



SUBMISSION

BY

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TO

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
REFERENCES COMMITTEE**

INQUIRY INTO

STUDENT INCOME SUPPORT

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Introduction

My name is Michael Tkacz, I am 59 years of age, and I reside at 9 Henry Street, East Cannington, WA. I am in my final year of law studies (LLB, Graduate Entry) at Murdoch University. I am a mature age student having to retrain after having lost my job several years ago.

The views expressed in this submission are entirely my own views based on personal experiences and research.

Purpose of Submission

The purpose of my submission is to bring to the Committee's attention an apparent anomaly in the *Social Security Act 1991* (Cth) ("the Act") with a view to having the anomaly corrected by Parliament. The anomaly is embedded in Section 569 (2) (b) of the Act and relates to excluding persons with Masters and Doctors Degrees from receiving Austudy.

Section 568 of the Act states that in order to be paid Austudy a person has to be of Austudy age (at least 25 years old), be an Australian resident, and satisfy the activity test.

Section 569 (2) of the Act states "A person cannot be taken to satisfy the activity test if the person ... (b) has completed a course for (i) a degree of Master or Doctor at an educational institution ..."

I can find nothing in any extrinsic materials, particularly the Second Reading Speeches, Explanatory Memoranda or *Hansard*, which provide the reasons as to why this particular exclusion was inserted into the Act in Section 569 (2) (b).

Interestingly, a person who has already completed a Masters Degree is eligible for assistance under payment types ABSTUDY and Youth Allowance.

Section 569 (2) (b) of the Act appears both discriminatory and unfair to those of us with Masters Degrees who for reasons beyond our control must seek new employment options. Some Centrelink staff admit, and there is plentiful anecdotal evidence around, that persons over 50 will find it extremely difficult to acquire employment.

It seems to me that it is better for these persons to retrain and try and enter the workforce with a new qualification rather than stay on Newstart Allowance until they are old enough to receive the Age Pension.

The Terms of Reference of the committee are wide-ranging. My submission will be confined to 4 broad areas:

- a) Current measures regarding Austudy and persons possessing Masters Degrees;
- b) Discussion of the current state of the law with respect to Austudy;
- c) Problems experienced by persons studying without Austudy assistance; and
- d) The importance of Austudy being provided to all university students.

Current Measures Regarding Austudy and Persons Possessing Masters Degrees

A person who has completed a Bachelors Degree may enroll for a Masters qualifying course or for an Honours course and be eligible for Austudy.

As mentioned above the *Social Security Act 1991* (Cth) states that persons with a Masters Degree, other than those eligible for ABSTUDY and Youth Allowance, cannot be given Austudy.

This means that a person with a Masters Degree in one field cannot study for a Bachelors Degree in another field and receive Austudy.

I find Section 569 (2) (b) (i) and (ii) of the Act particularly discriminatory and unfair.

It is discriminatory because an Aboriginal person or a person under 25, who have Masters Degrees, can receive assistance while those of us who do not qualify for ABSTUDY or Youth Allowance cannot.

It is unfair because mature age persons trying to enter the workforce form a distinctly disadvantaged group and are thus denied equitable access to government-assisted university education.

Thus it appears that the current legislation produces an unjust result.

It should be noted that the age of the Masters Degree is not considered in the legislation. Therefore, irrespective of the age of the Masters Degree, a person will not be eligible for Austudy.

Most universities consider a degree, Bachelors or Masters, 10 years old or more, to be "stale". This means that often times one cannot use a stale degree to claim exemptions or credits toward further studies. In other words, the degree is considered of little value after a period of 10 or more years.

Curtin University will not grant advanced standing or recognize units if there has been a lapse of 7 years or more since the unit was passed, or if the units are more than 7 years old.

Discussion of the Current State of the Law with Respect to Austudy

Although section 569 (2) (b) of the *Social Security Act 1991* (Cth) states that a person who has completed a Masters degree cannot satisfy the activity test, the interpretation and definition of "Masters degree" must now be considered in the light of the significant changes to Masters degrees in Australian universities between the time of the passage of the Act and the present.

When the Act was passed a Masters degree referred to a pure research degree. Presently a Masters degree can refer to one of many different types of degrees which range from pure coursework to pure research with many variations in between. As a result, the meaning of Masters degree as envisaged by the Parliament when the Act was passed may no longer be valid.

The public is told that university qualifications are no longer valid for life and that we will need to retrain and re-qualify possibly 5 or 6 times in a lifetime. Provision needs to be made to facilitate this retraining through government assistance, particularly for those of us who are disadvantaged and discriminated against in employment because of our age.

Similarly, we are told in university and elsewhere that we are to prepare for lifelong learning: that society and knowledge are in such a state of flux that what we learn today may not be relevant in the future. This again necessitates a need for government education assistance to all sections of the community.

The European Union has strongly endorsed the concept of lifelong learning in a number of directives. For example, The European Commission requires member states "to identify coherent strategies with a view to facilitating lifelong learning for all". There are similar statements expressed by UNESCO and the OECD.

The *International Covenant on Economic, Social and Cultural Rights*, which came into force in Australia on 10 March 1976, states at Article 13 (2) (c) that "Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education".

Article 9 of the same Covenant states "that the States Parties to the present Covenant recognize the right of everyone to Social Security".

Although such covenants do not constitute binding international law they do create expectations with respect to Australia's behaviour in relation to them.

Closer to home, this Committee, in its April 1997 report, *Beyond Cinderella: Towards a Learning Society*, recommends that the Commonwealth "imbue its education policies and associated funding mechanisms with the values and principles of lifelong learning for all Australians".

Dr Brendan Nelson, Minister for Education, Science and Technology, in a Message of Support for Adult Learners' Week in 2002, stated that "this year the Week will place special emphasis on reaching men aged 45 and above. Statistically, men aged 45 and above are the members of the community who are least likely to participate in learning activities. Often they attempt to face the challenges of this fast-moving world alone and unassisted".

I seek this Committee's assistance to help mature aged persons face the challenges of our futures by ensuring that Austudy is available to all who need it irrespective of their prior educational qualifications.

Problems Experienced by Persons Studying without Austudy Assistance

The major problem experienced by persons ineligible for Austudy is that they must live on their own devices if they wish to better themselves through further tertiary education.

In my case this has three significant outcomes:

1. With no savings to live off I must place all my living expenses on a credit card. After each six month period I then draw down on my mortgage to pay off the credit card debt. This means I am incurring debt when, at my age, I should be reducing debt.
2. I cannot afford to pay HECS upfront so I defer the HECS fee. Again, I am incurring future debt when I should be eliminating debt.

3. My family and I must live on the bare minimum necessities of life and can afford no luxuries or extras whatsoever. We cannot go to movies, out to lunch or dinner or spend any more than is absolutely necessary to survive. We must do this for the three years of my degree studies.

The Importance of Austudy being Provided to All University Students

There appear to be four major reasons why Austudy should be provided to all university students:

1. A significant reason is that Austudy goes some way toward providing equitable access to education for all students. This is particularly relevant to mature age persons with Masters Degrees who have lost their jobs and who wish to retrain. I feel that mature age students could be termed "disadvantaged" and probably "overlooked".
2. Providing Austudy to all students improves access to education and that is a good thing for Australia.
3. Austudy provides the Commonwealth, through Centrelink, with a means to neutralize Newstart Allowance payments. It seems to me a far better proposition that a person who has the initiative to study should be encouraged and supported so that at the end of their studies they have a far better prospect of entering the workforce than not.
4. Morally it is the right thing to do.

Conclusion

This submission has been drawn to illustrate the reasons for a need to provide Austudy to those persons with Masters Degrees who are currently ineligible for Austudy per Section 569 (2) (b) (i) and (ii) of the *Social Security Act 1991* (Cth).

This submission was also prepared in the hope that it will highlight to the Committee some of the concerns and problems facing mature age persons with Masters Degrees who wish to retrain to re-enter the workforce.

Recommendations

As a result of the information presented in this submission I ask the Committee to consider the following recommendations:

1. That Section 569 (2) (b) (i) and (ii) of the *Social Security Act 1991* (Cth) be deleted.

Or, in the alternative

2. That Section 569 (2) (b) of the *Social Security Act 1991* (Cth) be amended by inserting an additional clause as follows:

"... (iii) This subsection (i.e. 569 (2) (b)) does not apply where the Masters or Doctor degree is ten (10) years old or more."

Thank you for your time and consideration of this submission.

Michael Tkacz

Submitted by email