



**NUS Submission To Senate Education and
Employment Legislation Committee**

**Social Security Legislation Amendment (Green Army
Programme) Bill 2014**

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Introduction

The National Union of Students welcomes this opportunity to comment on the *Social Security Legislation Amendment (Green Army Programme Bill) 2014*.

According to the explanatory memorandum: “*Participation in the Programme will be available to a diverse spectrum of young people, including Indigenous Australians, school leavers, gap year students, graduates and unemployed job seekers.*” As there are many Newstart recipients also enrolled part-time at university these provisions may apply to some students.

More generally we are concerned that the rights of young people engaged in training programs must be protected, and that the training programs should enhance their future career pathways.

Workplace Protections

The National Union of Students is concerned that the program takes young people off social security benefits or pensions and places them in a full time or part-time work-like training program on an amount equivalent to minimal training wage but then exempts them from Commonwealth workplace legislative protections that apply to other workplace trainees.

Section 38-J excludes Green Army participants (apart from team supervisors not receiving the Green Army allowance) from being regarded as employees under Commonwealth laws, including the *Work Health and Safety Act 2011*, the *Safety Rehabilitation and Compensation Act 1998* and the *Fair Work Act 2009*.

This raises a number of questions about the workplace safety and other rights of Green Army participants:

- Given the exemptions from Commonwealth laws what are the protections for the health and safety of participants? The nature of work undertaken on the program does raise a significant potential for serious injury. If a team supervisor and an ordinary trainee participant were injured in the same accident would the trainee participant have significantly less rights with regards to compensation and rehabilitation than the team supervisor?
- Under which jurisdiction and legislation does the health and safety rights of Green Army participants lie?
- Will the participants enjoy the same protections as workers in relation to workplace bullying or harassment?
- Can they join a union or go the Fair Work Ombudsman with a complaint about a supervisor?

The publicly released information on these matters so far is at best scanty. In the second reading debate in the House of Representatives the Member for Bass, Mr. Niolic responded to the health and safety concerns:

“The truth is that the health and safety of participants engaged in the program remains governed by relevant statutes, regulations, by-laws and the requirements of the state and territory regulations in respect of workplace health and safety laws. The Commonwealth will

also implement a WHS audit scheme for the program, involving independent WHS audits of service providers and the projects that they deliver. Insurances will also be held by all required parties, and the Commonwealth will take out personal accident and public and, or, products liability insurance for Green Army participants. This is consistent with practice for the previous National Green Jobs Corps.”¹

The Member for Scullin, Mr. Giles raised two significant matters in response to the government. Firstly in regards to the insurance requirements placed on Green Army service providers:

“However, nothing in the proposed legislation before us addresses the critical issue of the extent to which Green Army service providers will be required to provide suitable insurance. Even where insurance is in place, it differs from workers compensation cover in that an injured participant is likely to have to demonstrate negligence by the provider. These disputes can take many years and great expense to resolve, and young volunteers are highly unlikely to have the resources to singlehandedly pursue such claims however meritorious they may be. As such, compared to workers generally, a lower standard of protection is being offered to Green Army participants, particularly given the physical and outdoor nature of the tasks they are doing.”²

Secondly the jurisdictional terrain may have changed significantly since the previous National Green Jobs Corp program so that state and territory protections may not apply:

“Most states and territories had referred their industrial relations powers to the Commonwealth by 2010. This means that the Fair Work Act, and the National Employment Standards contained within it, has been the framework for a national workplace relations system, which includes all private sector employment other than employment by non-constitutional corporations in Western Australia. This is important because under previous schemes participants would have been covered by state and territory employment laws, but this will no longer be the case.”³

The above matters are for industrial law specialists and this Senate Inquiry to clarify.

Our principle concern is that young people, many of whom have never been in full-time work, should have the same or equivalent workplace protections and rights as other trainee workers.

Furthermore the legislation should require that easily understood and clear information about participant workplace rights and protections must be provided to all potential participants prior to their decision to undertake the program.

Efficacy of Program

Our second area of concern is the efficacy of the program in delivering on its core aim of getting young unemployed people into meaningful full-time employment.

While work for dole programs (or in this case work for an equivalent of a training wage) have substantial populist community support there is evidence that the such programs may actually lessen participants chances of finding on-going employment.

The definitive study by Borland and Tseng (2003)⁴ was conducted by the University of Melbourne’s Department of Economics and Melbourne Institute of Applied Economic and

¹ House of Representatives, Hansard, 24 March 2014

² House of Representatives, Hansard, 24 March 2014

³ House of Representatives, Hansard, 24 March 2014

⁴ Borland J and Tseng Y, Does ‘Work for the Dole’ work, Department of Economics and Melbourne Institute of Applied Economic and Social Research, University of Melbourne, Melbourne, June 2003

Social Research on the pilot stages of the Howard-era Work for the Dole program. The study contrasted Work for the Dole participants with Newstart allowance recipients who had the same characteristics (such as gender and age) and same labour market background (i.e., living in a region with the same rate of unemployment, and having a similar personal history of welfare receipt in the past 12 months) but who had not participated in the Work for the Dole program.

The study found that there were significant adverse affects arising from participating in work-for-dole style programs in terms of employment outcomes. Participants were less likely to move off payments. The data revealed that six months after commencing in the Work for the Dole program, that 71.4% of participants were still in receipt of unemployment payments, compared to only 59.1% of non-participants.

Borland believes that the reason that work for the dole recipients spend a longer time being unemployed is that there is a 'lock-in' or 'attachment' effect during program participation. In essence while participants are doing the program they reduce their job search activities.⁵

The study also found that the adverse impact continued long after the completion of the work for the dole participation:

*"Unemployed who have done Work for the Dole however never completely caught up to others in the likelihood of moving off welfare payments. One possibility to explain this absence of catch-up is that there is a permanent 'scarring' effect on Work for the Dole participants. This might be due to behavioural changes in payment recipients as a result of doing Work for Dole, or to employers stigmatising Work for the Dole participants."*⁶

In 2011 Borland cited American and European labour market research also highlights this negative impact associated with similar programs.⁷ Recent Australian programs such as the Green Jobs Corp program have tried to mitigate this negative effect by requiring that the service providers were provide the participants with 130 hours of accredited training from a recognised provider (five hours per week over the six months). Successful completion would give the participant an accredited qualification.

Our understanding of the Green Army Program is that any accredited training would be an optional extra to be negotiated with each individual rather than a core feature of the program. We are concerned that young people looking for work will be in an unequal bargaining position when trying to negotiate training outcomes with providers.

The National Union of Students submits that accredited training with a registered provider must be a core element of the Green Army Program and not an optional extra.

⁵ See Borland J, "Work for the Dole doesn't work, so why is it Coalition policy?", *The Conversation*, 13 April 2011

⁶ Ibid.

⁷ Ibid.