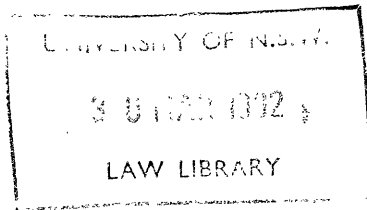


SOCIAL SECURITY



Reporter

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Opinion

Special benefit for refugee claimants

Australia's refugee program has come under increasing pressure in the past few years. Although that pressure has not reached the critical levels facing other developed countries, recurring political and economic crises in Africa, Latin America, Asia and Eastern Europe have swollen the number of refugee claimants in Australia.

One official reaction to this pressure, exemplified by a recent statement from Immigration Minister Hand, has been to blame lawyers for encouraging and prolonging the process of claiming refugee status.

Another reaction, implemented through amendments to the *Social Security Act* and the *Migration Act*, has been to deny these claimants access to income support while their claims are being processed. Since 1 August 1990, eligibility for special benefit has been restricted to Australian citizens, permanent residents, New Zealand citizens, Chinese citizens given special treatment following the events of July 1989 and persons granted refugee status or advised that they have a 'substantial claim' to that status. Further, special benefit cannot be paid to an 'illegal entrant' under the *Migration Act* 1958; *Social Security Act* 1947, s.129(3); *Social Security Act* 1991, s.729(2).

These changes to eligibility for special benefit were made by retrospective legislation passed in January 1991. The effect of the changes is illustrated by two decisions noted in this issue —

Buquet (p.910) and *Farah* (p.910). In the first case, a claimant for permanent residence on compassionate grounds, and, in the second case, a claimant for refugee status were held to be ineligible for the 'safety net' of special benefit. As far as the Australian social security system is concerned, it seems the claimants must survive on charity during the protracted process of determining their claims.

Some refugee claimants may be able to exploit the AAT's decisions in *Underwood* (p.911) and *Kumar* (p.911). If a claimant has children who are Australian citizens (for example, children born in Australia with one Australian citizen parent), then the child may qualify for special benefit. This will be of no assistance to the vast majority of refugee claimants, who are either childless or whose children are not Australian citizens. It will provide no assistance to those claimants whose children are attending school (unless the child can be classified as 'homeless', as in *Kumar*).

Extending limited income support to this small class of refugee claimants may be thought merely to compound the problems created by the 1990 changes. We understand that the Government is sufficiently concerned about these problems (and about the cost of subsidising those charities which are now supporting refugee claimants) that it is seriously contemplating reversing those changes. At the same time, the Government is likely to move to close the loophole discovered in *Underwood* and *Kumar* by making children ineligible for special benefit.

[P.H.]

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