

## **Submission to Senate Community Affairs Legislation Committee's Inquiry into the Welfare to Work Bill 2005**

November 2005

ACROD appreciates the opportunity to comment on the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005.

Our comments are brief because of the short time available to view and consider the Bill.

ACROD recognises that much of the technical detail of the changes is not contained in the Bill; nevertheless, the Bill is long and complex and deserves careful consideration. We recommend that the Government allow more time to consider the Bill before it becomes law. Our reasons are:-

- while the broad changes presented in the Bill were announced in May 2005, the actual wording in the Bill is crucial. Because of the Bill's length and complexity it may well contain implications that are unintended. These would only be detected with more time to consider the Bill. It would be in the Government's interests to have any inconsistencies or unintended effects identified and ironed out before the Bill becomes law;
- the Bill has been introduced to the Parliament at a time when a second very long and complex Bill in the same portfolio, the Work Choices Bill, is under consideration. This makes it difficult to give due attention to the detail of the Welfare to Work Bill;
- the Bill directly affects many people with disabilities. Some people with disabilities – because of cognitive impairments, for example - require longer to read and to absorb the meaning of documents. The short timeline applying to this Bill will severely limit their ability to comment on it.

ACROD shares the Government's objective of increasing the employment participation of people with disability. We have supported a number of the features of the Government's welfare-to-work package announced in May 2005 and reflected in this Bill. These include:-

- an expansion of specialist disability open employment places and the removal of the funding cap on these places for certain people with disabilities, in order to guarantee them an appropriate level of employment assistance;
- extension of eligibility for the Pensioner Concession Card, Telephone Allowance and Pharmaceutical Allowance to some Newstart and Youth Allowance recipients;
- increased allocations for workplace modifications and wage subsidies and a more generous Mobility Allowance for some people with disabilities;
- engagement with employers to encourage a more open approach to employment of people with disability;
- streamlining the assessment and referral system, with the aim of reducing the number of assessments a person must undergo and the time it takes to refer a job seeker to an employment service or vocational rehabilitation service;
- certain exemptions from the income support changes: specifically, the existing DSP population (at 10 May 2005), people who require ongoing support to work part-time, and people whose disability prevents them from working at a productivity level that attracts award wages.
- exemption of parents caring for children with a disability or illness from activity tests
- access to employment entry payment for people with disabilities who have a partial work capacity

However, ACROD has concerns with several of the measures contained in the Welfare to Work Bill.

### **Reduced Income Support**

New claimants, assessed as having a part-time work capacity (and who are able to work without ongoing support and at award wages) will no longer be eligible for Disability Support Pension. They will receive the lower Allowance rate of payment, which when it interacts with the different taper rates between Allowance and Pension will result in a markedly lower income than they would receive under current social security law (as recent research by NATSEM has shown.<sup>1</sup>

The impact of the changes to DSP eligibility is exacerbated by the denial of access to pensioner education supplement for people with a disability on Newstart or Youth Allowance, except as a transitional arrangement.

A lower rate of income will do nothing to assist the people affected to gain employment.

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<http://www.natsem.canberra.edu.au/publications/papers/otherpubs/welfaretoworkdisabled.pdf>

The Bill also extends the seasonal work preclusion period to the recipients of DSP and Carer Payment. Again, this will do nothing to boost the employment rate of people with disabilities and will in fact reduce the incentive to work.

People with disabilities (even those who don't require ongoing support to retain employment) often incur additional non-discretionary expenses directly related to their disability. People with disabilities do not receive compensation through the social security system for these additional non-discretionary costs. The welfare-to-work changes should have addressed this issue (as originally recommended by the McClure Welfare Reform Reference Group) as a condition of changing the eligibility for DSP.

While ACROD understands the Government's concerns about the growth rate of the DSP population over the last decade or two, we strongly believe that the best way to confront that problem is by boosting employment opportunities and assistance for people with disabilities. If the welfare-to-work changes result only in shifting numbers from DSP to Newstart, they will have failed.

We recommend that income support changes in the Bill that financially disadvantage people with disabilities be removed.

### **Disability Employment Places**

The additional assistance – particularly in the form of uncapped (demand-driven) disability employment assistance places - to people with partial work capacity should be expanded to include people on DSP.

The Government is investing its additional effort in providing assistance to people assessed as having 'partial work capacity'. But labour market programs are more successful with voluntary participants than those compelled to participate. Many DSP recipients want to work and, with ongoing support, can work. What many lack is access to the specialist disability employment services that they need to find and maintain a job, because of the rationing of those services.

The Federal Budget created a new uncapped stream of disability open employment places and this will relieve some of the pressure of unmet demand for disability employment places – but only some. If the Government wants to boost the employment rate of people with disabilities, ACROD recommends that it allow disability employment services (both open employment services and supported employment services – or business services) to respond to the demand for assistance as and when it arises. Investing in assistance to people who *want to work* is likely to be more productive than investing in services for people who are not voluntary participants.

### **Assessment and Referral**

The new assessment and referral system is a significant area of risk in the welfare-to-work reforms. The Bill contains little detail of how the new comprehensive work capacity assessment and referral system will work.

Assessing a person's work capacity accurately is difficult because it can depend on the nature of the job they get, the extent of natural supports available to them and the presence or absence of participation barriers.

Around 370,000 people will undergo assessments in 2006-07. Even if the error rate is only 3%, more than 11,000 assessment or referral decisions will need to be rectified. Thus, ACROD recommends that the new system include effective and efficient mechanisms to review decisions and allow cross-referrals between services.

The new DSP qualifications will not consider a person's local labour market conditions in determining his or her capacity to work. Yet the interaction between a person's disability and their social and economic environment will affect their work capacity. For example, person with physical disability's capacity to obtain and maintain employment could well depend on the availability of accessible public transport and the location of jobs in accessible premises. Capacity to work could also depend on the availability of in-home support to assist a person in getting ready for work.

The international benchmark for the classification of disability data is the International Classification of Functioning Disability and Health (ICF), which importantly focuses on not only the direct impact of bodily or mental functioning, but also the interaction between that and the physical and social environment in which a person lives. The ICF recognises that capacity to participate (socially or economically) depends heavily on the presence or absence of social, economic and physical barriers. Thus capacity to work is to a large extent contextual; it cannot be effectively abstracted from the particular environment in which a person must live and seek employment. Work capacity assessors should be required to take these factors into account.

ACROD recommends that the Bill explicitly require consideration of the interaction between a person's disability and their environment in the assessment of their work capacity.

### **Activity Requirements**

People with disabilities assessed as having partial work capacity will have activity requirements. There is significant risk that obligations will be imposed on people which (because of the effect of their disability) they cannot meet.

ACROD is pleased to see (under Section 731) various classes of people, including the parents of children with a disability, exempt from activity requirements. However, we recommend that the Bill explicitly empower the Secretary to exempt people unable to meet an activity test because of a disability. Examples might include people who because of an episodic

condition or acquired brain injury, fail to turn up at a job interview; or a person in a wheelchair offered a job at premises that are inaccessible; however, we do not recommend trying to codify in legislation the various situations this exemption should cover.

### **Mobility Allowance**

ACROD welcomes the increase in the Mobility Allowance for some people on DSP, Newstart Allowance and Youth Allowance. However, we recommend that the increase also be available to all people who currently qualify - that is, to people who are seeking employment or in a job (or vocational activity) of at least eight hours duration a week. People unable to work 15 hours are often people with severe disabilities who are the most in need of assistance with transport costs.

It should be noted that even at the proposed higher rate the Mobility Allowance will be inadequate to cover the transport costs of people (in some rural and metropolitan regions) who live a considerable distance from their place of employment and/or lack access to public transport (other than taxis).

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### **About ACROD**

ACROD is the national peak body for disability services. Its purpose is to equip and enable its members to develop quality services and life opportunities for Australians with disabilities. ACROD's membership includes over 550 non-government, non-profit organisations, which collectively operate several thousand services for Australians with all types of disabilities. ACROD has a National Secretariat in Canberra and offices in every State and Territory.

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