

## STATEMENT FROM ACADEMIC AND LEGAL EXPERTS

### Regarding the addition of Schedule 5 to the Social Security and Other Legislation Amendment (Technical Changes No. 2) Bill 2025 proposing powers to allow police and ministerial cancellation of social security payments for those with outstanding warrants in relation to “serious violent or sexual offences.”

We, the undersigned academics and legal experts, call on the Australian Government to immediately remove [Schedule 5](#) from the Social Security and Other Legislation Amendment (Technical Changes No. 2) Bill 2025. In doing so, we add our voices to a building coalition of [anti-poverty advocates](#), [legal services](#), human rights experts, [disability representative organisations](#), and senators (see [here](#), [here](#)), who also strongly oppose the amendment.

Schedule 5 was added to the Bill on 28 October 2025 without prior announcement or any public consultation.<sup>1</sup> This Schedule allows state, territory, or federal police to—in relation to individuals with outstanding warrants for serious violent or sexual offences—lodge a request with the Minister for Home Affairs to have that person’s social security payments and concessions (under the *Social Security Act 1991* (Cth)), family assistance payments (under the *A New Tax System (Family Assistance) Act 1999* (Cth)) and parental leave pay (under the *Paid Parental Leave Act 2010* (Cth)) cancelled.<sup>2</sup>

The [\(revised\) explanatory memorandum](#) to the Bill states:

*The objective of this measure is to ensure people who are subject to an outstanding arrest warrant for a serious offence can no longer be supported through the social security and family payments systems.*

This represents a dangerous departure from fundamental legal principles that underpin Australia’s social security and criminal justice systems.

#### Our concerns with Schedule 5 include:

##### Violation of the presumption of innocence and due process

The proposed amendments would allow the Minister for Home Affairs to cancel social security payments for individuals who are merely subject to an outstanding arrest warrant—that is, individuals who have not been arrested, charged, tried, or convicted, and who may be entirely unaware that a warrant exists. This punishes people who are legally innocent, directly contradicting the presumption of innocence, a fundamental principle of Australian common law<sup>3</sup> that is expressly protected under Article 14(2) of the *International Covenant on Civil and Political Rights*, to which Australia is a State Party. Article 14(2) provides that “everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.”

##### Ministerial power without procedural safeguards or independent review

The amendment would grant the Minister for Home Affairs personal decision-making power over individual welfare cases based on police requests, with no access to merits review—only the limited avenue of judicial review. This contrasts sharply with the normal social security framework where,

---

<sup>1</sup> The amendment adds to Schedules 1-4, which contain provisions concerning debt waivers and income apportionment. This letter concerns only Schedule 5.

<sup>2</sup> Around 5.4 million Australians currently receive one or more of these benefits.

<sup>3</sup> Although those held on remand in Australia currently have their social security benefits suspended prior to any trial or conviction, they will have had access to legal support and appeared before a judge before their payment is stopped. Unlike a cancellation, they do not need to re-apply if they are released. Those on remand also have their basic needs (food, shelter) provided for.

with very narrow exceptions, decisions are made by delegates applying legislated criteria and are subject to independent appeal and review through the Administrative Review Tribunal.

Under the proposed Schedule 5, a person could have their payment cancelled without being aware a warrant exists, with no requirement to revoke the cancellation once they have been arrested, no provision for back-payment if found innocent, and no meaningful way to challenge the decision before losing their income. This concentration of power removes the checks and balances that protect against arbitrary decision-making, political interference, and errors, creating a parallel system where social security recipients are denied the procedural protections fundamental to the rule of law.

From a constitutional perspective, Schedule 5 risks blurring the separation of powers that underpins Australia's system of government. It enables an executive officer, the Minister, to impose what is effectively a punitive sanction on the basis of mere allegation, without judicial determination or due process. In substance, this power authorises the executive to impose a measure that is punitive in nature and traditionally reserved to the judiciary, blurring the distinction between administrative and judicial functions.

### **Lack of parliamentary scrutiny and consultation**

Schedule 5 was inserted into the Bill on 28 October 2025, after the House of Representatives had completed its consideration in detail stage—bypassing normal scrutiny processes and coming after all parliamentary committee inquiries had concluded. No opportunity was provided for public consultation, stakeholder input, or proper scrutiny. The Government has not revealed what consultations, if any, occurred with state and territory governments, or other stakeholders.

### **Disproportionate impacts for First Nations peoples, as demonstrated in New Zealand**

The measure will inevitably have discriminatory effects on Aboriginal and Torres Strait Islander peoples, who are grossly overrepresented at every stage of the criminal justice system. Aboriginal and Torres Strait Islander peoples represent just 3.8% of Australia's population, but ~36% of the total prison population at June 2024 ([ABS 2024](#)). Despite rhetoric around reducing incarceration, the incarceration rate continues to climb year on year, increasing by 15% since 2020, and by more than 26% since 2016 ([Productivity Commission 2025](#)). Because First Nations people are disproportionately subject to arrest warrants and police contact, they will inevitably be disproportionately affected by powers that allow police to trigger welfare cancellations based on warrants.

Evidence from Aotearoa/New Zealand—where similar powers exist—shows such measures are applied to Māori individuals at double the rate of other social security recipients, with usage increasing over time. New Zealand's Welfare Expert Advisory Group recommended removing these powers in 2019. While Māori peoples represent about 15% of Aotearoa/New Zealand's population, they make up over 50% of the prison population.

By cancelling income support for people who have not been convicted of any crime, Schedule 5 will increase poverty among populations already subjected to over-policing and disproportionate contact with the criminal justice system, potentially driving people to commit survival crimes to obtain food, shelter, and other basic necessities.

### **Disproportionate impacts for victims of violence**

It has been widely reported and repeatedly shown that many victims of domestic violence are

misidentified as perpetrators and subsequently drawn into the criminal justice system—including by way of arrest warrant ([Reeves 2021](#); [Reeves 2023](#); [Hobbins & Breen 2024](#)). Australia’s 2024 [Senate Inquiry into Missing and Murdered First Nations Women and Children](#) found that misidentification of women who are victims of violence as perpetrators puts First Nations women at particular risk.

Schedule 5 would create a dangerous mechanism for this misidentification to have immediate and severe consequences. A woman fleeing domestic violence could, for instance, be misidentified by police as a perpetrator rather than a victim. If police issue a warrant for her arrest and she cannot be located because she is in hiding or in the process of fleeing, Schedule 5 would allow police to request cancellation of any social security payment(s) she receives. Her income would be cut off at the most dangerous time in her life, without any opportunity to explain the circumstances, present evidence of the abuse she suffered, or seek legal advice. This could force her (and any dependents) to return to the violent situation or become homeless, compounding the danger she faces.

### **Incoherent federal-state arrangements without accountability**

Most serious violent and sexual offences are state crimes investigated by state police. Schedule 5, which provides the option of either state, territory, *or* federal police lodging ‘cancellation requests’ with the Minister, allows state police—over whom the federal Home Affairs Minister has no oversight—to trigger federal welfare cancellations. Under these proposed arrangements, the federal Minister would make decisions based on requests from agencies outside their authority, with no visibility into varying state policing practices or mechanisms to ensure consistent, appropriate use across jurisdictions. This affords state law enforcement a federal punitive tool without normal federal-state accountability frameworks or consultation with state governments.

### **Possible severe harm to dependents**

The amendments apply to Parenting Payment, Family Tax Benefit, concession cards, and Paid Parental Leave, meaning children and other family members not accused of any offence will be deprived of essential household income. Like other Australians, many social security recipients share bank accounts with other family members, including family members caring for children and other dependents. While the Minister must “have regard to” the effect on dependents, this does not prevent a notice being issued: protections that have been described by [Senator David Pocock](#) as “extremely thin”. The result will be increased financial stress, inability to pay rent and bills, and potentially child removals—punishing whole families for unproven allegations against one member.

### **International evidence demonstrates harm**

As outlined earlier, Aotearoa/New Zealand introduced similar arrest warrant sanctions in 2013. A 2021 government report found usage was increasing and disproportionately affecting Māori recipients. Aotearoa/New Zealand’s [Welfare Expert Advisory Group](#) recommended removing the sanction in 2019. In the United States, “fugitive felon” provisions introduced in 1996 faced implementation failures and legal challenges, with many elderly and vulnerable people affected when unaware of warrants. Following a subsequent class action settlement and court order, the US significantly restricted these provisions, with the US Government also back-paying more than \$500 million to tens of thousands of individuals whose benefits were found to have been wrongly suspended or cancelled under these measures (see [here](#), [here](#)).

### **Existing mechanisms are adequate and current safeguards are more protective**

Current law already suspends payments for people on remand or imprisoned, but only after they have

been arrested, accessed legal support, and appeared before a judge who has made a judicial decision to remand them in custody—where they have access to food and shelter. This ensures due process and that basic needs are met.

In contrast, Schedule 5 would cancel payments for people who have not been arrested, have never appeared before any court, may be unaware a warrant even exists, and are living in the community where they need income for rent, food, and bills. Numerous other existing mechanisms within the social security system already enable payment suspension for those evading authorities, including requirements to keep residential addresses current, regularly submit income reports, and comply with compulsory activities. These new powers are unnecessary and far more draconian than existing provisions, removing protections that even people on remand currently receive.

### **Unacceptable precedent**

In 2014, when similar provisions were introduced for alleged ‘foreign fighters’, the Castan Centre for Human Rights stated: “People deemed to be of ‘bad character’ are not deserving of homelessness or starvation, and nor are their families—the whole suggestion is abhorrent.”

A joint submission from councils for civil liberties across Australia cautioned that depriving individuals of welfare benefits on ministerial direction—without conviction, or avenues for review—amounts to punishment beyond that imposed by the courts. They warned that such a measure would effectively create a form of second-class citizenship, in which certain individuals are stripped of fundamental entitlements on the basis of untested allegations, an outcome they described as unacceptable.

These concerns are even more acute when the power extends beyond national security cases to any person with an outstanding warrant—a far broader and less defined category that will inevitably capture vulnerable individuals, including those who may be unaware a warrant has been issued. This continues to set an unacceptable precedent.

### **Our position:**

**We, the undersigned academics and legal experts, call on the Australian Government to immediately remove Schedule 5 from the Social Security and Other Legislation Amendment (Technical Changes No. 2) Bill 2025.**

We support proper parliamentary process. If the Government believes such powers are necessary, Schedule 5 should be removed from this Bill and introduced as separate legislation subject to:

- full public consultation with affected communities, legal experts, and welfare organisations
- comprehensive parliamentary inquiry and scrutiny
- detailed human rights assessment, and
- consultation with state and territory governments.

We oppose the establishment of a two-tier justice system that strips welfare recipients of the basic legal safeguards that underpin equality before the law—due process and the presumption of innocence.

## Signatories:

### *Academic leaders*

1. Marian Sawyer AO, Emeritus Professor, Australian National University
2. Professor Thalia Anthony, Faculty of Law UTS
3. Adjunct Professor Nicholas Cowdery AO KC FAAL, Former DPP of NSW, Adjunct at Law Schools of Universities of Sydney and of NSW
4. Professor Tamara Walsh, Professor of Law, Director of the UQ Pro Bono Centre, University of Queensland
5. Professor Paul Henman, Professor of Digital Sociology and Social Policy, The University of Queensland
6. Professor Gaby Ramia, Professor, Public Policy, University of Sydney
7. Professor Heather Douglas, The University of Melbourne
8. Professor Chris Cunneen, Jumbunna Institute for Indigenous Education and Research
9. Juan Tauri, Professor, Criminology, University of Melbourne
10. Professor Greg Marston, Director, Centre for Policy Futures, The University of Queensland
11. Michael Flood, Professor, Queensland University of Technology
12. Adj Prof George Newhouse, CEO National Justice Project
13. Hannah McGlade, Member, UN Permanent Forum for Indigenous Issues
14. Tracey Booth, Acting Dean Faculty of Law, UTS
15. Professor Lise Barry, Dean, Macquarie Law School
16. Associate Professor Maria Giannacopoulos, Director Centre for Criminology Law and Justice UNSW
17. John Scott, Professor and Head of school of Justice, QUT
18. Professor Amy Maguire, Director, Centre for Law and Social Justice, University of Newcastle
19. Kristen Lyons, Professor, School of Social Science
20. Dr Alessandro Pelizzon, Discipline Lead (Law), University of the Sunshine Coast
21. Linda Steele, Professor, Faculty of Law, University of Technology Sydney
22. Alex Steel, Professor, Faculty of Law and Justice, UNSW
23. Lynda Cheshire, Professor of Sociology, The University of Queensland
24. Greg Martin, Professor of Criminology and Socio-Legal Studies, University of Sydney
25. Ruth Phillips, Professor of Social Policy, The University of Sydney
26. Professor Lou Crabtree-Hayes, Professorial Research Fellow, Institute for Culture and Society, Western Sydney University
27. Lorana Bartels, Professor of Criminology, Australian National University; Adjunct Professor of Law, University of Canberra and University of Tasmania
28. Dr Penny Crofts, Professor, UTS
29. Linda Briskman, Professor of Social Work, Western Sydney University
30. Dr Zoe Staines, Senior Lecturer (Criminology, Social Policy), The University of Queensland

31. Dr Francis Markham, Fellow, The ANU Centre for Social Policy Research, The Australian National University
32. Dr Elise Klein, Associate Professor of Public Policy, Crawford School of Public Policy, Australian National University
33. Dr Ben Spies-Butcher, Associate Professor Economy and Society, Macquarie School of Communication, Society and Culture, Macquarie University
34. Dr Christopher Rudge, Lecturer, Deputy Director Sydney Health Law. Sydney Law School, University of Sydney
35. Dr Simone Casey, Principal Research Fellow, Centre for Inclusive Employment, Swinburne University of Technology
36. Dr Edward Jegasothy, Senior Lecturer, Sydney School of Public Health, The University of Sydney
37. Dr Sue Olney, Associate Professor in Political Science, University of Melbourne
38. Dr Eve Vincent, Associate Professor, Anthropology, Macquarie University
39. Dr Emma Mitchell, Macquarie University Research Fellow, Sociology, Macquarie University
40. Gareth Bryant, Associate Professor, University of Sydney
41. Emma Power, Associate Professor, School of Social Sciences and Institute for Culture and Society, Western Sydney University
42. Haylee Davis, Jumbunna Institute for Indigenous Education and Research
43. Estrella Pearce, Lecture of Criminology (School of Social and Political Sciences), The University of Sydney
44. Fiona Allison, Associate Professor, Jumbunna Institute, UTS
45. Dr Kate Thomas
46. Dr Mark Riboldi, Lecturer (Social Impact) UTS Business School, University of Technology Sydney
47. Dinesh Wadiwel, Associate Professor, Socio-Legal Studies and Human Rights, The University of Sydney
48. Monique Hurley, Lecturer at Melbourne Law School and Associate Legal Director at the Human Rights Law Centre
49. Adjunct Associate Professor Terese Henning, TOPCAT
50. Associate Professor Helen Gibbon, UNSW Faculty of Law & Justice
51. Dr Vicki Sentas, Associate Professor, Centre for Criminology, Law and Justice, Faculty of Law and Justice, UNSW Sydney
52. Kate Swaffer, Activist & Researcher, University of South Australia
53. Phillip Wadds, Associate Professor, UNSW Law & Justice
54. Melissa Johnston, Lecturer, The University of Queensland
55. Natasha Cortis, Associate Professor, Social Policy Research Centre, University of New South Wales
56. Dr Sean Mulcahy, La Trobe University
57. Stefanie Plage, Research Fellow, ARC Centre of Excellence for Children and Families over the Life Course

58. Dr Sarah Bennett, Associate Professor (Criminology), The University of Queensland
59. Dr Emma Antrobus, Senior Lecturer in Criminology, The University of Queensland
60. Rose Stambe, Research Fellow, Griffith University
61. Dr Michelle Peterie, Senior Research Fellow, The University of Sydney
62. Dr Peter Walters, Associate Professor, School of Social Science, The University of Queensland
63. Lana Tatour, UNSW
64. Dr Phuc Nguyen, La Trobe University
65. Dr Leah Williams, Senior Lecturer, UNSW Faculty of Law and Justice
66. Emile Carreau, Lecturer, UNSW Law & Justice
67. Dr Sarah Ball, Lecturer (Public Policy), The University of Queensland
68. Dr Georgia van Toorn, University of New South Wales
69. Dr Susan Collings, Senior Research Fellow, Transforming early Education and Child Health Research Centre, Western Sydney University
70. Associate Professor Helen Gibbon, UNSW Faculty of Law & Justice
71. Scarlet Wilcock, Senior Lecturer, UNSW Law & Justice
72. Dr Janet Hunt, Honorary Associate Professor, Centre for Indigenous Policy, Australian National University
73. Melissa O'Donnell, Academic Researcher
74. Esther Erlings, Senior Lecturer, Macquarie Law School
75. Arianna Gatta, Research Fellow, School of Economics and Centre for Policy Futures, The University of Queensland
76. Andreea Lachsz, Quentin Bryce Law Doctoral Scholar, UTS
77. Anna Copeland, Associate Professor, Director Clinical Legal Education, Murdoch University
78. Associate Professor Trish Luker, Faculty of Law, UTS
79. Francesca Dominello, Senior Lecturer, Macquarie Law School, Macquarie University, Sydney
80. Sarah Moulds, Associate Professor in Law, University of South Australia
81. Emily Piggott, Centre for Innovative Justice, RMIT University
82. Piers Gooding, Associate Professor, La Trobe Law School
83. Dr Laura Bedford, Senior Lecturer (Criminology), University of Melbourne
84. Dr Emily Wolfinger, Western Sydney University
85. Dr Rebecca Scott Bray, Associate Professor, The University of Sydney
86. Dr Katherine Curchin, Senior Lecturer in Social Policy
87. Mel Powersmith, University of Queensland
88. Andy Kaladelfos, Senior Lecturer, UNSW Faculty of Law and Justice

*Legal and policy experts*

89. Caitlin Reiger, Chief Executive Officer, Human Rights Law Centre
90. Kate Allingham, CEO, Economic Justice Australia
91. Kerry Weste, Vice President and Chair of Children's Rights, Australian Lawyers for Human Rights

92. Debbie Kilroy OAM, CEO Sisters Inside
93. Cassandra Goldie, Chief Executive Officer, ACOSS
94. Leo Patterson Ross, CEO, Tenants' Union of NSW
95. Alison Battisson, Director Principal Human Rights for All & Heretic Law
96. Judy Harrison, Co-convenor National Regional, Rural, Remote and Very Remote Community Legal Network
97. Edwina MacDonald, Chief Strategy Officer, ACOSS
98. Terese Edwards, Single Mother Families Australia
99. Sarah Marland, Executive Director, Community Legal Centres NSW
100. Jonathon Hunyor, CEO, Justice and Equity Centre
101. Kira Levin, Principal Solicitor, Homeless Persons' Legal Service, Justice and Equity Centre
102. Ellen Tilbury, Principal Solicitor, Justice and Equity Centre
103. Kate Beaumont, Executive Officer, Welfare Rights & Advocacy Service WA
104. Antonio Gonzalez, Welfare Rights Advocate Fremantle CLC
105. Jonathan Hall Spence, Principal Solicitor, Justice and Equity Centre
106. Joanna Collins, CEO, Pilbara Community Legal Service
107. Louisa Stewart, Principal Solicitor, South Coast & Country Community Law
108. Karen Fletcher, Executive Officer, Flat Out Inc.
109. Stephanie Price, Manager, Social Security Rights Victoria
110. Damian Stock, CEO, ARC Justice
111. James Farrell OAM, CEO, Basic Rights Queensland
112. Bronwyn Ambrogetti, Managing Solicitor Hunter Community Legal Centre
113. Patrick O'Callaghan, Western NSW Community Legal Centre, Principal Solicitor
114. JC Weliamuna, Principal Solicitor, Hurman Rights Law Programme, Asylum Seeker Resource Centre
115. Benjamin Graham, Principal Solicitor, Central Coast Community Legal Centre
116. Ashleigh Newnham, Acting Chief Executive Officer, South-East Monash Legal Service