SUBMISSION TO:

SENATE EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE

INQUIRY INTO:

SOCIAL SECURITY AMENDMENT (STRENGTHENING JOB SEEKER COMPLIANCE) BILL 2015

Jobs Australia

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1. INTRODUCTION

1.1 ABOUT JOBS AUSTRALIA

Jobs Australia is the national peak body for non-profit organisations that assist unemployed people to prepare for and find employment. The network helps members to make the most effective use of their resources to promote the need for services and support that will help unemployed people to participate fully in society.

We provide an independent voice for members who range from large charitable organisations to small local community-based agencies. Jobs Australia is the largest network of employment and related service providers in Australia and is funded and owned by its members.

Typically, Jobs Australia members do some or all of the following:

- Deliver services under Commonwealth and/or State Government funded programs, such as *jobactive* (including Work for the Dole), Disability Employment Services, Community Development Program (formerly the Remote Jobs and Communities Program), Skills for Education and Employment, and similar State Government programs.
- Deliver accredited or non-accredited training for unemployed people as Registered Training Organisations, Group Training Organisations, apprenticeship centres, social enterprises and other non-profit training and education institutions.
- Deliver similar employment and training services to unemployed people without any government funding.

1.2 ABOUT THIS SUBMISSION

In making this submission, we have relied on the information in the Explanatory Memorandum and information we received in a briefing from the Department of Employment. We have not conducted a detailed examination of each specific amendment in the Bill.

2. COMMENTS ON THE BILL

2.1 SOME INITIAL COMMENTS ON MUTUAL OBLIGATION

Jobs Australia supports the principle of mutual obligation.

According to that principle, people who require access to the welfare safety net can access it, but in return must meet certain obligations such as preparing for and looking for work. Mutual obligation helps maintain community support for the safety net and ensures that people receiving unemployment benefits have a strong incentive to undertake job search and other activities to keep their period of unemployment as short as possible. The principle of mutual obligation enjoys broad support across the political spectrum.

Enforcement of the principle of mutual obligation has, at times, been more controversial. Australia's welfare system is targeted strictly to those most in need, such that enforcing the principle of mutual obligation requires the application of financial penalties to people who are, by definition, already in dire financial circumstances. To people receiving welfare payments, a small penalty makes a disproportionately large impact on their ability to pay for essential items such as rent, utilities and food.

The compliance framework must carefully balance the need for mutual obligations to be enforced with the negative impact that enforcement can have on the welfare of the people whom the system is intended to support. It must be applied fairly, and not in an arbitrary way.

2.2 SIMPLIFYING AND ALIGNING PENALTIES FOR CERTAIN COMPLIANCE FAILURES

The existing job seeker compliance framework is complex, with a range of different rules and consequences for, and even within, different categories of non-compliance.

Simplification is desirable because a compliance framework that is more consistent and more readily understood is more likely to result in job seeker compliance. That means fewer payment suspensions and less financial harm, and greater engagement in services that support people into work. To that end, penalties for different compliance failures should be aligned as much as possible.

The Bill simplifies the compliance framework by re-categorising various types of participation failures as No Show No Pay failures. Without a reasonable excuse, short-term financial penalties will apply to failure to enter into a Job Plan and inappropriate behaviour during an appointment. .

Under the new arrangements, inadequate job search would also result in an immediate suspension of payments, rather than taking at least 14 weeks to be applied.

Simplifying the penalties for non-compliance in the way proposed has a number of flow-on benefits, such as eliminating the need for some paperwork as described in the Explanatory Memorandum.

In general, the changes effected by the Bill are desirable. In relation to the failure to enter into a Job Plan, there is some risk that frontline employment services staff may seek to use the new rules to compel job seekers to enter Job Plans that have not been adequately negotiated and explained. A Job Plan is meant to be a document that is negotiated with the job seeker and tailored to their needs, rather than a standard set of requirements dictated by the provider. Most frontline staff do take the time to engage their client in the development of the Job Plan, but we have heard anecdotal evidence of some staff inappropriately insisting that their clients sign a Job Plan in which they have had little or no input.

We understand, however, that existing provisions for 48 hours ‘think time’ will still be available to job seekers who wish to take a draft Job Plan away to think about it or consult a third party. The availability of 48 hours ‘think time’ is an important qualification that mitigates the risks associated with the amendments.

Similarly, job search activity is already monitored by employment services providers, but the Bill will ensure failure to complete adequate job searches will result in a suspension being applied more immediately in the event of non-compliance with requirements in the Job Plan. It is important that the number of job searches specified in the Job Plan takes into account all the circumstances of the job seeker. Although 20 per month is the standard requirement, the job seeker and their provider can negotiate a lesser number if appropriate. Again, it is important that frontline employment services staff tailor the Job Plan and do not seek to compel job seekers to enter into a standard plan.

We note that the Shadow Minister for Employment Participation, the Hon. Julie Collins MP, has raised concerns about employment services provider staff incorrectly asserting requirements and demanding job seekers sign Job Plans that are inappropriate to their circumstances. Jobs Australia has no way of verifying the veracity of anecdotal evidence, but Jobs Australia has also heard of similar experiences from job seekers.

No doubt, provider staff have been under enormous pressure. The new *jobactive* contract has proved challenging for many providers. The anecdotal evidence may suggest that provider staff need additional training ahead of the amendments in this Bill coming into effect and a degree of monitoring afterwards to ensure that the compliance framework is applied in practice as it is intended on paper.

Present training may not be entirely adequate. The online Learning Centre training on Reasonable Excuse determinations, for example, does not go through the detailed and technical requirements of the Reasonable Excuse rules laid out by the Secretary of the Department of Human Services. Rather, employment services consultants are encouraged to use a much simpler test: whether a member of the public would consider the excuse 'reasonable'. Clearly, there is scope for such a test to be applied inconsistently.

It is important that checks and balances are maintained within the system, to help ensure that job seekers are fairly treated and have their personal circumstances adequately taken into account. Jobs Australia would support some investigation of the way that frontline staff are exercising discretions and making decisions as delegates of the Secretary of the Department of Human Services, to determine whether current training and guidance is adequate and with a view to improving the training and guidance. Job seekers are entitled to expect that the compliance framework will be applied as intended.

On balance, Jobs Australia supports the measures in the Bill relating to simplification of the compliance framework, subject to the caveats outlined above.

2.3 REMOVAL OF WAIVERS

Serious failures result in an eight week non-payment period – a penalty that most wage-earners would find hard to survive, let alone a person relying on income support. We do not accept the contention in the Explanatory Memorandum that the availability of a waiver creates an "incentive for non-compliance". Job seekers have strong incentives to accept work that is suitable - including a strong financial incentive, given that even minimum wages are significantly greater than welfare payments.

Moreover, the case for removal of the waiver is not made out by the data presented. The number of serious failures for not accepting suitable work is small. If the argument is that too many penalties have been inappropriately waived, then that is something that may best be dealt with by reviewing the training and guidance offered to the decision-makers rather than simply removing the waiver altogether. The response seems disproportionate to the problem outlined in the Explanatory Memorandum.

Jobs Australia is opposed to the removal of the waivers for serious penalties incurred for failing to accept a suitable job.

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