

COVID-19 Legal and Policy Frameworks Affecting Older Persons in Australia

1. Introduction to Ageing in Australia

Australia's federal government takes primary responsibility for aged care in the country, funding most of the \$18.4 billion in government expenditures for aged care services.¹ While the pension age in Australia is gradually increasing from 65 to 67², older persons over the age of 65 are able to access care at a variety of levels, including various types of in-home assistance, full-time living in an aged care facility, or hybrid forms of care based on temporary or specific needs.³ Those younger than 65 living with disabilities may also qualify for aged care.⁴ In 2017-2018, over 1.2 million Australians benefitted from aged care services, and 77% of them received care at home or in community-based settings.⁵

Aged care accessibility is universal in Australia, and the government pays for most of the aged care in the country,⁶ although individuals must contribute toward these services at a percentage of the basic age pension amount.⁷ While the government does cover the costs for most aged care in the country, aged care homes are comprised a mix of private non-profit facilities (60%), private for profit facilities (approximately 30%), and state or local government providers (approximately 10%).⁸ Residential long-term care is used by almost 20% of the population over 80 years of age, and 6% of those over 65 years of age.⁹

¹ *Aged Care: A Quick Guide*, Parliamentary Library, Research Paper Series, p.1, June 5, 2019.

² Age Pension, Australian Government: Department of Social Services, <https://www.dss.gov.au/seniors/benefits-payments/age-pension> (last visited Dec. 1, 2020).

³ The Royal Commission into Aged Care Quality and Safety, Review of International Systems for Long-Term Care of Older Persons, Research Paper 2 (2020), available at <https://agedcare.royalcommission.gov.au/sites/default/files/2020-01/research-paper-2-review-international-systems-long-term-care.pdf>, p.17 (“Aged care is delivered through a number of programs including the Commonwealth Home Support Program (CHSP), Home Care Packages (HCP) Program, residential aged care, and flexible care”).

⁴ Younger people in residential aged care, Australian Government: Aged Care Quality and Safety Commission, Nov. 27, 2020, <https://www.agedcarequality.gov.au/consumers/younger-people-residential-aged-care>.

⁵ Aged Care, Australian Government: Australian Institute of Health and Welfare, Sept. 11, 2019, <https://www.aihw.gov.au/reports/australias-welfare/aged-care>.

⁶ The Royal Commission into Aged Care Quality and Safety, Review of International Systems for Long-Term Care of Older Persons, Research Paper 2 (2020), available at <https://agedcare.royalcommission.gov.au/sites/default/files/2020-01/research-paper-2-review-international-systems-long-term-care.pdf>, p.17.

⁷ *Aged Care: A Quick Guide*, Parliamentary Library, Research Paper Series, p.2, June 5, 2019.

⁸ The Royal Commission into Aged Care Quality and Safety, Review of International Systems for Long-Term Care of Older Persons, Research Paper 2 (2020), available at <https://agedcare.royalcommission.gov.au/sites/default/files/2020-01/research-paper-2-review-international-systems-long-term-care.pdf>, p.18.

⁹ Suzanne M Dyer, Madeline Valeri, Nimita Arora, Dominic Tilden and Maria Crotty, *Is Australia over-reliant on residential aged care to support our older population?*, MED J AUST 2020; 213 (4): 156-157 (2020), available at <https://www.mja.com.au/journal/2020/213/4/australia-over-reliant-residential-aged-care-support-our-older-population>.

“My Aged Care” is a government program consisting of a call center and website that contains information, resources, and contact details for all aspects of aged care and services in Australia.¹⁰ This includes the care services mentioned above, and also healthcare and pharmaceutical benefits for older persons. Healthcare is generally universal in Australia, administered through the Medicare program.¹¹ This system guarantees that older persons living at home or in aged care facilities have access to essential health services and medicines. Australia also has several allowances and programs to protect older persons who are poor, such as the basic age pension, a disability pension, a mobility allowance, a pension loan scheme to supplement one’s retirement income, payments and allowances for individuals who serve as carers for needy older persons, and other support programs.¹²

a. Methodology of this report

This report was developed first through an assessment of Australia’s approach to ageing and aged care in general, and also understanding Australia’s general policy and legislative response to COVID-19. After this policy background was assessed, then the specific policies and programs impacting older persons during the COVID-19 pandemic were incorporated, with a focus on access to care and services, access to healthcare, and access to economic support. While the focus of these assessments was on Parliamentary action, much of the response to COVID-19 is carried out through emergency powers delegated to the executive branch Ministers and agencies. Finally, based on these assessments, lessons learned and recommendations are provided for other Parliamentarians based on Australia’s response.

2. Older persons in Australia’s COVID-19 response

In January of 2020¹³, the Biosecurity Act of 2015 was invoked to grant the Minister of Health the right to issue directives and determine requirements necessary to stop the spread of the COVID-19 pandemic.¹⁴ The Director of Human Biosecurity can also authorize agency staff to act on his or her behalf under the Act.¹⁵ The Minister for Aged Care and Senior Australians is also involved in coordinating the COVID-19 response and policies as related to older persons. Pursuant to these emergency powers, Parliament oversees this delegated power and action through committees such as the Committee on Scrutiny of Delegated Legislation and the Human Rights Committee.¹⁶ The Committee on Scrutiny of Delegated Legislation has been meeting regularly on a virtual basis since the beginning of the COVID-19 crisis to ensure appropriate oversight of the government’s

¹⁰ *Aged Care: A Quick Guide*, Parliamentary Library, Research Paper Series, p.4, June 5, 2019.

¹¹ The Australian Health System, Australian Government – Department of Health, Aug. 7, 2019, <https://www.health.gov.au/about-us/the-australian-health-system>.

¹² Support for financially disadvantaged people, Australian Government: MyAgedCare, <https://www.myagedcare.gov.au/support-financially-disadvantaged-people> (last visited Dec. 1, 2020).

¹³ Biosecurity (Listed Human Diseases) Amendment Determination 2020, Jan. 21, 2020.

¹⁴ Biosecurity Act 2015, Sec. 477-478, as amended to date.

¹⁵ Coronavirus Economic Response Package Omnibus Act 2020, Mar. 25, 2020, Sec. 544A (“The Director of Human Biosecurity may, in writing, delegate any or all of the Director’s functions or powers under Part 3 of Chapter 2 (human biosecurity control orders) to an SES employee, or an acting SES employee, in the Health Department who is a human biosecurity officer.”).

¹⁶ Sarah Moulds, *Scrutinising COVID-19 laws: An early glimpse into the scrutiny work of federal parliamentary committees*, ALTERNATIVE LAW JOURNAL, Vol. 45(3) (2020), 183, available at <https://journals.sagepub.com/doi/pdf/10.1177/1037969X20946990>.

actions during the pandemic.¹⁷ Parliament also authorized a specific COVID-19 Committee to monitor and report on the government's response to COVID-19, and will file its report in 2022.¹⁸ Many of the policies impacting older persons during COVID-19, specifically those in residential aged care, have in fact come through declarations or policies of the Minister of Health or other related agencies.

Some of the specific policies adopted during COVID-19 to protect older persons include special provisions for access to prescription drugs, telehealth access, improved access to personal protective equipment (PPE) for aged care facilities, and information for older persons on protecting themselves from COVID-19 in light of their unique vulnerabilities. Parliament has approved financial support for the aged care industry during COVID-19 totaling approximately \$1.5 billion, which includes health workforce retention bonuses, quarantine stipends for workers who need to quarantine due to potential exposure, expansion of the health workforce, and grief and trauma counseling for residents of aged care facilities and their families who have experienced a COVID-19 outbreak.¹⁹ Additional funds have also been added to the budget of My Aged Care, improving older persons' access to resources and information on aged care. Most Australians benefited from cash stimulus payments, and older persons who lost their jobs during the pandemic might get additional economic support either through basic pension payments (depending on their age) or possibly JobSeeker payments (a form of unemployment benefits).

a. Access to services

Before the COVID-19 pandemic, Australia had a comprehensive approach to providing older persons with access to basic services, such as meal delivery, in-home care, and companionship. The government has now established a dedicated COVID-19 phone support line for older Australians where they can receive information on everything from how to access health services during the pandemic to addressing feelings of loneliness and isolation through virtual companionship and planning safe or virtual visits with friends and family.²⁰ Older Australians also have special priority access to online and telephone grocery ordering.²¹ In-home care options for older persons are being increased, as well as options for services such as in-home meal delivery.²²

¹⁷ Scrutiny of COVID-19 Instruments, Parliament of Australia, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Scrutiny_of_COVID-19_instruments (last visited Dec. 1, 2020).

¹⁸ Sarah Moulds, *Scrutinising COVID-19 laws: An early glimpse into the scrutiny work of federal parliamentary committees*, ALTERNATIVE LAW JOURNAL, Vol. 45(3) (2020), 182 – 183, available at <https://journals.sagepub.com/doi/pdf/10.1177/1037969X20946990>.

¹⁹ Reinforcement of Australia's Aged Care Sector, Media Release, Aug. 21, 2020, <https://www.pm.gov.au/media/reinforcement-australias-aged-care-sector>.

²⁰ Coronavirus (COVID-19) advice for older people, <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/advice-for-people-at-risk-of-coronavirus-covid-19/coronavirus-covid-19-advice-for-older-people> (last visited Nov. 24, 2020).

²¹ Coronavirus (COVID-19) advice for older people, <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/advice-for-people-at-risk-of-coronavirus-covid-19/coronavirus-covid-19-advice-for-older-people> (last visited Nov. 24, 2020).

²² Fact Sheet: Assistance with Food and Meals for Older Australians Impacted by COVID-19, Australian Government – Department of Health, Apr. 9, 2020, available at <https://www.health.gov.au/sites/default/files/documents/2020/04/assistance-with-food-and-meals-for-older-australians-impacted-by-covid-19.pdf>.

Overall, the COVID-19 specific aged care support package totals \$205 million.²³ At the same time, almost 40% of aged care workers in Australia are immigrants,²⁴ so the government made possible the emergency extension of visas for several categories of visa holders, especially those in the medical and aged care professions.²⁵

The government has also issued specific guidance for older persons living at home and for older persons living in aged care facilities. For older persons living at home, the government recommends they follow basic sanitation guidelines, and avoid unnecessary travel and contact with outsiders.²⁶ The government also promotes the use of the “COVIDSafe App” for smartphones, which will alert users if they have been in close contact with another user of the App who tests positive for the virus.²⁷ For older Australians who receive in-home aged care services, the government has issued guidance on how to safely continue these services during the pandemic, called “It’s ok to have home care”, which includes guidance on the use of personal protective equipment, sanitation practices, and physical distancing where possible.²⁸

For older Australians living in aged care facilities, the Australian Health Protection Principal Committee (AHPPC) issued guidance that only 2 visitors, once per day, should be allowed for each aged care resident, and that all visitors be vaccinated for influenza.²⁹ The Minister for Aged Care encouraged aged care facilities to voluntarily apply these standards, and states and territories have issued directions to give effect to these requirements.³⁰ Aged care facilities also adopted restrictions for limiting visitors who had recently traveled or who had symptoms of illness.³¹ In May 2020, Parliament adopted an amendment to the Aged Care Act to allow emergency leave for

²³ New Covid-19 payment to keep senior Australians in residential aged care safe, Media Release, May 1, 2020, <https://www.pm.gov.au/media/new-covid-19-payment-keep-senior-australians-residential-aged-care-safe>.

²⁴ *37% of aged care workers in Australia from overseas*, The Weekly Source, Feb. 12, 2019, <https://www.theweeklysource.com.au/37-of-aged-care-workers-in-australia-from-overseas/>

²⁵ Media Statement: Coronavirus and Temporary Visa holders, Apr. 4, 2020, https://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/7279329/upload_binary/7279329.pdf;fileType=application%2Fpdf#search=%22media/pressrel/7279329%22.

²⁶ Coronavirus (COVID-19) advice for older people, Australian Government Department of Health, <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/advice-for-people-at-risk-of-coronavirus-covid-19/coronavirus-covid-19-advice-for-older-people>, Nov. 17, 2020 (last visited Nov. 28, 2020).

²⁷ COVIDSafe app, Australian Government Department of Health, <https://www.health.gov.au/resources/apps-and-tools/covidsafe-app#about-the-app>, Oct. 28, 2020 (last visited Nov. 28, 2020).

²⁸ Information Sheet: It’s ok to have home care, Australian Government Department of Health, Sept. 8, 2020, available at https://www.health.gov.au/sites/default/files/documents/2020/08/coronavirus-covid-19-it-s-ok-to-have-home-care-it-s-ok-to-have-home-care-fact-sheet_0.pdf.

²⁹ Australian Health Protection Principal Committee (AHPPC) coronavirus (COVID-19) statement, 17 March 2020, <https://www.health.gov.au/news/australian-health-protection-principal-committee-ahppc-coronavirus-covid-19-statement-on-17-march-2020-0> (extended in April 2020).

³⁰ Press Release, Senator the Hon Richard Colbeck, Minister for Aged Care and Senior Australians, Aged Care Visitation, April 24, 2020, https://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/7312879/upload_binary/7312879.pdf;fileType%3Dapplication%2Fpdf#search=%22media/pressrel/7312879%22.

³¹ Fact Sheet: Families and residents on restricted visits to residential aged care facilities, Australian Government Department of Health, June 19, 2020, available at <https://www.health.gov.au/sites/default/files/documents/2020/06/coronavirus-covid-19-information-for-families-and-residents-on-restricted-visits-to-residential-aged-care-facilities.pdf>.

residents of aged care facilities during the pandemic.³² This emergency leave allows residents of aged care facilities to stay with family members for several months, reducing the number of residents living in close quarters in aged care facilities during the COVID-19 pandemic. During the declared emergency period, residents of aged care facilities can take emergency leave from their facilities without using up the limited number of days they are allowed for social leave.³³ At the same time, aged care facilities will continue to receive the residential care subsidy that pays their costs per resident, even if a resident is on emergency leave. This set of subsidies and allowances allows each resident to choose his or her safest accommodation option during the pandemic.

While the Government has made efforts to increase safe visitor and outreach programs to combat loneliness and isolation among older persons during COVID-19, older persons may not be able to easily access these programs and information due to the IT requirements. Those with pre-existing mental illness may find it too challenging or distressing to interact online with friends and family or support workers, and may not be able to access other services remotely.³⁴ Lack of PPE, lack of COVID-specific safety protocols, and lack of clinical skills among aged care staff has led to further distress and even deaths in aged care facilities.³⁵ Human Rights Watch has urged the Royal Commission into Aged Care to take particular notice of the high level of distress caused to dementia patients due to social isolation and lack of visitors during the pandemic that can lead to further health complications and even death in some cases.³⁶

b. Access to healthcare

Australia has in place several healthcare policies to respond to COVID-19 that benefit older persons. Part of the aged care stimulus budget adopted by Parliament funds a healthcare worker surge, and provides for the extension of work visas that can also help keep staff members working the aged care industry.³⁷ The Government also introduced a new Primary Health Care Support Package to update the delivery of services to address conditions introduced by COVID-19. For example, due to physical distancing requirements, any Australian on Medicare can use telehealth services by phone or video conference.³⁸ This service is specially tailored for people over 70 years

³² COVID-19 and aged care: a quick guide, Parliament of Australia, Research Paper Series 2019–20, June 16, 2020, p.5, *available at* https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7392988/upload_binary/7392988.pdf.

³³ Protecting Older Australians: COVID-19 Update, May 16, 2020, Australian Government: Department of Health, <https://www.health.gov.au/news/newsletters/protecting-older-australians-covid-19-update-16-may-2020>.

³⁴ National Mental Health and Well-Being Pandemic Response Plan, Australian Government, May 2020, p.26-27, *available at* <https://www.mentalhealthcommission.gov.au/getmedia/1b7405ce-5d1a-44fc-b1e9-c00204614cb5/National-Mental-Health-and-Wellbeing-Pandemic-Response-Plan>.

³⁵ Elderly homes in Australia under fire after high COVID-19 deaths, Al-Jazeera, Oct. 2, 2020, <https://www.aljazeera.com/features/2020/10/2/dying-of-covid-19-in-australias-elderly-home-care>.

³⁶ Submission by Human Rights Watch to the Royal Commission into Aged Care Quality and Safety on the Impact of the Coronavirus (Covid-19) on the Aged Care Sector, July 31, 2020, *available at* <https://www.hrw.org/news/2020/08/05/submission-australian-royal-commission>.

³⁷ Alex Grove, COVID-19 and aged care: a quick guide, Research Paper Series, 2019-2020, June 16, 2020, p.3, https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7392988/upload_binary/7392988.pdf.

³⁸ Fact Sheet – National Health Plan, Primary Care Package – MBS Telehealth Services and increased Practice Incentive Payments, March 2020, https://www.health.gov.au/sites/default/files/documents/2020/04/covid-19-national-health-plan-primary-care-package-mbs-telehealth-services-and-increased-practice-incentive-payments-covid-19-national-health-plan-primary-care-package-mbs-telehealth-services-and-increased-practice-incenti_2.pdf

of age and those with chronic conditions or who are immunocompromised. Remote ordering and home delivery of prescriptions is available for any person over 70 or any resident of an aged care facility.³⁹ Infection control training and education is also being provided to aged care staff so that aged care facilities are better able to manage infections if they do occur.⁴⁰ The Government has also set up a special request system for aged care facilities to request PPE, prioritizing facilities that are managing a COVID outbreak.⁴¹ The Government is also targeting funding toward mental health nursing support for older Australians, which can be accessed in aged care facilities or for older persons living at home.⁴²

Australia also has a plan for prioritizing delivery of the COVID-19 vaccine to ensure older people are among the first to be vaccinated due to their higher risk of contracting the disease and of having a severe case of the disease.⁴³ The Australian Technical Advisory Group on Immunisation (ATAGI) identified three priority groups for COVID-19 vaccination, which include:

- Older persons, certain vulnerable minority groups, and persons with underlying conditions;
- People at increased risk of exposure, such as health care workers and aged care workers;
- People working in essential industries, such as public health staff, critical infrastructure workers, and food industry workers.⁴⁴

It is not yet clear what the exact order of priority will be among these three groups, if any. However, older persons and aged care workers are recognized among the key priority groups for receiving the vaccine once it is available, free of charge.

c. Access to economic support

(last visited Nov. 24, 2020); Friel, S., Goldman, S., Townsend, B. and Schram, A. (2020) Australian COVID-19 policy responses: Good for health equity or a missed opportunity?, p.9, Canberra: School of Regulation and Global Governance (RegNet), Australian National University.

³⁹ Getting medicines during coronavirus (COVID-19) restrictions, Australian Government – Department of Health, May 22, 2020, <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/ongoing-support-during-coronavirus-covid-19/getting-medicines-during-coronavirus-covid-19-restrictions> (last visited Nov. 24, 2020).

⁴⁰ Aged Care – Aged Care Preparedness, Fact Sheet: National Health Plan, Australian Government – Department of Health, Mar. 11, 2020, available at <https://www.health.gov.au/sites/default/files/documents/2020/03/covid-19-national-health-plan-aged-care-aged-care-preparedness.pdf>.

⁴¹ Advice for the aged care sector during COVID-19, Australian Government – Department of Health, Nov. 23, 2020, <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/coronavirus-covid-19-advice-for-the-health-and-disability-sector/providing-aged-care-services-during-covid-19> (last visited Nov. 24, 2020); PPE Prioritised for Aged Care Workers, July 22, 2020, HelloCare, <https://hellocaremail.com.au/ppe-prioritised-aged-care-workers/>.

⁴² Supporting the National Mental Health and Wellbeing Pandemic Response Plan, Australian Government, June 17, 2020, p.2, available at <https://www.health.gov.au/sites/default/files/documents/2020/06/supporting-the-national-mental-health-and-wellbeing-pandemic-response-plan.pdf>.

⁴³ Australian COVID-19 Vaccination Policy, Australian Government, p.11 (2020), available at https://www.health.gov.au/sites/default/files/documents/2020/11/australian-covid-19-vaccination-policy_1.pdf.

⁴⁴ COVID-19 Vaccination Prioritisation, Australian Government Department of Health, <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/vaccines-and-treatments/covid-19-vaccination-prioritisation> (last visited Nov. 28, 2020).

Australians over 60 are among the most heavily impacted by job loss during COVID-19.⁴⁵ People aged 70 years or older experienced a 12.1% loss of payroll jobs, and people aged 60 to 69 years experienced a 6.4% loss of payroll jobs.⁴⁶ At the same time, people aged 60 years and over account for 10.9% of all unemployed persons in Australia.⁴⁷ Some older Australians who are not yet at pension age are eligible for JobSeeker payments if they become unemployed due to COVID-19.⁴⁸ The JobSeeker payment was also expanded during the pandemic to cover contract workers and self-employed persons whose income decreased or was lost due to COVID-19, and this expansion could benefit some older persons as well who were self-employed or contractors before the pandemic.⁴⁹ Australia also has a Work Bonus program for pensioners who choose to keep working so that they can earn additional income from working without impacting their pension payments.⁵⁰ Additionally, a person who needs to leave his or her work to care for someone affected by COVID-19 can also qualify for the JobSeeker payment in some cases, which can be another way of supporting older persons who prefer to stay at home during COVID-19, but who would need a caretaker who might need extra support to leave a paying job.⁵¹

For Australians who have already reached the pension age, other support payments have been provided to help address the economic impacts of COVID-19. Many older Australians qualified for one or two \$750 economic support payments. This first payment went to all persons receiving the basic age pension, the Disability Support Pension, the Carer Payment, the Veterans Pension, and the Widow Allowance.⁵² Many older Australians also received a second \$750 payment, and two additional \$250 payments.⁵³ For older persons whose savings or social security amounts are being affected by the market volatility and low interest rates caused by COVID-19, drawdown

⁴⁵ Geoff Gilfillan, COVID-19: Labour market impacts on key demographic groups, industries and regions, Research Paper Series 2020-2021, Oct. 23, 2020, p.4, available at https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7616491/upload_binary/7616491.pdf.

⁴⁶ Geoff Gilfillan, COVID-19: Labour market impacts on key demographic groups, industries and regions, Research Paper Series 2020-2021, Oct. 23, 2020, p.4, available at https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7616491/upload_binary/7616491.pdf.

⁴⁷ Geoff Gilfillan, COVID-19: Labour market impacts on key demographic groups, industries and regions, Research Paper Series 2020-2021, Oct. 23, 2020, p.4, available at https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/7616491/upload_binary/7616491.pdf.

⁴⁸ JobSeeker Payment – Who Can Get It – Services Australia, <https://www.servicesaustralia.gov.au/individuals/services/centrelink/jobseeker-payment/who-can-get-it> (last visited Nov. 24, 2020).

⁴⁹ JobSeeker Payment – Who Can Get It – Services Australia, <https://www.servicesaustralia.gov.au/individuals/services/centrelink/jobseeker-payment/who-can-get-it> (last visited Nov. 24, 2020).

⁵⁰ Work Bonus, Australian Government: Department of Social Services, <https://www.dss.gov.au/seniors/programmes-services/work-bonus#:~:text=The%20Work%20Bonus%20increases%20the,it%20affects%20their%20pension%20rate.&text=Fro m%201%20July%202020%2C%20for,it%20is%20%24316%20a%20fortnight> (last visited Dec. 1, 2020).

⁵¹ JobSeeker Payment – Who Can Get It – Services Australia, <https://www.servicesaustralia.gov.au/individuals/services/centrelink/jobseeker-payment/who-can-get-it> (last visited Nov. 24, 2020).

⁵² COVID-19 Economic Response – Payments to support households, Oct. 15, 2020, p.2, https://treasury.gov.au/sites/default/files/2020-10/Fact_sheet-Payments_to_support_households_1.pdf.

⁵³ COVID-19 Economic Response – Payments to support households, Oct. 15, 2020, p.3, https://treasury.gov.au/sites/default/files/2020-10/Fact_sheet-Payments_to_support_households_1.pdf.

requirements have been reduced and social security deeming rates have also been reduced.⁵⁴ Other protections have also been implemented, such as early access to superannuation or retirement benefits.⁵⁵ The Aged Care (Subsidy, Fees and Payments) Determination of 2014 was also amended to implement a temporary increase to the rate of the aged care basic subsidy.⁵⁶

3. Conclusion: Lessons Learned for Parliamentarians

Australia's response to protecting older persons during the COVID-19 pandemic included many different programs, funding approaches, and initiatives to ensure older persons continue to have access to services, healthcare, and economic security. The Government adopted a series of Declarations made pursuant to the Biosecurity Act of 2015 that ensured COVID-19 was included in the list of human diseases that would grant the Health Minister certain emergency powers to control the spread of the pandemic.⁵⁷ Where the Government uses this type of delegated legislative power, Parliament is obligated to review and monitor the Government's actions. This is one of the key roles of Parliament in the COVID-19 pandemic, because many of the policies and actions affecting older persons are being implemented through Government actions and delegated authority rather than through formal legislation adopted by Parliament. Parliamentary scrutiny is essential in ensuring equality of service delivery, appropriate expenditures of State funds, and monitoring of the rights of all groups and individuals affected by the policies of the Government. Australia's Parliament ensured that the Committee on Scrutiny of Delegated Legislation was monitoring the Government's COVID-19 response through delegated power on an ongoing basis, and that a new Committee was formed specifically to monitor and report on the COVID-19 situation and response overall.

In addition to scrutiny of delegated and emergency powers, Parliament also adopted specific amendments to the Aged Care Act to ensure older Australians living in aged care facilities are protected, specifically in granting emergency leave for residents to stay with friends and family as aged care facilities could become epicenters of COVID-19 outbreaks. Due to the relatively high number of Australians living in aged care facilities, Australia's COVID-19 response was tailored for older persons living at home and older persons living in residential care, including provisions for home delivery of meals, groceries, and medicines, as well as virtual companionship for any older person experiencing loneliness and isolation during the pandemic. In order to bring about these extended services for older persons, the government also ensured extension of visas for immigrants, particularly those working in the medical and aged care sectors.

⁵⁴ Economic Response to the Coronavirus: Providing Support for Retirees, Oct. 15, 2020, p.1, https://treasury.gov.au/sites/default/files/2020-10/Fact_sheet-providing_support_for_retirees_0.pdf.

⁵⁵ COVID-19 Economic Response - Early Access to Superannuation, Oct. 15, 2020, https://treasury.gov.au/sites/default/files/2020-10/Fact_sheet-Early_Access_to_Super.pdf.

⁵⁶ Aged Care (Subsidy, Fees and Payments) Amendment (Workforce Continuity Funding) Determination 2020, Mar. 26, 2020 (no longer in force), *available at* <https://www.legislation.gov.au/Details/F2020L00352>.

⁵⁷ Howard Maclean & Karen Elphick, COVID-19 Legislative response – Human Biosecurity Emergency Declaration Explainer, Parliament of Australia, Mar. 19, 2020, https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2020/March/COVID-19_Biosecurity_Emergency_Declaration.

Parliament also considered and adopted economic stimulus packages in response to COVID-19 that included targeted assistance to the aged care sector, including increasing the aged care and healthcare workforce, allocating additional funds to mental health services, and increasing home health and telehealth service delivery. In addition to this sector-wide support, Parliament's economic stimulus packages also included direct individual stimulus payments to benefit older persons in Australia who were disadvantaged by the COVID-19 outbreak.

Recommendations:

Recommendation 1:

Assign COVID-19 oversight to a Parliamentary Committee empowered to monitor, assess, and report on the Government's delegated power.

Recommendation 2:

Ensure oversight of the overall COVID-19 response with a special Committee on COVID-19 Response.

Recommendation 3:

Tailor support for older persons to the country-context, incorporating special support for older persons in residential care and who stay at home where applicable.

Recommendation 4:

Consider mental health of older persons in adopting policies and allocating funding as isolation and loneliness can also be harmful to older persons.

Recommendation 5:

Consider additional delivery services that can reasonably be provided to limit the need for older persons to leave their homes.

Recommendation 6:

Assess the healthcare and support needs of older persons and whether foreign workers will need their visas extended during the pandemic to continue providing these essential services.

Recommendation 7:

Consider additional incentives such as exceptional leave requirements from residential aged care to encourage fewer older persons living in residential aged care as possible during the pandemic.

Recommendation 8:

Assess the financial impacts on the aged care sector and address potential shortfalls with gap financing and workforce strengthening.

Recommendation 9:

Consider the additional costs that may be incurred by older persons in coping with the restrictions and challenges of the pandemic and provide direct stimulus payments or government-sponsored services where possible.

Recommendation 10:

Consider the challenges older persons may face in using IT platforms to sign up for benefits, and limit these requirements where possible.