

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005**

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**Organisation:** Sane Australia

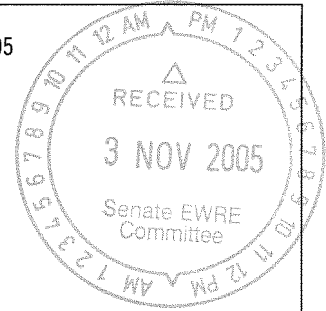
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**Introduction**

**SANE Australia is a national mental charity, working for a better life for people affected by mental illness, many of whom have a psychiatric disability.**

**This submission concerns the prejudicial effect on people with a disability of the inaccurate and restricted definition of disability in the proposed Bill.**

A stated aim of the Bill is:

*(m) respecting and valuing the diversity of the work force by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.*

However, the definition of *person with disability* is highly restricted:

*employee with a disability means an employee who is qualified for a disability support pension as set out in section 94 or 95 of the Social Security Act 1991, or who would be so qualified but for paragraph 94(1)(e) or 95(1)(c) of that Act.*

Defining *person with disability* only as someone in receipt of the Disability Support Pension (DSP) is inaccurate, artificially restrictive and prejudicial to the interests of employees with a disability. Many people with a disability are not recipients of the Disability Pension, and this proportion will dramatically increase as the 15-40 hours provision is brought in by the Bill.

This definition would exclude them from any protection afforded by aim (m). For example, a disabled person able to work 16 hours a week who was sacked, potentially could not claim unfair dismissal on the grounds of discrimination as – according to this Bill's definition – they 'did not have' a disability! It could be argued that by restricting the rights of employees with a disability in this way, the Bill actually contravenes the Disability Discrimination Act.

<b>Proposal</b>	<p>SANE Australia urgently proposes that the definition of <i>person with disability</i> in the Bill be made consistent with that in the Disability Discrimination Act, 1992 Section 4 (1):</p> <p><i>Disability, in relation to a person, means:</i></p> <p>(a) total or partial loss of the person's bodily or mental functions; or  (b) total or partial loss of a part of the body; or  (c) the presence in the body of organisms causing disease or illness; or  (d) the presence in the body of organisms capable of causing disease or illness; or  (e) the malfunction, malformation or disfigurement of a part of the person's body; or  (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or  (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;</p> <p><i>and includes a disability that:</i></p> <p>(h) presently exists; or  (i) previously existed but no longer exists; or  (j) may exist in the future; or  (k) is imputed to a person.</p>
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