



Women
With
Disabilities
Australia
(WWDA)

Winner, National Human Rights Award 2001
Winner, National Violence Prevention Award 1999
Winner, Tasmanian Women's Safety Award 2008
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020
Nominee, National Disability Awards 2017
Nominee, French Republic's Human Rights Prize 2003
Nominee, UN Millennium Peace Prize for Women 2000

Migration Health Requirement Review Secretariat
Department of Home Affairs
By email: health.requirement.review@homeaffairs.gov.au

14 November 2023

Dear Secretariat

Submission to Review of Australia's visa Significant Cost Threshold (SCT)

I write to you from Women With Disabilities Australia (**WWDA**),¹ the National Disabled People's Organisation (**DPO**) and National Women's Alliance (**NWA**) for women, girls, feminine identifying, and non-binary people with disability in Australia. WWDA welcomes the opportunity to make this submission to the Review of Australia's visa Significant Cost Threshold (**SCT**), and commends the Australian Government on its commitment to conducting the review.

At present, the Significant Cost Threshold is arbitrary, inadequate and lacks transparency. It is inconsistent with community expectations and forms part of a broader framework that indirectly discriminates against people with disability. The Significant Cost Threshold, and the Migration Health Requirement more broadly, can be extremely difficult for people with disability to meet. The Requirement also conceives of people with disability and their families as an economic burden, failing to recognise the value of their economic, social and cultural contributions to the Australian community.

At the outset, WWDA is deeply concerned about any policy, framework or requirement that is not consistent with the Australian Government's international human rights obligations. As the Australian Government is aware, Australia's Migration Health Requirement, including the Significant Cost Threshold, is inconsistent with both the United Nations Convention on the Rights of Persons with Disabilities (**CRPD**) and the United Nations Convention on the Rights of the Child (**CRC**). The Migration Health Requirement is discriminatory in nature, disadvantaging people with disability as compared with other prospective migrants. People with disability and their families are consistently deterred from making visa applications, refused visas, and deported, because they are unable to meet the Migration Health Requirement. The Migration Health Requirement also has flow-on effects for migrants who do obtain visas in Australia. WWDA has heard reports that migrants with disability, or with disabled family members, do not seek support for disability or health-related needs due to fear about the impact of disclosure on their continued stay in Australia.

Discrimination against people with disability, in any form or context, is unacceptable. It is deeply concerning that the Australian Government continues to permit, condone and legitimise discrimination within the context of migration through the exemption to certain provisions of the

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Migration Act 1958 (Cth) contained in the *Disability Discrimination Act 1992* (Cth) (**DDA**), and the Interpretative Declaration to Article 18 of the CRPD.

In its 2019 Concluding Observations on the Combined Second and Third Periodic Reports of Australia,² the Committee on the Rights of Persons with Disabilities expressed concern about the legislative frameworks that allow for discrimination against people with disability in a migration context, including the Migration Health Requirement.³ The Committee recommended that Australia remove the migration exemption in the DDA and amend migration laws and policies to ensure that people with disability do not face discrimination in any of the formalities and procedures relating to migration and asylum.⁴ The Committee also recommended that the Australian Government withdraw its Interpretative Declaration on Article 18 of the CRPD, describing this as an urgent measure that must be taken.⁵ However, to date, the Australian Government has not enacted these recommendations.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability also recently recommended that the Australian Government review the exemption contained in the DDA insofar as it authorises the *Migration Act 1958* (Cth) to discriminate against people with disability seeking to enter Australia.⁶ The Royal Commission specified that the review should consider changes to the legislation and migration practices to eliminate or minimise discrimination, and be conducted with reference to the rights recognised by the CRPD and the Concluding Observations of the CRPD Committee.⁷ However, WWDA asserts that the Australian Government must not only review its laws and practices to minimise discrimination, but act urgently to *abolish* laws and practices that are inconsistent with the CRPD.

WWDA supports the recommendations of the Welcoming Disability campaign,⁸ the joint initiative of Australian Lawyers for Human Rights and Down Syndrome Australia, and calls on the Australian Government to urgently replace Australia's Migration Health Requirement with a framework that is consistent with international human rights law standards and positively recognises individual and family contributions to Australian communities.⁹ This requires that the Australian Government:

1. Reform the *Migration Act 1958* (Cth), the *Disability Discrimination Act 1992* (Cth) and relevant policies and procedures, to ensure protections for all refugees and migrants with disability, including their right to equal protection and non-discrimination under Article 5 of the CRPD.
2. Withdraw Australia's Interpretative Declaration to the Convention on the Rights of Persons with Disabilities.

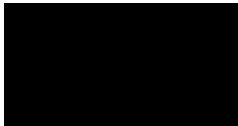


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3. Immediately increase the Significant Cost Threshold to bring it into line with those used in comparable nations, such as New Zealand and Canada.
4. Conduct a costing review of migration health requirements, similar to the Canadian government's review of the Medical Inadmissibility requirement.
5. Extend the right to apply for a health waiver to all visa applicants.
6. Grant an automatic health waiver for all children with a disability or health condition born in Australia to temporary visa applicants if the family wishes to apply for further visas.
7. Remove 'special education' as a community cost within the Migration Health Requirement, acknowledging both the discriminatory impact of its inclusion in a costs assessment and the discrimination inherent in systems of segregated education.
8. Remove the requirement that non-migrating family members undertake a health assessment and the 'one fails all fail' rule.

WWDA thanks you for the opportunity to provide this letter.

Yours sincerely,



Carolyn Frohmader
Chief Executive Officer (CEO)

Women With Disabilities Australia

Finalist, 100 Women of Influence Awards 2015
Australian Human Rights Award (Individual) 2013
State Finalist Australian of the Year 2010
Inductee, Tasmanian Women's Honour Roll 2009
Australian Capital Territory Woman of the Year Award 2001

¹ See: <https://wwda.org.au/>

² Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Combined Second and Third Periodic Reports of Australia, Adopted by the Committee at Its 511th Meeting (20 September 2019) of the 22nd Session*; CRPD/C/AUS/CO/2-3, 15 October 2019.

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³ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Combined Second and Third Periodic Reports of Australia, Adopted by the Committee at Its 511th Meeting (20 September 2019) of the 22nd Session*; CRPD/C/AUS/CO/2-3, 15 October 2019, para. 35(a).

⁴ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Combined Second and Third Periodic Reports of Australia, Adopted by the Committee at Its 511th Meeting (20 September 2019) of the 22nd Session*; CRPD/C/AUS/CO/2-3, 15 October 2019, para. 36(a).

⁵ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Combined Second and Third Periodic Reports of Australia, Adopted by the Committee at Its 511th Meeting (20 September 2019) of the 22nd Session*; CRPD/C/AUS/CO/2-3, 15 October 2019, para. 63.

⁶ Commonwealth of Australia, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023) *Final Report, Volume 4: Realising the human rights of people with disability*, Recommendation 4.31.

⁷ Commonwealth of Australia, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023) *Final Report, Volume 4: Realising the human rights of people with disability*, Recommendation 4.31.

⁸ Welcoming Disability (2022). *Position Statement on Migration and Disability*. <<https://www.welcomingdisability.com/resources>>.

⁹ Welcoming Disability (2022). *Position Statement on Migration and Disability*. <<https://www.welcomingdisability.com/resources>>.

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