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# Submission to the Inquiry into the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014

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The St Vincent de Paul Society (the Society) is a respected lay Catholic charitable organisation operating in 149 countries around the world. In Australia, we operate in every state and territory, with more than 60,000 members, volunteers, and employees. Our people are deeply committed to our work of social assistance and social justice, and we run a wide variety of programs around Australia. Our work seeks to provide help for those who are marginalised by structures of exclusion and injustice, and our programs target (among other groups) people living with mental illness, people who are homeless and insecurely housed, migrants and refugees, and people experiencing severe poverty.

On 19 June 2014, the government invited the Society to make a submission to the Inquiry into the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014. The Society has consulted nationally, and we welcome the opportunity to make this contribution. We would also be very happy to provide any further information, either in writing, or at a public hearing.

## 1. Executive summary

This Bill removes the discretion to continue to pay jobseekers who have refused “suitable work” their social security income. This discretion currently exists where those jobseekers are willing to reengage with job-seeking, unable to reengage with job-seeking, or are living in severe financial hardship.

In our view, this move inappropriately individualises what is a structural, labour market issue in Australia today. It also explicitly removes money from people who are experiencing severe financial hardship, which will by definition result in even more extreme poverty for some of Australia’s poorest citizens. It seeks to “punish” those who the government sees as morally unworthy, instead of seeking to engage in a meaningful way people who are the most socially excluded.

The Society strongly opposes this Bill.

## 2. The Bill

### The Current Act

The Bill amends the *Social Securities (Administration) Act 1999* (“the Act”).

Currently, Australians who are looking for work and who “refuse an offer of suitable employment”, under ss42N(1) of the Act, as a consequence will generally stop receiving their income support payment, for up to a maximum of 8 weeks (s42P). This payment may be Newstart, Youth Allowance, Parenting Payment, or Special Benefit. The definition of when work is “unsuitable” is quite flexible (ss601(2A), *Social Securities Act 1991*).

Exceptionally, even where a person has refused an offer of suitable employment, the person will continue to receive a payment in the following circumstances: if they are unable to comply with a serious failure requirement, or if the removal of their payment would result in severe financial hardship (s42NC). Similarly, the period without payment – if imposed – can be ended early, at the Secretary’s discretion, if the person begins to comply with a serious failure requirement, such as Work for the Dole, part-time work, work experience, training, or an intensive job search. The period

without payment can also be ended if the person does not have capacity to undertake the serious failure requirement, or if the removal of the payment would cause severe financial hardship (s42Q).

Relevantly, “severe financial hardship” is defined by ss14A(7) of the *Social Securities Act 1991*. A person is in severe financial hardship if the value of their liquid assets is less than \$5,000 for a member of a couple and/or a person who has a dependent child, or less than \$2,500 for a single person with no children.

### **Amendment 1: The discretion not to apply the suspension is removed**

Item 1 of the Bill amends s42NC such that someone who has refused suitable employment, but is unable to comply with a requirement or for whom the removal of their payment would result in severe financial hardship (who for these reasons would currently avoid the suspension for these reasons), will now *not* be able to continue to receive their payment despite these facts.<sup>1</sup>

Item 2 of the Bill amends s42P, such that the s42NC test is no longer a prerequisite for suspension of payments for those who have refused work. This change appears to be redundant, as the revised test in s42NC explicitly precludes these cases from being exempt from the suspension.

### **Amendment 2: The suspension cannot be ended**

Item 3 of the Bill amends s42Q of the Act, such that the period without payment will no longer be ended, for those who have refused work, when that person begins to comply with a serious failure requirement, or if they do not have capacity to comply with that requirement, or where the suspension of their payment will result in severe financial hardship. The Item also amends the section such that, if a person commits more than one consecutive serious failure by way of not completing the Centrelink obligations that their payment is contingent upon, they will also now be unable to have their payment suspension ended, despite beginning to comply, not having capacity to comply, or experiencing severe financial hardship.

Item 2 also seeks to amend Note 1 to ss42P(1), such that new s42Q will no longer apply to people who have refused work. This seems redundant, as it repeats the effect of Item 3.

Item 4 removes the Secretary’s power to reinstate a payment for someone who has refused a job if that person tells the Secretary that they will comply with the serious failure requirement.

Item 5 is administrative.

## **3. The Society’s response**

The Society believes that all people have a desire and an ability to contribute to society in some way. For many, the desire to participate can be best fulfilled by paid work. For others, it will be by way of caring for their children or parents or by volunteering, participating in community life, through their political engagement, and in other ways.

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<sup>1</sup> See Bill, at [http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r5275\\_first-reps/toc\\_pdf/14129b01.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r5275_first-reps/toc_pdf/14129b01.pdf;fileType=application%2Fpdf), page 3.

It is false to pretend that employment participation is a problem that is addressed by punishing individuals. Behavioural solutions will never address structural problems. The Society also holds that already inadequate income support payments should not be used as a bargaining chip to achieve compliance.

## The broader problem

We believe that the issue of unemployment is one of the **structure of the labour market**, for which we are all responsible and must work to change, rather than an issue of individual laziness. The simple facts are that we are living in a country where there is only one job for every five job-seekers on Newstart.<sup>2</sup> When we add the number of people already working low hours, but actively looking for more work, we find there is only one job for every *ten* job seekers.<sup>3</sup> Of these ten job-seekers, presumably, the most qualified and experienced will be able to win that one available job.

With well over a million people competing for 150,000 jobs, there are simply not enough jobs to go around. Hundreds of thousands of Australians, particularly those without recent experience, without a particular range of skills, those who have caring responsibilities, or mental or physical illness, are simply not seen by employers as being as desirable as the many candidates who don't face these barriers. Given these structural issues, the Society questions whether punishing people for non-compliance will really assist them in getting jobs later, as the Bill states it intends to.<sup>4</sup>

## "Non-compliance" is too narrow

In addition to the structural fact that there simply far too few jobs for most job seekers to be able to win one in a highly competitive environment, there are further structural reasons why people may not "comply" with their Centrelink obligations, including why they might "refuse suitable work", that have nothing to do with their moral worthiness, and that we believe they should not be punished for.

Our members have indicated that they believe that government officers should **accept a broader range of reasons for not "complying"** with Centrelink directions, and more flexibility should be added into the amendment in this regard. There must be more acceptance of the fact that public transport can make attending interviews very expensive and difficult, illness can prevent people from complying, and visiting a doctor and obtaining a certificate can be a very difficult and costly process. Also, family care commitments need to be recognised as a more legitimate reason why someone may not be able to accept a job, or meet their Centrelink requirements, as should the fact that genuine misunderstandings often occur as to what the content of those requirements is.

## Removing income from people in severe hardship

Turning to the specific amendment proposed by the Bill, we are first and foremost deeply concerned by the intentional removal of income from people already in severe financial hardship. A government

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<sup>2</sup> May 2014, ABS data (<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6354.0>); May 2014, DSS data ([http://www.dss.gov.au/sites/default/files/documents/06\\_2014/labour\\_market\\_and\\_related\\_payments\\_may\\_2014.pdf](http://www.dss.gov.au/sites/default/files/documents/06_2014/labour_market_and_related_payments_may_2014.pdf)).

<sup>3</sup> September 2013, ABS data on underemployment (those seeking more hours) (<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6265.0Main%20Features3September%202013?opendocument&tabname=Summary&prodno=6265.0&issue=September%202013&num=&view>).

<sup>4</sup> Explanatory Memorandum of the Bill, pages 11-12.

withdrawing support from those already experiencing severe financial hardship is arguably a **violation of an individual's human rights** to social security and an adequate standard of living.<sup>5</sup>

This amendment will mean that an unemployed teenager on Newstart, who has been kicked out of home, has \$100 to her name, and has turned down a job, will now find herself with no option of any financial support from the government for 8 weeks. It means that when a man who is caring for a sick loved one refuses a job, and has only \$1000 in the bank, he could lose his income support for 2 months.

Reducing a payment when someone doesn't comply with government rules is one thing (where those rules are reasonable). But cutting a payment off entirely, without allowing a discretion to maintain or reinstate that payment where there is evidence that a person is facing severe financial hardship, is incredibly troubling. **Punishing someone for non-compliance should never be at the expense of that person's fundamental right to social security.** In order to fulfil Australian citizens' human rights, there is a core minimum of resources that each of us need. Removing income from those citizens already in severe financial hardship is at risk of violating that minimum level. There is a real fear among our volunteers, who see what life is like for those living on Newstart, that cutting off all payments for 8 weeks will see people become homeless, and starve. This is particularly concerning for those people receiving Parenting Payment, who it seems will also be affected by the Bill. Removing any income from someone who is caring for a child, and who could already be experiencing severe financial hardship, is unacceptable.

### No incentive or ability to reengage

A further practical issue, which we are surprised the explanatory memorandum and second reading speech do not cover, is that of the incentive to reengage. If it is believed that threatening to punish people will force them to comply with the rules that the government has set for them, then it stands to reason that providing an incentive to comply would also work. But this Bill removes what was previously an excellent incentive for people to reengage with Centrelink, that being the opportunity to earn back one's allowance by intensive job-seeking, training, etc.

Removing the discretion to reinstate payments once people reengage with Centrelink means that people will have no chance or opportunity to regain their income by proving themselves willing to work. The amendment means that, even if someone who has had their payment suspended rightfully then learns from their mistake, decides they will engage better with the system, wants to look for work, and wants the assistance of the Centrelink program, there will be no incentive for them to do this.

In fact, given cost of jobseeking – financial, emotional, and the time it takes – it would make a lot more sense for individuals to intentionally stop job-seeking in this time, to make their resources last as best they can during the 8-week period. This seems to be a perverse result: by removing people's payments, and not giving them the chance to prove themselves willing to work, this Bill will **make it far harder for people to look for work.**

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<sup>5</sup> *International Covenant on Economic, Social, and Cultural Rights*, Arts 9, 11.

## Where will they turn?

The next question which troubles our members is that of where people will get the basic resources they need, if their payments are cut off with no opportunity to be reinstated. Particularly for those already experiencing severe financial hardship, the Society believes that this measure will **increase reliance on charities**, and possibly increase crime rates, as desperate people try to feed themselves and their dependents.

We reject the offensive notion that people “deserve” to be “punished” by the removal of any source of income. The fact of the matter is that surviving for 8 weeks with no financial aid from the government, particularly for people already experiencing severe financial hardship, is going to be extraordinarily hard, and for many people impossible. During the eight weeks, people will still be paying rent, buying food, paying bills, and trying to care for their children or other dependent family members.

Without any source of income possible for this two-month period, and no way or having their payments reinstated, some people will have to turn to friends for support. However, in our experience, many disadvantaged people do not have a strong support networks around them, and will be forced to ask charities for help. Charities will always do what we can, but people should not be forced to depend on charity; they should be able to rely on justice. Moreover, we do not believe that charities should become the default providers of social security for people abandoned by the government – a move we already see happening in other areas, for example refugees living in the community who receive little or no government assistance.

## 4. Conclusion

In the words of one of our members, “removing Centrelink does nothing to encourage or empower them to get their lives back on track”. For that reason, we are opposed to this amendment.

We in Australia have a labour market problem, not an “entitlement mentality” problem. There are simply far too few jobs for the number of job-seekers. Moreover, our volunteers tell us that the rules around compliance are sometimes too rigid.

Removing income from some of Australia’s poorest people is not the answer. It risks violating their human rights, will not enable or provide an incentive for reengagement, and will force people into even deeper poverty, and all the misery and desperation that brings.

The Society supports policies that address real social justice issues in Australia, rather than stigmatising and blaming those living on the margins for their poverty. We therefore strongly oppose this Bill.