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## **Social Security Legislation Amendment (Green Army Programme) Bill 2014**

*Portfolio: Environment*

*Introduced: House of Representatives, 26 February 2014*

*Status: Before House of Representatives*

*PJCHR comments: Third Report of the 44th Parliament, tabled 4 March 2014*

*Response dated: 17 March 2014*

### **Information sought by the committee**

3.53 This bill seeks to make changes to the *Social Security Act 1991* and the *Social Security (Administration) Act 1999* to implement changes necessary to support the commencement of the Green Army, a voluntary initiative for young people to participate in projects protecting the environment.

3.54 The bill bars a person receiving the Green Army allowance from receiving any other social security benefit or pension. It also makes clear that Green Army Programme participants will not be considered workers or employees for the purposes of various Commonwealth laws. The committee sought further information on whether the proposed measures are compatible with the right to social security and the right to just and favourable conditions of employment.

3.55 The Minister's response is attached.

### **Committee's response**

3.56 The committee thanks the Minister for his response.

#### *Right to social security*

3.57 The committee sought further information on whether the effect of the measure barring a person from receiving social security payments while receiving the Green Army allowance would be to reduce a person's income support and whether the Green Army allowance would be sufficient to meet minimum essential levels of social security.

3.58 The Minister's response states that the Green Army allowance is commensurate with minimum trainee hourly wage rates and sets out the amounts of income a person will receive on the Green Army allowance, as compared with other income support payments. In particular, it states that '[t] Green Army allowance is ... generally higher than income support payments, such [as] Youth Allowance and Newstart Allowance'.

*Right to just and favourable conditions of work*

3.59 The committee sought further information on whether the measure specifying that Green Army Programme participants are not considered to be workers or employees for the purposes of certain Commonwealth laws, including the *Work Health and Safety Act 2011*, the *Safety Rehabilitation and Compensation Act 1988* and the *Fair Work Act 2009*, is compatible with the right to just and favourable working conditions. In particular, the committee sought the minister's view on the justification for excluding participants from such laws, and how participants would otherwise be protected.

3.60 The response states that, given the voluntary nature of the programme, it is not appropriate for participants to be considered employees for the purposes of these Acts. The response further states:

Green Army Participants are not covered under the Fair Work Act because they are not considered employees. However, they will be entitled to personal leave and will be afforded all the necessary Work Health and Safety protections. The health and safety of Participants engaged in the programme will remain governed by relevant statutes, regulations, by-laws and requirements of the state and territory regulations in respect to anti-discrimination and Work Health and Safety laws.

**3.61 In light of the information provided, the committee makes no further comment on this bill. The committee notes it would have been helpful for such information to have been included in the statement of compatibility.**



**The Hon Greg Hunt MP**

**Minister for the Environment**

MC14-007083

Senator Dean Smith  
Chair  
Parliamentary Joint Committee on Human Rights  
S1.111  
Parliament House  
CANBERRA ACT 2600

17 MAR 2014

Dear Senator Smith

I refer to your letter of 4 March 2014 on behalf of the Parliamentary Joint Committee on Human Rights (the committee) seeking further clarification as outlined in the Committee's Third Report of the 44<sup>th</sup> Parliament tabled on 4 March 2014 regarding the Social Security Legislation Amendment (Green Army Programme) Bill 2014 (the Bill).

*Right to social security*

The committee is seeking further information as to what impact the measures in the Bill will have on the right to social security and how the measures are compatible with that right.

The Bill provides that a social security pension or social security benefit will not be payable to a person who is receiving the Green Army allowance. This is designed to ensure that people who receive Government-funded support through the Green Army Programme do not also receive similar support through the social security system. This provision mirrors long-standing social security provisions that prevent a person from double-dipping.

Full-time Participants in receipt of income support prior to entering a Green Army placement will be suspended from their income support arrangements for up to 30 weeks as they will be receiving the green army allowance instead.

The hourly rate of the Green Army allowance is commensurate with minimum trainee hourly wage rates. This is higher than the previous Green Corps programme. For example, under the Green Army Programme, a 21 year old participant will receive an hourly rate of between \$14.76 and \$16.45 and a fortnightly allowance of between \$885.60 and \$987.00. The Green Corps Programme paid a flat rate of \$600.00 per fortnight. The Green Army allowance is also generally higher than income support payments, such Youth Allowance and Newstart Allowance. The basic rate of Youth Allowance for an unemployed young person aged 21 is generally between \$272.80 per fortnight and \$542.90 per fortnight, depending on individual circumstances (supplementary allowances, such as the Clean Energy Supplement and Rent Assistance, may also be payable in addition to the basic rate).



A comparison of possible payment rate scenarios for Newstart Allowance and Youth Allowance recipients, including relevant supplementary allowances, has found that in most cases, a full-time participant is better off receiving Green Army allowance. The exception is for a 17-19 year old Youth Allowance recipient who is single, has a youngest child aged at least eight years of age and is exempt from the activity test for Youth Allowance due to special circumstances, such as having 3 or more children, or home schooling or facilitating distance education for their child(ren).

In limited circumstances (for example, where a person has an assessed partial capacity to work due to caring responsibilities or disability), a Participant may be able to undertake a Green Army placement on a part-time basis. Part-time Participants in receipt of income support prior to their placement will be able to choose to either receive the green army allowance (pro-rata based on their part-time hours) or remain on their income support payment and receive an additional Approved Program of Work Supplement of \$20.80 per fortnight, whichever best suits their circumstances. Part-time Participants who choose to receive the green army allowance will be suspended from their income support arrangements for up to 30 weeks, similar to the rules for full-time Participants.

Full-time and part-time Participants who have their income support arrangements suspended while they receive the green army allowance will have 4 weeks upon completion of their Green Army placement to reconnect with their income support arrangements without a new claim being triggered. Participants will be able to notify the Department of Human Services prior to the completion of their Green Army placement of their intention to return to income support to ensure a seamless transition with no requirement to re-claim payment. Upon timely notification by the Participant, Participants can resume their income support payment as soon as they exit the programme, provided they are still eligible.

#### *Right to work*

The committee is seeking further information on how the Bill is compatible with the right to just and favourable conditions of employment, including why it is not possible for the Bill itself to exclude part-time supervisors from the scope of the proposed exclusion from Commonwealth laws.

The Green Army Programme is not an employment programme. It offers voluntary work style experience and activities and accredited training opportunities. A number of pieces of Commonwealth legislation currently include provisions for 'employees'. The Green Army Amendment Bill clarifies that Green Army Participants are not considered employees for the purposes of these Acts.

Green Army Participants are not covered under the *Fair Work Act 2009* because they are not considered employees. However, they will be entitled to personal leave and will be afforded all the necessary Work Health and Safety protections. The health and safety of Participants engaged in the Programme will remain governed by relevant statutes, regulations, by-laws and requirements of the state and territory regulations in respect to anti-discrimination and Work Health and Safety laws.

There may be rare occasions when Green Army Team supervisors (who are considered employees) may be employed on a part-time basis. During the drafting of the Bill it was considered inappropriate to draft complex legislative clauses for an infrequent arrangement and class of persons that is yet to be prescribed. It was determined during drafting of the Bill that prescription of this arrangement was better suited via a legislative instrument.

Thank you for writing on this matter.

Yours sincerely



Greg Hunt

