



NATIONAL
WELFARE RIGHTS
NETWORK

SUBMISSION

to the

SENATE STANDING COMMITTEE ON COMMUNITY AFFAIRS

Social Services and Other Legislation Amendment (2014
Budget Measures No. 1) Bill 2014

Social Services and Other Legislation Amendment (2014
Budget Measures No. 2) Bill

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1. Introduction

The Social Services and Other Legislation Amendment (2014 Budget Measures No. 1) Bill 2014 and the Social Services and Other Legislation Amendment (2014 Budget Measures No. 2) Bill 2014 (hereafter referred to as “Bill No 1” and “Bill No 2” respectively) seek to give effect to a raft of measures that were introduced in the 2014-15 Federal Budget. The proposals in the Bills before this Committee contain some of the most significant changes to the Australian system of income support since it was first introduced in a consolidated Social Security Act in 1947.

Behind the “Budget emergency”

There are currently over 7.3 million Australians, or about one in three people, who currently receive support from a social security income support payment or family assistance benefit.

This budget is one of lost opportunities: it focused too much on spending cuts which targeted the poorest groups in our community and too little on where the heart of the problem lies – declining revenue. This budget is neither fair nor equitable; it should have begun the critical task of addressing Australia’s revenue problem and started the necessary process of major structural reform.

Unfortunately, it has failed to place the priority on over- generous tax concessions that overwhelmingly benefit people on higher incomes. The failure to tackle unfair superannuation concessions, the treatment of private trusts and companies and negative gearing represents a missed opportunity. This missed opportunity will lead to even greater pressure on spending on essential income support and vital community services, which are already stretched to their limit.

The National Welfare Rights Network (NWRN) supports reforms which better target government spending based on need. However, as our submission will show, most of these budget measures will have a harsher impact on the most disadvantaged Australians. The harshest policies are targeted at young unemployed people, through the denial of income support payments for periods of at least six months per year. However, harsh impacts will also be felt by people with disabilities and single parents. Changes to indexation and benchmarking of pension payments will mean smaller payment increases into the future for millions of people living on very low, fixed incomes, while changes to Family Tax Benefits will lead to reductions in incomes for many families who are doing it tough.

The Government claims that the acknowledged harmful and harsh measures in the Bills are necessary because our nation faces a “budget emergency”. We reject this contention and we reject the Government’s solution – a harsh austerity budget which denies income support to some for extended periods, reduces essential social security payments, and removes vital supports needed to take part in education and improve employment chances, such as the Pensioner Education Supplement and the Education Entry Payment.

About our submission

Given the extensive number of changes being considered by the Committee, we will not provide detailed comment and analysis on every measure contained in the Bills. Instead, we will focus on those proposals that will have the most deleterious effects upon marginalised and disadvantaged

people. Our submission will group the measures together and respond to the Schedules by logical groupings.

We have analysed the impacts of the measures from both Bills on various cohorts of income support recipients (for example Age Pension, Newstart Allowance, Parenting Payment Single), and have drawn attention to the cumulative impacts of a number of budget measures on various groups of people.

2. Overarching problems with the Bills

2.1 Adequacy and incentives – contradictions in Government policy

The fundamental problem with these Bills, especially the proposal to create six month exclusion periods for under 30s, is that, despite the Government's intentions, the practical effect will be to reduce prospects for work and entrench poverty and disadvantage.

Drawing on 30 years of casework assistance to unemployed people accessing income support, this submission at sections 3 to 12 below analyses each of the measures and explains the practical effects of each measure on the people affected.

The overarching problem with these Bills is that rather than addressing the problems of inadequacy of income support, and the need for real incentives and support into work, many of the measures will:

- exacerbate inadequacy
- increase disincentives to work
- undermine the current and proposed supports for jobseekers

It is absolutely clear that inadequate allowance rates are compounding barriers to work. The Business Council of Australia's Jennifer Westacott notes: "The Newstart Allowance has not increased in real terms for some time and is clearly inadequate. Entrenching people into poverty by expecting them to live on around \$35 a day is not acceptable and only makes it more difficult for them to find work."¹ If, as the Business Council and many others say, the rate of Newstart Allowance is already a barrier to work, the proposed six month non-payment period can only be more counter-productive in the important goal of increasing workforce participation.

There is no coherent policy in these Bills for addressing long term unemployment. Blunt schemes are proposed which presume (incorrectly) that people choose to be unemployed and that poverty will force them into work, despite evidence that there are a significant number of people on unemployment benefits who are not obtaining work due to labour market factors beyond their control. There is no careful balancing of incentives and exemptions in these measures. Many essential elements of the new schemes proposed in these Bills are left to the Minister to determine by Legislative Instrument, presumably because there has not been time to fully develop the schemes prior to finalising the Bills (our reasons for presuming this are explained at section 2.3 below).

¹ Business Council of Australia, *Time is Right to Give the Welfare Safety Net a Health Check*, 27 June 2012.

These Bills highlight contradictions in Government policy. Government has stated that it wants to address high rates of youth unemployment. However, many of the measures effectively decrease support to young people, students, and their families. These include:

- repeating six month exclusion periods to the age of 30 (which will entrench poverty for many, will increase hardship for families and increase reliance on charities and not for profit sector)
- increasing the time a person spends on the grossly inadequate Youth Allowance rate and freezing the income free areas for student (undoing the limited reforms that came out of the Bradley Review's findings about student poverty and inadequacy of Youth Allowance)
- new limits on income student bank and freezing the income free area (increasing effective marginal tax rates)
- substantially decreasing family assistance payments (substantially impacting on low income families, see section 10 below for details)
- substantially decreasing other assistance available to vulnerable families (eg pensioner education and other supplements)

And where are the real incentives? For example, the government could have taken steps to lower effective marginal tax rates (EMTRs). Instead, the Bills contain a number of measures that will increase EMTRs (eg by freezing income free areas and changes to the student income bank). A Jobs and Training Guarantee for young people would have been a more positive attempt to tackle the growing global problem of youth unemployment.

The stated rationale for the additional waiting period for Newstart Allowance is that the lower payment rates for student payments and higher unemployment payments creates an incentive for a young person to be unemployed. It is claimed that the higher Newstart Allowance is a disincentive for young people to engage in study. The Government alleges that this is due to the fact that young people who study full-time receive the lower Youth Allowance until they turn 25.

NWRN has long recognised this problem, but has instead argued that the solution to this anomaly is to increase the rate of student payments, rather than limit access to higher unemployment payments, or increasing the eligibility age of Newstart Allowance. The resolution to this problem is not to reduce Youth Allowance payments for young unemployed people, but to increase Youth Allowance and related student payments to the same rate of the Newstart Allowance.

Low rates of payments for students are themselves a barrier to study, and the 2008 Bradley Report into Higher Education heard that many young people were working excessive hours, and these hindered their ability to pay the necessary attention to their studies.

2.2 Complex interactions - exacerbating inadequacy and barriers to work

These Bills contain a wide range of measures which have complex interactions with each other, and with other measures proposed in other Bills. Overwhelmingly, these interactions mean that the harshest reductions to income are felt by the more vulnerable social security recipients and low income working families.

To understand the impact of individual measures in these Bills, it is necessary to look at these interactions. This is because some people will be disproportionately affected according to how many of the cuts are felt simultaneously by them.

The best way to understand where the cuts in these Bills fall is by way of cameo example. Let's take a single parent on Newstart Allowance (NSA) with an eight year old, a teenager and a 22 year old. She will have her overall social security benefits, and the overall family income, reduced a number of times by the numerous income tests which all apply to her situation (often referred to as "stacking" of income tests).

For every dollar of income over the relevant thresholds that these Bills will freeze, she will lose:

- 50 cents under the NSA income test (increases to 60 cents after higher free area),
- 20 cents under the Family Tax Benefit (FTB) income test (increasing to 30 cents after higher free area),
- 50 cents under the Maintenance Income Test (until base rate is reached),
- 40 cents under the Child Care Benefit (CCB) income test for their younger children

Further, the overall family income will reduce:

- her teenager will lose 20 cents under the Youth Allowance parental means test
- her eldest child will now receive Youth Allowance, rather than Newstart Allowance (roughly \$237 less per fortnight)
- if either of the older children obtain work, that child's Youth Allowance will also be further by 50 cents for every dollar over the Youth Allowance free areas (to be frozen from January 2015)
- she will also be affected by the freeze on the Rent Assistance threshold
- she will also be affected by the freeze on indexation of the Clean Energy Supplement
- she will no longer be able to receive Pensioner Education Supplement or the Education Entry Payment
- she may lose some of the benefit of her Pensioner Concession Card (PCC) as a result of more restricted concessions (due to the termination of funding to the States for concessions available via the PCC).

Finally and worst of all, if either of her oldest children is required to serve a six month exclusion period, she will have to support that child, or both, for six months without Youth Allowance or family assistance to help cover basic costs like food and medicine. Her children may be without Youth Allowance for six months out of every year until they turn 30.

Throughout this submission, we have noted examples of situations where particular groups will be affected by several measures at once.

The proposals restricting access to income support payments for young people under age 30, and another penalty system for non-compliance during the exclusion period, must be considered against the tougher compliance measures that are included in the *Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014*. It must also be recognised that the measure will have the greatest financial effect on young people who live in households with a low income. Family members who are also on pensions or allowances will be further disadvantaged if their children under 30 are denied income support.

As the National Centre for Economic Modelling (NATSEM) has shown, the family assistance measures would have the greatest impact on levels of assistance for low income families with children. NATSEM modelling did not take into account the impact of the six month non-payment period for job seekers under 30:

“The burden on families for 2014-15 falls most heavily on low and middle income families with children. The impact on high income families with children is smaller in dollar terms and percent change terms. Across all families (including singles and couples without children) the dollar impact varies by income level without a clear pattern. In percentage terms, the impact is clearly felt by the low income families more than high income families.

The burden on families of the 2014-15 budget is quite clear by 2017-18 once all grandfathering arrangements are removed and the budget levy is removed. Low income couples with children (bottom 20 per cent) are worse off by around 6.6 per cent while single parents are worse off by around 10.8 per cent on average. High income families are marginally better off thanks to the carbon price removal.”²

All of the 220,000 Parenting Payment Single recipients will be negatively affected by the proposed indexation arrangements and the changes to Family Tax Benefit A and B, while 17,500 single parents currently on payments will be affected by the cessation of the Pensioner Education Supplement. While a supplement will be introduced for single parents, it will not make up for the loss of payment, and there is no supplement for low income couples.

Other Budget measures, which are not analysed in this submission, should also be born in mind. For example the introduction of a \$7 co-payment will be of particular concern to parents, Age Pensioners and people with chronic health conditions.

2.3 Inappropriate use of Legislative Instruments

Parliament is being asked to vote on this critical Bill when it leaves fundamental aspects of the new laws to be determined by the responsible Minister by legislative instrument. For example, in relation to the six month exclusion period, the critical matters left to the Minister include:

- which recipients of Special Benefit are subject to the non-payment period;
- whether, and by how much, a period of “gainful work” reduces the non-payment period;
- in what circumstances, and for how long, a person may be temporarily exempt from the non-payment period; and
- which job seekers assessed as requiring employment services or Disability Employment Services because of barriers to work are exempt entirely from the non-payment period (despite a commitment³ in the budget to ensuring exemptions for job seekers in streams 3 and 4 and Disability Employment Service clients, those with the greatest barriers to work).

Over recent years, there has been an increased use of delegated legislation via legislative instrument in the *Social Security Act*. There is a place for such instruments where there is a need for flexibility to respond to rapidly changing circumstances. But these provision outlined above are part of the critical architecture of the scheme and do not require flexibility. It would seem likely that they are there because of the haste with which these measures were introduced and because the drafting

² NATSEM Budget 2014-15 Analysis, May 26 2014, p. 4. <http://www.natsem.canberra.edu.au/storage/2014-15%20Budget%20Research%20Note.pdf>

³ http://budget.gov.au/2014-15/content/glossy/welfare/download/Social_Services.pdf

has not yet been done. Incorporating this scheme into the *Social Security Act* will require careful drafting due to the complex interactions it will have throughout the Act. This necessarily takes time and requires careful consultation with all the Departments responsible for policy and administration of the scheme. If haste is the reason that such matters have been left to the Minister, this Schedule should be withdrawn, properly drafted and brought once again before Parliament.

Although Parliamentary oversight can be exercised through disallowance of legislative instruments by either house of Parliament, a measure as harsh and significant as this should be scrutinised carefully, referred to Senate committee, and then fully debated in the Parliament.

3. Six month exclusion period

3.1 Fundamental problems with this proposal

This measure provides that job seekers under 30 will not be able to receive Newstart Allowance or Youth Allowance until they serve a six month non-payment period, on top of any other applicable waiting periods.

These job seekers are then subject to alternating periods of six months on income support payment and six months off. Previous periods of “gainful work” can reduce the length of the non-payment period.

During the exclusion period, job seekers must agree to compulsory participation requirements and, if they fail to meet a requirement, can have additional periods of up to four weeks added on to the waiting period.

The NWRN opposes this measure in its entirety.

This measure is a fundamental attack on the basic right to social security and the principle of adequate income support based on need. An estimated 110,000 job seekers each year under the age of 30 will be affected by the decision to deny income support payments for six months of each year of unemployment. It is estimated that in 2014-15, 43,000 young people under 30 will be affected.

Youth unemployment is an important issue and we support measures to address it. However, any proposed measure should be targeted and based on evidence. There is no evidence that long periods of non-payment will address in any significant way levels of youth unemployment. This is a policy based on the crude and incorrect assumption that youth unemployment is a choice made by young people and that cutting off a person’s income support will therefore increase their job prospects. It is based on the assumption that a big stick is needed to get young people into work.

These assumptions are misguided.

The first thing to note is that there are already “big sticks” in the system. There is a comprehensive compliance system in place and rates of payment are now so low that the incentive to look for and enter even minimum wage work is very high because of the improvement in the person’s standard of living if they obtain paid work. It should be noted that the Government has not modelled or estimated that there will be a measurable additional increase in take up of work by young people/reduction in time spent on benefits if this this additional measure is introduced. To the

contrary, \$230 million has been redirected into the “emergency relief” budget for those likely to be destitute.

The second thing to note is that, rather than being an incentive, impoverishment is in fact a barrier to finding work. This is exactly why bodies such as the Business Council of Australia have indicated that single rates of payment need to be raised.

Finally, this legislation has been hastily drafted, and leaves many aspects of the drafting of the measure to the Minister by way of Legislative Instrument. We have analysed a number of the flaws of this measure below. We have also looked at the interactions between this measure and other related measures (such as raising Newstart Allowance age and cuts to family payments).

3.2 Length of the period – 26 weeks

There is no evidence to support the choice of 26 weeks as the length of the waiting period. A similar provision in New Zealand results in a waiting period of 28 days. There is no evidence to suggest that 26 weeks would achieve anything other than increased poverty and barriers to work.

We submit that, while the 26 weeks proposal is extreme and has no foundation in evidence or economic modelling, a non-payment period of even 28 days is too long and would place large numbers of unemployed people in financial hardship. Twenty eight days with no social security support appears to be “moderate” only in contrast to the more extreme 26 weeks.

It is our understanding that the New Zealand model expects all claimants for income support to serve a 28 day waiting period. If the Government has a desire to introduce such a waiting period for Age Pension recipients, Carers, Single Parents and Veteran Pension recipients, it should test this proposition with the public.

It should also be remembered that the Australian system has the Liquid Assets Test Waiting Period (up to 13 weeks) and Income Maintenance Period (often months, sometime more than a year) both of which are designed to make people live off their savings while looking for employment, before they can access income support. We anticipate that most people will exhaust their savings during their six month exclusion period, and as such will have no liquid assets left by the time they start to serve their Liquid Assets Waiting Period and Income Maintenance Periods.

Proposal:

- **Schedule 6 of Bill No 2 should be rejected in its entirety**

3.3 Scope - inequitable treatment of Special Benefit recipients

New subsection 1157A sets out which social security benefits are subject to a six month exclusion period. It includes Youth Allowance (other), Newstart Allowance, and Special Benefit.

There are a small number of vulnerable people who receive Special Benefit (about 5000 across the country). The majority are over 30 (as they seem to be contributory parent visa holders). But some are under 30. Some examples we often see include:

- trafficking victims – holding a permanent witness protection visa; and,

- victims of domestic violence – holding temporary spouse visas.

Unless exempt, these people (usually women) will be subject to the waiting period. Some will be exempt as principal carers of children (s 1157AF). Others may be exempt if they are in a class of job seekers determined by the Minister; for example, a trafficking victim may well be referred to stream 4 (s 1157AF).

However, a question of fairness and policy rationale arises. Part of the government’s stated aim (in the budget papers for social services) is “earn or learn”. Some under 30s can avoid the six month waiting period by undertaking study so that they qualify for student payments.

By definition, however, Special Benefit visa holders are ineligible for other payments including student payments. So the so called incentive to earn or learn cannot operate in their case. In fact, under Centrelink policy study is only permitted if it is usually less than 12 months, and is subject to approval.⁴

What is more, even if the Special Benefit recipient studies, they will not avoid the six month waiting period. The Government’s Budget Papers say that exemptions will apply if you are in education and training, but has left this vulnerable group out.

Example #1:

A 25 year old woman migrates on a temporary spouse 309 visa to live with her Australian partner. Shortly after, her Australian partner assaults her and she leaves the home and moves into a refuge. Under the current rules, she can receive Special Benefit, although she is not a permanent Australian resident. She is not entitled to any other payment.

Under the new rules, she may wait six months without income if the Minister determines that the 309 visa is subject to the six month exclusion period.

Example #2:

A 19 year old Chinese woman is trafficked into Australia and forced to work in a brothel. When the police raid the brothel she is released and, after agreeing to help law enforcement agencies, is granted a permanent witness protection visa. She is qualified for Special Benefit under the current rules.

Under the new rules, she must wait six months without income, and attempt to job search having no language skills and mental health problems associated with sexual abuse.

Proposal:

- **Schedule 6 of Bill No 2 should be rejected in its entirety,**
- **Failing that:**
 - **s1157AA should be redrafted so that Special Benefit recipients are not subjected to the scheme (delete 1157AA(1)(c), (2)); or**
 - **at the very least, redrafting of the scheme and policy is required to encourage study by Special Benefit recipients and allow it as an exemption from the six month non-payment period.**

⁴ Guide to Social Security Law at 3.7.5.50: <http://guides.dss.gov.au/guide-social-security-law/3/7/5/70>

3.4 Problems with the exemptions

Subsection 1157AF proposes the following exemptions:

- Principal care of child
- Carer of FTB child (ie 35 per cent care or more)
- Partial capacity to work
- Part-time apprentice
- Persons referred to employment or disability employment services of a class determined by the Minister
- Any other class determined by the Minister.

Proposed subsection 1157AB(2) provides that a person will not be subject to the exclusion period if they are transferring from a social security pension or benefit of a kind to be determined by the Minister. The application of the exclusion period to transferees is an important matter and should be set out in the legislation, not left to a delegated instrument to determine.

Exemptions are a critical aspect of any measure which denies income support for a six month period. They are part of the fundamental architecture of this scheme. As such, where ever possible, the exemptions should be included in the Bill and be debated by parliament, rather than being left to the Minister to determine at a later date by disallowable instrument.

This is particularly important given that there are inconsistencies between the text of the Bill and public statements from the Government about exemptions. While we accept that it is useful for the Minister to be able to add exemptions (to accommodate groups who should be exempted but were not foreseen by the drafters), it is desirable that all the exemptions announced by the Government be included in the Bill itself. This provides more certainty and clarity to the public and to Senators voting on the Bill.

The Government says people in employment services streams 3 and 4 and Disability Employment Services (DES) clients are to be exempt. The Bill does not stipulate this exemption but leaves it up to the Minister to determine which groups are exempt. In our submission, this is too important not to be part of the Bill (see comments on legislative instruments above at section 2.3).

If referral to streams 3 and 4 is the basis for an exemption, then the role of the Job Seeker Classification Instrument (JSCI), Employment Services Assessment (ESA) and Job Capacity Assessments (JCAs) become even more critical as they will now effectively determine whether the person has access to income support. There are long standing concerns about the consistency and quality of the streaming process (particularly the JSCI). The McClure Interim Report recommended that the job seeker assessment process be improved⁵. According to Senate Estimates, one-in-eight job seekers are incorrectly assessed. The evidence is that these jobseekers should have been

⁵ McClure Report at pp 104 to 105, op cit, *“An effective approach to assessing job seekers needs and abilities, to ensure they get the appropriate services at the right time, is fundamental to preparing job seekers for employment opportunities. The need for improved upfront assessments was raised by stakeholders in consultations with the Reference Group.....Improving assessment of job seekers is important for both the prospective employee and employer. Better assessment would ensure better job matching and a positive employment outcome.”*

categorised as Stream 3 or Stream 4 but were not because of the difficulty and complexity in correctly making such classifications.⁶

There are also problems with the JSCI instrument itself. This is especially for people with undisclosed barriers, such as Aboriginal people, people with disability and other vulnerable groups. Unlike other decisions affecting a person's payability under the Social Security Act, decisions around JSCI, ESA and JCA assessments are not generally reviewable using Centrelink's internal review mechanisms or the Social Security Appeals Tribunal.

In other words, potentially being subject to a six month non-payment period is now to be left to a problematic system, which may result in arbitrary and discriminatory impacts on under 30s and is likely to impact hard on vulnerable groups, particularly Indigenous people and other people living in regional and remote areas.

It is unacceptable that a decision with such a serious impact on a young person's life be effectively removed from the appeals system for social security decisions. The government could have legislated criteria for exemption and thereby made the granting of exemptions reviewable on appeal. It has instead used an unreviewable decision about streaming made for a very different purpose as a proxy for this. Whether intended or not, this process will inevitably have the harshest impact on the most vulnerable job seekers, such as Indigenous people who are more likely to have difficulty dealing with government and are therefore more likely to be streamed incorrectly.

Temporary exemptions from the six month exclusion period are left entirely to the Minister to determine. The Minister may, theoretically, determine that there are no temporary exemptions from the six month period. In the same way that temporary exemptions from the activity test are clearly set out in the Social Security Act, temporary exemptions should be included in this Bill. There is a place for the minister to be able to add temporary exemptions to address the need for exemptions that were not foreseen by the drafters, but any exemptions that can be included in the Bill, should be. At the very least, the temporary exemptions in place for the Newstart Allowance activity test should be mirrored for these purposes.

Proposal:

- **Schedule 6 of Bill No 2 should be rejected in its entirety**
- **Failing that:**
 - **All Government announced exemptions should be drafted into the Bill**
 - **Temporary exemptions should be included in the Bill**
 - **All the exemptions that currently relate to the activity test should also exempt a person from the exclusion period**
 - **More exemptions are required:** Specific exemptions are required to cover people such as pregnant women:
 - people at risk of homelessness
 - people whose health would be adversely affected by the exclusion period
 - people who would qualify for crisis payment

⁶ Senate Standing Committee on Education, Employment, Questions on Notice, *Supplementary Budget Estimates 2013-14*, Question No. EM0092_14.: 17.4 on Stream 1 up streamed to a higher Stream, and 13% that entered at Stream 2 up streamed, from 1 July 2009 to 30 September 2013.

- recently released prisoners and situations where a third party or other dependent would be significantly adversely affected by the person's exclusion period.

3.5 Reduction for past periods of gainful work

As previously discussed, the Bill leaves all the key aspects of this exemption for the Minister to determine by Legislative instrument, including:

- whether there will be a reduction for gainful work
- the formula for the reduction (although it must be a minimum of four weeks)
- what kinds of gainful work will not reduce the exclusion period

Thus while the Bill provides that the Minister may determine that exclusion period be reduced by past periods of gainful work, this means equally that the Minister may determine that there is no reduction for gainful work. The reduction is not actually mandated by the legislation.

We are very concerned about the administration of these complex gainful work reductions. These kinds of exemptions usually carry a significant evidentiary burden, requiring paperwork to prove past periods of work, which may be problematic for the more vulnerable jobseekers who may be young people moving in and out of casual jobs and facing barriers such as homelessness or mental illness. Our experience in assisting such people in their engagement with Centrelink, is that they are often less able to meet evidentiary requirements generally (for example, to support a claim for payment or a request for an exemption).

Further, while the Bill effectively defines gainful work as any work for financial gain or reward, it allows the Minister to determine that certain kinds of gainful work will not count.⁷ The Explanatory Memorandum gives examples of such work as including work that involves nudity or is in the sex industry.⁸ In our submission, it is objectionable to allow moral judgments to enter the Social Security Act and determine something as important as length of waiting period. If the work is lawful and gainful, then it should reduce the waiting period. This debate should not be about whether or not this is condoning such work (the law does that elsewhere, it is legal after all). Rather, it is about equity. A person who has engaged in lawful gainful work should not be disadvantaged by the nature of the work.

These issues, and the formula to be used, are key issues which should be included in the Bill and debated by Parliament.

Proposal:

- **Schedule 6 of Bill No 2 should be rejected in its entirety,**
- **Failing that,**
 - **reductions to the period for gainful work should be drafted into the Bill**
 - **all work that is lawful and gainful should be treated equally.**

⁷ See proposed s1157AC(3)

⁸ Ex Mem p38

3.6 No reduction for previous study

Section 1157AA(3) seems aimed at ensuring that if a person transitions from a period on Youth Allowance (student) to Youth Allowance (other), they still have to serve the full six month period, thus although they get credit for “gainful work”, they get no credit for studying.

Proposal:

- **Schedule 6 of Bill No 2 should be rejected in its entirety,**
- **Failing that, periods of previous study should be credited in the same way, especially given the Government focus on encouraging learning.**

3.7 Lengthening the period - adding other waiting periods

Generally the exclusion period is to be 26 weeks⁹. Proposed subsection 1157AC(1) would amend the Act so that existing waiting periods including Ordinary Waiting Periods (OWPs), Newly Arrived Resident’s Waiting Periods (NARWPs), Liquid Assets Waiting Periods (LAWPs), Income Maintenance Periods (IMPs), Compensation Preclusion Periods (CPPs), Seasonal Work Preclusion Periods (SWPPs) and the penalty for moving to an area of lower employment prospects (MALEPs) are all served before the six month period.

The treatment of the Liquid Assets Waiting Period (LAWP) is particularly unfair. Normally LAWPs are served consecutively after Ordinary Waiting Periods, but concurrently with the other long waiting periods. There is no basis for making a person serve the LAWP prior to the six month exclusion period. People serving the six month exclusion period will need their savings to sustain themselves while looking for work during the six month waiting period. It doesn’t make sense and it is not fair. It is also inconsistent with the approach in the rest of the Social Security Act to waiting periods. Recently, the McClure report recommended “a consistent approach to waiting periods”.¹⁰ In effect, the measure will penalise young people who have been prudent and put away some money for the possibility of unemployment. This is a totally perverse approach. In fact, a new exclusion period is not required given the existence of the LAWP and other waiting periods designed to make a person live off their own means, while looking for work, prior to accessing income support.

The LAWP proposals also need to be considered alongside the additional compliance penalties that are proposed (discussed below). This is because together, they can add many months to the total time a person is precluded from receiving payments. According to Senate Estimates, a person could be denied all income support for 11 months when rules such as the Liquid Assets Test Waiting Period and the new penalties in the waiting period are taken into account. We think it is likely that some periods may last considerably longer than 12 months, depending on a person’s circumstances.

Proposal:

- **Schedule 6 of Bill No 2 should be rejected in its entirety,**
- **Failing that, other waiting periods should be served concurrently with the proposed new exclusion period.**

⁹ See proposed s 1157AC(2)(a)(i).

¹⁰ McClure, P. *A New System for Better Employment and Social Outcomes: Interim Report of the Reference Group on Welfare Reform*, June 2014, p 77

3.8 Lengthening the period beyond 26 weeks by adding participation penalties

Proposed section 1157AE will operate so that the six month exclusion period may be made up to four weeks longer for each failure to enter into an Employment Pathway Plan (EPP) and each failure to comply with an EPP, unless:

- the failure was the result of exceptional circumstances beyond person's control, and
- if it relates to attendance at an appointment or activity, advance notice was given or not given due to exceptional circumstances beyond person's control.

The key question here is this: **why should a person not receiving income support incur harsher penalties under a system with fewer safeguards than a person who is actually receiving income support?**

Each penalty can add up to four weeks. Once again key details, including the length of the penalty, are left to the Minister to determine by legislative instrument. This means there seems to be, or at least may be, no graduated penalty system – each failure no matter how minor can add four weeks at a time.

A key feature of a graduated penalty system is that a person experiences smaller penalties at first followed by larger penalties. It is easier for a vulnerable person, for example, a person with no literacy and difficulty understanding their obligations, to understand the results of non-compliance and modify their behaviour as required if they have had a smaller penalty applied and the reasons for it comprehensively explained at or near the time of the failure. The risk in creating a system with delayed penalties is that a person the deterrent effect is lost. We are also concerned that the legislation is ambiguously drafted so that, on one view, the Minister could not create a graduated penalty system, even if he wanted to.

There is also no mechanism under the bill for assessing whether penalties may be the result of undisclosed or new vulnerabilities or barriers, unlike the current compliance regime. The current compliance scheme also has a legislated system of graduated penalties (as recommended in the Independent Review of the Job Seeker Compliance Framework to Parliament in September 2010¹¹ and most recently, the McClure Review¹²).

This compliance measure introduces much harsher penalties than the general regime, with fewer safeguards and no apparent policy rationale. Any concern that people would not engage with employment services during the six month waiting period would be best addressed by either not introducing the exclusion period, or by offering incentives (by way of an immediate incentive payment) for participation.

¹¹ Disney, J, Buduls, A. and Peter Grant, P. *Independent Review of the Job Seeker Compliance Framework, A Report to the Parliament of Australia*, September 2010.

¹² McClure, P. *A New System for Better Employment and Social Outcomes: Interim Report of the Reference Group on Welfare Reform*, June 2014, p. 10.

Proposal:

- **Schedule 6 of Bill No 2 should be rejected in its entirety,**
- **Failing that:**
 - **the measures which introduce a separate penalty regime should be removed (or at the very least, ensure that a graduated penalty system with fair warnings and safeguards can be ensured)**

3.9 Second and subsequent 26 week exclusion periods and Work for the Dole

The government is essentially proposing a six month on, six months off social security system for unemployed people under 30.¹³

The second six month exclusion period will generally also be 26 weeks.¹⁴ It will start 26 weeks after the last one, except:

- A person who has a reduced period for gainful work, also gets an equivalent amount of time added to the gap until the next period – eg if you have only an 18 week period (26 - 8) because of gainful work, and you have 34 weeks on payment (26 + 8)

There are many questions that need answering:

- what evidence is there that second and subsequent six months exclusion periods will have any measurable success getting people into paid work?
- what assessment has been made of how recurring six month exclusions are going to impact on a person's ability to look for work and maintain stable housing?
- on what basis was the decision made that a six month exclusion period should be served again after only six months on payment?

Parliament should scrutinise the evidentiary basis for these measures.

Our Member Centres have provided casework services to vulnerable people experiencing problems accessing social security entitlement for 30 years. We have observed the effects of lengthy preclusion periods being served by people with no income or means of support (particularly Income Maintenance Periods (IMP) and Compensation Preclusion Periods (CPP) where funds have been expended prior to the end of the preclusion period). We predict that:

- People without support from family or friends will become homeless and will experience a significant increase in their barriers to work
- For low income families, the burden of providing support to family members serving the period will in turn increase the disadvantage of their families. This will be even more extreme if there is more than one young person being supported. We are particularly

¹³ See s 1157AD.

¹⁴ (s 1157AD(5))

concerned about the ramifications of this where kinship arrangements can mean Aboriginal families are supporting more than one young person

- In some cases, this level of dependence on family and friends will cause friction and may result in the person's support networks being undermined by family conflict or breakdown. This is likely to have serious flow on effects for the person into the future
- Some people will have trouble accessing support from friends and family for subsequent exclusion periods where the burden on friends and family was too high the first time
- This will entrench disadvantage and poverty for vulnerable young people affected by it, and may lead to development or exacerbation of conditions such as depression and anxiety (as we often see in Income Maintenance Period and Compensation Preclusion Period cases now).

Work for the dole

It should be obvious that a group of job seekers who have gone through six months or more without income support and failed to find work is likely to include a significant number of people with substantial barriers to finding and retaining work.

Some of these people may qualify for an exemption from the non-payment period the second time around, having become homeless or experienced another change in circumstances subsequent to, and possibly as a consequence of, the first exclusion period. But for the rest, the only thing the government is proposing is a compulsory work for the dole scheme - not intensive case management or any other measure - just work for the dole.

If the purpose of this measure is to increase workforce participation, it makes no sense. The evidence is that work for the dole is not an effective tool for getting people into work (see the article by Professor Jeff Borland, an economist at the University of Melbourne who studied the work for the dole scheme under the Howard government).¹⁵

3.10 Changes to the Ordinary Waiting Period

The changes proposed to the Ordinary Waiting Period (OWP) are not really about simplification. Actually, the Bill extends the waiting period to new payment types and introduces new evidentiary requirements and thereby effectively set a higher bar for waiver of the waiting period. For all the Government's emphasis on "simplification", the obvious simplification measure has been overlooked. A true simplification measure would be to abolish this waiting period, which is not necessary given the existence of the Liquid Assets Waiting Period.

¹⁵ Borland, Jeff, Work for the Dole doesn't work - but here is what does, The Conversation, University of Melbourne, 30 January 2014, 2.19pm AEST <http://theconversation.com/work-for-the-dole-doesnt-work-but-here-is-what-does-22492>

Like most of the measures in these Bills, it will have harsher impact on the more vulnerable people who need waiver the most. This is because, as we constantly see in our casework, collecting “evidence” is harder for vulnerable people.

The existing OWP rules should remain in place. It is critical that a broad discretion to waive this waiting period remain with the DHS and its social workers who are best placed to assess a person’s circumstances.

Proposal:

- **that Schedule 6 of Bill No 1 be rejected in its entirety**
- **failing that: the new evidentiary requirements should be removed**

4. Indexation and benchmarking

Problems with indexation and benchmarking proposals

Schedule 1 of Bill No 2 proposes that, from 20 September 2017 all social security pensions will be increased by Consumer Price Index (CPI) only. From September 2014 Parenting Payment (Single) will be increased to movements in the CPI only. Pensions will continue to increase in March and September every year, but the increases into the future will be smaller than under current arrangements.

It is estimated that around 3.8 million people will be affected by the changed indexation arrangements.

The NWRN opposes the changes to the benchmarking for PPS and pensions proposed in this Bill because it will inevitably cause inadequacy in the rates of pensions over time. It is the benchmarking to wages that has ensured adequacy for these payments. By contrast, the reason why allowances are now so inadequate is because they have been benchmarked only to the CPI.

It is a backward step to try to address the gap between pensions and allowances by pulling pensions down to the lower CPI benchmark. The end result will be that pensions will become inadequate in the same way that allowances have.

Detailed analysis of specific provisions

Indexation of pensions

Schedule 1 of Bill No. 2 proposes that from 2017, increases to the Age Pension will be linked twice a year to inflation, as measured by the Consumer Price Index (CPI), rather than male total average weekly earnings and the CPI. These changes will mean that those receiving the Age Pension will see a reduction in increases over time, by \$80 per week over the next decade. Actuarial and tax expert, David Knox from Mercer says that switching from wages to prices indexation will mean that in 33 years, a single pensioner would receive \$42,000 a year, down from \$65,000 under current arrangements.¹⁶ So we could see pensioners earning 35% less over 35 years.

¹⁶ Patten, S. *Gen X to get smaller pensions*, Australian Financial Review, 15 May 2014.

Proper indexation is an essential and critical element of our social security system. Adequate indexation provides an important buffer against poverty. Indexation only to prices means that social security payments do not increase in real terms, and that payments do not keep pace with community living standards. Indexation ensures that people who are primarily reliant on income support payments are able to maintain the value of their benefits. Indexing allowance payments only to the CPI has meant that these payments have not increased in real terms (above CPI). This means that they have experienced a decline in their purchasing power over the period. If this Schedule is adopted by the Parliament, pension recipients will experience a decline in their living standards, as their payments fall in value, relative to the broader community.

Historically, most primary income support payments have been indexed twice yearly to the Consumer Price Index (CPI); however, pension payments were, in theory, linked to 25% of Male Total Average Weekly Earnings. Ad-hoc increases during the 1980 and 1990s maintained the promise to keep pension and related payments at 25% of MTAW. The Howard Government legislated an historic commitment to link pension payments to the better of the CPI or Male Total Average Weekly Earnings (MTAWE).

This welcome change meant that pensioners' living standards increased in line with increases in broader community living standards, ensuring that people out of the workforce also financially benefitted from productivity increases that are derived from the wider community. The Rudd Government introduced a further benefit by also linking pensions to a special Pensioner/Beneficiary Cost of Living Index.

The indexation formula has been critical to pension payment increases over the past two decades (leaving aside the historic one-off \$32 single pension increase in September 2009).

Indexation arrangements that apply to Age Pensioners flow on to other groups of pension recipients Veteran's pensions, Disability Support Pensions and Carer Payments.

Indexation of Parenting Payment Single

Schedule 1 of Bill No. 2 proposes that Parenting Payment Single be indexed to just the Consumer Price Index. Over a decade, this would result on a reduction of \$80 per week. There is clearly a lack of understanding of the circumstances of those attempting to survive on this most basic payment.

Nationally, one in eight Australians and one in six children live below the poverty line.¹⁷ The latest *The Household, Income, Labour and Dynamics in Australia (HILDA) Survey 2013*, an annual report conducted by University of Melbourne, shows that single parent child poverty has increased by 15% since 2001. Figures reveal that 24.1% of children living in one-parent households are in poverty. By contrast 7.6% of children with two parents are experiencing poverty. The 2013 report warned that "children under the care of just one parent are three times more likely than other children to live in poverty."¹⁸

Proposal: that schedule 1 of Bill No 2 be rejected.

¹⁷ Australian Council of Social Service, *Poverty Report*, 2012.

¹⁸ Melbourne Institute of Applied Economics and Social Research, *The Household, Income, Labour and Dynamics in Australia (HILDA) Survey 2013*: <http://benews.unimelb.edu.au/2013/2013-hilda-report-sounds-the-alarm-on-child-poverty/>

5. Income and assets

Problems with proposals to pause indexation of means test thresholds

NWRN opposes pauses to indexation of thresholds because freezing income, assets and deeming thresholds will, over time, result in reduced adequacy of payments over time, higher effective marginal tax rates and reduced incentives to work.

Moreover, many of these freezes have complex interactions for people when stacking of income tests occurs. The result of this is that people who are subject to more income tests will be disproportionately impacted by freezes to thresholds. An example of a single parent who may be affected five times over by five frozen thresholds in five separate means tests is included at section 2.3 above. There will be many single parents affected by a number of the frozen thresholds.

Freezing free areas reduce incentives to work and are at odds with the governments other policies ostensibly aimed at encouraging people into work.

Detailed analysis of the three year freezes

The Government proposes to freeze the following thresholds, with staggered commencement dates as indicated below:

Commencement	Three year freeze on
1 July 2014 Bill No 1, Sch 3	<ul style="list-style-type: none"> • The FTB income free area, FTB Maintenance Income Test free areas, and Rent Threshold for Rent Assistance paid with FTB Part A; and • income free areas and assets value limits for working age allowance payments, and Parenting Payment Single.
1 January 2015 Bill No 2, Sch 1	<ul style="list-style-type: none"> • income free areas and assets value limits for student payments, including the student income bank limit; and • the parental income free area for Youth Allowance (student and other), ABSTUDY and Assistance for Isolated Children (AIC); and the family actual means test free area for Youth Allowance and AUSTUDY.
1 July 2017 Bill No 2, Sch 1	<ul style="list-style-type: none"> • income test and assets test free areas for social security pension payments (excluding Parenting Payment Single) and equivalent DVA pension payments; and • the deeming thresholds for income support payments.

Many of these freezes have complex interactions for people when stacking of income tests occurs. The result of this is that people who are subject to more income tests will be disproportionately impacted by freezes to thresholds. These need to be considered in the context of complex interactions with other measures also, such as the abolition of the Pensioner Education Supplement.

The problems of effective marginal tax rates and stacking of income tests are well documented in the Henry Tax Review.

6. Raising the Newstart Allowance age

From 1 January 2015, young unemployed people aged 22-24 who apply for income support will no longer be eligible for Newstart Allowance. Instead, they may receive the much lower rate of Youth Allowance if they are undertaking full time study.

The majority of those affected will be those claiming Newstart Allowance, as data from the Social Services Portfolio indicates that there were only 490 people receiving Sickness Allowance aged between 21 and 24 in December 2013.¹⁹

Young people who are employed part-time will benefit from the more generous income test. This will assist around one-in-five young job seekers.²⁰ This is a welcome benefit but does not justify young unemployed people having reduced income support.

Under this proposal, young people who are living away from the parental home would receive just \$207 per week on Youth Allowance (o), as opposed to \$255 per week on the Newstart Allowance. This is a reduction of \$48 per week, and equal to a loss of a fifth of weekly incomes for people on the lowest rates of income support payments.

Young people who do not qualify for the “Independent” rate could be even worse off, as they would be subject to the Parental Income Test (PIT). Under this test, payments start reducing by 20 cents for every \$1.00 over \$48,837. These cuts may cause hardship for low income families who have less capacity to support the young person financially.

Accommodation costs are a major problem for many young people who will face a payment loss under this reform. Sixty-nine per cent of those on Youth Allowance who receive Rent Assistance are in “housing stress”, and payment more than 30% of their income in rent, and 26% are in “severe housing stress”, paying more than half of their income in rent.²¹ Denying young people the extra assistance available to adults on Newstart Allowance will not assist them to engage in study, training or move to employment.

In our response to the 2012 legislation raising the eligibility age of Newstart Allowance (NSA) to 22 years, NWRN ominously warned the current Committee about the potential for future, short-sighted cost cutting in this area in stating:

“NWRN considers that the increase to the age of eligibility for NSA is essentially an easy way for the Government to make cuts without any organised lobby group opposing the cuts. In future, any Government looking for easy savings could be tempted to simply rack up the Newstart entitlement age by another year.”²²

¹⁹ Senate Community Affairs Committee, Answers to Estimates Questions on Notice, Social Services Portfolio, 2013-14, *Additional Estimates Hearings*, Question No. 662.

²⁰ ²⁰ Senate Community Affairs Committee, Answers to Estimates Questions on Notice, Social Services Portfolio, 2013-14, *Additional Estimates Hearings*, Question No 346

²¹ National Welfare Rights Network, *The impact of Rent Assistance on housing affordability for low-income renters*, March 2014, p. 11.

²² National Welfare Rights Network, Submission to the Senate Community Affairs Legislation Committee inquiry into the *Social Security and Other Legislation Amendment (Income Support and Other Measures) Bill 2012*, March 2012, p. 7.

The *Statement of Compatibility with Human Rights* notes on a number of occasions that the Bill includes “safeguards” so that existing Youth Allowance and Sickness Allowance recipients will remain on the higher rate, until their payments are cancelled.²³ This appears to be a tacit admission by the Government that the changes being considered in this bill will be harmful and have negative impacts for young people.

Existing social security payments for young people on Youth Allowance – whether students or unemployed – are inadequate and not sufficient to meet the costs of rent, food and utilities, or cover the costs of looking for work. Young unemployed people receive the lowest rates of social security of all people – with ‘Independent’ rate of Young Allowance being just \$414 per fortnight – \$48 a week less than the Newstart Allowance. The rate for young people over 18 living at home is an impossibly low \$272.80 per fortnight.

The lack of attention to the question of adequacy of student income support was a major criticism of the Government’s review of student assistance that was conducted by Professor Bradley.

Proposal: Schedule 8 of Bill No 2 should be rejected in its entirety.

7. Raising the Age Pension age

NWRN opposes increasing the Age Pension eligibility age, because it will have the greatest impact on vulnerable older people. As with many of the Budget measures, those on the lowest incomes or those who face chronic illness and disabilities will be hit hardest by this measure.

Increasing the eligibility age to 70 will place the Age Pension out of reach of many Aboriginal people. The latest data available indicate that life expectancy for Indigenous boys born between 2005 and 2007 was estimated to be **67.2 years** (compared with 78.7 for non-Indigenous boys for the period) and for Indigenous girls **72.9 years** (compared with 82.6).

Any increase to the eligibility age will also have a harsher effect on older people and people with disabilities, whose chances of entering the workforce are hindered by disability or age discrimination. Since 2010, there has been a 41% increase in the numbers of people aged over 50 on the Newstart Allowance. Many years of manual labour mean that rates of disability are higher among this group, their bodies have simply worn out. Currently 30% of job seekers over 50 have a disability and receive the Newstart ‘partial capacity to work’ Allowance.

The effect of increasing the pension age to 70 may be further exacerbated for these vulnerable groups by future changes, for example to Disability Support Pension eligibility or jobseeker activity requirements.

The impact of increasing Age Pension age may be exacerbated by proposals to lift the superannuation preservation age.

The minimum age for withdrawing superannuation benefits is currently 55, but this will increase gradually to 60 by 2025. Some argue that the preservation age should be aligned to the Age Pension

²³ Andrews, K. Minister for Social Services, *Explanatory Memorandum, Bill No, 2*, op cit, p. 16.

age. However, as the cameo below illustrates, this would have negative impacts on certain more vulnerable groups, including most Indigenous older people, manual labourers and women.

Cameo example: Effects of raising Age pension age and/or preservation age

John worked as a manual labourer until he retired at age 52 due to back problems. John went from a pre-retirement income of roughly \$1500 per fortnight, to relying on the Newstart Allowance of around \$500 per fortnight. John moved into cheaper housing and made adjustments wherever he could, but struggled to survive on the Newstart Allowance. His claim for Disability Support Pension was rejected. He struggled to afford the specialist medical appointments he required. He developed depression, but was unable to afford adequate psychological treatment.

John had \$80,000 in super, but his claim for early release of super was rejected. John undertook vocational training and has tried hard to find new work, but has been because of his age and disability. Fortunately, once he turned 55 John was able to access his super, which helped him meet his medical and other bills and supplemented his Newstart Allowance. John knows there is a strong possibility that, although he would rather be working, he may have to rely on Newstart Allowance until he turns 67 and is qualified for Age Pension. He needs his \$80,000 to help him supplement his Newstart Allowance until he either finds work, or qualifies for the pension.

Raising the Age Pension means John will be forced to stay longer on the lower Newstart Allowance rate. Increasing the preservation age, means it will be longer before he can use his super when he most needs it.

Caution is needed if the government is to alter the current preservation arrangements. NWRN believes that raising the superannuation preservation age above 55 would only be acceptable if the rules for early access were fairer and more flexible for people on income support and, most importantly, that the generous tax concessions for superannuation be made fairer and more equitable.

8. Measures relating to Disability Support Pension

Overview

Currently Disability Support Pension (DSP) recipients who are under 35 can be required to undertake participation requirements.

Schedule four of Bill No 1 proposes measures which affect:

- DSP recipients under 35, and
- a new subset of the under 35s group to be known as “reviewed 2008-2011 DSP starters”. These are people who are under 35 and qualified for the DSP before the introduction of the POS requirements (which are component of the “continuing inability to work” requirement for DSP qualification).

Under this Bill, DSP recipients who are under 35 (but are not “reviewed 2008-2011 DSP starters”), may be required to participate in a Program of Support (POS) in order to continue to receive the

DSP, but this group will not lose qualification for the DSP on the basis of failing the POS component of the “continuing inability to work” requirement.

However “reviewed 2008-2011 DSP starters” may lose their qualification for the pension due to failing the POS component of the “continuing inability to work” requirement. This group is the focus of our concerns and this submission.

“Reviewed 2008-2011 DSP starters”

“Reviewed 2008-2011 DSP starters” are essentially a subgroup of under 35s who claimed after 2007 and before 3 Sept 2011 and:

- are given a notice that their DSP qualification will be reviewed (review notice)
- before the notice they have an assessed work capacity of at least eight hours per week (or there is no record of DHS having considered capacity to work of at least eight hours)
- after the notice, DHS decided not to cancel under s 80
- as a result of the assessment, DHS decided:
 - the person doesn’t have a severe impairment and
 - has CTW at least eight hours per week
 - does not have a child under six

The POS requirement for the “continuing inability to work” requirement is in 94(2)aa. Currently s 94(3A) works so that if a person is receiving DSP, and they are given a review notice, then s 94(2)(aa) (ie the POS requirement for “continuing inability to work”) doesn’t apply. That means, under current rules failing to meet POS requirement during a review won’t mean the person loses DSP.

Under the Bill protection is removed for “reviewed 2008-2011 DSP starters”. This means “reviewed 2008-2011 DSP starters” may lose DSP if they don’t meet POS component for the “continuing inability to work” requirement (see proposed s 94(3A)(c)) when they’re reviewed.

The current legislation already enables the Government to review people against the new impairment tables and impose “participation requirements” (which may include participation in a POS), so this Bill is clearly not just about requiring participation and providing “opportunities”, but will lead to disqualification for some.

Problems with drafting

These changes will disqualify people if they have already “had an opportunity” to complete a POS, by requiring them to have actively participated and met the POS requirement.

The use of the words “had an opportunity” is problematic. Presumably, the drafting of items 2 and 3 are designed so that, once the person has been given a notice of a review of their assessment, and they are given an opportunity to participate in a POS, their continuing inability to work will be assessed in light of their active participation in the POS. If a finding were made that the person had not met the POS requirement, the persons DSP would be cancelled under section 80 of the *Social Security (Administration) Act 1999*.

However, we are very concerned about the words “had an opportunity” as inserted by the drafters. This is because under previous rules, people under 35 on DSP were invited to *voluntarily* participate

in a POS, but may have declined. Will these people be disqualified because they fail the POS requirement in 94(2)(aa) on the ground that they had an “opportunity” but did not actively participate?

If the Government wants to apply this requirement to only to people given an “opportunity” to participate *after* the passage of this Bill then redrafting to clarify this is required. If the Government deliberately drafted the provision to apply to people whose “opportunity” predated the passage of the Bill, then this is absolutely unfair. Moreover, we predict that this lack of clarity in drafting is likely to cause unnecessary appeals. The Government should specify what is to be required in the Bill and allow proper time for input from the community.

Existing section 94(1)(da) gives the Government power to require reviewed 2008-11 starters to undertake a program of support. “Reviewed 2008-2011 DSP starters” will have significant disabilities and their prospects for employment will be significantly reduced if their payment drops from the rate of Disability Support Pension to that of Newstart Allowance. We do not oppose program of support requirements for under 35s, but we do strenuously oppose any measures which reduce income support to people with disabilities, as this measure does.

For everyone, participation in a POS will now only count for the “continuing inability to work” requirement if the POS was wholly or partly funded by Commonwealth. We question why the funding source for the program of support should matter.

Employment services system is not well designed for this cohort

The employment services system is designed for Newstart Allowance and, based on our casework experience, and feedback we have received from other advocates running DSP appeals, it is not working well for DSP applicants trying to meet POS requirements.

Currently, if a person is assessed as having a work capacity of 8-14 hours per week, they attend Centrelink appointments quarterly. This means they fail the POS requirements as they are not considered “actively participating”. People who have 20 or more points spread across multiple tables are often unable to qualify for DSP.

However employment services, including DES providers already struggle with clients with multiple disabilities who are assessed as having work capacity of over 15 hours per week. For many clients the employment services records advocates obtain (including DES records) are littered with file notes showing clients attending their provider appointments, talking about their sicknesses, with no evidence the provider even considers job search type questions or activities and telling the person to take medical reports to Centrelink. Then the client is back at their provider appointment the next month, resulting in the same type of file note. This occurs roughly two to five times, until a file note appears ‘client has medical certificate exemption from Centrelink’.

On appeal against the rejection of their DSP claim at the AAT, the Departments case is that client has not actively participated in a POS and should not qualify for DSP. Yet nothing more was asked of them by the provider, possibly because it was obvious that the person could not benefit from a program of support. Based on current experience, inserting this POS requirement into a system that is not well designed for this group will lead to unfairness.

Other issues

Item 5 of the Bill would operate so that a person won't have access to the two year suspension rules in the time between this review notice and their next review. This means that they can't access the incentive provisions which apply to everyone else on DSP, (which operate to suspend payments for up to two years, rather than being cancelled). This exception lacks a rationale. Everyone should have the same incentive to participate.

The \$46.4 million allocated for assessments of people under 35, and potentially moving some to lower payments, would be better spent on the provision of Wage Subsidies for people with disabilities. The money expended on reviewing people onto lower payments could be more productively spent and it could provide over 20,000 six-month wage subsidies for existing DSP recipients.

Proposal: Schedule 4 of Bill No 1 should be rejected in its entirety.

Failing that:

- **changes to 94(2)(aa) should be redrafted to ensure that a person who declined earlier offers of voluntary participation are given another opportunity to participate, rather than being found to have failed the CITW requirement**
- **significant changes to employment services will need to be made to reduce the unfairness of this provision**

9. Abolition of Pensioner Education Supplement (PES)

NWRN opposes the abolition of this payment. PES is a critical payment which encourages and enables Disability Support Pensioners and single parents to undertake study. Encouraging study during periods of unemployment is the centrepiece of the government's 'earn or learn' scheme and it is difficult to reconcile the decision to cut assistance to pensioners seeking to undertake study which might increase their work readiness in the future.

Over 41,000 existing recipients are set to lose between \$811 and \$1,622 per year. According to the Department of Social Services, abolishing PES will affect approximately 47,000 people each year. The closure of the PES will mean the loss of \$62.40 per fortnight at the full-rate (received by 92% of current recipients) or \$31.20 per fortnight at the part-rate, which just 8% of recipients receive.

The PES provides financial assistance with the ongoing costs of full-time or part-time study in a secondary or tertiary course at an educational institution approved by the Australian Government. The supplement is paid to people who are studying, including Disability Support Pensioners, Parenting Payment Single recipients, carers and widows. On 1 January 2014, the supplement was extended to single parents on Newstart Allowance, after a successful campaign by single parents' and welfare groups.

The financial assistance from PES can be used to purchase items necessary to study, ranging from textbooks, academic resources to transport and the internet connection needed to complete a course online.

According to data provided to the Senate in April 2014, nine out of every ten people affected are Disability Support Pensioners or single parents – the very people that the Government aims to have ‘work ready’. Forty-five per cent are Disability Support Pensioners, who comprise the largest group receiving PES at 18,742 recipients. There were 17,535 Parenting Payment Single recipients studying, who account for 42 per cent, followed by 3,284 on Carer Payment, at just 8 per cent.

Generally, PES is not available to people receiving Newstart Allowance. When single parents who were not able to gain paid work were forced onto the poverty-level Newstart Allowance in 2006 and again in 2013, transitional rules allowed parents to complete their courses. However, NWRN is concerned that the Government has not considered transitional arrangements for parents and others who are mid-way through a course to continue.

This recent Budget change reverses the hard won reforms which from 1 January 2014 allowed single parents to access PES. This change gave 1,405 parents the opportunity to build a better life for their families through education and study. An estimated 25,000 single parents on Newstart Allowance would have been eligible to receive the PES over the next four years.

One-in-six people receiving the PES are working part-time or casually, in addition to undertaking study, and some are also raising young children. The benefit assists people with disabilities and single parents to gain the skills they need to compete in a very tough labour market.

Three quarters of those affected by the removal of the education supplement are women, with 31,396 receiving the payment. Six per cent are Indigenous, with 2,632 receiving the study supplement. Sixty-two per cent, or 25,672 are aged under 35.

Plans to cut this benefit are counter-productive and short-sighted. It’s important to note that the average time spent on PES is 183 weeks. So the average person with disability of carer or single parent spends 3.5 years trying to do a course, build a better life for their family and get a degree or a higher education, and build a better future.

In supporting the removal of PES, the Government has indicated that recipients have access to other education assistance, including the Employment Pathway Fund, employment services and training programs and FEE-HELP and VET FEE-HELP. However we note that there have been changes to the JET program, including the introduction of an eight dollar cap and reducing the number of hours people can access the benefit from 50 to 36.²⁴

Proposal: that Schedule 13 of Bill No 2 be rejected in its entirety.

Failing that:

- **the Government should amend the Bill to enable existing recipients to continue to receive the payment until they complete their course of study**

²⁴ Senate Education and Employment Legislation Committee, Hansard Transcripts, 4 June 2014, pp 20-21

10. Family Assistance

The NWRN supports measures designed to better target family assistance payments on the basis of need. That is, “tightening” should be achieved only by reducing rates for those who least need family assistance payments.

Unfortunately, the mix of measures in this Bill will impact disproportionately on low income working couples and single parents. Only two of the measures could be said to be targeted to those with the relatively higher incomes (reducing the FTB Part B income limit to \$100,000 and the removal of the FTB A child add on to the base rate income test). Other measures will apply depending on circumstances unrelated to income levels. In other words, they will apply irrespective of how poor a person is. For example:

- People whose youngest child is over 6 will lose FTB Part B, and its supplement, entirely
- People who have three children will lose the large family supplement
- All people will have their supplements reduced, their rates frozen,

The family assistance scheme has been a major contributor to reducing child poverty²⁵. In 2010 575,000 children (17.3% of all children) were living below the poverty line²⁶. Over time, the measures in this Bill will reduce the effectiveness of the family assistance scheme in addressing child poverty.

The measures proposed, across the two Bills will:

- reduce payment adequacy
- increase effective marginal tax rates (exacerbated by the measures in the Child Care Bill also before parliament)²⁷ and thereby reduce incentives to work
- Impact hardest on single parents, low income families and working poor (exacerbated by other measures in these and other Bills)

Bill No 1 proposes a measure to freeze FTB rates. This is not a measure which targets higher income earners. Rather, it affects all FTB recipients, including the most impoverished. This measure should not be supported. The speed with which payments lose pace with costs of living should not be underestimated, especially for people who are affected by multiple rate and thresholds being frozen and other benefits being removed, examples of which include:

- Loss of FTB B once children are over 6 years
- Reduction to end of year supplement
- Loss of large family supplement for people with three children
- A range of social security measures (means test and rate freezes, abolition of supplements such as PES and EdEP), see the discussion at sections 4, 5 and 20 above.

Currently, couples living on a single income and single parents can receive FTB B until their youngest child turns 16 (or until the child turns 19 years if in full-time secondary study or exempt from that

²⁵ ACOSS “Back to Basics” Simplifying Australia’s family payments system to reduce child poverty: 2013, p. 3 *“In the 1980s Australia led the world in implementing measures to guard against child poverty, reducing it by over 30% thanks to the family payments system put in place at that time.”*

²⁶ ACOSS Poverty in Australia, 2012: http://acoss.org.au/uploads/html/ACOSS_PovertyReport2012.html

²⁷ Family Assistance Legislation Amendment (Child Care Measures) Bill (No 2) 2014.

requirement). Bill No 2 proposes to pay FTB Part B to families only until their youngest turns 6. The Bill proposes a new allowance for single parents. However:

- the new supplement will only partially offset some of the losses to some single parents, who still stand to lose around \$37 to \$58 **per week**.²⁸
- there will be no new supplement to help the low (single) income working families that are affected by the measure.

Bill No 2 proposes to reduce, and freeze, the FTB end of year supplements. FTBA is to reduce by \$124.10 to \$602.25 and FTB Part B is to reduce by \$51.10 to \$302.95 (Part B). In our experience, the end-of-year supplements play two critical roles:

- it is an essential income component for low income families trying to meet their annual expenses that they are unable to meet with their fortnightly income. In the experience of our caseworkers, people on low incomes, budgeting carefully, use the annual lump sums to pay one off annual costs, eg car registration and insurance, school related payments, trips to the dentist, and so on.
- the supplements were created as part of a government's strategy to reduce FTB debts. FTB is based on a person's estimate of their annual income so inevitably debts occur. The idea behind the supplement was that it is an amount withheld until the person's entitlement is reconciled at the end of the year. A person's supplement is paid directly toward any debt that might be raised. Reducing the supplements will have flow on effects for recovery of FTB debts.

The Bill proposes that to qualify for the large family supplement, families will now need to have four or more children (currently three or more children). This supplement recognises the extra financial burden faced by large families. Senate estimates data indicate that 78,600 families will be adversely affected by this measure and stand to lose \$313.²⁹

The measures to (a) improve targeting of Family Tax Benefit part B by reducing the primary earner income limit to \$100,000, and (b) to remove the extra child add on from the free area (which will affect families with incomes over \$94,316 and more than one child) represent a better approach to tightening, as unlike most of the measures, it is targeted directly to higher earners.

However, these cuts need to be considered in the context of other cuts to working families, including:

- effective marginal tax rates and incentives to work
- other proposals, such as the proposed changes to Child Care Benefit, which, if passed, would increase the out of pocket costs of child care

These cuts are substantial. The extra child add-on to the free area recognised, to an extent, the higher costs of raising more than one child. ACOSS estimates that households earning more than \$100,000 stand to lose \$58 per week as a result of this change.³⁰

²⁸ ACOSS Budget Analysis, 2014-15 p 30

²⁹ Senate Community Affairs Legislation Committee, Hansard Transcript, 1 June 2014 p 74

³⁰ ACOSS Budget Analysis, 2014-2015 p 30.

Proposal:

- **Schedule 7 of Bill No 1 should be rejected in its entirety**
- **Schedule 10 of Bill No 2 should be rejected in its entirety,**
- **Failing that, parliament should reject measures which:**
 - **freeze FTB rates**
 - **change the age limit for FTB part B**
 - **reduce and freeze the rate of FTB supplements**
 - **amend the large family supplement**

11. Portability of Disability Support Pension

From 1 January 2015 DSP recipients will generally be able to be paid for up to four weeks only in a 12 month period if they are absent from Australia. Exceptions can be made for people who are terminally ill or who are assessed as having a “severe impairment”.

There is no coherent policy reason why people receiving DSP should have a shorter period than the standard six weeks for any other payment type (except for Age Pension, which is portable indefinitely and a limited number of other people under pre 2004 grandfathering provisions).

When DSP recipients are absent from Australia for more than four weeks they will have their payment cancelled and will need to reapply. We predict that removing the discretion to merely suspend a payment in these circumstances will increase red tape considerably as it will trigger the new claim process.

Around 2,000 DSP recipients will be affected by this restriction.

However, we are pleased to see that current portability extension and exception provisions will be retained, where a person is terminally ill and returning to their country of birth to be near family for care and support.

As a nation with an ageing migrant population, DSP recipients from Culturally Diverse and Linguistic Backgrounds are likely to be most impacted by the limits on time allowed to visit parents and family members overseas who may be terminally ill or dying or in need to support and palliative care and related assistance.

The treatment of people who may need to travel overseas to spend time with dying parents or to care for sick relatives or friends seems harsh when considered in light of other proposals recently supported by the Government. From 1 January 2015, holders of the Commonwealth Senior' Health (CSHC) Care Card will be able keep their card whilst outside of Australia for 19 weeks. Previously, retirees with incomes too high for a pension were allowed to be overseas for six weeks before their CSHC card was cancelled.

Proposal: That Schedule 2 of Bill No 2 be rejected in its entirety.

12. Other measures

6 week portability for students (Bill No 2 Sch 5)

Reduction in portability of student payments: this measure will limit the six week portability of these payments to travel overseas which is for the purposes of undertaking eligible medical treatment or to attend an acute family crisis. We do not support this measure. However we acknowledge that it brings the portability rules for students into line with Newstart Allowance portability.

Changes to deeming thresholds

NWRN supports freezing the assets test thresholds, which are extremely generous, as highlighted in our submission to the Commission of Audit.³¹ However, we oppose the measures relating to assets and deeming thresholds because they will impact on many part rate pensioners. Changes to deeming thresholds will affect people with modest savings of around \$30,000 at a time in their life when costs are higher and they do not have employment to supplement their income.

This measure will affect around 530,000 Age Pension recipients on a part-rate pension.

Most pensioners have modest levels of savings. Almost 60% of Age Pensioners were on the maximum rate of Age Pension at June 2011. Of the 1.3 million Age Pension recipients receiving the maximum rate, almost 700,000 were older women. The 2008 Harmer Pension Review reported that while only 13.3% report no private income, a further 28% have just small amounts of private income (up to \$20 pw). Forty percent of age pensioners had just \$20 in addition to their Age Pension which for a single person is paid at the maximum rate of \$375 per week.

The average impact of the measure is about \$60 per year.

13. Measures we support: CSHC, Abolition of Seniors Supplement

NWRN supports the targeting of social security benefits based on need.

We therefore support:

- removal of access to the Seniors Supplement for those with incomes too high to receive the Age Pension (Bill No 1 Sch 1)
- the inclusion of untaxed superannuation in the assessment for the Commonwealth Seniors Health Card (Bill No 2, Sch 4)

³¹ National Welfare Rights Network, *Submission on the Commission of Audit*, November 2013, at: <https://www.welfarerights.org.au/nwrn-submission-commission-audit>