Submission by the
Department of Education, Employment and Workplace Relations
to the
Senate Community Affairs Legislation Committee
Inquiry into the *Social Security and Other Legislation Amendment (Income Support and Other Measures) Bill 2012*

1. Introduction

The Department of Education, Employment and Workplace Relations (DEEWR) administers income support payments for Australians job seekers and working age parents.

Australia's social security system needs to provide a strong safety net for people who require financial assistance. All Australians deserve to be economically and socially included in the community and one of the best ways to achieve this is through having a job. Everyone who can work should have the opportunity to do so and those who are unable to work should be adequately supported.

The *Building Australia's Future Workforce* (BAFW) package of measures was announced by the Australian Government in the 2011-12 Budget to build an educated and skilled workforce and create opportunities for more Australians, particularly disadvantaged Australians, to participate in the workforce. The package of measures: improves incentives to work through changed tax arrangements; provides opportunities for people to take up employment by providing training, education and improvements to childcare and employment services; takes new approaches through place-based measures to addressing entrenched disadvantage; and introduces new requirements for people to participate.

The *Social Security and Other Legislation Amendment (Income Support and Other Measures) Bill 2012* (the Bill) will amend the *Social Security Act 1991* (the Act) and the *Social Security (Administration) Act 1999* (the Administration Act) in order to give effect to the income support changes affecting young people, parents and job seekers as part of the overall BAFW package.

The measures contained in this Bill will better recognise and reward the working efforts of single parents and young job seekers, increase equity in the treatment of recipients and make the system fairer when people fail to fulfil their obligations.

2. Incentives for Young People

There is a correlation between low educational attainment, extended periods of unemployment in young people's formative post school years, and a lifelong cycle of disadvantage and poverty. However, this cycle is not inevitable and through strong early intervention, can be broken.

To provide incentives to work, train or study, the Bill delays access to Newstart Allowance for young job seekers by one year and extends 'Earn or Learn' requirements to unemployed 21 year olds without Year 12 or an equivalent qualification. In the first 18 months of the earn or learn policy being in place Year 12 attainment has increased, the number of early school leavers that have studied has increased and the proportion of those young people on student income support payments has increased.

Changes to the income free area and Working Credit will mean that Youth Allowance recipients can increase their earnings while retaining more of their income support payment.

Through other measures announced as part of the BAFW package, young people are being supported to take up career opportunities in the trades and assistance is also being provided to strengthen their foundation skills, through Transition Support for Early School Leavers and more places in the Language, Literacy and Numeracy Program.

Age requirements for social security payments

Young people who leave school early without adequate qualifications are at high risk of becoming disadvantaged and remaining out of the workforce for extended periods. The Council of Australian Governments' National Education Agreement (2009) places considerable importance on Year 12 education and aims to lift the proportion of 20-24 year olds with Year 12 or a Certificate II to 90% by 2015.

It is therefore important to create conditions that maximise the number of young people who remain in, or return to, education and training to get the qualifications and skills they need to be competitive in the labour market.

This Bill will amend the Act to align the minimum age of eligibility for Newstart Allowance with the Youth Allowance age of independence for full-time students. The age of independence has been gradually reducing since April 2010 as part of the Government's response to the Bradley Review of Australian Higher Education and was reduced to 22 years on 1 January 2012.

This means that, from 1 July 2012, 21 year olds may receive the same rate of Youth Allowance whether they are unemployed, in training or a student. This overcomes the financial disincentive for unemployed young people to undertake full-time study.

In conjunction with the eligibility age changes, Earn or Learn requirements will be extended to early school leavers who are 21 years old. They will be required to participate in full-time study or, for 25 hours per week, a combination of education, training or other approved activity, such as paid work voluntary work if they have not completed Year 12 or equivalent qualification. Reduced requirements apply to Youth Allowance (other) recipients who are single principal carer parents or have a partial capacity for work.

In order to maintain the integrity and continuity of working age income support for 21 year olds, the Bill will also adjust the age provisions that are based on 21 years of age to 22 years of age for the following payments and calculators:

- Sickness Allowance
- Youth Disability Supplement
- Long Term Income Support rate for students
- the definition of maximum payment rate for Special Benefit; and
- the appropriate income test to be applied to a person's partner who is not in receipt of income support.

Transitional arrangements for existing recipients of Newstart Allowance and Sickness Allowance, as at 1 July 2012, will be put in place to ensure no 21 year old who remains on those income support payments will have a reduced rate of payment because of the changes in the Bill.

When all grandfathered recipients have reached 22 years of age, around 27,000 young people would no longer be eligible for NSA, and an additional 24,000 young people would be eligible for YA as a non full-time student or apprentice.

Income test incentives for young people

Recognising that having a job is still one of the best ways to be financially secure, Australia's social security system provides the necessary support for young people while they study or look for employment. To encourage more young people to realise the overall financial benefit to working, the changes will meaningfully reward their employment efforts, and will reduce the effective marginal tax rate on their earnings so that they are less inclined to believe that working for a few extra hours is not "worth it".

The Bill will amend the income free area for all Youth Allowance recipients who are not full-time students or apprentices. These amendments will increase the current income free area from $62 per fortnight to $143 per fortnight allowing young people to earn more income before their wages affect their payment rate.

It is anticipated that approximately 17,000 Youth Allowance recipients in any given fortnight throughout the year will benefit from an increase in their Youth Allowance payment.

Example:
Sarah has worked a few hours at her local supermarket. She has earned $125 gross for the fortnight. She declares her income to Centrelink.

- *Under the current income test arrangements, Sarah would have her Youth Allowance reduced by $31.50 as she has earned over $62.*
- *Under the proposed amendments, from 1 July 2012, Sarah would not have her Youth Allowance reduced as she has not earned under the income free area of $143.*

Increase of working credit balances

Working credit encourages income support recipients to take up full-time, substantial part-time or irregular casual work, by allowing them to keep more of their income support payments while working. It allows a recipient whose total income is less than $48 per fortnight to build up a working credit balance, which they can then use to reduce the amount of later earnings that are counted under the income test. For example, if a person has 100 working credits, they can earn $100 extra in that fortnight before the income test is applied

The amendments in this Bill increase the current allowable working credit balance for Youth Allowance job seeker recipients from 1000 credits to 3500 credits. In practice, this will mean that a person who has been unemployed for some time, will, upon gaining work, be able to retain their Youth Allowance (other) payment for longer, therefore providing

them with an added incentive to engage in employment, even where that employment may be sporadic or uncertain in nature.

Example:
Helen has been in receipt of Youth Allowance for some time and as a result of having little income has built up the maximum amount of working credits. She has recently completed a part time course and has gained a job with an IT firm earning $2148 for the fortnight. She declares this income to Centrelink.

- *Under current arrangements, Helen has 1000 working credits and therefore can reduce her income by $1000 to $1148 prior to the income test being applied. In this instance Helen would not receive any Youth Allowance payment*
- *Under proposed arrangements, Helen may have up to 3500 working credits and therefore could offset her entire earnings reducing her income to nil prior to the income test being applied. Helen would then receive her full Youth Allowance entitlement and potentially have 1352 working credits remaining to use in subsequent fortnights.*

3. Rewarding and supporting parents to engage in work

Australia has one of the lowest employment rates for single parents in the OECD. This holds significant implications for the welfare of single parents and their families as parental joblessness has a very high correlation with higher rates of poverty, poorer health status and lower education attainment for both parents and children[1]. Children who grow up in jobless families are far more likely to be out of work as adults compared to those who had a working parent[2] and it is therefore important that payment eligibility rules incentivise and support parents to return to work, providing their families with positive role models and greater financial security.

The changes in the Bill will reward single principal carer parents who participate in the workforce by amending the income test taper so that they can earn over $400 per fortnight more before they lose eligibility for payment. More parents of high school aged children will be encouraged to return to the workforce though the gradual phasing out of the grandfathering arrangements for long-term recipients of Parenting Payment. Once implemented, these changes will also mean that all parents of children aged 12 years or more are treated consistently.

Parenting payment transitional arrangements

The current eligibility rules for Parenting Payment were brought in as part of the 2006 Welfare to Work reforms:

- New claimants may be eligible for Parenting Payment when their youngest qualifying child is aged:
    - under six years, for partnered parents
    - under eight years, for single parents

[1] OECD (2010), *OECD Economic Surveys: Australia 2010*, OECD Publishing; OECD (2011), *Doing Better for Families*, OECD Publishing
[2] D'Addio, A. C. (2007), "Intergenerational Transmission of Disadvantage: Mobility or Immobility Across Generations?", *OECD Social, Employment and Migration Working Papers*, No. 52, OECD Publishing.

- Existing recipients of Parenting Payment who were granted payment before 1 July 2006 were "grandfathered" under a transitional arrangement and retain eligibility for payment until their youngest qualifying child is aged 16 years; that is, up to 10 years longer than those granted payment after 1 July 2006.

More recently, the *Social Security Amendment (Parenting Payment Transitional Arrangement) Act 2011* which commenced on 1 July 2011 limited the application of the above transitional arrangement to children that were in the care of a grandfathered recipient immediately prior to 1 July 2011. Children who come into the care of a grandfathered parent after this date are qualifying children as if they were new claimants.

The amendment in the current Bill builds on this most recent change and will limit the application of the transitional arrangement that applies to grandfathered Parenting Payment recipients. This change will gradually reduce the different eligibility rules for parents in similar situations and recognise the greater ability of these parents to work as their children get older.

Under the amendment, children who were in the care of a grandfathered Parenting Payment recipient prior to 1 July 2011 will cease to be a qualifying child for Parenting Payment once the child turns:

- 16 years – if the child was born before 1 January 2000 (in effect the parents of these children continue to be assessed under the current transitional arrangement)
- 13 years – if the child was born between 1 January 2000 and 31 December 2000
- 12 years – if the child was born on or after 1 January 2001.

Grandfathered Parenting Payment recipients affected by this change will be impacted from 1 January 2013 as their child or children reach the relevant age. Recipients whose children have all reached the relevant age limit will no longer be eligible for Parenting Payment and will need to test their eligibility for another suitable payment, such as Newstart Allowance, or move into employment.

Example:
Martin and his daughter, Phoebe (11), live next door to Kim and her son John (7). Both Martin and Kim are single parents and both receive Parenting Payment Single. Martin has been receiving it since 2002 and is covered by the grandfathering arrangements.

Kim has only been receiving Parenting Payment since 2007. Kim is not covered by the grandfathering arrangements, so in September 2012 when John turns eight, she will no longer be eligible for Parenting Payment and may then transfer to Newstart Allowance.

Under the current grandfathering arrangements, Martin would maintain eligibility for Parenting Payment Single until Phoebe reached the age of 16 in 2017.

Under the proposed changes however, Martin will now cease eligibility for Parenting Payment Single when Phoebe turns 12 in February 2013.

To ensure that affected grandfathered Parenting Payment recipients have the support they need to re-engage in work and other activities, these parents are eligible for targeted assistance under initiatives in the BAFW package. This includes additional training places and community based support for single parents as well as access to professional career counselling through Job Services Australia providers. This targeted support commenced from 1 January 2012.

As the reforms are implemented 10,000 Parenting Payment Single recipients would no longer be eligible for Parenting Payment Single in the latter half of 2012-13 and a little less than 9000 would no longer be eligible in each of the 2013-14 and 2014-15 years. Affected grandfathered Parenting Payment Single recipients will have an estimated average reduction in income support of approximately $50 per week or $2600 per year.

In addition, between 1000 and 1100 Parenting Payment Partnered recipients will no longer be eligible each year. It is expected that affected Parenting Payment Partnered recipients will have no reduction in payments as the rate and payment conditions are the same for Parenting Payment Partnered and Newstart Allowance for partnered recipients.

Income test incentives for parents

Income testing arrangements are designed to provide incentives for recipients to undertake paid work where they are able by ensuring that recipients who undertake any level of work are always better off than those who rely solely on income support.

In order to encourage and reward single principal carer parents on Newstart Allowance who are working, the Bill will amend the Act to introduce new income testing arrangements for Newstart Allowance recipients who are the single principal carer of a dependent child aged under 16 years. This change will allow these parents to retain more of their income support payment as their employment income rises, providing greater incentives for parents to undertake paid work.

Under the current income test, a dual income test taper rate applies to all Newstart Allowance recipients – 50 cents in the dollar for income between $62 and $250 per fortnight; 60 cents in the dollar for income above $250 per fortnight.

From 1 January 2013, the dual income test taper will be replaced with a single lower taper rate of 40 cents in the dollar for income above $62 per fortnight for single principal carers on Newstart Allowance who are earning income. This is the same taper rate that applies to Parenting Payment Single and will apply to existing Newstart Allowance recipients, new claimants of Newstart Allowance and those who transfer from Parenting Payment Single to Newstart Allowance (including grandfathered recipients affected by the changes to the age of the youngest qualifying child).

Under the new taper rates (and using 1 January 2012 payment rates), single principal carers on Newstart Allowance will be able to earn up to $1378.50 per fortnight before losing eligibility for payment, rather than the current $971 per fortnight. This is an increase of over $400 per fortnight and provides a strong incentive for parents to re-enter the workforce.

From 1 January 2013, in each year, an estimated 50,000 single principal carers on Newstart Allowance will be able to benefit from the more generous income testing arrangements if they are undertaking paid employment and earning more than $62 per fortnight.

Example (using 1 January 2012 payment rates):
Karen has been receiving Newstart Allowance (NSA) since 2007. She is a single principal carer parent of two children, Govi, aged 15, and Suri, aged 13. Karen currently receives $600 per fortnight from her part-time work three days a week as a carer. This income reduces her rate of NSA by $304 per fortnight. As a result, she receives $222.60 of NSA per fortnight.

From 1 January 2013 the new single principal carer income test will come into effect. Under Karen's current income, her rate of NSA will increase to $311.40 per fortnight, or an extra $88.80 per fortnight.

If in March 2013, Karen increases her hours and earns $1000 per fortnight, this will reduce her rate of NSA by $375.20. However, she will still receive $151.40 of NSA per fortnight. Under the current income test she would receive no NSA, and therefore she would also lose the associated entitlements including her Pensioner Concession Card.

Early claim provisions for Newstart Allowance

The 'early claim' provisions are designed to ensure that claimants are able to receive payment from the first day that they are entitled and to avoid claimants experiencing financial hardship. While the 'early claims' provisions enable a claim to be lodged before the person is eligible for payment, payment does not actually commence until such time as the person is qualified.

Thirteen week 'early claims' provisions currently apply to claims for all social security payments except Newstart Allowance and Special Benefit. Separate provisions allow early claims of up to four weeks (rather than 13 weeks) for Newstart Allowance for people transitioning from Youth Allowance or Austudy; however, early claims are not generally allowed for other Newstart Allowance claimants. For these recipients, the claim for Newstart Allowance can only be lodged once they have lost eligibility for their existing payment.

The Bill will amend the Administration Act in relation to the lodgement of early claims for Newstart Allowance to facilitate transfers between payments and align these provisions with the early claim provisions for other income support payments.

This amendment will particularly benefit those recipients transitioning from Parenting Payment to Newstart Allowance because their youngest child has reached the relevant age limit. As this amendment will take effect prior to 1 January 2013, Parenting Payment recipients transferring to Newstart Allowance from 2013 as a result of the Parenting Payment eligibility changes will benefit from the new claims process.

The amendment will also benefit those in rural and remote areas who may have difficulty contacting Centrelink on the exact day on which they become eligible for Newstart Allowance due to their location.

4. Simplifying the compliance system

In return for financial support, unemployed people have a responsibility to demonstrate that they are looking for work or undertaking activities to improve their employment prospects, such as vocational training, work for the dole and other activities. Social Security Law provides for the imposition of financial penalties on activity-tested income support recipients who fail to meet these requirements without good reason, including failing to attend appointments with employment services providers.

The Bill will amend the Administration Act to align, from 1 July 2012, the daily penalty rate applicable for reconnection failures with the rate applicable for no show no pay failures, which is one-tenth of a job seeker's fortnightly participation payment per business day.

The Independent Review of the Job Seeker Compliance Framework conducted in 2010 recommended the alignment of penalties for these two failure types at the current reconnection penalty rate – that is, one-fourteenth of their fortnightly payment. While the value in aligning the penalty rates is recognised, aligning them at the no show no pay penalty rate of one-tenth of their fortnightly payment it preferred as it better reflects the concept of a working day.

A reconnection penalty applies if a job seeker, after failing to attend an appointment with Centrelink or their employment services provider, fails to attend a rescheduled appointment without having a reasonable excuse. The job seeker currently loses their daily rate of participation payment (one fourteenth of their fortnightly payment) for each calendar day from and including the day of the missed reconnection appointment until the day before the day on which they attend a further rescheduled appointment (the "reconnection failure period"). Rent assistance and family payments are not affected by the penalty, so the job seeker does not generally lose all welfare payments for the period.

The current difference in the penalties reflects the fact that no show no pay penalties, which are applied for failure to participate in training or other activities, are intended to instil a 'work like' culture and as such the penalty represents a working day's proportion of the job seeker's payment – that is, one tenth of their fortnightly pay. When a job seeker incurs a reconnection penalty, the objective is simply to encourage the person to reconnect as soon as possible. For this reason, their participation payment becomes non-payable for the period they remain disconnected, which means that they lose their actual daily rate of payment, or one-fourteenth of their fortnightly payment, for each day that they do not comply with their reconnection requirement.

Aligning the penalty rates for reconnection and no show no pay failures at one-tenth will simplify the compliance framework and make the system fairer for job seekers by not penalising them for days that fall on weekends. In these cases, through no fault of their own, job seekers may not be able to reconnect with providers who are closed for business.

The effect of the proposed amendment will be that a maximum penalty of ten per cent of the job seeker's fortnightly participation payment may be applied for each day of a reconnection failure period. The amendment will increase the daily rate of a reconnection penalty for a single Newstart Allowance recipient with no dependants from $34.77 to $48.68 (using 1 January 2012 payment rates).

By itself this formula could result in a total penalty for a fortnight that exceeded the job seeker's fortnightly rate of payment (in the event that the job seeker chose to remain disconnected for that long). However, the legislation also requires that the Minister must, by disallowable Legislative Instrument, determine a method for working out a reconnection penalty amount. The current instrument will therefore be revised to ensure that a penalty applicable within any one instalment period cannot exceed the job seeker's total entitlement for that instalment period. The methodology included in the instrument will also ensure that no inequities arise when a job seeker incurs a penalty during a "non-standard" instalment period (for example, where the instalment period is shorter than normal because the job seeker went off payment during the instalment period).

The revised Legislative Instrument is currently being drafted and is expected to be tabled in May or June, subject to the passage of this Bill.

Example:
Ben missed a reconnection appointment on Thursday without giving prior notice of a reasonable excuse. He was contacted by DHS late on Friday and was keen to attend another appointment, but the earliest available appointment was on Monday. Ben attended this appointment but a reconnection failure period was applied from Thursday to Sunday inclusive, as required by legislation.

- *Under current legislation, Ben would incur a penalty equivalent to his daily rate of payment for each of the four days of the reconnection failure period, a total penalty of $139.08.*
- *Under the proposed legislation, Ben would incur a penalty equivalent to one tenth of his fortnightly payment for each of the two business days in the reconnection failure period, a total penalty of $97.36.*

A job seeker can only incur a reconnection penalty for missing a second appointment without giving prior notice of a reasonable excuse, so they will always be given ample warning before they do incur such a penalty. There are legislative and administrative protections to help prevent these vulnerable job seekers, particularly those with mental health issues, from inadvertently incurring reconnection penalties. The Department of Human Services cannot apply a penalty without first talking to the job seeker and they cannot apply a penalty if it is found that the job seeker's personal circumstances prevented them from complying or from giving prior notice of a reasonable excuse for their non-compliance. Vulnerable job seekers also have their records flagged to alert providers and the Department of Human Services to the need to exercise caution when taking compliance action.

The need for providers and the Department of Human Services (DHS) to be conscious of the difficulties faced by vulnerable job seekers also underpins two other compliance-related measures that are to be introduced from 1 July 2012 as part of the BAFW package. These are the greater involvement of providers in Comprehensive Compliance Assessments and the increased use of face-to-face engagement when conducting Comprehensive Compliance Assessments for vulnerable job seekers. In addition, the BAFW reforms provide for joint interviews by the DHS and their Job Services Australia provider of job seekers at the risk of disengagement who have had multiple Participation Reports. There will also be improvements to the operation of compliance arrangements through improved exchange of information between providers and the DHS.

5. Other amendments

Extension of funding arrangements for Indigenous people

In addition to the changes related to BAFW, the Bill amends the *Indigenous Education (Targeted Assistance) Act 2000* to provide additional funding for the Student Education Trusts measure as part of the 12 months extension of the Cape York Welfare Reform Trials announced on 10 May 2011 by the Hon Jenny Macklin MP, Minister for Families, Housing Community Services and Indigenous Affairs.

The Student Education Trusts are a financial management service whereby parents and care-givers from the remote Indigenous communities of Aurukun, Coen, Hope Vale and Mossman Gorge on Cape York in Far North Queensland are supported and encouraged to save or their children's education costs from the early years through to tertiary education.

Technical amendment

The Bill also makes an amendment to the Act of a technical nature. This will remove an incorrect cross-reference relating to the treatment of certain children as dependent children for the purpose of determining the maximum basic rate for a person receiving certain payments.

6. Summary

The amendments in the Bill will result in improved incentives and support for young people, parents and job seekers to help build an educated and skilled workforce and make the social security system fairer.

People affected by the changes to the income support system will be kept informed of the changes by DHS and their Job Services Australia provider, and be supported through a number of measures associated with the broader BAFW package.