



Australian Government

Department of Employment

Senate Standing Committee on Education and Employment

**Inquiry into the Social Security Legislation Amendment
(Youth Jobs Path: Prepare, Trial, Hire) Bill 2016**

Responses to questions from Senator Siewert

1. How long after the first block of training will the second block of training take place?

The Youth Jobs PaTH is designed to be flexible to help young job seekers to access the elements that best meet their needs. Some job seekers will be ready to move into a job or a work experience opportunity without completing any of the training blocks, while others will complete only one block of training, and others will complete both. Where a job seeker completes both blocks of training, there is no fixed interval between them.

Where a job seeker completes a training block, the Employability Skills Training provider will assess whether each young job seeker has achieved the required learning outcomes from the training block and will determine if the job seeker is ready to apply their skills in a job or work experience opportunity.

The jobactive provider will then assist the job seeker to determine the next activity they undertake. The job seeker may be ready to move straight into a job, or into a work experience opportunity such as a voluntary internship (the second element of the Youth Jobs PaTH) or the National Work Experience Programme. Other possible activities include the second block of Employability Skills Training (advanced job search), other accredited or non-accredited training, or Work for the Dole. The choice of activity will depend on the job seeker's abilities, circumstances and needs.

2. Social Security Legislation Amendment (Youth Jobs Path: Prepare, Trial, Hire) Bill 2016 does not contain provision for the incentive payment of \$200 a fortnight for job seekers who choose to undertake an internship, other than to exclude this payment from the income test for income support payments. Where will the requirement to provide participants this payment be legislated?

The payment of the Youth Jobs PaTH \$200 fortnightly internship incentive to job seekers will not be in legislation. It does not need to be legislated for job seekers to receive it. The incentive will be paid in arrears to job seekers participating in a Youth Jobs PaTH internship, as part of their regular social security payment, by the Department of Human Services.

3. In a Departmental fact sheet on Youth Jobs PaTH (Prepare, Trial, Hire) it says 'Job seekers will have an opportunity to demonstrate their skills between the two blocks of training'. How will they have this opportunity? Should this be taken to mean the second block of training will occur after any internship? If so, how will those who choose not to participate in an internship be given this opportunity to demonstrate their skills?

See response to question 1.

4. Under proposed section 95C(3), if the person ceases their employment with a Youth Bonus wage subsidy employer before the end of 26 weeks and the Secretary determines that it is as a result of their own voluntary act that was not reasonable, their income support will be deemed to have been cancelled from the day they ceased employment. What will be considered a reasonable voluntary act in such circumstances? What will be considered an unreasonable voluntary act in such circumstances?

The wording for these criteria replicates that of section 42S of the *Social Security Administration Act 1999*. Under section 42S, if the Secretary determines that a person's unemployment is the result of a voluntary act that was not reasonable, the person's participation payment is not payable for a period, known as an 'unemployment non-payment period'.

The Explanatory Memorandum for the amendments that inserted section 42S (see the *Social Security Legislation Amendment (Employment Services Reform) Act 2009*) gave an example of what would be considered a reasonable voluntary act:

"Alex resigns from his employment having been the subject of bullying and harassment by a fellow employee. While Alex's resignation is a voluntary act, his act is reasonable because it would not be reasonable to expect Alex to remain in his employment in these circumstances. Therefore, no penalty applies".

In line with the approach taken to date for decisions under section 42S and the example given in the above Explanatory Memorandum, in deciding whether a voluntary act was reasonable or unreasonable for the purposes of proposed section 95C(3), decision makers will take into account all the circumstances of the case, including the suitability of the work the person was doing prior to the cessation of their employment.

In *Re Zimny and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs* [2011] AATA 7, (<http://www.austlii.edu.au/au/cases/cth/AATA/2011/7.html>), the Administrative Appeals Tribunal noted that, whilst it is not an express criterion in section 42S, the suitability of the work for the person may be of assistance in assessing whether the voluntary act was reasonable.

This approach to the criterion in section 42S is also taken in the Guide to Social Security Law (the Guide), at paragraph 3.1.13.80:

In determining whether the work was unsuitable, the delegate must consider the factors listed in the legislation. In deciding whether the voluntary act was reasonable, the delegate should consider, on a case-by-case basis, all relevant issues presented, including any claims of sexual harassment, bullying or unsafe work conditions, any unlawful activity by an employer, as well as the job seeker's personal circumstances. Claims by a job seeker that the work they were doing was unsafe, or that unreasonable demands or constraints were placed upon them by their employer, need to be assessed against what is reasonable and appropriate given the nature of the work and relevant industry standards.

As noted in the Explanatory Memorandum to the Bill, it is intended that the Secretary's decisions in ending the suspension period under the proposed section 95C(3) would be made in a similar way to those decisions currently made under section 42S. The Guide will be amended accordingly.

5. Will work cover be the same as for participants in the National Work Experience Programme?

The Department of Employment has insurance arrangements in place to cover job seekers undertaking approved activities, such as the National Work Experience Programme. These arrangements will be extended to include Youth Jobs PaTH internship placements and include:

- Group Personal Accident Insurance and
- Combined Liability Insurance.

6. What are the financial implications of the incentive payments for those who choose to undertake an internship over the forward estimates?

The cost of the Youth Jobs PaTH internship incentive payment to job seekers is \$97.5 million over the forward estimates (2016-17, 2017-18, 2018-19 and 2019-20).