

rights review

NEWS & COMMENT ON SOCIAL SECURITY ISSUES

A recovery for everyone?

Reports of an economic recovery are becoming more frequent and the Government's economic stimulus packages appear to be one of the important factors in protecting Australia from the full effect of the current global economic downturn.

Welfare Rights is calling on the Government to look after those who might be left behind, particularly if the recovery is a "jobless" one. For people without a job, whether the official figure hits 8.5% or not is less important than support, security and protection.

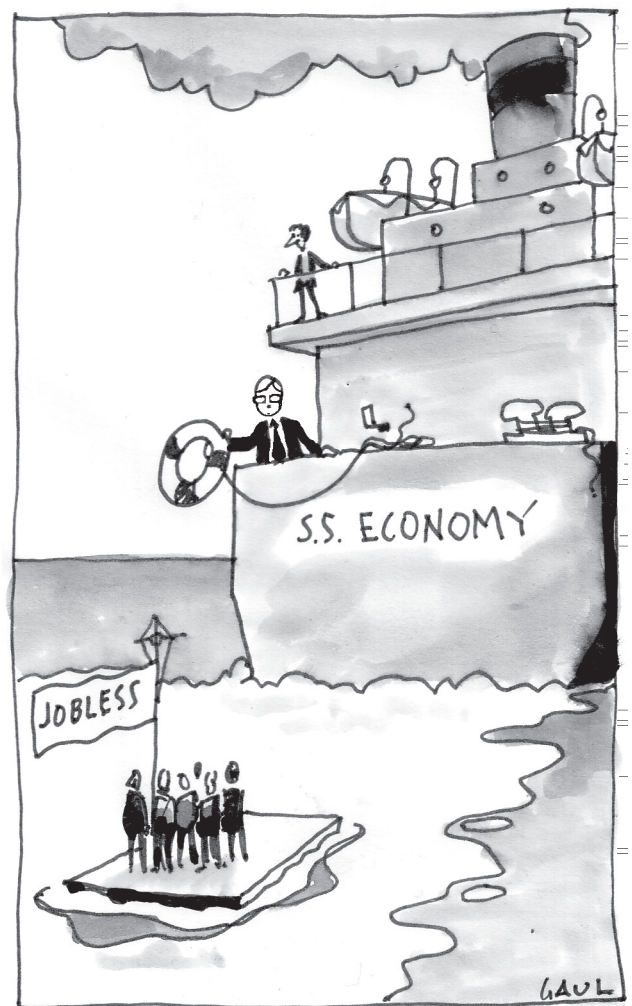
A "Protection and Support" stimulus package for people without a job would provide help in the downturn and during any transition phase to full economic recovery. The package needs to protect the newly unemployed and support people who are longer term unemployed.

Protection and Support Package

The Welfare Rights Centre recommends the following package to Government:

1. Revive full employment as an economic goal. Over the last few decades the emphasis has been on "getting a job" without a concurrent economic goal to support individual needs and aspirations
2. Introduce paid work experience programs and training programs designed to provide the equivalent of a Certificate 3
3. Target labour market support to the long-term unemployed
4. Increase the Newstart and Youth Allowance rates by \$30 per week and relax the punitive income tests
5. Reform the Income Maintenance Period to protect people with modest retrenchment packages
6. Increase the Liquid Assets Waiting Period permanently to \$7500 and index it
7. Allow early access to superannuation in more circumstances and amend the current continuous income support rule (see case study on p.15)
8. Appoint a Job Ombudsman to provide support and advocacy for people engaging with employment service providers.

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Welfare Rights Centre

Welfare Rights Centre is a community Legal Centre which specialises in Social Security law, providing advice and representation on all Social Security matters, including appeals. The Centre also provides education and training, and is active in community development, law reform and lobbying.

www.welfarerights.org.au

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Social inclusion allowance

A final measure in the "Protection and Support" package would be the inclusion of a Social Inclusion Allowance of \$25 per fortnight which values broad participation in community life in addition to paid work. Recent research on social disadvantage in Australia (Saunders, P and Wong, M: 2009) found that unemployed people experienced the most sustained levels of social exclusion of all groups.

Since the beginning of this economic crisis in September 2008, the official ABS measure of unemployment has risen from 4.3% to 5.8% in September 2009. Professor Bruce Chapman from the Australian National University has said that the ranks of long-term unemployed will rise by 50,000 to 140,000 by mid-2010. He went on to say that people under 25 and over 55 with low levels of education are more

likely to be unemployed over the long-term. Indigenous people are also likely to have longer periods of unemployment.

The hours worked by all employees are down by 2.9% over the past year. If those hours were worked by newly hired employees, they would equate to 275,000 full-time workers. However, they are far more likely to be regained by current employees, who sacrificed hours and earnings, before any new hiring begins.

The Government did not increase the Newstart Allowance or Youth Allowance (unemployed) in the May Federal Budget and did not provide either of the fiscal stimulus bonuses to single unemployed people, who according to OECD data from November 2008 are the poorest relatively of all thirty OECD nations. Government action now would greatly benefit the individuals and families who are struggling as well as the whole of society. ▲

Survey finds most can't live on Newstart

More than 70% of Australians would find it difficult to live on the current level of Newstart Allowance, a new survey commissioned by the Welfare Rights Centre has found.

Half of all Australians (51.3%) know someone who has lost their job in the last six months, and more than one in two Australians believes that the current level of benefits for single unemployed adults is too low and should be increased.

Eighty four per cent of survey respondents thought that older people and people with a disability were "very deserving" of financial support from taxpayers. Just 18% of people surveyed believed the same of long term unemployed people. Thirty four per cent stated that unemployed people were "not deserving". When it came to support for people who had lost their jobs as a result of the recession, 40% found them to be "very deserving".

The survey results highlight ingrained prejudicial attitudes towards those who fall on hard times for long

periods of time. The stereotype of "dole bludgers" living it up is, unfortunately, well entrenched in our psyche. Interestingly, people who knew someone who had lost their job, or those living on a low income themselves, were more concerned for those out of work than those on higher incomes.

The current Government has not set out to deliberately demonise people who are down on their luck and who have been on income support for extended periods. However, they have continually repeated words of sympathy and support for people who have "lost their jobs through no fault of their own". As these words echo from every politician's lips, it is a sobering reminder that there is a long way to go before we leave behind the stigma of being long term unemployed. ▲

Students fight over bucket of money

The Federal Government is trying to overcome years of neglect of the student income support system by redistributing a limited pool of money, inevitably creating winners and losers.

The recent Budget heralded long-awaited changes to student income support arrangements.

There is overwhelming evidence that the proportion of people from poorer backgrounds at university is falling, and rural young people are half as likely to attend university as those from metropolitan areas.

The obvious, missing element to the package was an increase to the rate of Youth Allowance. It remains at \$371.40 per fortnight, despite the findings that it is inadequate and one of the main reasons why students are working longer hours.

Gap year controversy

The most controversial aspect of the changes was a tightening of the Youth Allowance criteria to thwart the practice of students from wealthier families obtaining welfare payments by taking a "gap year" to earn their way to independence.

Almost one in two students on the higher independent rate of Youth Allowance is from a family earning in excess of \$80,000 a year. Around 30,000 students are expected to be affected by the change.

There are undoubtedly some instances of people taking advantage of the system. The fact remains, however, that the current independence criteria recognising work effort remains an important mechanism for many low and middle income families, especially those from rural areas, to gain income support.

Changes to Youth Allowance

The Government has proposed a delay in the changes for six months. This proposal would mean that students will still be able to claim independent status for Youth Allowance under the existing



system until June 2010. However, the extension of the old rule will only apply to students who had to relocate for study because their university is more than 90 minutes away from their family home. About 5,000 students will benefit, mainly from regional areas.

The deferral will cost an estimated \$150 million. It will be recovered by postponing plans to increase the amount of money students can earn each fortnight (from \$236 to \$400) without affecting their payments to July 2012. The delay will adversely affect about 61,000 students, who earn above the threshold. The amount has not been increased since the mid 1990s and is well overdue.

The compromise will effectively mean reduced assistance for students who already do an extraordinarily high number of hours of work. Students living in rural and non-metropolitan locations who are required to relocate will still face problems.

Young people miss out

Welfare Rights is concerned that some young people in genuine need of income support may miss out because of the deferral. This will undermine the other positive measures in a package which aims to ensure that a university education is a viable and realistic option for people from disadvantaged backgrounds.

The Government needs to consider alternatives which would still meet its objectives. The situation whereby high income earning parents, or relatives or friends get around the rules by offering "sham jobs" needs to come under greater scrutiny.

However, the requirement that the changes are "revenue-neutral" has meant scarce funds are being expected to go too far. The rate of Youth Allowance must be reassessed as a priority measure. If we agree that young people are our future, then we need to adequately fund their education. ▲

Earn or learn ... or else

In the last issue of "rights review" we commented on the introduction of a new "earn or learn" regime. July 2009 heralded the beginning of the new policy. It applies only to "early school leavers", that is young people under 21 who are not in full time study and do not have year 12 or equivalent qualifications. For people receiving Youth Allowance before and up to 1 July 2009 it will be progressively implemented from 1 January 2010. Those that claim Youth Allowance after 1 July 2009 fall under the new rules immediately.

How will it work?

Youth Allowance will not be paid to early school leavers unless they agree in their Employment Pathway Plan to do 25 hours per week of approved training or education (or a combination of training/education and other suitable activities). If they do not do the compulsory activities in their Employment Pathway Plan, Youth Allowance won't be payable.

Early school leavers can no longer satisfy activity requirements by doing paid work or job search. In fact, the minister has declared that the Employment Pathway Plan must not include job search requirements. That means that if the person wants to look for work they have to do it in their own time, it cannot count towards their 25 hours. Paid work may be included in an Employment Pathway Plan and count towards the 25 hours if it is part of a combination of activities.

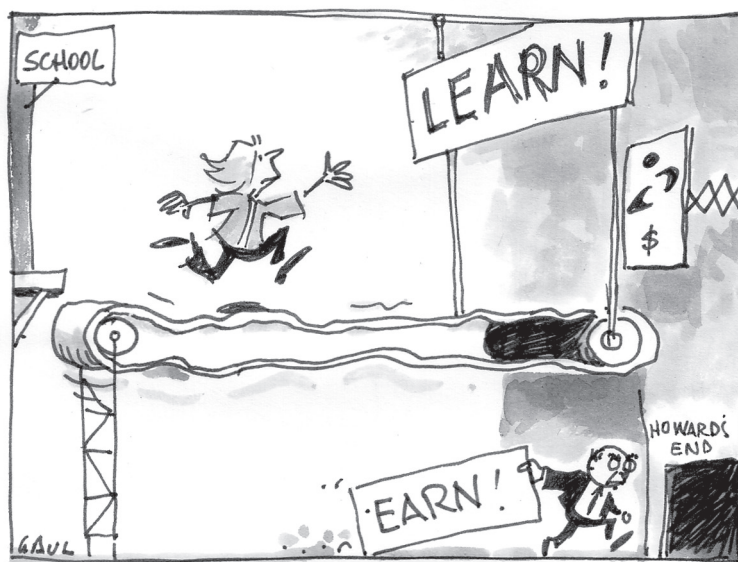
Exemptions and variations

Depending on their circumstances, a person may not have to do 25 hours per week but may have reduced hours. Also a person may be given other activities and not have to do approved education/training if:

- there is no approved training/education course in their area,
- there are no places available,
- the person isn't qualified for the course,
- the person can't do the course because of a physical psychiatric, intellectual or learning disability, or
- special circumstances exist.

In addition, it is anticipated that early school leavers will be exempt from the requirements if they:

- are principal carer parents or



people with a partial capacity to work and doing 30 hours per fortnight of paid work;

- have a work capacity of less than 15 hours per week;
- are referred to Disability Employment Network or Vocational Rehabilitation Service;
- have an exemption from their participation requirements (eg temporary incapacity for work, jury duty, major personal crisis and so on).

Is it a good thing or a bad thing?

It's both. For most, it will be a good thing. But for some young people it may be detrimental.

Clearly it is preferable to use a period of downturn in the economy to provide young people with meaningful training and skills for the future. The Welfare to Work regime introduced by the former government was singularly focussed on a "work first" policy and study and training

took a back seat to job search requirements. The one-size-fits-all "work first" policy caused hardship and lost opportunity for many who were not ready for work but were forced to seek work anyway. It was rigid, inflexible and often counter-productive.

The current government's attempts to move from "work first" towards "work ready" are commendable, however "earn and learn" in its current form risks going too far in the other direction towards "study only". Research has shown that the training needs to be at the level of Certificate 3 or above and be accompanied by paid work experience to have the most positive outcome for the person.

In the same way that a work-only policy was counterproductive for young people not ready for work, study-only policies may be counterproductive for those for whom formal education is not the right fit. To say that job search must never be included in a young person's Employment Pathway Plan is unnecessarily prescriptive and inflexible. ▲

Pensions and allowances now diverge by \$5600

The Henry Review into the tax and transfer system is due to report in December 2009 and it has a complex and intricate web of payment adequacy, indexation arrangements and workforce participation disincentives to untangle. If there are to be long lasting benefits for the poorest people in our community, then the Review needs to make recommendations about the overall inadequacy of income support rates and the particular difficulties for people on working age payments such as the Newstart Allowance.

Welfare Rights has congratulated the Government for delivering on its historic increase to the maximum rate of payments to single pensioners. However, while pensioners generally have something to celebrate, it's a sad day for the more than 2 million people on allowance payments and the 360,000 single parents and their 600,000 children who missed out on the increase.

Single Age, Carers and Disability Support Pensioners will be eligible for a maximum payment of \$335.95 a week, or \$17,469.40 a year. The single rate of Newstart Allowance is just \$228 per week, or \$11,856 a year. The difference between the maximum level of pensions and allowances for single people will increase to \$107.95 a week from 20 September. An unemployed person now gets \$5613.40 a year less than pensioners and is therefore expected to live on just 68 % of what a pensioner lives on.

Single parents in receipt of Parenting Payment (Single) will get just \$287.25 a week of primary income support. Single parents affected by the former Government's harsh Welfare to Work changes and placed on Newstart Allowance will get just \$246.65 a week which is \$40 a week less than single parents receiving the higher amount of Parenting Payment (Single). It is also \$89.30 a week less than the single age, carers or disability pensioners. An estimated 20,000 parents are on Newstart Allowance.

The new payment rates, made public recently by the Minister for Families, Housing, Community Services and Indigenous Affairs may provide a big financial incentive for people on allowances to test their eligibility for

the Disability Support Pension or for Carer Payment.

In addition, research commissioned by the Government indicates that 45% of single parents have a mental health condition (sometimes undiagnosed). The rational thing to do for these parents is to test

their eligibility for a payment which provides extra financial security for themselves and their children.

The divergence between pensions and allowances and the perverse incentives and disincentives in the system need to be unravelled and fixed. ▲

Government action on homelessness

The Federal Government's strong commitment to reducing and preventing homelessness has been very welcome.

Being cut off income support can result in homelessness. A recent client at the Welfare Rights Centre failed to respond to medical review requests and her Disability Support Pension was suspended then cancelled. Her failure to respond was due to her medical issues. The result was the loss of her accommodation and two years of destitution and sleeping rough.

As a result of our clients' experiences, Welfare Rights strongly argues that a rights-based approach must be embedded in new homelessness legislation as well as Social Security legislation. The Welfare Rights Centre made this submission to the parliamentary inquiry into the principles and service standards for the new homelessness legislation.

Counting the Homeless

In July, Counting the Homeless 2006 NSW was released. The number of homeless people across Australia as at the census date in 2006 was 105,000. Of those 27,000 were in NSW. Between 2001 and 2006, an extra 700 people faced homelessness. These figures were

collated well before the onset of the current economic crisis.

The Federal and NSW Governments launched the NSW implementation plan on 2 August 2009. Welfare Rights hopes that the new projects benefit people experiencing homelessness and that existing services are given the support and funding required to make inroads into the problem.

Compulsory rent deduction

In March this year we reported on the issue of compulsory rent deductions from income support payments for public housing tenants. We argued that compulsory deductions should only ever occur as a last resort and discretion not to impose deductions should be available on a case by case basis. It now appears that a compulsory rent reduction regime may face legal impediments. It is likely that each state and territory will end up developing different guidelines as to how to assess a person at risk and which people must enter into a compulsory rent deduction arrangement. ▲

Losing it!

By Lance Feeney, Senior Project Officer Systemic Advocacy, Positive Life NSW *
Positive Life NSW represents the interests of people living with HIV

From 1 July 2009, the income and assets of a working partner in a same-sex relationship will affect the eligibility and rate of pension and entitlements for a non-working partner. Many people with HIV or AIDS will lose their pension and Health Care Card (HCC) causing severe financial problems.

In 2007, approximately 17,000 people were living with HIV in Australia,¹ (9,000 in NSW).² Transmission of HIV in Australia continues to be mainly through sexual contact between homosexual men. In 2008, 86% of people with HIV were gay men, 75% in NSW.

Research suggests that 39.5% of people with HIV are currently in a regular same-sex relationship³, with 45.7% of people nominating a social security payment as their primary source of income.⁴ Research identified 29% of people living with HIV as unemployed. A high percentage of people receive the Disability Support Pension (DSP).

DSP and the Health Care Card

Prior to 1996, the average life expectancy of a person with HIV after infection was ten years. DSP provided a stable source of income for people living with a range of serious or life-threatening infections leading to deteriorating physical and emotional health.

DSP provided the support to enable them to maintain dignity and independence. The death of lovers and friends, adjusting to the limitations and restraints of welfare and lost employment, as well as the ongoing challenge of dealing with a potentially fatal condition, become a challenge for this group.

After effective treatments became available in 1996, increasing numbers of people were able to regain their health. The process was more difficult however, for those who were older or resistant to treatment, had developed mental health conditions, or had been out of the workforce for some time.

Cost of maintaining health

Although advances in HIV treatments have reduced the number of deaths from AIDS, treatments are not a cure and people continue to experience significant illness. Nearly half of all people with HIV have additional health conditions.⁵ Mental health conditions, hepatitis C or B, cardiovascular disease and respiratory conditions are the most common. In addition, there are inflammatory conditions from long-term infection with HIV and treatment related side effects, for example abnormalities in blood lipid and cholesterol metabolism, increased risk of heart and artery disease, type-2 diabetes, bone disorders and cancer. Many people also have depression.

Accessing HIV and non-HIV prescribed medication as well as clinical management makes health maintenance extremely costly. Many

older people living long-term with HIV require three to four HIV medications, drugs for allied health conditions and drugs to control side effects. Frequently, people require⁶ up to 8 different medications per month.

Medical expenses are subsidised for people who have access to the HCC or pension card. Loss of the card will place a significant cost burden on couples. Many state based and community services use the Health Care Card and/or the pension card as a proxy income test for service eligibility.

A cost comparison for a typical gay male with HIV in his 50s who has a HCC compared to one who has lost it highlights the issue dramatically. The total monthly costs of all medication, including HIV anti-retroviral drugs, medical consultation and other non-HIV medications is about \$40.90 for a person with a HCC; \$278.30 without a HCC. ▲

Costs with Health Care Card		Costs without Health Care Card	
3 HIV anti-retroviral drugs @ \$5.30 per prescription	\$15.90	3 X HIV anti-retroviral drugs @ \$26.30 per prescription	\$78.90
3 non-HIV medications @ \$5.30	\$15.90	3 non-HIV medications @ \$32.90	\$96.00
5 non-HIV medications @ \$5.30	\$25.00	5 non-HIV medications @ \$32.90	\$164.50
Medical consultation for clinical management & monitoring (once every 3 months)	No charge	Medical consultation for clinical management & monitoring Cost = 1/3 of the gap between consultation fee (\$90) and Medicare rebate (\$26.50)	rebate \$8.60
Consultation for other acute health condition	No charge	Consultation for other health acute health condition Gap between consultation fee and Medicare rebate = \$26.30	\$26.30
Cost per month for 3 HIV medications + 3 non-HIV medications + medical consultations	\$31.80		\$209.80
Cost per month for 3 HIV medications + 5 non-HIV medications + medical consultations	\$40.90		\$278.30

Footnotes

1. National Centre in HIV Epidemiology and Clinical Research
2. NSW Health – Surveillance Data, 2007
3. HIV Futures Five – at p 45
4. Ibid – at p 61
5. Ibid – at p 5
6. Ibid – at pp 63 - 65

Retracting a “de facto declaration”

As we anticipated, many people who declared their same-sex relationship to Centrelink as being “de facto” now regret doing so. For some the regret is financial - they are shocked at the reduction or cancellation of their pension or allowance, and not managing financially given the reduction of household income.

For others, regret flows from dismay that they are now suddenly financially dependent on their partner, despite the non-recognition of their same-sex relationship under Commonwealth laws until recently and continuing discrimination in some areas of the law. Dismantling the basic precepts of a long-term relationship is confronting, to say the least. Some of our clients, particularly clients with severe disabilities, understandably fear renegotiating relationships that may have waxed and waned for over twenty years.

Interaction with Commonwealth laws

Some of our clients are now also caught up in the complex interaction of different Commonwealth laws, for example, migration and family law. One client of the Welfare Rights Centre sponsored his male partner for permanent residence and was reassured prior to July 2009 that he would retain his full Disability Support Pension because same-sex relationships were not recognised by Centrelink; now he has lost his pension.

Consider also the situation of people who believed that they were indefinitely “grandfathered” on Parenting Payment Single following changes in the eligibility rules in 2006, only now to find that there is no “grandfathering” for recognition of same-sex de facto relationships. Some clients in this situation are no longer entitled to Parenting Payment despite no change in household earnings and assets.

Such unexpected financial interdependence for same-sex couples can create complex family law issues in ongoing family law matters,

regarding property and custody of children. This can put a huge strain on the new relationship, the relationship with the ex-partner, and relationships with children.

Welfare Rights advocacy

Welfare Rights has been contacted by several such clients. We interview each client, establishing whether they have grounds to retract their declaration, or whether they may be able to seek to be treated as single (under section 24 of the Social Security Act – the discretionary provision that allows a member of a couple to be treated as single for any “special reason”). Where there are issues regarding access to a partner’s assets, we consider the Hardship Provisions, whereby the value of assets may be disregarded if “special circumstances” exist.

Change of mind? What to do ...

Individual circumstances differ, but anyone who declared their relationship to Centrelink as “de facto” who now believes that their relationship was never “de facto” (or possibly was once so but not now), is best advised to:

- contact Centrelink and ask for the de facto decision to be reviewed by an Authorised Review Officer (ARO);
- depending on the Centrelink officer’s experience/sensitivity, Centrelink’s response to the person may range from:
 - *“but you declared, you can’t just change your mind because you lost money”, to*
 - *“of course – here’s a questionnaire so you can*

explain your situation – this will help the ARO understand why you’ve changed your mind”.

- insist on appeal rights. Front-line staff may discourage appealing – if so, put the appeal in writing.
- closely consider the factors that the ARO must take into account when reviewing the relationship (see Welfare Rights’ factsheet “declaring your same-sex relationship”), and be as open as possible about the relationship regarding personal issues.
- be open and truthful regarding factual information, such as shared bank accounts/finances, shared overseas trips, and how the relationship was represented to other agencies (e.g., Tax Office, Medicare), relatives and employers. Centrelink has broad data-matching and information-gathering powers. Banks, employers, etc, are obliged to provide Centrelink with bank details (even bank statements for past periods), upon request. This intrusion may be distressing, but the factors that Centrelink must consider are provided in the legislation. The legislation compels this intrusion into personal lives.

For assistance with appeals, contact Welfare Rights. See www.welfarerights.org.au for contact details, and for factsheets which explain appeal and Freedom of Information rights. ▲

social security changes

what's happening when

FAMILY ASSISTANCE CHANGES

Family Tax Benefit (FTB) to be suspended for failure to lodge tax return within 18 months

From 1 July 2009 families who fail to lodge a tax return within 18 months of the end of the relevant financial year are to have their current fortnightly instalments of FTB suspended, until the tax return is lodged and their entitlement to FTB is "reconciled" (ie recalculated) by Centrelink/Family Assistance Office.

Date of effect: 1 July 2009

Changes to Family Tax Benefit (FTB) and Maternity Immunisation Allowance indexation arrangements

The rates for FTB under 13 child rate and the FTB 13-15 child rate will now be indexed on 1 July 2009 and each subsequent 1 July in accordance with movements in the Consumer Price Index only. The previous benchmark for these rates was the combined pensioner couple rate (linked to male total average weekly earnings).

Maternity Immunisation Allowance (MIA) will now be indexed once every year on 1 July, rather than on 20 March and 20 September each year.

Date of effect: 1 July 2010

SOCIAL SECURITY CHANGES

New visa subclasses affecting Special Benefit and Newly Arrived Residents waiting period

As a result of the equal treatment of same-sex relationships in Commonwealth law, a number of partner visa subclasses were made redundant on 1 July 2009. These visa subclasses are:

- temporary visa subclasses 309 (Spouse provisional) 310 (Interdependency provisional) 820 (Spouse provisional) and 826 (Interdependency provisional) and
- permanent visa subclasses 100 (Spouse) 110 (Interdependency) 801 (Spouse) and 814 (Interdependency).

From 1 July, Partner visa applicants may apply for a 309 (Partner provisional) leading up to a permanent visa subclass 100 (Partner), or a provisional visa subclass 820 (Partner) leading up to a permanent visa subclass 801 (Partner).

There is no change to the way these visas are treated for the purposes of Special Benefit or the Newly Arrived Residents waiting period. Holders of the new temporary visa subclasses will attract Special Benefit; holders of the new permanent visa subclasses will be exempt from the newly arrived residents waiting period.

The abolished visa subclasses remain valid until they expire or until a new visa is granted and there is no change to the way in which those existing visas are treated in relation to either Special Benefit or the newly arrived residents waiting period.

Date of effect: 1 July 2009

Youth Allowance "earn or learn" changes

New legislation has introduced the new concept of an "early school leaver", who is a person who is under 21 years, has not completed the final year of secondary school or an equivalent level of education, and is not undertaking full time study. Youth Allowance for early school leavers is now conditional upon their undertaking full time study (see p.4 for further details).

Dates of effect:

For all new applications for Youth Allowance: 1 July 2009.

For existing Youth Allowance recipients from: 1 January 2010

International Agreement

The International Agreement between Australia and Finland commenced operating on 1 July 2009.

Date of effect: 1 July 2009

Extended portability for study payments other than Austudy and Youth Allowance

Recipients of payments other than Austudy and Youth Allowance will be able to receive their payments for the duration of any overseas study, provided the study can be credited towards their Australian course.

The payments to which the new extended portability rules apply are: Disability Support Pension, Wife Pension, Carer Payment, Widow B Pension, Widow Allowance, Parenting Payment and Partner Allowance.

Date of effect: 20 September 2009

Multiple advance payments for some pensions

Recipients of Age Pension, Disability Support Pension, Carer Payment, Widow B Pension and Wife Pension will be able to access up to three Advance Payments at any point in time up to a maximum amount, rather than only one advance in a twelve month period.

The maximum amount is the lesser of either three weeks of a person's pension or 7.5% of their annual base rate of entitlement (excluding the minimum Pension Supplement amount in both cases). Where a person has an outstanding advance of 12 months or more they will not be able to receive an additional advance.

Date of effect: 1 July 2010

Progressive increase to Age Pension Age

The qualifying age for age pension will progressively increase for both men and women from 65 to 67 years. The increase will commence in 2017 and will continue to increase by six months every two years until 2023.

Date of effect: 1 July 2017

Changes to pension income test taper rate

The income test taper rate has increased from 40 cents to 50 cents per dollar of income over the ordinary income free area for singles and for couples from 20 cents to 25 cents for every dollar of income. This means a person's income will reduce their rate of pension more than before. Transitional arrangements apply for existing pensioners paid at the part rate.

Also the additional income test free area has been removed for dependent children so that they have the same threshold as pensioners without children.

Date of effect: 20 September 2009

Changes to Age Pension income assessment

Income for those on the Age Pension will no longer be assessed on a yearly basis but instead will be assessed on a fortnightly basis. Age Pensioners' income which will now be treated the same way income is treated for other income support payments, with the exception of the operation of the new "Work Bonus" concession for people of Age Pension age (see below).

Date of effect: 20 September 2009

Changes to pension basic rates

The rate of Age Pension, Disability Support Pension, Carer Payment, Bereavement Allowance, Widow B Pension and Wife Pension is to increase by \$30 per week for single pensioners.

Date of effect: 20 September 2009

Changes to pension supplements

GST supplement, pharmaceutical

allowance, utilities allowance and telephone allowance at the higher internet rate will be replaced by a pension supplement of \$10.14 per week for couples (combined) and \$2.49 per week for singles. The seniors concession allowance and the telephone allowance will be replaced by a seniors supplement.

Date of effect: 20 September 2009

Closure of Pension Bonus Scheme

The Pension Bonus Scheme, which provides a tax-free lump sum payment to older Australians who defer claiming Age Pension, Service Pension or income support supplement and choose to remain in the workforce, will be closed to new entrants from 20 September 2009. The Scheme will continue to be available to existing members. The Scheme is being replaced by a new "Work Bonus" (see below).

Date of effect: 20 September 2009

Work Bonus

From 20 September 2009 the introduction of "Work Bonus" will allow for a certain amount of employment income that is earned in an instalment period by a pensioner who is of age pension age to be disregarded for the purposes of the income test. For cases where an instalment period is fourteen days, the amount that is to be disregarded is 50% of \$500 where the person earns more than \$500 in the instalment period. Where a person earns less than \$500 in the instalment period, the amount that is to be disregarded is 50% of the total employment income for that period.

Date of effect: 20 September 2009

Commonwealth Senior's Health Card

Income that is "salary sacrificed" to superannuation is now included as income for the purposes of the Commonwealth Seniors Health Card income test.

Date of effect: 1 July 2009

Community Development Employment Projects (CDEP) income changes

New CDEP participants can now receive social security payments, CDEP wages, and the CDEP Scheme Participant Supplement.

Date of effect: 1 July 2009

Training Supplement and Bonus

Two supplementary payments now exist to assist people with their training costs:

- Training Supplement, for people in receipt of Newstart or Parenting Payment;
- Training and Learning Bonus, a one off payment for students.

Date of effect: 1 July 2009 (Training Supplement – Training and Learning Bonus already in use)

Indexation changes for pensions – Pensioner and Beneficiary Living Cost Index

A new index, the "Pensioner and Beneficiary Living Cost Index" (PBLCI), will be used from 20 September 2009. It is designed to measure increases in the cost of living experienced by pensioner and beneficiary households. The PBLCI will be used to adjust maximum basic pension rates where movement in the PBLCI is greater than movement in the CPI for the relevant indexation period. Maximum basic rates of pension will be indexed in line with the higher of the PBLCI or the CPI before benchmarking to Male Total Average Weekly Earnings (MTAWE).

Date of effect: 20 September 2009

Indexation changes for pensions – Combined Couple Benchmark

A new "Combined Couple Benchmark" will be used for maximum basic rates, which will be 41.76% of the annualised Male Total Average Weekly Earnings figure. The single pension will be benchmarked at 66.33% of the combined couple benchmark, which is 27.7% of the annualised Male Total Average Weekly Earnings figure.

Date of effect: 1 January 2010 ▲

Telephone costs a problem for job seekers ... but is anyone listening?

The cost of contacting Centrelink in order to comply with obligations and to keep on payment is a growing yet unrecognised problem.

As changes have taken place to workforce participation requirements, the "costs" of meeting Centrelink participation, reporting and compliance requirements under the guise of "mutual obligations" has resulted in the need for a lot more contact with Centrelink and employment services.

Two of the biggest costs are travel and telephone. Contact with Centrelink is increasingly being conducted by telephone in an environment where significant numbers of people rely heavily on mobile phones and may have limited or no access to landlines.

Centrelink provides access to their services via the use of 1800 and 13 numbers which provides for either free calls or the cost of a local call from a landline. However, reduced access to a landline is not uncommon among people receiving Centrelink payments.

Research indicates that cost is a major reason why the use of home phones has fallen. Indigenous people and people who live in remote and rural locations also have limited landline access. Calls to Centrelink and the Employment Services Hotlines are charged at a higher rate from mobile phones. Calls to Centrelink can be lengthy and it is not uncommon to experience extreme waiting times which further increases costs. A person may also have a bar on outgoing calls on their mobile phone due to past poor credit or as a way of minimising costs.

No telephone allowance or supplement

While pensioners receive assistance for the costs of telephone (and internet access) with the new Pension Supplement, Newstart and Youth Allowance recipients do not receive any financial assistance to meet these costs.



Proposed changes

Welfare Rights proposes that Centrelink consider instituting a "call back system" or put in place other arrangements so that the costs of contact do not fall on income support recipients.

It is routine practice within Welfare Rights Centres to ask where the person is calling from. If a person has not called from a local landline, a call-back is arranged. This ensures that we are accessible to everyone.

The Government needs to be more pro active in its recognition of the increased costs associated with telephone access.

Some charities and community organisations run small schemes that provide mobile phones to job seekers. There are also phones in some remote communities which connect directly to Centrelink, but access is contingent on operating hours, demand can be high and reduced privacy is a problem. In the Northern Territory a free call number to check Basics Card balances was introduced a year after Income Management began.

Social exclusion

The unavoidably high telephone costs associated with contacting Centrelink, employment services and other Government agencies highlight in a very practical way the growing disconnect between social policy and service delivery.

This issue is a clear example of how the use of technology is leading to social exclusion. Fixing the problem is an obvious way for the Government to give practical expression to its social inclusion agenda.

The National Welfare Rights Network has provided a detailed paper to Centrelink and the "Henry Review" into the future of Australia's tax and welfare system highlighting this problem.

It also explores a range of other areas where income support recipients are being required to cover the costs of meeting Centrelink reporting and participation obligations, and other costs resulting from system complexity. But, we ask, is anyone really listening? ▲

Newly arrived residents

Newly arrived residents often have substantial difficulties getting Social Security due to the complex laws and waiting periods.

Who is subject to a newly arrived resident's waiting period?

A newly arrived resident is generally subject to a 104 week waiting period from the date of arrival in Australia or from the date of grant of permanent residence (whichever is the later). Newstart Allowance, Sickness Allowance, Youth Allowance, Austudy, Carer Payment and Special Benefit are all subject to the newly arrived resident's waiting period (NARWP).

Are there waiting periods for Pensions or Parenting Payment?

Age pension, Disability Support Pension and Parenting Payment do not have a NARWP, instead there is a qualifying residence period. A person must have lived in Australia as a permanent resident for a specified period of time.

For Age Pension and Disability Support Pension the qualifying residence period is generally 10 years. If a person's disability only started to affect their capacity to work after becoming an Australian resident, there is an exemption.

For Parenting Payment the qualifying residence period is two years. If a person became a sole parent after becoming an Australian resident it does not apply.

Who is exempt from the NARWP?

There are lots of exemptions from the NARWP. It may not apply to a person who:

- is an Australian citizen;
- is or has a family member who holds or previously held a permanent refugee visa or a special humanitarian visa;
- is a family member of an Australian citizen or a permanent resident who has at least two years residence in Australia;

- has become the sole parent since becoming an Australian resident (Newstart Allowance or Youth Allowance claims only);
- became a handicapped person while in Australia (Mobility Allowance claims only);
- holds a specific visa subclass. These are complicated and can change suddenly, so always get advice.

What if I am exempt?

If you believe a person may be exempt from the NARWP or qualifying resident's period, they should claim the most appropriate payment, and supply evidence of their visa subclass, and if relevant, their former visa.

Special Benefit?

Special Benefit can only be paid to a person who is not eligible for any other payment. They must be "unable to earn a sufficient livelihood", be in financial hardship, unable to obtain support from any other source and not have caused their own hardship.

Special Benefit can only be paid to a person who is an "Australian resident" (an Australian citizen, permanent resident, or a New Zealand citizen living in Australia as a "protected special category visa" holder).

Some temporary visa holders are also eligible for Special Benefit. If in doubt about a particular visa, claim anyway. Centrelink has to accept the claim form.

Is Special Benefit subject to a waiting period?

Generally, Special Benefit is subject to the NARWP. There are some exemptions for specific visas.

Importantly, Centrelink will pay Special Benefit to a person who would otherwise be subject to the waiting period if they have "suffered a substantial change in circumstances

beyond their control" and satisfy the available funds test.

For Centrelink to decide whether there has been a "substantial change" the person must explain their personal situation. Centrelink applies very strict policy guidelines, but these are merely a guide. Whatever the person's situation, if they do not have adequate means of support, they should claim Special Benefit.

If the claim is rejected, appeal to an Authorised Review Officer and contact us.

Is Family Tax Benefit (FTB) affected by a waiting period?

FTB is not subject to any waiting periods. It can be paid to people for whom Special Benefit is payable. It can also be paid to New Zealand citizens living in Australia, whatever their date of arrival. Carer Allowance, Double Orphan Pension and Baby Bonus are also not subject to a waiting period.

What about Assurances of Support?

If an Assurance of Support was signed and the newly arrived resident is granted a payment covered by the Assurance, the assurator will have a Centrelink debt.

Couples receiving only one Social Security payment?

If one person in a couple is eligible for a payment, it can be paid at the single rate in some circumstances. There is a special rule under section 24 of the Social Security Act.

What about New Zealanders?

The rules for New Zealand citizens living in Australia who are not permanent residents are different. See our Factsheet at www.welfarerights.org.au ▲

Special circumstances for refugee

Nancy, a recently arrived refugee, had her child removed by DOCS. The father had permanently disabled the child including causing brain damage. Nancy incurred a Centrelink debt of \$10,000 for failure to declare that her son was no longer under her care. At the time, Nancy was pregnant and suffering from depression and post-traumatic migraines. Nancy thought that DOCS, a government agency, would inform Centrelink that her child had been removed.

Nancy was expecting her son to be returned to her, however, she suffered pregnancy difficulties and was hospitalised for several months. While in hospital she was notified of DOCS decision to permanently take her son from her care until he was 18.

The Welfare Rights Centre helped Nancy appeal against the Centrelink debt. She had not been told by DOCS that she had to notify Centrelink that her children had left her care. Further, language barriers and social isolation meant Nancy did not understand her social security obligations.

Nancy had been unwell and was deeply affected by the trauma of losing her children. Support letters from her doctor and refuge case worker were collected. Centrelink accepted that Nancy did not knowingly fail to notify Centrelink of the loss of care of her children and that she had special circumstances. The debt was waived in full and the money she had repaid was refunded. ▲

Three refugee siblings

Ali, Rasheed and Layla, were incorrectly paid the "dependent" rate of youth allowance by Centrelink on arrival in Australia. They should have been in the higher "Independent" rate. Their father had been killed and their mother could not be located in their country of origin. Centrelink assumed (incorrectly) that they were dependent on an adult relative who rented them a room.

A school counsellor contacted Welfare Rights about 18 months later. All three siblings were assisted to appeal against their rate of youth allowance on the grounds that they were not dependent on their relative.

The appeal was successful. However, as the appeal had not been lodged within 13 weeks of the original decision to pay the children the dependent rate, their new independent rate could not be backdated very far.

Welfare Rights discovered that Centrelink had made errors in its administrative processes when the children first claimed payments which meant that they had not had any social worker intervention. A "Claim for Compensation for Detriment due to Defective Administration" (CDDA) was lodged with Centrelink. Centrelink agreed that it had made errors in its administration and paid the young people an amount equivalent to what they would have received if they had been put on the correct payment in the first place. ▲

"Litigation Principles" a success!

Long-term readers of "rights review" may remember concerns raised in 2007 about the increase in the number of appeals lodged by the Department of Education, Employment and Workplace Relations (DEEWR) to the Administrative Appeals Tribunal (AAT). The matter received widespread media and criticism of the litigation practices of DEEWR.

A Departmental review, guided by a steering committee which included the National Welfare Rights Network and Legal Aid, revealed that the number of Departmental appeals in 2006/2007 were almost double the number lodged in 2005/2006. Even more worrying was that in 62.9% of matters appealed to the AAT by DEEWR, the applications were withdrawn prior to hearing. The vast majority of these cases related to DSP appeals.

The good news is that this review of DEEWR's litigation practices led to the adoption of a set of "Litigation Principles". These "Principles" now guide the Department when it makes decisions about whether or not to appeal, and aims to ensure that the Department's representatives are conscious of their role in assisting the Tribunal. The "Principles" clearly state that the Department should use alternatives to appeals where

appropriate and consider the impact of an appeal on the recipient and their family.

Recent review found reduction in appeals

A recent review of the "Litigation Principles" was undertaken in June 2009. This review found a significant reduction in the number of DEEWR appeals since the application of the "Principles", although noted that this was also linked to the fact that DSP was transferred to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) in November 2007.

Notwithstanding this, the numbers of cases appealed by DEEWR to the AAT since January 2008 has averaged only two per month, rather than the average of 30 in 2006/2007. The "Principles" were also applied to many appeals that were already on foot at the time of the review, which led to a significant number of withdrawals. The "Principles" were found to work extremely well and were given general endorsement from NWRN and National Legal Aid.

Welfare Rights congratulates DEEWR on its decision to continue using the "Principles" and notes that FaHCSIA has adopted a similar set of guidelines to inform its litigation practices. ▲

Ex prosecutor volunteers

Amanda Frazis, who formerly worked as a prosecutor with the Commonwealth Director of Public Prosecutions for 6 years, has been attending the Welfare Rights Centre one morning a week on a voluntary basis to assist clients who need advice about Social Security prosecution matters.

The existence of large Centrelink debts and the prosecution of those debts is one of the main types of matters at the Centre. In 2007/08 we provided initial advice on prosecutions matters on at least 359 occasions. The Centre is not currently funded to provide representation for people in this area. We have been working for years to secure funding to employ full time a criminal solicitor to represent clients in these matters.

The rate of social security prosecutions (and pleas of guilt) are far higher than other areas of law. Very little Australian or international research exists. Legal advocates have identified systemic barriers to those charged with social security fraud receiving a fair hearing. Research into these factors will contribute to better understanding of the issue, leading to better legal administration and more just outcomes.

Interview with Amanda Frazis

How long did you work for the Commonwealth Director of Public Prosecutions?

I worked there about six years. I spent about 18 months in the CSDA unit which is the branch responsible for Social Security prosecution.

What made you think about volunteering at the Welfare Rights Centre?

I thought that I could use the knowledge and experience gained as a prosecutor to assist clients who are facing the prospect of prosecution for social security offences. This could include explaining the process and advising clients what to expect,

identifying cases where there are real defences, or where prosecution can be avoided. I also believed I could help Welfare Rights get a better understanding of the factors that lead to a decision to prosecute.

Have you discovered anything new since working at Welfare Rights?

As a prosecutor, I had a very black and white view of social security offences: people who receive benefits are advised of their obligations, and if they do not fulfil them they are liable for prosecution.

Since working here, and hearing many of the stories, I appreciate that many people facing prosecution are guilty of being disorganised, careless or not really understanding the consequences of their actions. Being convicted of an offence of dishonesty (or "fraud"), with a resulting criminal record is very harsh.

What more work in this area do you think needs to be done to further assist people facing social security prosecution?

Conviction for social security fraud can have very serious consequences. Even a conviction for a small amount may mean that a person cannot work in many areas. However, many of these people do not have access to proper legal representation.

There is a large group of people charged with social security offences which are relatively minor. Some of those people could have valid defences. For example they thought they were reporting properly. For many, there is no actual intention to defraud. However, without access to legal advice, these clients cannot be identified.

Defending any prosecution, even for a small amount, requires a person be either legally represented, or be able to understand the legal processes themselves. I believe that some clients, particularly with small debts who are not facing a custodial sentence, will take the apparently easy course and plead guilty. This could be an explanation for the high rate of guilty pleas. I query whether for some of these cases it is in the public interest for Centrelink to refer such matters for prosecution in the first place. Notwithstanding this may lead to a drop in the numbers of persons charged with, or convicted of social security offences, it would be a better outcome for the public interest.

What would your main tips be to someone facing potential social security prosecution?

1. Be careful what you say to any Centrelink officer.
2. Be mindful that as well as your file Centrelink can obtain your records from employers, banks and other sources.
3. Seek advice before attending any taped interview or "off the record" meetings.
4. If at all possible, obtain legal advice. Unfair that it may seem, you are likely to get a better outcome with legal representation. If you cannot get legal advice, find out as much as possible about the process (either through Welfare Rights Centre or another community legal service) before going to Court. ▲

Income Management in the Northern Territory

Liz Turnbull, a Welfare Rights worker speaking from her experience in the Northern Territory.

Compulsory blanket income management is expected to continue in the Northern Territory beyond October 2009 despite the recommendations of the Northern Territory Emergency Review Board (NTER Board) and despite recent comments by the UN Special Rapporteur Professor Anaya that such measures were "overtly discriminatory".

The final report of the NTER Board recommended that income management should be available on a voluntary basis. The NTER Board recommended that compulsory income management should only be linked with specific behavioural triggers, such as child protection, and also apply across the Northern Territory.

The NTER Board recommendations have been ignored by the Government which in recent community consultations proposed only two options for the future of income management: i) no change to current income management arrangements; or ii) individuals may apply for an exemption from income management based on an individual assessment.

Welfare Rights opposes mandatory income management and has consistently argued for the legislation to be amended so that the scheme applies only on a voluntary basis. There are now approximately 15,488 people in the Northern Territory who are subject to compulsory income management. Apart from the loss of personal autonomy involved, many of the people affected experience practical difficulties with the Basics card, the most common payment mechanism for people subject to income management. There are also costs incurred by clients because their income has been quarantined. Goods and services already more expensive in remote areas are without the additional costs caused by income quarantining.

The following problems have been identified and progressed by workers involved in the Welfare Rights Outreach project in the NT. The National Welfare Rights Network has raised all these issues at meetings with Centrelink and in its most recent

submission in August 2009 to the Henry Tax and Transfer Review.

1. Basics card: People have reported significant problems finding out the balance on their Card. A freecall number has recently been introduced but it is only from fixed telephone lines. Despite the installation of telephones in some community councils and stores many people still need to rely on mobile phones. NT clients have reported such long waiting periods when they phone Centrelink that they run out of credit or hang up in frustration.

2. Taxis and Basics card: In

"One client reported using all her remaining phone credit trying to contact Centrelink. As she still had not been able to speak with Centrelink she then had to use her father's phone and use up all his phone credit too."

"Centrelink can issue a cheque for a taxi fare however this does not help people who need to travel unexpectedly, or on weekends or after office hours."

Liz Turnbull, a Welfare Rights worker speaking from her experience in the Northern Territory.

some remote communities people are required to pool their funds and catch a taxi into town because there is no other form of transportation. In the Katherine and Alice Springs regions a surcharge was applied by the taxis because the Card was used. This practice has ceased because the taxis concerned no longer accept the Basics card which, given the transportation problem, is hardly an ideal solution.

3. Deceased estates: A relative cannot gain access to residual funds of over \$500.00 from the deceased person's income management account unless Centrelink is satisfied that they are the legal personal representative of the deceased person or the money is being used to pay for direct funeral expenses. Centrelink policy does now allow reimbursement for direct funeral expenses however, the costs must be direct expenses and the person must provide clear proof of having incurred the expense.

4. Fines: The payment of fines is not a legislated priority need and therefore people have experienced difficulties in paying the fines they owe by regular deduction from the Basics Card. Welfare Rights understands that Centrelink officers have now found a way to make regular deductions from income managed funds to repay fines.

It is clear that legislating for people's day-to-day priority needs is a clumsy one at best. The practical difficulties outlined above merely add further weight to the argument that the mandatory scheme should be abandoned in favour of a voluntary one. If the government decides to continue with the scheme then it should only be used as an option of last resort and not as a blanket and discriminatory arrangement.

Welfare Rights does welcome steps taken by the Government to ameliorate some of the most blatantly offensive aspects of the scheme. Since 24 June 2009 there are now external merit review rights for all income management decisions made since that date. The Government has also committed to the reinstatement of the Racial Discrimination Act in the Spring sitting of Parliament. ▲

No access to super because of strict and unfair laws

Adrian approached the Welfare Rights Centre a few weeks ago because he is trying to get early access to his superannuation, is in severe financial hardship and needs to repay some longstanding debts. Adrian is in his 20s, currently in rehabilitation, recovering from drug, alcohol and gambling addictions. He has a very small amount of money in super, about \$10,000, but access to it would mean he would be able to repay his debts and get his life back in order. Adrian is being refused access to his super because of the strict rules about "continuous income support" for 26 weeks.

Adrian has been in receipt of income support for a long period of time, but left Australia for 2 days to attend his grandparents' 60th wedding anniversary. As a result of this, Adrian's payments were cut for the 2 days while he was overseas (as Newstart Allowance was not portable). At the point Adrian was cut off, he was within 3 days of reaching the requisite 26 weeks. Now, he cannot get access to any of the superannuation money sitting in his superannuation.

This case study perfectly illustrates the difficult, unfair and illogical rules about early access to super. Welfare Rights is calling for changes to the rules to ensure that this type of situation can be avoided. ▲

Centrelink penalties plunge

The Welfare Rights Centre believes that the number of eight week non payment penalties in 2008-09 has fallen by about 35%, to an estimated 20,000. This prediction is based upon the latest penalty data and the sharp reduction in calls about penalties to Welfare Rights services across Australia. In the last year of the previous Government 32,000 eight week penalties were applied.

The numbers are still too high, but there are early signs that the new compliance regime is working well. Employment service providers are making extensive use of the new "contact requests", which encourage unemployed people to make contact with Centrelink, without facing any penalties. Six hundred people who got penalties under the old system have taken the opportunity to "work off" the eight week penalty by doing 25 hours a week of activities, such

as Work for the Dole. If these job seekers had been subject to the rules set by the previous Government about 90 people would have ended up homeless and on the streets.

There is no evidence that job seekers are wilfully or persistently seeking to bend the rules. The news so far suggests that a system based upon engagement, not punishment, elicits a positive response from job seekers. ▲

Welfare Rights produces wallet card for young people and job seekers

The Welfare Rights Centre received a grant from the Department of Education, Employment and Workplace Relations to produce a wallet card aimed at young people and jobseekers.

The project was timed to coincide with the introduction of the new compliance regime, which came into effect 1 July 2009, and contains information about job seekers' rights, responsibilities and obligations. It also simplifies the complex new compliance regime, explaining the different types of penalties and how to appeal.

Young people are disproportionately affected by Social Security penalties. In 2007/2008 one in four of all participation failures were imposed on young people between the ages



of 18 and 21 years. More than ever, young people need independent advice and information about Centrelink. The wallet cards have all the telephone numbers of Welfare Rights Centres around the country.

We have published 50,000 brightly coloured mini booklets (designed to fit into wallets or pockets). Please contact the Centre on (02) 9211 5389 or welfarerights@welfarerights.org.au to get your free copies. ▲

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