerable cohorts of people.⁵
37. Addressing this risk requires an overhaul of social security eligibility, rates and mutual obligations for job seekers, especially given the income support issues above highlighted by COVID-19.

Recommendation O: Implement the recommendations made in EJA's report, 'Homeward Bound', in full.

⁴ *How well does Australia's social security system support victims of family and domestic violence?* August 2018. <https://ejaustralia.org.au/general/how-well-does-australias-social-security-system-support-victims-of-family-and-domestic-violence/>

⁵ *Homeward Bound: Social Security and Homelessness*. December 2019. Canberra Community Law; and National Social Security Rights Network (now Economic Justice Australia). <https://ejaustralia.org.au/general/homelessness/>

Services Australia staffing

38. One of the most critical areas of investment required to improve outcomes for all people who need support through the social security system is Centrelink staffing, particularly investment to improve access to social workers. Within the Centrelink environment, social workers are uniquely equipped to work with clients with complex needs, including in relation to domestic or family violence (DFV) and homelessness.
39. Our research into DFV indicates that better outcomes for clients when they had timely access to social workers. The assistance of social workers is often key to identifying cases of DFV, helping victims of DFV obtain payment and appropriately addressing cases where victims have incurred social security/family assistance debts, or face repaying a substantial debt due to being coerced by an abusive partner into mis-reporting their circumstances. Our members report that clients are often more likely to disclose DFV to a social worker, and that social workers are able to take a holistic view of a client's circumstances in order to address circumstances of domestic violence.
40. Whilst Centrelink has specialist staff to assist homeless people, they are thinly spread across regions and are not always available.
41. Despite the crucial role played by Centrelink social workers, in EJA members' experience, many people in crisis struggle to access a social worker, and there are often no social workers available when clients in acute crisis attend Centrelink for assistance. Many clients are not aware that Centrelink social work support exists; and clients in obvious need of social worker support can often only be provided the option of a phone appointment with a social worker, which is not conducive to either disclosure or building rapport.
42. Members report that clients often have to wait 2-3 days for Centrelink social worker support, and express frustration at not being able to get an appointment when urgent assistance is needed. The loss of permanent social worker positions in Centrelink offices is keenly felt. There is a need for all Centrelink offices to have a social work unit, staffed at an appropriate level in light of local needs.

Recommendation P: Allocate substantial additional funding to enable Services Australia to employ additional Centrelink social workers, particularly given the COVID-19 crisis and rise in risk and incidence of DFV and homelessness

43. The flawed online compliance program has been extremely costly both in terms of the resources required to identify and refund 'robodebts' raised through system which had no legal basis, and the human impact on people who were incorrectly accused of owing debts.

44. Any future automation of debt recovery, and any other social services and administrative decision-making affecting vulnerable people, should not only to have a firm legal basis but the staffing needed to provide adequate oversight of decisions made using such technology. It is well documented that automated decision-making can unfairly disadvantage certain groups of people; and automated decision-making systems that do not include provision for rigorous human oversight of the decision-making process, and the decisions being made, are prone to error.⁶

Recommendation Q: Invest in adequate staffing to provide oversight of automated decision-making processes, and decisions made in the social security system.

45. As the special coronavirus measures come to an end, including the pause on debt recovery, there will be an inevitable surge in requests for review and appeals from affected clients. EJA member centres observe that there are already long delays in completion of internal reviews, resulting in the need for advocates to call Centrelink to enquire regarding progress on reviews, seek that urgent matters be expedited and convey relevant information to review officers that clients have been unable to provide themselves.
46. There is a need for a nation-wide Advocates Hotline for community legal centre advocates, staffed by people with technical expertise and an understanding of administrative review rights. This would streamline advocates' dealings with Centrelink regarding complex cases and ensure that highly vulnerable clients are dealt with promptly, relieving pressure on Centrelink frontline staff.

Recommendation R: Provide funding to enable establishment of a nationwide specialist hotline for community legal centre advocates.

Funding to social security community legal centres

47. Despite chronic under-funding of the community legal sector, EJA and its specialist social security legal services have stepped up during the pandemic to provide critical legal help and information to people affected, many of these clients interacting with the social security system for the first time in an ever-changing and pressured environment.
48. The need for legal support for people seeking access to JobSeeker Payment, Special Benefit and other social security entitlements has rapidly increased and will only grow over the coming months. The Government's COVID-19 measures involve complex changes to eligibility criteria and means testing which mean that many people in the community remain unaware that they may be entitled to income support, or are confused and do not know from where to seek advice. There is an urgent need for specialist social security legal services to be adequately resourced if we are to achieve

⁶ Centrelink's compliance program. Australian Human Rights Commission. September 2019. <https://humanrights.gov.au/our-work/legal/submission/centrelinks-compliance-program>

the intended outcomes of the Government's generous coronavirus income support measures.

49. In March, at the beginning of the pandemic, Economic Justice Australia asked for \$1.9 million to enable each of its centres to recruit an additional lawyer to assist with immediate issues, such as establishing JobSeeker Payment and Special Benefit eligibility and identifying the interaction between JobSeeker and JobKeeper and Disability Support Pension.
50. More funding is needed in preparation for the likely surge in demand for legal assistance as the coronavirus temporary measures come to a close, regarding: cancellations of payment when residential waiting periods resume; cancellations when assets testing recommences; reductions in payment once ordinary income testing resumes; imposition of non-payment penalties for mutual obligation breaches; and resumption of debt raising and recovery.
51. We note that \$63.3 million has been provided by the Federal Government for justice sector preparedness to provide legal support to Australians who need it during this time. Very little of this funding has trickled through to specialist social security legal services, however, with State and Territory governments required to divide the funds between all parts of the legal assistance sector, and a significant portion having been already earmarked for transitional IT costs and family violence services.

Recommendation S: Inject \$5 million per annum of ongoing core funding to the 15 specialist social security community legal centres and programs across Australia and to Economic Justice Australia as the peak organisation.

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