

**Submission by  
the Department of Employment and Workplace Relations  
to the  
Inquiry into the Employment and Workplace Relations Amendment  
(Welfare to Work and Vocational Rehabilitation Services) Bill 2006**

**EXECUTIVE SUMMARY**

The Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006 (the bill) has two key components. Firstly, it supports important changes to the delivery of Vocational Rehabilitation Services for people with an injury or disability. Secondly, it makes amendments to the social security law to uphold the integrity of the social security system.

To enable people with disability or injury to have greater choice of rehabilitation providers to assist them to re-enter the workforce, the Government is introducing contestability in the provision of Vocational Rehabilitation Services. The bill contains a number of amendments to the *Disability Services Act 1986* to support this.

The bill also makes a number of minor and technical amendments to the social security law. Several of these amendments relate to the Welfare to Work measures which commenced on 1 July 2006 and the changes are to ensure that the measures continue to be fairly and consistently applied. The bill also contains other minor amendments to the social security law to ensure that the legislation is in accordance with the policy intent and that it is internally consistent.

## INTRODUCTION

This submission explains the policy behind the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) 2006 Bill (the Bill) and the rationale for the amendments.

The bill contains two components which are addressed in this submission in the following two parts:

1. Vocational Rehabilitation Services (VRS); and
2. Welfare to Work and other social security law.

## PART 1: Vocational Rehabilitation Services

### 1.1 Background

The bill includes amendments to the *Disability Services Act 1986 (DSA)* to support the staged introduction of contestability in the Australian Government funded VRS market from 1 July 2007.

#### Vocational Rehabilitation Services

Australian Government funded VRS are part of a suite of employment and related services, including the Job Network and the Disability Employment Network, designed to assist people on income support find and retain employment.

As a specialist employment service, VRS help people, who because of an injury, disability or health condition, find getting into work difficult. VRS provide a comprehensive service that combines vocational rehabilitation with specialist employment assistance.

#### Objectives of VRS

The DSA provides the legal framework for VRS. Consistent with the DSA the objectives of VRS are to provide high quality specialist employment services that:

- enable job seekers with an injury, disability or health condition achieve sustainable employment to their maximum capacity;
- promote the capacity of people with injuries or disabilities, leading to improved employment opportunities; and
- encourage innovation and continuous improvement in the provision of employment services.

#### VRS job seekers

Most job seekers accessing VRS will be on income support and will fall into two broad categories – those with activity test or participation requirements and those without. Activity test or participation requirements are specified in the *Social Security Act 1991* and, for most job seekers, cover minimum job search activities and participation in employment services such as Job Network. For job seekers who

require specialist assistance, the activity test or participation requirements are met by participating in a specialist employment service such as VRS or Disability Employment Network or a pre-employment service such as the Personal Support Programme.

Job seekers who do not have activity test or participation requirements, for example people receiving Disability Support Pension, will need to have an assessed work capacity of at least 8 hours per week to be eligible for VRS.

### Welfare to Work

From 1 July 2006, the Government's Welfare to Work package provided an extra \$192 million for VRS over the three years to June 2009, to guarantee access to VRS for all eligible people with new part-time activity test or participation requirements when and where they need it.

In addition, existing programme funds will continue for job seekers with no or full-time activity test or participation requirements. These funds are limited to services for around 23,000 job seekers per annum.

### Move to contestability for VRS

CRS Australia is currently the sole provider of Australian Government funded VRS. Expanding the range of organisations providing VRS in a competitive market will provide more choice to assist those people on welfare re-enter the workforce through a job suited to their capacity. Choice and diversity in providers will mean that services can be better matched to individual needs.

The Department of Employment and Workplace Relations, on behalf of the Australian Government, is currently undertaking a purchasing process to engage a number of VRS providers, from 1 July 2007, to deliver:

- up to 20 per cent of VRS available for those people on income support who do not have activity test requirements (usually DSP recipients but can include people receiving Parenting Payments), and job seekers on Newstart Allowance with full-time activity test requirements; and
- up to 50 per cent of the new demand driven VRS services for people on income support with partial work capacity, and new part-time activity test requirements.

## **1.2 Changes proposed to the DSA to support the move to contestability of VRS**

The main legislative changes being proposed to the DSA are:

- a) removing the statutory requirement for the Secretary to approve individual rehabilitation programmes;
- b) broadening the definition of 'officer' to allow the Secretary to delegate cost recovery work under section 23 of the DSA to organisations other than CRS Australia or the Department;

- c) providing a 12 month grace period for new VRS providers to attain certification of compliance with the rehabilitation programme standards;
- d) repealing the provision that allows job seekers with participation requirements to stop participating in VRS; and
- e) allowing any legislative guidelines relating to these changes to come into effect as soon as they are registered.

### **1.3 Rationale for changes to the DSA**

The changes proposed to be made to the DSA are minimal and are designed to support the introduction of contestability to VRS from 1 July 2007 and to support the intent of Welfare to Work initiatives. The rationale for each of the above changes is outlined below.

- a) Currently the DSA requires the Secretary to approve the provision of each individual VRS programme, including any related expenditure. This authority is delegated to the sole government provider CRS Australia. To facilitate the move to contestability to the VRS market, the proposed changes will remove the statutory requirement for the Secretary to approve individual rehabilitation programmes and will provide greater flexibility in providing VRS.

The amendment includes removing the reference to approving individual programmes including the cost of individual programmes. Importantly, though, it maintains the Commonwealth's commitment to bear the cost of rehabilitation programmes for pensioners and beneficiaries while removing the reference for the approval of individual programmes. The changes will not affect job seekers who are currently participating in a programme.

Instead, all decisions on eligibility for VRS will be incorporated into mainstream job seeker assessment processes, including the new Job Capacity Assessments (JCAs).

The policy objective of this amendment is to change the current arrangement of CRS Australia granting rehabilitation programmes under the DSA, as a delegate of the Secretary. If CRS Australia remained the only delegate to approve rehabilitation programmes under ss. 20(1), this would give it a competitive advantage over other providers in a contestable market.

The Secretary could extend the delegation to include both CRS Australia and new providers. This, however, could be seen as a potential conflict of interest, given that the organisations approving the places would stand to benefit commercially from such approvals.

- b) The amendments that broaden the definitions of 'officer' will mean that the Secretary's powers under Part III of the DSA will enable the Secretary to delegate cost recovery work (s.23) to organisations other than CRS Australia or the Department.

In a competitive market, it is not considered appropriate that all cost recovery work should be undertaken by one contracted provider (ie CRS Australia). This amendment allows the Secretary to implement more equitable processes,

consistent within a competitive market, to recover program expenditure under s.23. The amendment makes it clear that the delegate must still comply with any directions of the Secretary.

- c) Amendments are also planned to provide a 12 month grace period for new VRS providers to attain certification of compliance with the rehabilitation program standards under the DSA. This will help remove disincentives for new entrants to the market and is consistent with Part II of the DSA which provides a similar 12 month period for new Disability Employment Network and Business Services providers to achieve certification.
- d) Welfare to Work related changes include repealing the provision that allows job seekers to stop participating in VRS if they request, in writing to the Secretary, that their programme cease. This has meant that job seekers with participation requirements, who have been assessed as needing VRS, have been able to discontinue participating despite their obligations. This amendment makes it clear that only volunteers can end their programmes in this way.
- e) Finally, there is a proposal that any guidelines relating to these changes issued under s.5 will come into effect as soon as they are registered, rather than wait the current 15 day tabling period. This is a safeguard to ensure that a 1 July 2007 start date for contestability can be met.

## **PART 2: Welfare to Work and other technical amendments**

### **2.1 Background**

The bill makes a number of minor and technical amendments to the social security law to ensure that the legislation is in accordance with the policy intent and that it is internally consistent. Some of these changes relate to the recent introduction of the Welfare to Work reforms, while other changes seek to make technical amendments to components of the legislation that existed prior to Welfare to Work.

The *Employment and Workplace Relations Legislation Amendment (Welfare to Work and other Measures) Act 2005* supported the introduction of the Government's Welfare to Work measures. These measures include introducing new income support payment arrangements and activity regimes for four key target groups: parents who are principal carers of their children; people with disability who have a partial capacity to work; mature age people; and, very long-term unemployed job seekers. These measures have been introduced to support people in these key groups gaining employment and reducing their welfare dependency.

### **2.2 Proposed amendments to the social security law**

#### *Pensioner Education Supplement (PES)*

Principal carer parents moving from Parenting Payment Single and people with disabilities who move from the Disability Support Pension to Newstart or Youth Allowance under the Welfare to Work changes, may be able to continue to receive PES for the remainder of their course. This applies to parents or people with

disability who were studying and receiving PES immediately prior to moving to another payment. The legislative amendments contained in the bill clarify exactly how these arrangements work and to whom they apply. The existing legislation is not sufficiently clear about the circumstances under which these arrangements are meant to apply.

#### *Mobility Allowance debt calculation*

Eligible people are able to receive mobility allowance payments for a period in advance. An additional higher rate of mobility allowance has been introduced under Welfare to Work. To ensure that people who have been paid the lower rate in advance do not miss out on the higher payment if they qualify for it during an advance payment period, a formula was introduced to enable a person to acquit the lower payment rate early.

An anomaly has now emerged with this arrangement in the circumstance where a debt has been raised for the mobility allowance payment. A person who has fraudulently claimed the higher rate of mobility allowance will have a debt raised by Centrelink. However, under the existing legislation this debt will be for a lesser amount for people who have had the lower rate paid in advance and then acquitted, even though the same amount of overpayment has occurred as someone who did not have this acquittal arrangement.

The legislative amendment in the bill is required to ensure the correct debt amount is calculated in all situations and to ensure the correct provisions are referred to in the legislation when calculating mobility allowance advance debts more generally.

#### *Community Development Employment Projects (CDEP) payments*

Under Welfare to Work, certain principal carer parents are eligible for a higher rate of Newstart or Youth Allowance because of their special circumstances, such as being a registered and active foster carer or having a large family. The legislation does not currently specify that principal carer parents in these circumstances who are CDEP participants are eligible for this higher rate of payment. To ensure that these people do not miss out on receiving the higher rate that their non-CDEP counterparts receive, it is necessary to make the amendments in the bill.

It has also become apparent that existing legislation needs to be clarified to ensure that CDEP income is allocated to the correct partner in a couple for social security benefit income test purposes. Amending this legislation will remove any risk of a couple being disadvantaged through incorrect allocation of income.

#### *Financial Case Management debt recovery*

Usually when a debt is raised against an income support recipient, deductions are made from their fortnightly income support payments until the debt is paid off. This is the most efficient form of debt recovery.

Under the Welfare to Work legislation, people in certain circumstances who are subject to an 8-week non payment period, will receive financial case management. This may include receiving funds to pay bills and to buy essential items. In the situation where funds were provided incorrectly, such as because of being given false information, it may be appropriate to raise a debt. Under the current legislation it is

possible for debts to be raised, but it is not possible for them to be recovered in the usual way, that is through income support payment deductions.

The bill amends the legislation to enable deductions to be made from income support payments where a recipient has a debt raised against them because of payments made through financial case management that need to be recovered.

#### *Notification of indexation or adjustment of payments*

Social security payments are regularly adjusted. Depending on the type of payment, they are raised routinely either in line with the Consumer Price Index or with Male Total Average Weekly Earnings. Due to the regularity of the changes and volume of recipients, individual notices are not sent out to inform recipients of these changes. Instead, people are alerted to the changes through media releases. The amendment in the bill will mean that people can be taken to have been issued a notification on the day that the adjustment to the payment is made, without being individually informed in writing of this change.

#### *New Enterprise Incentive Scheme (NEIS)*

The *Social Security Act 1991* contains references that are now outdated and should be amended to ensure that the Act continues to be a relevant document. The NEIS provisions in the Act refer to 'pension period' and to 'rehabilitation allowance'. The bill replaces the reference to 'pension period' with 'instalment period' as this is how payments are now made. The bill also removes the reference to 'rehabilitation allowance' as this payment no longer exists.

### **2.3 Rationale for amendments to the social security law**

The social security system exists to provide for people who are unable to fully support themselves. It provides a range of payments to meet the needs of individuals and families in particular circumstances. These payments are made in acknowledgement that some people are unable to work, such as those who are totally incapacitated, and that some people are engaged in an activity that for the time being takes precedence over employment, such as caring for an ill relative or for very young children.

To uphold the integrity of the social security system it is essential that payments and requirements are made consistently and fairly, that they are not subject to exploitation, and that they are in accordance with Government policy. The social security law changes that are contained within the bill rectify existing anomalies within the legislation that may lead to people either unfairly missing out on payments or exploiting the system so that they receive more than to which they are rightly entitled. These changes are necessary to ensure a fair and sustainable welfare system in Australia.