

Submission

Inquiry into the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and other Measures) Bill 2005*

***and the
Family and Community Services Legislation
Amendment (Welfare to Work) Bill 2005***

November 2005

People with Disability Australia Incorporated



1 About People with Disability Australia Incorporated

- 1.1 People with Disability Australia Incorporated (PWDA) is a national disability rights and advocacy organisation. Our primary membership is made up of people with disability and organisations mainly constituted by people with disability. PWDA also has a large associate membership of other individuals and organisations committed to the disability rights movement. PWDA was founded in 1981, the International Year of Disabled Persons, to provide people with disability with a voice of our own. We have a cross-disability focus - we represent the interests of people with all kinds of disability. PWDA is a non-profit, non-government organisation.
- 1.2 We have a vision of a socially just, accessible, and inclusive community, in which the human rights, citizenship, contribution, potential and diversity of all people with disability are respected and celebrated.
- 1.3 We believe that people with disability, irrespective of our age, gender, cultural or linguistic background, geographic location, sexuality, or the nature, origin, or degree of our disability:
- Are entitled to a decent standard of living, an adequate income, and to lead active and satisfying lives
 - Are people first, with human, legal, and service user rights that must be recognised and respected
 - Are entitled to the full enjoyment of our citizenship rights and responsibilities
 - Are entitled to live free from prejudice, discrimination and vilification
 - Are entitled to social support and adjustments as a right, and not as the result of pity, charity or the exercise of social control
 - Contribute substantially to the intellectual, cultural, economic and social diversity and well-being of our community
 - Possess many skills and abilities, and have enormous potential for life-long growth and development
 - Are entitled to live in, and be a part of, the diversity of the community
 - Have the right to participate in the formulation of those policies and programs that affect our lives
 - Should be empowered to exercise our rights and responsibilities, without fear of retribution.

2 Primary Contact

Alanna Clohesy
Deputy Director, Advocacy
People with Disability Australia
PO Box 666
Strawberry Hills NSW 2012
Telephone: 02 9370 3100
Fax: 02 9318 1372
E-mail: alannac@pwd.org.au

3 Introduction

- 3.1 PWDA welcomes the opportunity to provide a submission to the Senate Inquiry into the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005* and the *Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005*.
- 3.2 PWDA is concerned that the brevity of the inquiry, the extent of the changes and the length of the legislation and the lack of accessible formats has not afforded opportunity to consult widely with people with disability regarding fundamental changes that will affect their lives. PWDA notes that this short time frame and lack of consultation in an accessible manner is in contradiction to the Government's *Commonwealth Disability Strategy* guidelines: *Inclusive Consultation*.
- 3.3 PWDA welcomes any measures that enhance opportunities for people with disability to seek, gain and retain employment and to achieve career progression. People with disability want to work, but many experience structural barriers that prevent workforce participation. This legislation will introduce changes to income support and employment assistance systems that will compound the barriers that people with disability face. Moreover, the proposed changes will have a detrimental effect on the living standard of many thousands of Australians with disability through reduced income support payments and inadequate employment assistance support programs.
- 3.4 This submission will focus on 5 main areas that require urgent redress:
 - Adequacy of income support payments and assistance with cost of disability
 - Activity requirements

- Compliance
- Participation, quality and fairness
- Discrimination

4 Specific Issues

4.1 Adequacy of income support payments and assistance with cost of disability

The legislation proposes to restrict eligibility criteria for the Disability Support Pension (DSP). Those people who would otherwise have been eligible for the DSP will now only be eligible to receive Newstart Allowance. The subsequent reduction in income support of an estimated \$40 per week will leave many thousands of people with disability in drastic financial hardship.

If the strategy underlying the legislation is that by streaming people on to Newstart Allowance, with its lower rate of payment will encourage more people to actively seek work, then the strategy is seriously flawed. It will simply lead to more and greater levels of poverty for people with disability. It will keep people marginalised and at a low ebb. This will compound and act as a disincentive to seek work.

The loss of eligibility for the Pensioner Education Supplement and Rent Assistance, Pensioner Concession Cards and Pharmaceutical Benefits Scheme Assistance will also seriously disadvantage people with disability in education and in competing in the labour market now and in the future. Vocational and tertiary education will now be denied people with disability. In addition, people with disability are already seriously under-represented in educational outcomes. For some, access to the health care card is essential to meet even minor through to high health costs. These costs are unaffordable for persons on low incomes. Concessions such as those available in relation to transport have an important effect in offsetting the additional costs of disability. Some persons with disability are high users of utilities such as electricity to maintain charge on batteries for mobility devices, operate humidifiers and oxygen machines etc. The costs of accessible taxis to attend education facilities, because public transport is inaccessible, increased wear and tear on mobility aids and appliances, and possibly the costs of domestic assistance to maintain household and nutrition are all factors that contribute to the cost of disability.

Outside education, employment and job seeking typically creates additional higher participation costs for persons with disability. The additional costs of disability are well documented.¹ The increase in payment of Mobility Allowance to Newstart Allowance recipients with disability is welcome. However, this allowance is insufficient to address the additional cost of job seeking and employment participation. Although a mobility allowance and taxi subsidy is typically payable for people with severe activity restrictions, these payments are far from equalising costs of transport between persons with disability and other employees. It is essential that these additional costs be addressed through a participation payment.

Additionally, options for tax relief for employees with disability must be explored. For example, deductibility of the purchase of aids and appliances, or depreciation on aids and appliances, deductibility for running costs, replacements and repairs, wear and tear of aids and appliances, deductibility of costs of specialised transport, deductibility for the costs of specially tailored work clothing etc. Current tax concessions for health costs are too limited. In any event they are based on a medical model of disability – the focus should be on tax relief for additional participation costs.

PWDA believes that, as a minimum and interim step, the proposal contained in the Bill to restrict eligibility criteria for the DSP must be deleted.

The proposal to restrict access to tertiary education for people with disability is fundamentally flawed and must be reversed.

In addition, income support payments must be structured to adequately reflect the real cost of looking for work and living with disability. This may involve implementation of a tiered income support system similar that recommended in the final report of the Reference Group on Welfare Reform in 2000 (the McClure Report):²

- a single base income support component that is the same for all social security recipients;

¹ See, for example Frisch, J (2001) *Towards a disability allowance: Offsetting the costs of disability*, Physical Disability Council of Australia: Brisbane.

² McClure, P (2000) *Participation Support for a More Equitable Society: Final Report of the Reference Group on Welfare Reform*.

- a disability component to assist with the additional cost of disability; and
- an employment participation component.

4.2 Activity requirements

The legislation will introduce inappropriate activity requirements on people with disability. PWDA believes that activity requirements are not necessary to encourage, support and assist people with disability into the workforce. This is based on the premise that people with disability want to work, but face significant barriers to employment participation located outside their impairment.

However, there is a lack of clarity regarding what will constitute a reasonable activity requirement for people with disability. In addition, there may be many reasons why some job offers may not be relevant or suitable to a job seeker with disability. Often, these will relate to structural barriers or cost of disability that prevent accepting a job.

All people with disability, where they are experiencing social and physical infrastructure barriers in job seeking and parents receiving carers payment and carers allowance must be exempt from these requirements as a minimum;

4.3 Compliance

The proposed compliance regime will not assist people with disability to find work. It will likely marginalise a significant group of people from the support and assistance they require in job seeking. It will also punish people who, because of the nature of their impairment, may be unable to engage with a complex compliance regime. This will disproportionately affect people with cognitive disability. PWDA calls for legislative exemptions and protections against harsh or unreasonable requirements.

4.5 Participation, quality and fairness

The funding to employment assistance services is inadequate to address the needs of people with disability attempting to access the open labour market. Without significant increases in funding, Open Employment Services and Job Network Services will not be in a position to address the already unmet demand for services.

In addition, there is a risk that specialist employment services funded under the *Disability Services Act* may be diverted to focus on a new target group of persons with lower support needs, rather than on people with higher support needs. There must protection and expansion of specialist employment assistance for people with high support needs.

It is essential that the legislative framework for the provision of specialist employment assistance remains under the *Disability Services Act*. The Quality Assurance Framework (which includes a specialised complaint handling function) have been developed following extensive consultation across all stakeholder groups and must also be maintained.

The legislation fails to adequately address the fundamental structural issues that are barriers to employment for people with disability. To achieve structural change in employment participation for people with disability, the government must invest in the necessary social infrastructure to create the conditions where this can occur. This includes the creation of a barrier-free education and training, transport and housing systems, affordable access to aids and appliances, and flexible personal care services etc.

Accessible social and affordable housing located close to employment opportunities is key infrastructure required to support increased employment participation for persons with disability. Rent Assistance of itself does not transform housing into accessible housing, and in high cost centres such as Sydney, does not make housing affordable. Persons with disability therefore have no choice but to situate in lower cost, newer areas of cities where greater levels of accessible housing are available. These areas are typically distant from employment. Costs and inconvenience of transport to employment creates a disincentive to employment.

Accessible workplaces is a further issue that requires immediate reform. The Government should immediately introduce the proposed Access to Premises Standard under the *Disability Discrimination Act 1992* in order to ensure full access to buildings (including workplaces) are available.

One dimension of the structural reform required is better integration of support by the Commonwealth and State or Territory Governments. Key areas where reform is required are the interface

between State and Territory administered post-school transitional services, and Commonwealth administered employment assistance. Support coordination to provide a blended support system is essential.

There also needs to be an improved continuum between specialist supports (eg personal care, transport) administered by State or Territory Governments and non-discrimination measures regulated and administered by the Commonwealth.

Further structural reform that is required is related to the draft There is too little emphasis on career progression for persons with disability. Many persons with disability face a glass ceiling beyond which they are unable to progress. Even specialist employment support agencies, having established a placement for a person with disability, may be reluctant to support career development aspirations. Career progression is important to sustaining job satisfaction, developing self-esteem, and to increased economic security. Persons with disability working at a senior level create a positive role model for other persons with disability. It may also assist in transforming workplace cultures to be more supportive of persons with disability. Employment reforms therefore need to emphasise career progression as well as initial employment.

4.6 Discrimination

One of the significant barriers to participation in employment for people with disability is the degree and type of discrimination experienced in employment recruitment and in the workplace. The legislation does not introduce any measures to address this discrimination.

The Productivity Commission Review of the *Disability Discrimination Act*, 1992 released in July 2004 provides important insights in relation to discrimination in employment for persons with disability and these insights should be integrated into the Government's reform agenda.

While the *Disability Discrimination Act* provides an important protection of the rights of persons with disability against discrimination, during the period it has been in force employment rates of persons with disability, including in the public sector, have declined. The situation appears to have particularly worsened for

persons who require workplace adjustments to participate in the workforce. The discrimination protection of the DDA therefore needs to be supplemented by positive supports for employers.

The formulation of Disability Standards for Employment under the Disability Discrimination Act should be reconsidered by the Government, as a means to create certainty and provide guidance to employers and persons with disability about the obligations imposed by the Act.

Persons with disability in regional and rural areas face additional barriers, such as the absence of public transport infrastructure or para-transit alternatives. Rates of unemployment also tend to be somewhat to very much higher in regional and rural Australia. Strategies to address these need to be included in any reform.