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Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
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Dear Committee:

Re: Inquiry into the Budget Savings (Omnibus) Bill 2016

Disabled People's Organisations Australia (DPO Australia) welcomes the opportunity to provide our views on the Budget Savings (Omnibus) Bill 2016 (the Omnibus Bill).

DPO Australia is an alliance of national disabled people's organisations (DPOs), which are organisations constituted and governed by people with disability. Our key purpose is to promote, protect and advance the human rights and freedoms of people with disability by working collaboratively on areas of shared interests, purposes and strategic priorities and opportunities. DPO Australia is made up of First Peoples Disability Network Australia (FPDN); Women With Disabilities Australia (WWDA); National Ethnic Disability Alliance (NEDA); and People with Disability Australia (PWDA).

DPO Australia is funded by the Australian Government as the coordinating point between Government/s and other stakeholders, for consultation and engagement with people with disability.

We firstly note that the timeframe for making a submission to the range of measures contained in the 260 page Omnibus Bill is extremely short and prevents comprehensive consideration and consultation. This is concerning given that a number of measures in the Omnibus Bill have a significant negative impact on people with disability.

It is now well known that people with disability are more likely to be living in poverty, be unemployed, to have lower labour force participation rates and to experience high levels of discrimination and disadvantage.¹ Australia ranks 27th out of 27 OCED countries in

¹ See e.g., PriceWaterhouseCoopers, 'Disability expectations – Investing in a better life, a stronger Australia', PwC Report, PwC November 2011; Australian Council of Social Service, 'Poverty in Australia 2014', ACOSS, http://www.acoss.org.au/images/uploads/ACOSS_Poverty_in_Australia_2014.pdf

poverty risk indicators for people with disability² and 21st out of 29 OECD countries in employment participation rates for people with disability.³

While we accept that there is a focus on budget repair to reduce the deficit, we are concerned that a number of budget savings contained in the Omnibus Bill are largely directed at those people who are already disadvantaged and 'doing it tough' including people with disability. This approach to reducing the budget deficit is unacceptable. It will continue to grow inequality in Australia and entrench poverty for people with disability, their families and carers, many of whom are already struggling to survive.

With this in mind we have focused our comments on four key provisions in the Omnibus Bill that we strongly oppose:

- Schedule 10 – Newly arrived resident's waiting period
- Schedule 16 – Carer allowance
- Schedule 20 – Psychiatric confinement
- Schedule 21 – Closing carbon tax compensation to new welfare recipients

Schedule 10 - Newly arrived resident's waiting period

Schedule 10 to the Omnibus Bill will remove the exemption from the 104 week Newly Arrived Resident's Waiting Period for new migrants who are family members of Australian citizens or long-term permanent residents (those who have been an Australian resident for a continuous period of two years).

The current exemption largely supports spouses, partners and / or children of Australian citizens or long-term permanent residents to join their families without increasing financial stress and hardship, and enabling a smoother transition to a new life in Australia. Removal of this exemption effectively reduces support for new Australian families at a time when they are most likely to require more support not less. Support for new migrants to Australia creates long term benefits, not only for families but the whole community.

For families who are supporting a family member with disability, who are subject to a ten year waiting period for the Disability Support Pension, the removal of this exemption will result in greater hardship. It will significantly reduce support and increase financial pressure at a critical time of facing challenges associated with adapting to life in a new country.

Recommendation:

Reject measures contained in Schedule 10 of the Omnibus Bill that would remove the exemption from the Newly Arrived Resident's Waiting Period for new migrants who are family members of Australian citizens or long-term permanent residents.

Schedule 16 – Carer allowance

A well supported carer has greater capacity to provide better quality support to a person with disability. Many carers are also people with disability, usually women with disability. The Carer Allowance is a modest payment of \$123.50 per fortnight to assist with the additional costs of caring.

² PriceWaterhouseCoopers, Ibid., p.11

³ Ibid., p.3

Schedule 16 to the Omnibus Bill will remove provisions in the *Social Security Administration Act 1999* that provide for a backdated start day of up to 12 weeks for payment of Carer Allowance under certain circumstances.

The start day for Carer Allowance can currently be backdated up to 12 weeks before the date of claim for a person caring for a child under 16 years of age; or for a person caring for an adult with disability if the disability is due to acute onset, such as may occur through illness or injury – for example, a stroke, an acquired brain injury or injuries sustained in a car accident.

The backdating provisions were originally introduced as a means to recognise and address the significant turmoil, disruption and financial impact that is experienced by a person who becomes a carer for person who has newly acquired disability. Understanding and making decisions about the prognosis and extent of the need for ongoing care, the potential loss of employment and the ability to service debts, the impact on other family members and the extra expenses associated with ongoing medical expenses are highly likely to be all consuming. For many people in this situation, understanding income support, Centrelink and their entitlements may be the last thing that they consider or address. The ability to be able to be reimbursed for some of the extra costs incurred during this period can provide significant relief during a period of turmoil.

Recommendation:

Reject measures contained in Schedule 16 of the Omnibus Bill that would remove provisions that allow for a backdated start day of up to 12 weeks for payment of Carer Allowance under certain circumstances.

Schedule 20 – Psychiatric confinement

One of the effects of schedule 20 to the Omnibus Bill is that a person charged with a ‘serious’ offence, and who is undergoing psychiatric confinement will not receive social security payments, regardless of whether they are undertaking rehabilitation. Social security payments will be provided under certain circumstances once the person undertakes ‘a period of integration back into the community’.⁴

DPO Australia strongly opposes schedule 20 for a number of reasons including:

- *Forensic patients are not prisoners*

People who have been charged with an offence and placed in psychiatric confinement are detained while being assessed for ‘fitness to plead’; or after being found ‘unfit’ to stand trial; or after being found not guilty of the offence because of their psychosocial or cognitive impairment. Forensic patients are not prisoners because they have not been found guilty of an offence.

The argument that amendments made under this schedule “will ensure the same social security treatment for people charged with a serious offence in the criminal justice system whether they are confined in a psychiatric institution or prison”⁵ is erroneous and misleading.

⁴ Budget Savings (Omnibus) Bill 2016, Explanatory Memorandum, p.234

⁵ Ibid, p. 240

A person found guilty of an offence receives a sentence of imprisonment as a form of punishment, while a forensic patient has not been found guilty of an offence and therefore not subjected to punishment. They are innocent in the eyes of the law. The purpose of psychiatric confinement is not punishment, but treatment, rehabilitation and protection of the individual and the community.

- *Different treatment between forensic patients*

The schedule makes an arbitrary distinction between forensic patients charged with a 'serious' offence compared with forensic patients charged with a non-'serious' offence. The former will not receive social security payments while the latter will.

This arbitrary distinction is not only based on the fallacy that forensic patients who have been charged with 'serious' offences are the same as people found guilty of serious offences, but it also establishes a different class of forensic patient that receive a punitive as opposed to a therapeutic response.

Schedule 20 is designed to allow different treatment between forensic patients dependent on whether the offence charged against the patient was sufficiently 'serious'. It changes the focus from treatment and rehabilitation that all forensic patients are entitled, to one of punishment for those forensic patients in the class of being charged with 'serious' offences.

- *Disproportionate impact on Aboriginal and Torres Strait Islander people with disability*

Aboriginal and Torres Strait Islander people with disability are disproportionately more likely to be indefinitely detained as forensic patients.⁶ This means that schedule 20 will have a disproportionate negative impact on Aboriginal and Torres Strait Islander people with disability contributing to an ongoing cycle of entrenched economic, social and cultural disadvantage and hardship.

This measure is counter-productive and in direct contrast to the Australian Government's voluntary commitment made to the UN Human Rights Council during its Universal Periodic Review of Australia on 9 November 2015. This voluntary commitment focuses Australia on improving the way forensic patients are treated within the justice system. Removing access to social security payments undermines this voluntary commitment and significantly contributes to further entrench poverty and disadvantage, particularly for Aboriginal and Torres Strait Islander people with disability as it will directly impact on a person's ability to participate in treatment and rehabilitation.

- *Negative impact on treatment, rehabilitation and reintegration into community*

Schedule 20 is based on an assumption that the basic needs of forensic patients, such as food, clothing, housing, will be met by the State and Territory governments that have responsibility for psychiatric facilities.

However, this is not necessarily the situation, as rehabilitation often means that forensic patients are encouraged to manage their own finances, including by purchasing additional personal items and food as well as therapeutic programs, such as hospital and community

⁶ See e.g., First Peoples Disability Justice Consortium, 'Aboriginal and Torres Strait Islander Perspectives on the Recurrent and Indefinite Detention of People with Cognitive and Psychiatric Impairment, First Peoples Disability Network (Australia), 2016.

based educational programs.⁷ A loss of social security payment will mean a loss of capacity to participate in therapeutic programs, and a subsequent loss of autonomy, self-worth and independence that is critical to support rehabilitation back into the community.

While schedule 20 does provide for social security payments to be made once a forensic patient undertakes a period of integration back into the community, the details and relevant factors of this provision have not been determined, with the final specifications to be worked out at a later date via a legislative instrument made by the Minister. This is unacceptable as it removes transparency, parliamentary oversight and the ability for community comment and response.

Recommendation:

Reject Schedule 20 of the Omnibus Bill that would remove social security payments for forensic patients who have been charged with 'serious' offences.

Schedule 21 – Closing carbon tax compensation to new welfare recipients

Schedule 21 introduces the 2016-17 Budget measure to abolish the Energy Supplement for all new social security claimants, including those claiming Disability Support Pensions (DSP) and Newstart Allowance.

This measure effectively cuts social security payments for those on the lowest incomes in Australia, at the same time as the Australian Government proposes to retain tax concessions as part of the carbon price compensation which benefit every income earner, including those on the highest incomes.

Those on the lowest incomes, including people with disability will be further pushed into poverty and hardship. Increasing numbers of people with disability are being shifted or diverted from the DSP to Newstart Allowance,⁸ which only entrenches poverty; it doesn't provide jobs.

Removal of the Energy Supplement means a loss of \$4 per week to the 'below the poverty line' \$38 per day Newstart Allowance, and this directly contradicts the overwhelming agreement from business, unions and the community sector that Newstart Allowance needs to be increased as its' low payment rate is now a barrier to economic participation.⁹

It is particularly concerning that the removal of the Energy Supplement is being justified to contribute funding to the National Disability Insurance Scheme (NDIS). The Statement of Compatibility with Human Rights notes that this measure will support the Convention on the Rights of Persons with Disabilities (CRPD) by contributing funding to the NDIS, which will "support a better life for hundreds of thousands of Australians" with disability.¹⁰ While

⁷ See e.g., NSW Government, 'NSW submission to the Senate Community Affairs Legislation committee review of the Social Services Legislation Amendment Bill 2015', 22 May 2015, p.3

⁸ National Welfare Rights Network, 'Budget 2016: More people with a disability move onto Newstart Allowance, but no action to ensure its adequacy', *Welfare Rights Review*, Vol.2 No. 1, <https://www.welfare-rights.org.au/welfare-rights-review/welfare-rights-review-vol-2-no-1/budget-2016-more-people-with-disability-move>

⁹ 'Unemployed and pensioners collateral damage in budget fight', Media Release, 22 August 2016, Australian Council of Social Services, http://www.acoss.org.au/media_release/unemployed-and-pensioners-collateral-damage-in-budget-fight/

¹⁰ Budget Savings (Omnibus) Bill 2016, Explanatory Memorandum, p.286

we completely support sustainable funding for the NDIS, we completely reject the notion that this measure is the right way to ensure NDIS funding and support CRPD implementation.

Income support and specialist disability support are different but complementary aspects of support for people with disability to be able to participate fully in the economic, social, cultural, civil and political life of Australia. Both income support and specialist disability support are critical measures to progress rights for people with disability as outlined in the CRPD. Trading income support for disability support is counter-productive, short-sighted and does not promote the human rights objectives of the CRPD. It creates two classes of people with disability – those deserving of disability support (funding contribution) and those undeserving and on income support (funding cut). While the strong expectation is that NDIS will assist people with disability to move into employment, the reality for many people with disability is that they will need both disability support through the NDIS and income support through the DSP, Newstart Allowance or another social security payment.

Recommendation:

Reject Schedule 21 of the Omnibus Bill that would close carbon tax compensation to new welfare recipients.

DPO Australia would be happy to provide further information regarding our views. We thank you for the opportunity to provide input into this process.

Yours sincerely



THERESE SANDS

Director

