



XXX

Senator Zed Seselja  
Chair  
Senate Standing Committees on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Dear Senator Seselja,

***Re: Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014***

The National Welfare Rights Network agreed to provide answers to questions on notice to the Senate Committee on Community Affairs

**Question 1: please give examples of people affected by the removal of waiver for penalties for not accepting a suitable job offer**

The Bill removes waiver for an 8 week penalty for refusing a suitable job offer. The Committee asked for examples of cases where a person who fails to accept a job offer would not have been affected under current rules, but will be affected by new rules.

The best example is a person who:

- incurs the penalty
- has good grounds for appeal (eg the job was “unsuitable”, or there was some misunderstanding and person didn’t actually refuse or not accept the job)
- would not exercise their appeal rights (Note: indigenous people in particular are significantly underrepresented in appeals for a range of reasons, discussed below)
- would comply with a serious failure requirement (ie would choose to work it off)

Under the current system, such a person could “work off” the penalty and remain engaged with the system.

Under the proposed system, such a person has only two remaining options:

- serve the 8 week penalty ,or
- appeal the decision to impose the penalty

The new regime will therefore seriously impact on people who would work off a penalty (eg by doing work for the dole), but would not pursue and appeal to an ARO, SSAT or AAT.

There can be huge barriers to accessing appeal rights for vulnerable people. Statistics show that Aboriginal people and young people in particular are far less likely to appeal Centrelink decisions.

.....

Based on our experiences dealing with such clients, reasons for this include:

- lack of awareness of appeal rights and processes
- lack of understanding of social security rights (including lack of awareness that penalties can be appealed)
- fear of recrimination
- lack of confidence to self-represent
- difficulties in articulating arguments and reasons
- avoidance of conflict with government
- belief that appealing is unlikely to change a decision
- lack of support
- language and literacy issues
- lack of awareness of Welfare Rights Centres
- reduced access to face to face Centrelink contact in remote areas
- difficulty in collecting evidence that might be required

We see vulnerable people who are unable to cope with the practical and emotional demands of appealing decisions. In our observation, the more vulnerable a person is, the more bewildering and frightening the prospect of appealing against a government decision.

The ability to work off this penalty is the final safeguard that protects these vulnerable people from the dire consequences of 8 weeks without payment, including impacts on health, housing, debt, engagement. This safeguard is even more critical given that there is also no comprehensive compliance assessment conducted in these cases.

A quick survey of some of our members after the hearing found that very few cases involving failure to accept a suitable job offer come through our advice lines. The observation was made that instead, there are more calls about 8 week penalties imposed due to becoming voluntarily unemployed or due to misconduct. Interestingly, it was suggested that this may be because those penalties cannot be worked off even under the current system (ie these are the people who call us because they can't work off the penalty, but they *are aware* of welfare rights services *and may be able* to go through with an appeal *and are willing* to appeal). When we asked for an anecdotal estimate of how many such appeals are successful the response varied from average to extremely high, but was always over 50%.

**Question 2: When assessing whether a job is “suitable” is there any consideration about the cost to a person of accepting the job?**

The Guide to Social Security Law sets out the factors for consideration of whether work is unsuitable at [3.2.8.60](#).

As noted during the hearing, the cost to a principal carer parents is taken into account:

“If, after taking these factors into account, the principal carer parent was not at least \$50 per fortnight better off than if they did not accept or continue in that job, then the delegate must allow the parent to decline the job offer or to leave the job.”

“In addition to the reasons outlined above, a job may be regarded as unsuitable for a person with a partial capacity to work ..... if the total cost of participating

in employment means that the person with a partial capacity to work would be financially worse off as a result of undertaking the work.”

The cost to people with disability is also considered:

*“In making a determination on the total cost of participating in employment, the delegate should consider the potential financial impacts of accepting that work upon a person with a partial capacity to work in the next complete fortnight. The following essential costs should be taken into consideration when assessing these financial impacts at the time the job offer is made:*

- *personal care requirements incurred by the job seeker to get ready for work or while on the job,*
- *disability aids required for participation in the job which are not covered by the employer, or*
- *the cost of travel to and from the job by the job seeker's normal means of transport.”*

However as far as we are aware, for other recipients, there is no policy for considering the costs of taking up the job when considering whether a job is “unsuitable”.

**Question 3: Can we ascertain the number of successful appeals against 8 week penalties**

The NWRN has examined the SSAT Annual report for 2012-2013. However, the number of decisions affirmed, varied and set aside is broken down by payment type, not decision type, so we are unable to ascertain the numbers requested.

Yours sincerely

Maree O'Halloran AM  
President  
National Welfare Rights Network