



22 January 2006

Committee Secretary  
Senate Employment, Workplace Relations and Education Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

## **Re: Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006**

Dear Mr Carter,

ACOSS wishes to make the following brief submission on two of the proposed changes in this Bill, and would appreciate the Committee taking our concerns into account. If the Committee should have any queries about this submission, either myself or Senior Policy Officer Peter Davidson can be contacted at the ACOSS office.

### **1. More restricted access to Pensioner Education Supplement**

When the Welfare to Work legislation first came before your Committee in 2005, ACOSS raised concerns that the diversion of many people with disabilities and single parents to Newstart and other Allowances would weaken their incentives and financial support to study or train to improve their future employment prospects. ACOSS noted that around 60 per cent of people with disabilities and jobless single parents have 10 years of schooling or less, and that this disadvantages them in obtaining secure, ongoing employment of a kind that would remove the need for income support.

The Committee concluded in its majority report that:

*'While supporting the 'work first' emphasis of the Welfare to Work package, the Committee believes that the Government should from time to time re-examine how it supports parents and people with disabilities seeking further education full-time and/or on Austudy – and how it could improve the skills base of the targeted groups.'*

It recommended that: *'the Government closely examine the interface between further education, welfare and the needs of a changing labour market on a periodic basis'.*

One of the financial disincentives that caused concern was the lack of Pensioner Education Supplement for people on Newstart or Youth Allowance, or Austudy Payment. This supplement provides essential help for income support recipients on low incomes with the ancillary costs of study such as fees and textbooks.

The original Welfare to Work legislation allows those single parents and people with disabilities affected by the changes who were already receiving PES for an ongoing course of study to continue to receive it until their course is complete. That is, they could continue to receive the Supplement for this period while on Newstart or Youth Allowance.

The present Bill would restrict ongoing access to the PES for some people with disabilities who applied for DSP between May 2005 and June 2006 and were subsequently reviewed and assessed (under the new rules) as having a partial capacity to work. They would lose the PES on transfer to other payments such as Newstart Allowance, in the event that they are transferred after their second or subsequent DSP review.

Consider the example of a person with disabilities on DSP who has just commenced a three year full-time course when their payment is first reviewed, say in July 2007:

- If they lose the pension on this first review, they would ordinarily continue to receive the PES until the course is completed, three years later. This would be worth \$31.20 per week, or around \$4,900 over the three years.
- However, if they retain the pension at this review but lose it in a subsequent review 12 months later, the PES would then be cancelled. They would miss out on the \$31.20 per week for the remaining two years of the course, a total of \$3,200.

In this example, the person disadvantaged by the policy is the one with the more substantial barriers to work, since they retain the pension at their first review.

The proposed change would thus be unfair in its application, and inconsistent with the Government's original intention to enable people formerly on DSP to continue their studies with the help of the PES.

**ACOSS therefore recommends that the proposed restrictions in access to Pensioner Education Supplement should not be supported.**

## **2. Repayment of Financial Case Management payments**

The Bill proposes that the Commonwealth should be able to recover 'overpayments' of payments under the Financial Case Management scheme, from recipients who serve an eight week non-payment period.

Financial case management payments are discretionary payments made to people who are assessed by Centrelink as severely disadvantaged. There is no legislative entitlement to these payments and they are generally significantly lower than the individual's normal income support entitlement. The rate of payment varies from case to case in accordance with the household budget and essential spending requirements of each client.

While we acknowledge the need for Centrelink to recover overpayments of statutory income support, the recovery of 'overpayments' from a discretionary scheme with no statutory basis raises a number of problems, including:

- the fairness and transparency of decisions to raise 'overpayments', given the lack of clear legislative entitlements in the first place,
- potentially, a lack of redress through the review and appeals systems, for clients seeking a review of such decisions on their merits.

There are circumstances in which it would be reasonable to raise such an overpayment, because the lack of 'entitlement' to the payment is clear cut. They include:

- where the primary income support payment (such as Newstart Allowance) is restored part way through the 8 week non-payment period.
- where the client had undeclared income at least to the level of their normal income support entitlement.

However, in most other cases it would be difficult to fairly and consistently determine the amount of the 'correct entitlement', and therefore the 'overpayment'. For example, this would be very difficult to assess in cases where a client 'over-estimates' their essential weekly expenses (for example, on food) or where they have small levels of undeclared income (for example, bank interest).

**ACOSS therefore recommends that the raising of overpayments be restricted to cases where:**

- **the primary income support payment (such as Newstart Allowance) is restored part way through the 8 week penalty period, or**
- **the client had undeclared income at least at the level of their normal income support entitlement.**

Yours sincerely

A handwritten signature in cursive script that reads "Andrew Johnson". The signature is written in black ink and is positioned below the text "Yours sincerely".

Andrew Johnson  
Director