

5. Social Security

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Summary

5.1 This chapter considers aspects of the social security system that may act as barriers to work for mature age persons, and makes a number of proposals to address these barriers. The ALRC proposes that the methods for communicating information about social security payments and entitlements to mature age persons be evaluated, and that staff of employment services providers receive training in the barriers to work faced by mature age persons.

5.2 In relation to specific income support payments, the ALRC invites further stakeholder comment on the possible effects on workforce participation of changes to the income test withdrawal rate for mature age Newstart Allowance recipients. Comment is also sought on the ways in which the review process for qualification for the Disability Support Pension may create barriers to mature age participation in the

workforce or other productive work. The ALRC proposes that a more flexible interpretation to combining care with work, education, training or voluntary work be taken when assessing qualification for Carer Payment. The ALRC also proposes that the Work Bonus amount for Age Pension and Veterans' Age Service Pension be indexed, and that Pensioner Education Supplement be extended to recipients of Age Pension and Veterans' Age Service Pension.

Australia's social security system

5.3 The primary purpose of Australia's transfer, or social security, system is to provide individuals with a 'minimum adequate standard of living'.¹ The main Australian Government transfers are income support payments and payments to families, including age and other pensions, Newstart Allowance and other allowance payments, Family Tax Benefit and supplementary payments.² Income support payments are made to individuals identified as being unable to support themselves through work or savings. A person's need for support is measured by means testing of income and assets.

5.4 Concession cards provide additional assistance to persons receiving income support, as well as those with low incomes and seniors meeting a separate income test. These cards provide access to a range of discounts or subsidies on Commonwealth, state and territory and local government fees and charges.³

5.5 The legislative basis of the social security system is the *Social Security Act 1991* (Cth) and the *Social Security (Administration) Act 1999* (Cth), and for family payments, *A New Tax System (Family Assistance Act) 1999* (Cth) and *A New Tax System (Family Assistance Act) (Administration) Act 1999* (Cth).⁴ In addition, the *Guide to Social Security Law* and the *Family Assistance Guide*, produced by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) provide guidance to decision makers in implementing this legislation.⁵

5.6 Social security law is administered by the Department of Human Services (DHS) through Centrelink. Policy responsibility is spread between the Department of Education, Employment and Workplace Relations (DEEWR), FaHCSIA and the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE).

1 The Treasury, *Australia's Future Tax System: Final Report* (2010), 485.

2 The Treasury, *Australia's Future Tax System: Architecture of Australia's Tax and Transfer System* (2008), xiii. See also T Carney, *Social Security Law and Policy* (2006).

3 The Treasury, *Australia's Future Tax System: Final Report* (2010), 621.

4 Family assistance as it relates to mature age persons is addressed in Chapter 6.

5 The Guides are updated monthly to reflect changes in government policy and legislative interpretation and are publicly available online: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012; FaHCSIA, *Family Assistance Guide* <www.fahcsia.gov.au/guides_acts/> at 30 August 2012. Although not binding in law, they are a relevant consideration for the decision maker and, as such, part of the 'legal frameworks' being considered in this Inquiry: *Stevens and Secretary, Department of Family and Community Services* [2004] AATA. Policy will usually be followed unless there are cogent reasons in a particular case for not doing so: *Re Drake and Minister for Immigration and Ethnic Affairs (No 2)* (1979) 2 ALD 634, 639–645.

5.7 The social security system has been the subject of two recent major reviews. In 2010, the Tax Review considered social security in the wider context of the tax and transfer system.⁶ In 2009, the Pension Review considered pension payments for seniors, carers and people with disability.⁷

Income support payments and work

5.8 This section outlines some of the major elements of the design of income support payments, focusing on how these may affect a person's participation in the workforce. Reform to income support payments may have some impact on reducing barriers to work for mature age job seekers. However, these barriers are multi-faceted. Stakeholders have argued that the willingness of employers to hire mature age persons significantly contributes to joblessness for persons in this age group.⁸ Mature age persons may also have multiple barriers to employment, in addition to age. For example, National Welfare Rights Network (NWRN) noted that 'some Indigenous job seekers may have to address issues of not just age discrimination, but also discrimination on the basis of race'.⁹ The Older Women's Network NSW Inc (OWN) and the Premier's Council for Women South Australia noted that there may be gendered differences in the barriers to work faced by mature age job seekers.¹⁰ Commenting generally on job seekers, Professor Peter Whiteford has noted that

the problems of the most disadvantaged and long-term jobless appear to include very low levels of educational attainment ... lack of access to reliable transport ... and complex personal problems including poor health and disabilities ... While it is possible that poorly designed tax and transfer systems might exacerbate these problems, it is difficult to see that transfer reform can resolve them.¹¹

Categories of income support payments

5.9 While income support payments are aimed primarily at alleviating poverty, the different qualification requirements and payment rates attached to various payments also reflect judgments about recipients' expected relationship to the labour force.

5.10 The primary income support payments are categorised into two groups—pensions and allowances. Pensions, including the Age Pension, Carer Payment, Parenting Payment,¹² and Disability Support Pension, have historically been provided on the basis that recipients were not expected to undertake paid work. Pension recipients generally have no requirement to seek work as a condition of payment. They

6 The Treasury, *Australia's Future Tax System: Final Report* (2010).

7 FaHCSIA, *Pension Review Report* (2009).

8 COTA, *Submission 51*; JobWatch, *Submission 25*.

9 National Welfare Rights Network, *Submission 50*.

10 Older Women's Network NSW Inc, *Submission 26*; The Premier's Council for Women South Australia, *Submission 13*.

11 P Whiteford, 'Transfer Issues and Directions for Reform: Australian Transfer Policy in Comparative Perspective' in *Melbourne Institute—Australia's Future Tax and Transfer Policy Conference Proceedings of a Conference* (2010) 20, 59.

12 While there may be some mature age recipients of Parenting Payment, the ALRC has not identified and examined workplace barriers that may affect parents as a group in this Inquiry.

are paid at a higher rate to reflect the expectation that the pension will be their sole source of income for an extended period.¹³

5.11 Allowances for job seekers, including the main working age payment, Newstart Allowance, have traditionally been paid on the basis that recipients were willing and able to work. Recipients were not expected to need income support for an extended period.¹⁴ Allowance payments are also made to students, again on the basis that the period of time on income support will be limited.¹⁵

5.12 Allowances for job seekers have ‘activity test’ or ‘participation’ requirements, obliging the recipient to seek work or participate in some other labour force preparation activity as a condition of payment.¹⁶ Allowances are also paid at a lower rate than pensions to act as an incentive to obtain paid employment, or in the case of students, because the payment is intended to be supplemented by other means.¹⁷

5.13 The distinction between pensions and allowances has become less pronounced in recent years. For example, the shift towards a social rather than a medical model of disability has seen more emphasis on the capacity of people with disability to work.¹⁸ In 2009, the Pension Review also emphasised that pensions paid to those below Age Pension age should actively support people to participate in employment.¹⁹

Adequacy of allowance payments

5.14 It has been argued that the current rate of Newstart Allowance²⁰ is set too low to achieve its primary purpose of providing an adequate minimum standard of

13 The Treasury, *Australia's Future Tax System: Final Report* (2010), 496.

14 The Treasury, *Australia's Future Tax System: Consultation Paper* (2008), 92. However, a large proportion of Newstart Allowance recipients spend long durations on the payment. At June 2012, approximately 62% of Newstart Allowance recipients had been in continuous receipt of the payment for one year or more. 46% had been in continuous receipt of payment for two years or more: DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 63.

15 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 15. Student allowance payments include Austudy, Youth Allowance (student) and ABSTUDY.

16 Payments that have an activity test or participation requirements include Newstart Allowance, Youth Allowance, Special Benefit and Parenting Payment: *Social Security Act 1991* (Cth) ss 500A, 541, 601, 729; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [1.1.A.40].

17 The Treasury, *Australia's Future Tax System: Final Report* (2010), 493, 496. National Welfare Rights Network noted that the low rate of payment for Austudy may act as a barrier to study for mature age persons: National Welfare Rights Network, *Submission 50*. The ALRC does not propose to make any changes to student income support payments, on the basis that systemic reform of these payments is beyond the scope of this Inquiry.

18 Productivity Commission, *Disability Care and Support* (2011), 271.

19 FaHCSIA, *Pension Review Report* (2009), xxi.

20 From 20 September 2012, the basic rate of Newstart Allowance for a single person with no children is \$492.60 per fortnight. For a single person aged 60 years or over after nine continuous months on payment, the rate is \$533 per fortnight: J Macklin, *Rates Indexation—September 2012* (2012) <<http://jennymacklin.fahcsia.gov.au/node/2051>> at 10 September 2012.

living, as well as to enable effective job search activity.²¹ This may be particularly so for mature age job seekers, who are likely to have more financial commitments.²²

5.15 The adequacy of the allowance payment system for jobseekers is currently the subject of inquiry by the Senate Education, Employment and Workplace Relations References Committee (Allowance Payment Inquiry).²³ A number of submissions to the Allowance Payment Inquiry argue that the rate of payment of Newstart Allowance creates barriers to work.²⁴ For example, the Business Council of Australia argued that

trying to survive on \$35 a day [the approximate daily base rate for a single person receiving Newstart Allowance] is likely to erode the capacity of individuals to present themselves well or maintain their readiness for work.²⁵

5.16 NWRN submitted to the ALRC that the rate of payment is a barrier to workforce participation, arguing that ‘income support payments need to provide a sufficient income to enable people to look for work and to cover job search costs including transport and telephone costs’.²⁶

5.17 The gap between pensions and allowances increased markedly in 2009 with the increase to pension amounts introduced by the Secure and Sustainable Pension Reforms Package.²⁷ This gap is also widening due to the different indexation methods for each payment.²⁸ The Tax Review noted that, ‘if the current indexation arrangements remain in place ... by 2040 a single pensioner would be paid more than twice as much as a single unemployed person’.²⁹

5.18 NWRN argued that this gap ‘creates perverse incentives for unemployed people to seek higher, non-activity-tested payments especially when they are older and have been unemployed for lengthy periods of time’.³⁰ The Tax Review has also noted that

21 Whiteford argued that there was ‘wide acceptance’ among participants at the Tax Forum in October 2011 that Newstart Allowance was inadequate: P Whiteford, ‘Social Security Reform: The Tax Forum and Beyond’ (2012) 31(1) *Economic Papers: A Journal of Applied Economics and Policy* 24, 25.

22 Gosnells Community Legal Centre Inc, *Submission to the Allowance Payment Inquiry* (2012).

23 Senate Education, Employment and Workplace Relations References Committee—Parliament of Australia, *Inquiry into the Adequacy of the Allowance Payment System for Jobseekers and Others, the Appropriateness of the Allowance Payment System as a Support into Work and the Impact of the Changing Nature of the Labour Market* (2012). The Committee is due to report by 1 November 2012.

24 Stakeholders who have argued that the rate of payment amounts to a barrier to work include the Australian Council of Social Service; Australian Council of Trade Unions, Brotherhood of St Laurence; Business Council of Australia; National Employment Services Association and Western Australian Council of Social Service.

25 Business Council of Australia, *Submission to the Allowance Payment Inquiry* (August 2012), 46.

26 National Welfare Rights Network, *Submission 50*.

27 *Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Act 2009* (Cth).

28 Pensions (other than Parenting Payment (single)) are indexed twice yearly by the greater in the movement of the Consumer Price Index or the Pensioner and Beneficiary Living Cost Index (PBLCI). The maximum base pension rate is then compared with 41.76 % of Male Total Average Weekly Earnings (MTAWE) for pensioner couples combined and around 27.7 % of MTAWE for single pensioners. If the pension is below the MTAWE wages benchmark, it is increased to that rate. Newstart Allowance is indexed twice yearly by the increase in CPI: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [5.1.8.50], [5.8.1.20].

29 The Treasury, *Australia’s Future Tax System: Final Report* (2010), 501.

30 National Welfare Rights Network, *Submission 50*.

the differences in rates of payment can ‘create disincentives to work or incentives to move to higher payments’.³¹

Means testing and employment income

5.19 The means tests for income support payments have two parts: an income test and an assets test. Payment is calculated by applying the test that results in the least amount of payment.³²

5.20 The income test and the assets test have two structural elements: a ‘free area’, and a ‘withdrawal rate’, or ‘taper’. The free area allows a person to have a threshold level of income or assets before eligibility for the full rate of payment is affected. The withdrawal rate subsequently gradually reduces the rate at which a payment is made as income and/or assets increase. In other words, payment ‘tapers out’ as a person’s private means increase.³³

5.21 The income test allows a person to earn some employment income while receiving an income support payment. The settings of the income test differ between types of payments, reflecting the different grounds upon which payments are made. For example, because pension recipients are not expected to support themselves through paid work, pension payments generally taper out more slowly than allowance payments. This allows a pension recipient to combine income support and employment income for longer.³⁴

Transitions between income support and work

5.22 In addition to the income test, a number of aspects of the design of income support payments help to ease the transition between income support and work, or to allow persons with fluctuating earnings to combine work and income support.

5.23 ‘Working Credit’ aims to encourage people of workforce age who receive income support payments to take up full-time, part-time, or casual work.³⁵ When a person’s total income (including employment income) is less than \$48 per fortnight, working credits are automatically accrued, up to a maximum of 1,000.³⁶ Accrued working credits are then used to offset employment income, effectively increasing the income free area for a payment.³⁷

31 The Treasury, *Australia’s Future Tax System: Final Report* (2010), 61.

32 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [4].

33 FaHCSIA, *Pension Review Report* (2009), 122.

34 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 27.

35 *Social Security Act 1991* (Cth) s 1073D; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.1.11.10].

36 Eligible recipients of Youth Allowance can accrue up to 3,500 working credits: *Social Security Act 1991* (Cth) ss 1073F, 1073H; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.1.11.20].

37 *Social Security Act 1991* (Cth) ss 1073F, 1073H; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.11.30]. In addition, in some circumstances where a person would otherwise no longer be qualified to receive income support, a person may remain qualified for the payment while they reduce their Working Credit balance: *Social Security Act 1991* (Cth)

5.24 Work Bonus allows Age Pension recipients to receive employment income up to \$250 per fortnight without its being assessed as income under the pension income test.³⁸ Work Bonus is discussed more fully below.

5.25 Concession cards are also available for a period on return to work, and alternative concession cards are available to some beyond the pension and allowance cut-outs.³⁹ Concession cards are discussed more fully below.

5.26 An income support payment recipient who is below Age Pension age may also qualify for supplementary benefits during an ‘employment income nil rate period’. Where income support payment is not payable because of ordinary income, made up entirely or partly of employment income, a recipient can be paid certain supplementary benefits and remain eligible for a concession card.⁴⁰ In addition, payment may be resumed without reapplication during this period if income is reduced sufficiently for the income support payment to be payable again.⁴¹

5.27 Other specific elements of payment design allow a person receiving Disability Support Pension or Carer Payment to work while remaining qualified for payment. These are discussed below.

Complexity as a barrier to work

5.28 In this section, the ALRC proposes that DHS should evaluate the effectiveness of its methods for communicating information about social security payments and entitlements to mature age persons. The income support payment system in Australia is highly targeted, both through making distinctions between payment categories—such as for carers, people with disability and those unemployed—and by means testing of payments.⁴² The object is to direct payments to those most in need and to maintain the sustainability of the system.⁴³ The result is ‘the most targeted system of cash transfers in the OECD’.⁴⁴

s 1073J; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.11.30].

38 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [4.2.2].

39 FaHCSIA, *Australia’s Future Tax System: Pension Review Background Paper* (2008), 11–12. For example, Pensioner Concession Cards may be extended for 12, 26 or 52 weeks depending on the payment and the cardholder circumstances: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.9.2.30].

40 *Social Security Act 1991* (Cth) ss 23(4A), 23(4AA), 1061ZEA, 1061ZMA; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.1.12].

41 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.1.12]. The employment income nil rate period does not apply to a person who lost their qualification for Carer Payment because they have paid work for more than 25 hours per week: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.4.70].

42 The Treasury, *Australia’s Future Tax System: Final Report* (2010), 494.

43 Ibid, 489.

44 P Whiteford, ‘Transfer Issues and Directions for Reform: Australian Transfer Policy in Comparative Perspective’ in *Melbourne Institute—Australia’s Future Tax and Transfer Policy Conference Proceedings of a Conference* (2010) 20, 20.

5.29 A corollary of targeting is complexity. Submissions to this Inquiry said that this complexity itself is a barrier to work.⁴⁵ Without large scale reform of the social security system, which is beyond the Terms of Reference for this Inquiry, this complexity will remain. It is therefore important to ensure that information about social security payments is as clear and accessible as possible, to assist individuals to manage this complexity.

Information provision

5.30 DHS utilises a range of methods to provide information about income support payment eligibility, conditions and the effect of work upon payments, including, for example, the DHS website,⁴⁶ and the News for Seniors magazine published three times a year.⁴⁷ However, the ALRC has heard that mature age persons find this information difficult to understand and navigate.

5.31 A number of submissions identified access to information about income support payments as a problem for mature age persons.⁴⁸ While noting that this issue was not limited to mature age persons, the Acting Commonwealth Ombudsman reported that:

we commonly receive complaints in which people say they have only just learned about a payment or entitlement that would have been of assistance to them earlier. This problem ... reflects the complexity of the social security system as well as the difficulty departments have in ensuring that important messages are appropriately targeted and promoted.⁴⁹

5.32 The increasing emphasis on providing information online was also identified as a potential problem, especially for mature age persons whose access to and familiarity with information technology may be limited.⁵⁰

5.33 However, even where information is available, a number of stakeholders suggested that mature age persons find this information difficult to understand.⁵¹ For example, the Australian Institute of Superannuation Trustees submitted that the Age Pension means test was ‘overly complex and difficult for the layperson to

45 Australian Institute of Superannuation Trustees, *Submission 47*; J Willis, *Submission 42*; Queensland Tourism Industry Council, *Submission 28*; National Seniors Australia, *Submission 27*; Olderworkers, *Submission 22*.

46 DHS, *How Can We Help You?* (2012) <www.humanservices.gov.au> at 4 September 2012.

47 DHS, *News for Seniors magazine* (2012) <www.humanservices.gov.au/customer/publications/rt010> at 4 September 2012.

48 COTA, *Submission 51*; L Masters, *Submission 36*; National Seniors Australia, *Submission 27*; J Walker, *Submission 20*; Commonwealth Ombudsman Office, *Submission 16*; My Longevity Pty Limited, *Submission 15*; L Gabor, *Submission 05*; W Trinder, *Submission 01*.

49 Commonwealth Ombudsman Office, *Submission 16*.

50 Ibid; L Masters, *Submission 36*; National Seniors Australia, *Submission 27*.

51 COTA, *Submission 51*; National Welfare Rights Network, *Submission 50*; Australian Institute of Superannuation Trustees, *Submission 47*; Australian Chamber of Commerce and Industry, *Submission 44*; J Willis, *Submission 42*; L Masters, *Submission 36*; Olderworkers, *Submission 22*; My Longevity Pty Limited, *Submission 15*; L Gabor, *Submission 05*.

understand'.⁵² My Longevity stated that 'many people need third party advice to make sense of these entitlements'.⁵³

5.34 Some stakeholders argued that information about incentives to take up paid work is not effectively communicated to mature age income support recipients.⁵⁴ For example, COTA Australia (COTA) stated that 'there is not a good understanding of how the Work Bonus operates ... It needs to be promoted more widely'.⁵⁵

5.35 There may be opportunities to improve communication with persons engaged in the social security system. For example, the Australia Institute has suggested that the data-matching tool used by Centrelink to identify when income support recipients have been overpaid could in turn be used to identify those who may be receiving less than their current entitlements.⁵⁶ This would allow targeted advice to be provided about payments for which a person may qualify. In addition, tools enabling income support recipients to calculate the effect of work upon their overall income could be further developed and given more prominence in DHS information material.⁵⁷

5.36 Difficulty in accessing and comprehending information about qualification for income support payments, as well as the effect of employment income upon these payments, appears to act as an impediment to mature age income support recipients' willingness to engage in employment. The ALRC considers that the DHS should evaluate how it could communicate this information to mature age persons more effectively.

Proposal 5-1 The Department of Human Services should evaluate the effectiveness of its methods for communicating information to mature age persons about social security. In its evaluation, it should consider the communication of information about:

- (a) eligibility for income support payments;
- (b) participation obligations for activity-tested payments, including information about the circumstances in which exemptions from the activity test may be available;
- (c) how to calculate the effect of taking up paid work on income support payments, for example through online rate calculators; and

52 Australian Institute of Superannuation Trustees, *Submission 47*.

53 My Longevity Pty Limited, *Submission 15*.

54 COTA, *Submission 51*; Australian Institute of Superannuation Trustees, *Submission 47*; Olderworkers, *Submission 22*.

55 COTA, *Submission 51*.

56 D Baker, 'Match making: Using data-matching to find people missing out on government assistance' (2012) 54 *Australia Institute Policy Brief*, 1.

57 While online estimators are available through the DHS website, they are not promoted on the main page for job seekers: DHS, *Online Estimators* (2012) <www.humanservices.gov.au/customer/enablers/online-estimators> at 4 September 2012; DHS, *Job seekers* (2012) <www.humanservices.gov.au/customer/themes/job-seekers> at 4 September 2012.

- (d) incentives to take up paid work, for example through Working Credit, Work Bonus, the employment income nil rate period and retention of concession cards.

Employment services

5.37 This section outlines the Australian Government’s employment services system, and employment assistance provided to mature age job seekers. The ALRC proposes that DEEWR ensure that capacity-building measures are made available to employment services provider staff about the barriers to work faced by mature aged persons.

5.38 Job Services Australia (JSA) is the Australian Government’s employment services system. General employment services are delivered by JSA providers: a mix of for-profit and not-for-profit organisations that are contracted by DEEWR under Employment Services Deeds.⁵⁸ The Disability Employment Services (DES) system provides employment services for job seekers with disability.⁵⁹ JSA and DES providers assist individual job seekers to gain sustainable employment, and connect job seekers to skills development and training opportunities.⁶⁰ Integrated Indigenous employment services are available through the JSA network, in conjunction with the Indigenous Employment Program (IEP) and, in remote areas with poor labour markets, Community Development Employment Projects (CDEP). From 1 July 2013, the delivery of employment and participation services and community development programs in remote areas—currently provided by JSA, DES, IEP and CDEP—will be provided by a new integrated service, the Remote Jobs and Communities Program.⁶¹

5.39 Generally, job seekers are required to connect with a JSA provider as a condition of fulfilling their activity test.⁶² Job seekers who receive non-activity-tested payments, such as Disability Support Pension and Carer Payment, may also volunteer to use JSA or DES.⁶³

58 DEEWR, *Job Services Australia providers* (2012) <www.deewr.gov.au/Employment/JSA/EmploymentServices/Pages/serviceProviders.aspx> at 4 September 2012.

59 DEEWR, *Disability Employment Services* (2012) <www.deewr.gov.au/Employment/Programs/DES/Pages/default.aspx> at 4 September 2012. DES providers also provide employment services under contract with DEEWR.

60 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 129.

61 Australian Government, *Remote Jobs and Communities Program General Fact Sheet* (2012).

62 *Social Security Act 1991* (Cth) s 601; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.2.8.10].

63 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 129–130.

Employment assistance for mature age job seekers

5.40 The amount of employment assistance job seekers receive is determined by their placement in one of four ‘streams’ of support. Persons in a higher stream will receive more intensive assistance.⁶⁴

5.41 Some stakeholders argued that the Australian Government’s employment services system requires through reform in respect of both the resources and assistance provided to disadvantaged and long-term unemployed job seekers.⁶⁵ The ALRC also heard concerns that mature age job seekers are not receiving the employment assistance needed to re-engage in the workforce.⁶⁶

5.42 The Australian Government has recognised that mature age job seekers may benefit from additional employment assistance. The Mature Age Participation—Job Seeker Assistance Program, announced in the 2012–13 Budget, will increase the support available to some job seekers aged 55 years and over who are engaged with Jobs Services Australia. This program will provide approximately 6,700 mature age job seekers with intensive employment assistance.⁶⁷

5.43 While this measure will provide targeted assistance for mature age job seekers, its scope is limited. In addition to the limited number of job seekers it will assist, the program is also restricted to ‘particular regions or industries, as prioritised by the Government’.⁶⁸ The Australian Human Rights Commission (AHRC) has suggested that there may be a need to further expand this program to all locations, and to Newstart Allowance recipients aged 45 years and older.⁶⁹

Tailoring of employment services

5.44 JSA providers work with job seekers who receive an activity-tested income support payment to identify the mix of vocational and non-vocational activities they need to participate in to obtain employment. These activities are outlined in an

64 Age is taken into account in the Job Seeker Classification Instrument (JSCI), a questionnaire taken by job seekers that determines the level of assistance they will be given. Generally, older job seekers attract more points in the JSCI than younger job seekers, in recognition that age can be an employment barrier: DEEWR, *Job Seeker Classification Instrument: Factors and Points version 1.1*. Where the JSCI indicates that a person has significant barriers to work, the person is referred for an Employment Services Assessment (ESAt) or Job Capacity Assessment (JCA) to determine work capacity and the most suitable employment service: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [1.1.E.104], [1.1.J.10].

65 Brotherhood of St Laurence, *Submission 54*; National Welfare Rights Network, *Submission 50*.

66 Brotherhood of St Laurence, *Submission 54*; COTA, *Submission 51*.

67 Australian Government, *Budget 2012–13: Budget Paper No. 2 (2012)* <www.budget.gov.au> at 3 September 2012. In addition, the Experience+ Career Advice service provides professional career counselling and a resume appraisal service to all job seekers and workers aged 45 years and over: DEEWR, *Free Career Advice* (2012) <www.deewr.gov.au/Employment/programs/expplus/jobseekers/pages/freecareeradvice.aspx> at 4 September 2012.

68 Australian Government, *Budget 2012–13: Budget Paper No. 2 (2012)* <www.budget.gov.au> at 3 September 2012.

69 AHRC, *Submission to the Allowance Payment Inquiry*, (August 2012).

individualised Employment Pathway Plan (EPP).⁷⁰ In setting the terms of an EPP, ‘the person’s education, experience, skills, age, physical condition and health (including mental health)’, among other things, must be taken into consideration.⁷¹

5.45 While the EPP is intended to be ‘individually tailored’ and negotiated between the job seeker and the provider, commentators have argued that this tailoring and negotiation does not occur in practice.⁷² In an analysis of employment assistance reforms between 1998 and 2008, Professor Mark Considine, Associate Professor Jenny Lewis and Dr Siobhan O’Sullivan concluded that frontline employment services staff ‘do not exercise significant discretion in tailoring services and the trend over time is towards high levels of standardisation for both staff and jobseekers’.⁷³

5.46 The apparent disjunction between law and practice in the tailoring of employment assistance has implications for mature age job seekers, as for other job seekers. Mature age job seekers may have particular needs for tailoring of their EPPs, given the increased likelihood of acquiring some degree of disability with age,⁷⁴ and the increased likelihood of caring responsibilities for people with disability, the frail aged and grandchildren.⁷⁵ These considerations may also require that a mature age person has access to the available exemptions or suspensions from EPPs.⁷⁶ NWRN reported that

Welfare Rights Centres ... receive many enquiries from recipients of activity-tested payments not yet 55 years of age who suffer from a range of health problems ... It is our experience that the activity testing obligations and the consequences for a person not able to comply can be daunting for an older person in poor health.⁷⁷

5.47 Difficulties in meeting activity test requirements are likely also to amount to barriers to participating in the workforce. It is important that the content of an EPP appropriately identifies and addresses these issues, and that exemptions or suspensions from EPPs are granted in appropriate circumstances.

5.48 The extent to which the contracting out of employment services puts the discretion and tailoring exercised by employment services providers beyond public scrutiny and review has also attracted comment. Emeritus Professor Terry Carney has noted that, where the ‘substance of a social security or welfare issue is contracted out

70 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.2.8.30].

71 *Social Security Act 1991* (Cth) ss 501A, 606; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.2.8.50].

72 L Fowkes, *Rethinking Australia’s Employment Services*, Whitlam Institute Perspectives Papers 6 (2011), 14; M Considine, J Lewis, S O’Sullivan, ‘Quasi-markets and Service Delivery Flexibility Following a Decade of Employment Assistance Reform in Australia’ (2011) 40(4) *Journal of Social Policy* 811, 825–826.

73 M Considine, J Lewis, S O’Sullivan, ‘Quasi-markets and Service Delivery Flexibility Following a Decade of Employment Assistance Reform in Australia’ (2011) 40(4) *Journal of Social Policy* 811, 825–826.

74 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 80.

75 Australian Bureau of Statistics, *Disability, Ageing and Carers: Summary of Findings, Cat No 4430.0* (2003); National Welfare Rights Network, *Submission 50*.

76 See, eg, *Social Security Act 1991* (Cth) ss 603, 603A, 603C.

77 National Welfare Rights Network, *Submission 50*.

to private providers, that issue becomes largely insulated from the public gaze ... and is much less responsive to orthodox external administrative review'.⁷⁸ In the case of EPPs, there is a much diminished capacity to obtain external review of their terms.⁷⁹ Carney has suggested that increased debate about the methods of accountability for, and review of, decisions taken by private providers—including decisions about the content of EPPs—is timely.⁸⁰ Greater transparency about these decisions would benefit mature age job seekers, as well others engaged with employment assistance.

5.49 A respect for self-agency—one of the framing principles of this Inquiry—requires that mature age job seekers have some opportunity to participate in setting the terms of their participation obligations. The Acting Commonwealth Ombudsman reported that some mature age persons expressed a 'sense that their age means they are not treated with respect' by employment services providers, and offered the following case study:

Mr L informed our office that he is 63 years old and has been unemployed for six years. Mr L said he was meeting his job seeker obligations, but he felt his JSA provider was becoming more demanding in what it required of him. Mr L told us he had lengthy experience as a senior manager, but felt that his age was preventing him from getting work. Mr L considered that his JSA provider was rude and failed to show any sympathy for his situation ... Mr L said he wanted to be treated with 'respect, dignity and professionalism'. Mr L also said he was thinking of cancelling his Newstart Allowance, and therefore ceasing his job search obligations or regular contact with the JSA provider, to try to live off his superannuation until he reached age pension age.⁸¹

5.50 Olderworkers, a mature age job board, submitted that in a recent survey of its registered job seekers

approximately 50% of respondents were accessing JSA and over 90% stated they were unhappy with services provided. Many of the respondents stated they had actually been advised they were wasting their time looking for a job at their age. They also stated they had felt age discrimination from many of the workers in these organisations ... Some had actually been compared to the recruiter's mother or father. Some had been asked why they wanted to work at their age.⁸²

5.51 The ALRC considers that the responsiveness of employment services providers to mature age job seekers could be improved, and proposes that DEEWR ensure that capacity-building measures are made available to JSA, DES and IEP staff about the barriers to work faced by mature aged persons. The ALRC notes the launch in August 2012 of the Mental Health Capacity Building e-learning package, designed to assist employment services provider staff to identify and support people living with mental illness.⁸³ The mental health training package was developed with input from

78 T Carney, 'Social Security Law: What Does the Politics of 'Conditional Welfare' Mean for Review and Client Representation?' (2012) 12(2) *Sydney Law School Research Paper* 1, 17.

79 Ibid, 16.

80 Ibid, 22–24.

81 Commonwealth Ombudsman Office, *Submission 16*.

82 Olderworkers, *Submission 22*.

83 K Ellis, MP, K Carr, MP, M Butler, MP, 'Frontline Training to Stop Job Seekers Living with Mental Illness Falling Through the Cracks' (Press Release, 4 September 2012).

mental health organisations, psychiatric rehabilitation services and employment service provider peak bodies.⁸⁴ A similar package, drawing on relevant expertise, may be beneficial for mature age persons. The ALRC also seeks stakeholder comment about other ways that employment assistance for mature age persons could be improved.

Proposal 5–2 To enhance the capacity of Job Services Australia, Disability Employment Services and Indigenous Employment Program staff to respond to the needs and circumstances of mature age job seekers, the Department of Education, Employment and Workplace Relations should ensure they are provided with information about:

- (a) age discrimination, including what constitutes ageist behaviour;
- (b) the effect that illness, disability and caring responsibilities may have on mature age persons' capacity to work;
- (c) the ways in which barriers to work for mature age persons may be affected by gender, cultural and linguistic diversity, Aboriginal and Torres Strait Islander status, and sexual orientation; and
- (d) Australian government programs targeted at increasing mature age workforce participation.

Question 5–1 In what other ways, if any, could the Australian Government's employment services system be improved to provide better assistance to mature age job seekers?

Newstart Allowance and mature age job seekers

5.52 This section considers the situation of mature age job seekers in receipt of Newstart Allowance. The ALRC does not propose to make any changes to activity test requirements for those aged 55 years and older. However, the ALRC asks for stakeholder comment about whether changes to the withdrawal rate for Newstart Allowance for recipients aged 55 years and older would have an effect on incentives for workforce participation.

5.53 At June 2012, there were 550,000 recipients of Newstart Allowance. Of these, approximately 22% were aged 40–49, almost 19% were aged 50–59, and 9.1% were aged 60–64.⁸⁵

⁸⁴ Ibid.

⁸⁵ DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 58–59. At August 2010, 198,327 (32%) of Newstart Allowance recipients were aged 44 years or older: ACOSS, *Beyond Stereotypes: Myths and Facts about People of Working Age who Receive Social Security*, ACOSS Paper 175 (2011), 11.

5.54 For the purposes of Newstart Allowance, ‘mature age’ is defined as 55 years and older. At June 2012, there were 98,050 recipients, or 18% of the total Newstart Allowance population, in this age group.⁸⁶ This number has almost doubled since June 2002,⁸⁷ driven by the phasing out of Partner Allowance, Mature Age Allowance and Widow Allowance, as well as the increasing age of eligibility of the Age Pension for women.⁸⁸

5.55 Approximately 50,000 Newstart Allowance recipients aged 55 years and older are ‘very long-term’ income support recipients (in receipt of income support for two years or more).⁸⁹ This represents approximately half of the total Newstart Allowance recipients in this age bracket,⁹⁰ as well as 20% of all very long-term income support recipients.⁹¹

5.56 Some Newstart Allowance recipients have been assessed as having a partial capacity to work: a physical, intellectual or psychiatric impairment that prevents a person from working at least 30 hours per week at the relevant minimum wage or above, independently of a program of support, for the next two years.⁹² At June 2012, there were 99,884 Newstart Allowance recipients with a partial capacity to work.⁹³ Of these, 27.1% were aged 55 years and older.⁹⁴ Persons with a partial capacity to work made up 27.6% of all Newstart Allowance recipients in this age group.⁹⁵

Activity test requirements for mature age job seekers

5.57 Different activity tests and participation obligations apply to some mature age persons. Job seekers aged 55 years and over have a concessional activity test option: they may satisfy the activity test if they undertake at least 30 hours per fortnight of approved and suitable voluntary work, paid work (including self-employment) or a combination of the two.⁹⁶ At 29 June 2012, 19,582 (21.8%) of all activity-tested mature age job seekers were satisfying their requirements in this way.⁹⁷

5.58 Where mature age job seekers are satisfying their activity test in this way, they are generally not required to attend appointments with their employment services provider. They must still register and remain connected to a provider while undertaking

86 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 44, 92.

87 Ibid, 92.

88 Ibid, 59, 92.

89 Ibid, 79.

90 Ibid, 44.

91 Ibid, 79.

92 *Social Security Act 1991* (Cth) s 16B; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [1.1.P.56].

93 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 80.

94 Ibid.

95 Ibid, 44, 80.

96 This concessional activity test is available to persons aged 55 years and over and in receipt of Newstart Allowance as well as Parenting Payment and Special Benefit: *Social Security Act 1991* (Cth) ss 502A, 603AA, 731G; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.2.8.20].

97 DEEWR, *Correspondence*, 23 July 2012.

these activities and are required to accept suitable paid work or referral to interviews.⁹⁸ In addition, they may access or continue to access the full range of services available through their employment services provider on a voluntary basis.⁹⁹ Job seekers who do not satisfy their activity test through undertaking 30 hours per fortnight of voluntary work, paid work, or a combination of the two, have the same participation obligations as other job seekers.¹⁰⁰

5.59 In 2009, the Participation Review Taskforce considered the different activity test rules for job seekers aged 55 years and over. It recommended that, in the medium term, mature age job seekers should have the same participation requirements as other job seekers.¹⁰¹ However, the Taskforce recommended that this change should be preceded by actions to combat negative attitudes towards older workers.¹⁰²

5.60 In the Issues Paper, the ALRC asked if the current activity test requirements for mature age job seekers should be changed.¹⁰³ Some stakeholders argued that the current concessional activity test sends an inappropriate message about the expected workforce participation of mature age persons. For example, the Australian Chamber of Commerce and Industry argued that the current exemptions for mature age workers can discourage participation in the workforce.¹⁰⁴ COTA agreed that allowing persons to satisfy their activity test by volunteering ‘could be seen to be discouraging older people from trying to re-enter the paid workforce’.¹⁰⁵

5.61 Other stakeholders were opposed to any tightening of the activity test for job seekers aged 55 years and over. They argued that the concessional activity test was appropriate in light of the current employment prospects for mature age job seekers.¹⁰⁶ Despite its reservations about the message sent by the current activity test, COTA also did not support any immediate change.¹⁰⁷ NWRN and the Brotherhood of St Laurence did not support tightening the current activity test for this group of income support recipients.¹⁰⁸ For NWRN, changes to the activity test would force older job seekers into ‘a cycle of constant rejection and humiliation’.¹⁰⁹

98 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.2.8.50].

99 DEEWR, *Correspondence*, 23 July 2012. Providers will receive service fees as well as placement and outcome fees if mature age job seekers voluntarily participate in employment services.

100 Participation Review Taskforce, *Participation Review Taskforce Report* (2008), 9.

101 *Ibid.*, 21.

102 *Ibid.*, 7, 20, 21.

103 Issues Paper, Question 23.

104 Australian Chamber of Commerce and Industry, *Submission 44*.

105 COTA, *Submission 51*.

106 Brotherhood of St Laurence, *Submission 54*; COTA, *Submission 51*; National Welfare Rights Network, *Submission 50*.

107 COTA, *Submission 51*.

108 Brotherhood of St Laurence, *Submission 54*; National Welfare Rights Network, *Submission 50*.

109 National Welfare Rights Network, *Submission 50*.

5.62 Writing about the prospects for an ageing labour force, Professor Philip Taylor makes a similar argument:

While older workers may nowadays be somewhat closer to the labour market than they once were, their employability is often quite poor ... Something that even its most ardent proponents must recognize is that 'activation' in terms of offering the 'right' of older people to work when there is no work to be had due to age discrimination, a lack of skills currency, or failing health may simply be condemning many to 'active' ageing in the form of labour force participation, but with little or no prospect of meaningful job opportunities.¹¹⁰

5.63 The ALRC considers that there should be no further tightening of the current activity test for job seekers aged 55 years and over. The test as it currently operates serves to provide a concession for the barriers to work faced by persons in this age group. Given that job seekers may voluntarily continue to engage with their employment services provider, the current activity test requirements do not appear to be acting as a barrier to mature age participation.

5.64 In addition, the concessional activity test recognises the value of volunteering, not only as a potential pathway to paid employment, but also as a form of productive work in its own right.¹¹¹

Taper rates for mature age job seekers

5.65 Newstart Allowance has undergone significant reform since the early 2000s. The primary consequence of the reforms has been a significant extension of the scope of Newstart Allowance to encompass a wider population group, including parents of young children, people with a partial capacity to work and the mature aged.¹¹² These reforms have meant that Newstart Allowance increasingly treats groups of recipients differently—for instance, through different activity test requirements.¹¹³

5.66 In general, however, Newstart Allowance recipients have the same income free area and withdrawal rate applied to any income received. The current income free area is \$62 per fortnight.¹¹⁴ Income between \$62 and \$250 per fortnight reduces payments by 50 cents in the dollar. Income above \$250 per fortnight reduces payment by 60 cents in the dollar.¹¹⁵

110 P Taylor, 'Conclusions: The Prospects for Ageing Labour Forces' in P Taylor (ed) *Ageing Labour Forces: Promises and Prospects* (2008) 204, 207.

111 M Levy, 'Volunteering as a Participation Option for Income Support Recipients: Unconscionable or Underutilised?' (2009) 14 *Australian Journal on Volunteering* 27; J Warburton, J Paynter, A Petriwskyj, 'Volunteering as a Productive Aging Activity: Incentives and Barriers to Volunteering by Australian Seniors' (2007) 26(4) *Journal of Applied Gerontology* 333.

112 For a summary of the reforms, see: DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 28–29, 139–146.

113 Different activity tests may apply for principal carers, persons with a partial capacity to work, and job seekers aged 55 years and over: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [1.1.A.40].

114 DHS, *A Guide to Australian Government Payments 1 July–19 September 2012* (2012), 34. By comparison, the income free area for pension payments is \$152 per fortnight.

115 *Ibid.* In general, partner income that exceeds the earning thresholds also reduces payment by 60 cents in the dollar.

5.67 The AHRC notes that the low income free area for Newstart Allowance recipients ‘acts as a specific disincentive to part-time or casual work’.¹¹⁶ NWRN reported that ‘older job seekers tell us that the exceedingly low “income free” area ... is a major impediment to undertaking additional hours of work’.¹¹⁷

5.68 The income free area, together with the withdrawal rate, is intentionally designed in this way to maintain the incentive to take up full-time paid work.¹¹⁸ In a joint submission to the Allowance Payment Inquiry, DEEWR, FaHCSIA, DHS and DIISRTE argued that ‘if people in receipt of payments are encouraged to take part time employment there is an inherent risk that they will substitute this for full time permanent work’.¹¹⁹ They contended that this is at odds with the ‘message that people should be making the maximum effort to fully support themselves’.¹²⁰

5.69 However, DEEWR, FaHCSIA, DHS and DIISRTE also acknowledged the changing nature of the cohort in receipt of Newstart Allowance. This has changed from a group of job seekers notionally with the capacity and availability to work full time, to one including those with partial capacity to work, caring responsibilities, and the mature aged. This change was said to present ‘new challenges to the allowance payment system to assist people in the transition off payment and into work’.¹²¹ There is some evidence that part-time or casual work can act as a stepping stone or pathway to full-time work.¹²² There is also evidence that persons aged 55 years and older (particularly men) may remain in casual employment for an extended period, possibly as a step towards retirement.¹²³

5.70 In addition, the different activity tests for different Newstart Allowance payment groups means that fully meeting participation obligations may not result in sufficient employment income to move completely off income support. This may be the case for principal carers and those with a partial capacity to work, who have part-time participation obligations.¹²⁴ This may also be the case for Newstart Allowance recipients aged 55 years and older satisfying the concessional activity test.¹²⁵

5.71 The financial benefit derived from combining paid work and income support can be improved by modifying the income free area or withdrawal rate. This is the policy intent behind the changes to the income test for single principal carers, to take effect

116 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 8.

117 National Welfare Rights Network, *Submission 50*.

118 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 26.

119 *Ibid.*, 27.

120 *Ibid.*

121 *Ibid.*, 70.

122 Although this may be more likely for men than women: H Buddelmeyer, M Wooden and S Ghantous, *Transitions from Casual Employment in Australia* (2006), Melbourne Institute of Applied Economic and Social Research Report prepared for the Department of Employment and Workplace Relations, iii.

123 *Ibid.*, 30.

124 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 70.

125 *Social Security Act 1991* (Cth) s 603AA; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.2.8.20].

from 1 January 2013. This change will introduce a flat withdrawal rate of 40 cents per dollar for each dollar received over the income free area.¹²⁶

5.72 There may be merit in introducing a less severe withdrawal rate for Newstart Allowance recipients aged 55 years and over to improve the financial incentives for combining part-time or casual work with income support.¹²⁷ As the AHRC has noted, mature age persons may face particular barriers to obtaining full-time work—despite their maximum efforts—because of the prevalence of age discrimination.¹²⁸ Additionally, in some circumstances part-time or casual work may be more suited to managing ill health or disability or combining work with caring responsibilities.

5.73 It has been said that ‘ongoing, purposeful reform to the allowance payment system which promotes higher workforce participation and productivity growth is critical to helping Australia manage an ageing population’.¹²⁹ The OECD and others have suggested that payment reform should move in the direction of fewer distinctions between payment recipients, not more.¹³⁰ However, the ALRC invites stakeholder comment about whether changes to the income test withdrawal rate for Newstart Allowance recipients aged 55 years and over should form part of the process of ongoing reform.

Question 5–2 The ‘withdrawal’ or ‘taper’ rate for an income support payment operates to reduce gradually the rate at which a payment is made as income or assets increase. What effect, if any, would changing the income test withdrawal rate for Newstart Allowance recipients aged 55 years and over have on their incentives for workforce participation?

Disability Support Pension

5.74 Disability Support Pension (DSP) recipients are numerically the most populous group of working age income support recipients. At June 2011, there were 818,850 recipients of DSP.¹³¹ Of these, 67.5% were aged 45 years or over; 65% aged 45–64; and 2.5% aged 65 years and over.¹³²

126 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 26; *Social Security and Other Legislation Amendment (Income Support and Other Measures) Act 2012* (Cth) sch 3.

127 The Brotherhood of St Laurence support reducing the taper rates for mature age Newstart Allowance recipients: Brotherhood of St Laurence, *Submission 54*.

128 AHRC, *Submission to the Allowance Payment Inquiry*, (August 2012), 6.

129 DEEWR, FaHCSIA, DHS and DIISRTE, *Submission to the Allowance Payment Inquiry* (2012), 32.

130 OECD, *Sickness, Disability and Work: Breaking the Barriers* (2010), 17–18; Reference Group on Welfare Reform, *Participation Support for a More Equitable Society* (2000), 19; ACOSS, *Out of the Maze: A Better Social Security System for People of Working Age*, ACOSS Paper 163 (2010), 2.

131 FaHCSIA, *Characteristics of Disability Support Pension Recipients June 2011* (2011), 10.

132 Ibid.

5.75 Uncertainty about the possible effect of workforce participation on qualification for DSP may act as a disincentive for recipients of the payment, the majority of whom are mature age. The ALRC invites stakeholder comment about the process of review of qualification for DSP.

Disability Support Pension and work

5.76 DSP provides income support on the basis of a person being unable to undertake substantial employment because of his or her disability. It is not generally subject to participation obligations.¹³³

5.77 To qualify for DSP a person must generally have a ‘continuing inability to work’ due to permanent physical, intellectual or psychiatric impairment.¹³⁴

5.78 The severity of impairment to a person’s work functioning is rated by reference to ‘Impairment Tables’.¹³⁵ New entrants to the DSP must have an impairment rating of 20 points or more.¹³⁶

5.79 To have a continuing inability to work, new entrants to the DSP must be unable to work at least 15 hours per week independently of a program of support, or be re-skilled for such work, within the next two years.¹³⁷ A person whose impairment is not severe¹³⁸ must also have participated in a program of support.¹³⁹

5.80 Comparatively few DSP recipients receive employment income. At May 2012, 70,243 recipients (less than 10%) had income from employment.¹⁴⁰ Recent changes to the DSP are aimed at promoting workforce participation among recipients.

- From 1 July 2012, all DSP recipients can work up to 30 hours per week without affecting their qualification for the payment.¹⁴¹ Previously, recipients of DSP

133 However, from 1 July 2012, DSP recipients under age 35, with a work capacity of at least eight hours per week, are required to attend regular interviews with Centrelink to develop participation plans to help build their capacity to work: *Social Security Act 1991* (Cth) ss 94(1)(da), 94A.

134 Ibid s 94. A person must also be at least 16 years of age and meet residence requirements.

135 The Tables and the rules to be complied with in applying them are found in Social Security (Tables for the Assessment of Work-related Impairment for Disability Support Pension) Determination 2011 .

136 *Social Security Act 1991* (Cth) s 94(1)(a), 94(1)(b).

137 Ibid s 94(1)(c)(i), 94(2), 94(5). Alternatively, the person must be participating in the supported wage system: *Social Security Act 1991* (Cth) s 94(1)(c)(ii). Persons whose start date for payment was before 11 May 2005 must have had a continuing inability to work 30 hours or more per week: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.1.10].

138 A person’s impairment is severe if it rates 20 points or more under the Impairment Tables, of which 20 points or more are under a single Impairment Table: *Social Security Act 1991* (Cth) s 94(3B).

139 Ibid s 94(2)(aa). A person who is assessed as being permanently blind is automatically qualified for a Disability Support Pension, and do not have to demonstrate a continuing inability to work: *Social Security Act 1991* (Cth) s 95; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.2.40].

140 Senate Community Affairs Committee—Parliament of Australia, *2012–13 Budget Estimates Hearings Families, Housing, Community Services and Indigenous Affairs Portfolio: Answers to Estimates Questions on Notice, Question 354 (FaHCSIA)* (24 July 2012).

141 *Social Security Act 1991* (Cth) s 96(2).

granted on or after 11 May 2005 could only work up to 15 hours a week before their payment was suspended or cancelled.¹⁴²

- Return-to-work ‘suspension’ provisions allow DSP recipients who are no longer eligible for the payment due to earnings from work to return to the payment within two years if they later cease work or reduce their earnings below the income test limit.¹⁴³

5.81 NWRN welcomed the change allowing DSP recipients to work up to 30 hours per week, noting that it will ‘provide a greater incentive to work and work for longer periods’.¹⁴⁴ However, NWRN argued that recipients of DSP receive mixed messages about the effect of workforce participation on their continued qualification for payment. NWRN stated that ‘from the individual’s perspective, from what they hear and read, the aim of the Government is to get them off the DSP—and thus many respond with fear and anxiety’.¹⁴⁵

5.82 NWRN submitted that DSP recipients are concerned that any increase in their workforce participation will trigger a review of their eligibility for the payment.¹⁴⁶ A range of reviews may apply to DSP recipients.

5.83 A DSP recipient may be subject to a ‘Service Update Review’, which may assess a person’s medical circumstances, income and assets, earnings and other relevant personal circumstances.¹⁴⁷

5.84 A person may also be selected for a ‘manual medical/work capacity review’. The *Guide to Social Security Law* directs that this review should occur when a Centrelink customer service adviser is not convinced that a person remains qualified for DSP (for example, because the customer service adviser discovers that the recipient is working).¹⁴⁸

5.85 Centrelink also conducts ‘profiling reviews’ of DSP recipients, selectively identifying and reviewing certain recipients.¹⁴⁹ FaHCSIA has stated that its practice is not to make public the parameters used to select a person for review, but that ‘employment predictors by themselves are not enough to select a pensioner’.¹⁵⁰

142 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.1.12].

143 *Social Security (Administration) Act 1999* (Cth) s 97A; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [8.2.2], [3.6.1.100].

144 National Welfare Rights Network, *Submission 50*.

145 *Ibid.*

146 *Ibid.*

147 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [6.2.5.15].

148 *Ibid.*, [6.2.5.18].

149 *Ibid.*, [6.5].

150 Senate Community Affairs Committee—Parliament of Australia, *Social Security and Other Legislation Amendment Bill 2011 – Schedule 3 (Disability Support Pension Impairment Tables): Responses to Questions on Notice (FaHCSIA)* (12 September 2011).

5.86 All reviews of a person's qualification for DSP will use the current Impairment Tables to assess the level of impairment.¹⁵¹ These Tables were reviewed in 2011 and revised Tables took effect from 1 January 2012.¹⁵² Analysis carried out for FaHCSIA on the use of the new Impairment Tables suggested that 36–45% of existing successful claimants would fail in a claim under the new Tables.¹⁵³ This has led to concern about the possible impact of review upon qualification for DSP.¹⁵⁴

5.87 While accepting that it is appropriate that there should be some mechanism for review of a person's continued qualification for DSP, the ALRC considers that the lack of clarity around the circumstances of review may be acting as a disincentive to increased workforce participation. The ALRC therefore seeks stakeholder comment on the DSP review process and its effect on mature age DSP recipients' workforce participation.

Question 5–3 In what ways, if any, does the review process for qualification for the Disability Support Pension create barriers to mature age participation in the workforce or other productive work? For example, does the lack of information about how Disability Support Pensioners are selected for review act as a disincentive to work?

Carer Payment

5.88 Carer Payment provides income support to people who, because of caring responsibilities, are unable to support themselves through substantial paid employment.¹⁵⁵ This section considers the limitations on participation in education or training, or paid or other productive work, associated with qualification for Carer Payment. The ALRC proposes that the current rules be more flexibly interpreted to allow carers in receipt of Carer Payment, the majority of whom are mature age, better to combine care with work or study.

Carer Payment and mature age persons

5.89 There is a correlation between informal care, mature age and gender. According to the Australian Bureau of Statistics, 'the likelihood of a person providing care to someone else increases with age, peaking for women between the ages of 55 years and 64 years and for men aged over 75'.¹⁵⁶

151 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.3].

152 *Ibid.*, [3.6.3].

153 Taylor Fry, *Analysis of the Testing of Draft Impairment Tables* (2011), 1.

154 Senate Community Affairs Legislation Committee, *Disability Impairment Tables: Provisions of Schedule 3 of the Social Security and Other Legislation Amendment Bill 2011* (2011), 19.

155 FaHCSIA, *Pension Review Report* (2009), 10.

156 Australian Bureau of Statistics, *Disability, Ageing and Carers: Summary of Findings, Cat No 4430.0* (2003), 49.

5.90 The age profile of Carer Payment recipients reflects this correlation. At December 2011, there were 195,183 Carer Payment recipients. Of these, 69% were aged 45 years and older; 57% were aged 45–64 and 11% were aged over 65.¹⁵⁷ Carer Payment recipients were predominantly women—69% of total recipients at December 2011.¹⁵⁸

5.91 The main policy intent of Carer Payment is to provide income support to carers who cannot participate substantially in paid work. However, Professor Michael Bittman, Dr Trish Hill and Ms Cathy Thomson have noted that Carer Payment also fits within a broader policy setting that aims to support the private provision of care, through self-care and informal care in the home. This is a form of care that is likely to increase with the ageing of the population. This ‘privatisation of care’ objective, they argue, stands in tension with the goal of promoting workforce participation, given the difficulty of combining paid work and care.¹⁵⁹

5.92 The question of how to promote workforce participation of those in receipt of Carer Payment falls squarely within these policy tensions. Longitudinal studies have shown that working age carers experience difficulties in combining paid work and care, with carers more likely than non-carers to reduce their hours of work or exit from the labour force and to earn lower levels of income.¹⁶⁰

Qualification for Carer Payment

5.93 To qualify for Carer Payment, a person must, among other things, be providing ‘constant care’ to a care receiver in the care receiver’s home.¹⁶¹ Constant care is not defined in the *Social Security Act*. However, the *Guide to Social Security Law* states that it amounts to care for a significant period each day of at least the equivalent of a normal working day.¹⁶²

5.94 Carer Payment recipients are permitted in specific circumstances temporarily to cease caring and remain qualified for Carer Payment. A Carer Payment recipient may cease caring for not more than 25 hours per week (including travel time) to undertake training, education, unpaid voluntary work or paid employment.¹⁶³ This is often referred to as the ‘25-hour rule’.

157 Senate Standing Committee on Education Employment and Workplace Relations, *Additional Budget Estimates 2011–2012: Answers to Questions on Notice, Question No EW1043_12 (DEEWR)* (30 April 2012).

158 Ibid.

159 M Bittman, T Hill and C Thomson, ‘The Impact of Caring on Informal Carers’ Employment, Income and Earnings: a Longitudinal Approach’ (2007) 42(2) *The Australian Journal of Social Issues* 255, 256.

160 Ibid, 261.

161 *Social Security Act 1991* (Cth) ss 197B–197K, 198; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.4.10].

162 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [1.1.C.310].

163 *Social Security Act 1991* (Cth) s 198AC(4); FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.4.70]. A person may also temporarily cease caring in certain other circumstances, including for up to 63 whole days per year: *Social Security Act 1991* (Cth) s 198AC; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.4.40].

5.95 A number of stakeholders considered that the 25-hour rule acted as a barrier to mature age workforce participation.¹⁶⁴ COTA argued that ‘the 25-hour rule is too restrictive and ... it severely limits carers’ opportunities to participate in the workforce ... or prepare themselves to do so in the future’.¹⁶⁵

5.96 Carers Australia argued that there is a need for more flexibility in the application of the 25-hour rule for Carer Payment.¹⁶⁶ Carers Australia has stated that the current income support structure is limited in its ability to support transitions between caring and employment, and that ‘without strong supports for these transitions, caring will be viewed as carrying too many financial, social and health risks for many to take on such a role’.¹⁶⁷

5.97 A number of commentators have highlighted the difficulties faced by carers in re-entering the workforce when caring responsibilities cease.¹⁶⁸ This was echoed in submissions to this Inquiry.¹⁶⁹ For example, OWN submitted that ‘informal carers returning to work are concerned their qualifications and skills are out of date and they may have lost confidence in their abilities and report being told they are too old’.¹⁷⁰

5.98 The *Guide to Social Security Law* states that a person’s qualification should be reviewed if a carer ceases to care for more than 25 hours per week to participate in training, education, employment or voluntary work, as the person may no longer satisfy the constant care criteria.¹⁷¹ NWRN suggested that this test was strictly applied, reporting that

in 2010–11 there were 2,398 rejections of Carer Payment due to the carer working, volunteering, or studying or training for more than 25 hours a week. In the same period there were 1,822 cancellations of Carer Payment because the carer worked, volunteered, studied or trained for more than 25 hours a week.¹⁷²

164 Brotherhood of St Laurence, *Submission 54*; COTA, *Submission 51*; National Welfare Rights Network, *Submission 50*; ACTU, *Submission 38*.

165 COTA, *Submission 51*.

166 Carers Australia, *Correspondence*, 13 August 2012.

167 Carers Australia, *Submission to the Pension Review* (2008), 21.

168 M Bittman, T Hill and C Thomson, ‘The Impact of Caring on Informal Carers’ Employment, Income and Earnings: a Longitudinal Approach’ (2007) 42(2) *The Australian Journal of Social Issues* 255; B Cass, ‘Care Giving and Employment: Policy Recognition of Care and Pathways to Labour Force Return’ (2006) 32(3) *Australian Bulletin of Labour* 240.

169 COTA, *Submission 51*; National Welfare Rights Network, *Submission 50*; Older Women’s Network NSW Inc, *Submission 26*.

170 Older Women’s Network NSW Inc, *Submission 26*. NWRN similarly noted the significant disadvantage in the labour market faced by carers after caring responsibilities cease: National Welfare Rights Network, *Submission 50*.

171 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.4.70]. Working Credit provides some flexibility when a person takes up paid work. If a person takes up paid work for more than 25 hours per week that causes them to fail the constant care criterion, they are treated as qualified for the period it takes to run down their working credit balance. However, Working Credit will not apply where a person increases time spent in education, training or voluntary work.

172 National Welfare Rights Network, *Submission 50*.

5.99 Removing barriers to participation in paid or voluntary work, as well as to the ability to obtain or update skills through training or education, may benefit Carer Payment recipients, not only in their current situation, but also in equipping them to work after they cease caring.

5.100 There appears to be scope for a more flexible interpretation of the current 25-hour rule to assist Carer Payment recipients to combine care with work, training, education or voluntary work. The ALRC proposes that the *Guide to Social Security Law* be amended to reflect this.

5.101 The Guide currently provides one example of how employment in the home may be compatible with the constant care requirement.¹⁷³ There are a number of other employment, training and education activities—for example, online learning—that might be undertaken within the care receiver’s home that would also be compatible with the need to provide constant care. The ALRC proposes that the Guide should be amended to provide further examples of such activities.

Proposal 5–3 The *Guide to Social Security Law* should provide that a temporary cessation of constant care due to participation in employment, voluntary work, education or training that exceeds 25 hours per week:

- (a) does not result in automatic cancellation of Carer Payment; and
- (b) may, in some circumstances, be compatible with the constant care requirement for qualification for Carer Payment.

Proposal 5–4 The *Guide to Social Security Law* should provide examples of situations where participation in employment, voluntary work, education or training that exceeds 25 hours per week may be compatible with the constant care requirement for Carer Payment. These examples should include:

- (a) employment, voluntary work, education or training undertaken at home, for example online, provided it is consistent with the care receiver’s need for frequent personal care or constant supervision; and
- (b) short term increases in excess of 25 hours per week of employment, voluntary work, education or training undertaken outside the home.

Concession cards

5.102 Where eligibility for concession cards is directly linked to the receipt of income support, the concessions available to cardholders enhance the total value of these payments. The loss of support when paid work is undertaken can therefore be greater

173 The example is: ‘Jane cares for her aunt in her aunt’s home. Jane uses a room in her aunt’s house to make craft items that she sells through mail orders. Jane only attends to her business when she is not providing care for her aunt and can stop doing craftwork or packing orders at any time that her aunt needs her’: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.6.4.70].

than the withdrawal of primary income support payments. Reluctance to lose, or fear of losing, a concession card can act as a disincentive to work.

5.103 Holding a concession card entitles a person to Australian Government concessions, including price subsidies for Pharmaceutical Benefits Scheme medicines and a lower threshold for the Medicare safety net. In addition, state and local governments provide a range of concessions to cardholders, such as discounts on council rates, utilities charges and public transport fares.¹⁷⁴

5.104 The main concession cards available to income support recipients are the Health Care Card and the Pensioner Concession Card. The Health Care Card is available to recipients of Newstart Allowance and certain other payments.¹⁷⁵ The Pensioner Concession Card is available to those who receive a pension (including Age Pension, Disability Support Pension and Carer Payment) and to some recipients of other payments.¹⁷⁶

5.105 The Tax Review noted that, for persons who are heavy users of a concession card, the incentives to retain it may be especially high. As a consequence, persons ‘may be reluctant to jeopardise the concessions they receive ... by testing their ability to work’.¹⁷⁷

5.106 Stakeholders in this Inquiry emphasised that mature age persons place a high value on eligibility for a concession card and argued that the desire to retain the card influences decisions about taking up paid work.¹⁷⁸ For example, NWRN reported that ‘the Pensioner Concession Card is highly valued and ... people often make decisions on the basis of whether they will receive or lose the card’.¹⁷⁹ COTA noted, similarly, that mature age persons ‘highly value their concession cards and their retention is a major consideration in all aspects of their financial situations’.¹⁸⁰

5.107 To address this possible disincentive to work, concession cards may be retained for a period after taking up employment.¹⁸¹ In addition, alternative concession cards

174 The Treasury, *Australia's Future Tax System: Final Report* (2010), 621. State and local governments generally make decisions on the type and level of concessions they offer. The Australian government has contributed funding towards selected state-based concessions through the National Partnership Agreement on Certain Concessions for Pensioners and Seniors Card Holders. This agreement expired on 30 June 2012. The Australian Government has indicated that this agreement will be renegotiated: Australian Government, *Budget 2012–13: Budget Paper No. 3* (2012) <www.budget.gov.au> at 3 September 2012.

175 *Social Security Act 1991* (Cth) s 1061ZK; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.9.1.10].

176 *Social Security Act 1991* (Cth) s 1061ZA; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.2.9.10].

177 The Treasury, *Australia's Future Tax System: Final Report* (2010), 622.

178 COTA, *Submission 51*; National Welfare Rights Network, *Submission 50*; Australian Chamber of Commerce and Industry, *Submission 44*.

179 National Welfare Rights Network, *Submission 50*.

180 COTA, *Submission 51*.

181 FaHCSIA, *Australia's Future Tax System: Pension Review Background Paper* (2008), 11–12. For example, Pensioner Concession Cards may be extended for 12, 26 or 52 weeks—depending on the payment and the cardholder circumstances: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.9.2.30].

may be available to those who do not qualify for income support. For example, the Health Care Card is available to low income earners meeting an income test.¹⁸² The Commonwealth Seniors Health Card is available to those who have reached Age Pension age, do not qualify for Age Pension or a pension from the Department of Veterans' Affairs and meet a separate income test.¹⁸³

5.108 However, NWRN submitted that the rules about the retention of concession cards upon taking up paid work are too complex, and that this works against their policy intent:

Welfare Rights Centres receive many enquiries from people confused by the current rules that apply to determine how long a person can retain their concession card ... many social security recipients are incredibly confused by the rules.¹⁸⁴

5.109 One possible way to remove any disincentive to take up paid work caused by loss of a concession card is to broaden eligibility for the card. However, as availability of a concession card widens, 'its value as an indicator of financial need can be diminished'.¹⁸⁵ The increasing unwillingness of general practitioners to bulk-bill card holders as the proportion of their patients in possession of a card increases is one example of this diminution in value.¹⁸⁶ Widening the availability of a concession card also runs counter to the principle of targeting support to those in most need.

5.110 The concessions available to cardholders are provided by all three levels of government. Extending eligibility would have cost implications across all these levels. The Tax Review has noted that it is difficult to determine the total expenditure on concessions, 'because the value of the concession used in some transactions may not be recorded'.¹⁸⁷ It would also be difficult to quantify the cost implications of any change to concession card qualification rules.

5.111 The Tax Review recommended that concessions be reviewed across all levels of government.¹⁸⁸ It considered that the current approach to concession card eligibility may create disincentives to work.¹⁸⁹ The Tax Review also found that the concession card system is complex and may be inequitable. For example, concessions on local government rate payments benefit home-owning but not renting cardholders. In addition, different state governments may provide different levels of concessions to cardholders.¹⁹⁰

5.112 While the ALRC does not make a specific proposal about this issue, the ALRC agrees that a review of the concession card system may be desirable, given stakeholder comments about the complexity of the system and its potential effect on workforce

182 *Social Security Act 1991* (Cth) ss 1061ZO, 1071A.

183 *Ibid* s 1061ZG; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [1.2.8.30].

184 National Welfare Rights Network, *Submission 50*.

185 The Treasury, *Australia's Future Tax System: Final Report* (2010), 623.

186 FaHCSIA, *Pension Review Report* (2009), 112.

187 The Treasury, *Australia's Future Tax System: Final Report* (2010), 621.

188 *Ibid*, 625.

189 *Ibid*, 624–625.

190 *Ibid*, 623–624.

participation. Such a review would consider factors beyond mature age workforce participation—including general workforce participation. Consequently, proposing a review of the concession card system is beyond the scope of this Inquiry.

5.113 However, the ALRC suggests that any such review, as previously recommended by the Tax Review, could consider how the concession card system might be reformed to remove or minimise disincentives to mature age workforce participation. Examples of issues that could be considered include: reducing complexity; the basis for eligibility for a card; the concessions associated with different cards and income support payment types; and the periods of time that cards are retained after losing qualification for income support.

Age-based pension payments

5.114 In this section, the ALRC considers the qualifying age for Veterans' Age Service Pension, and the treatment of employment income in means testing for Age Pension recipients.

5.115 No changes to the qualifying age for Veterans' Age Service Pension are proposed. The ALRC proposes that the Work Bonus amount—an amount of employment income that is disregarded in calculating the rate of payment for Age Pension and Age Service Pension—be indexed in order to maintain its value as a workforce incentive.

Veterans' Age Service Pension

5.116 Veterans of the Australian Defence Force who have rendered qualifying service are eligible to receive an age-based income support payment—the Age Service Pension—five years earlier than the civilian Age Pension.¹⁹¹ It is currently available to male veterans who are aged 60 years and older and to female veterans who are aged 55 years and older.¹⁹²

5.117 The qualifying age for Age Service Pension is not scheduled to increase in line with forthcoming changes that will increase Age Pension age to 67.¹⁹³ The Tax Review proposed that the current five-year difference between qualifying age for Age Pension and Age Service Pension be retained with any increase to Age Pension age.¹⁹⁴

5.118 The Australian Institute of Superannuation Trustees supported maintaining the five-year gap between Age Pension age and Age Service Pension age.¹⁹⁵ Ex-service

191 *Veterans' Entitlements Act 1986* (Cth) s 36. A Service Pension may also be granted on the grounds of permanent incapacity to work: *Veterans' Entitlements Act 1986* (Cth) s 37. Veterans' Age Service Pension is paid at the same rate as Age Pension and is subject to the same income and assets tests.

192 *Veterans' Entitlements Act 1986* (Cth) ss 5QA, 5QB.

193 Age Pension age will rise incrementally from 65 to 67 between 1 July 2017 and 1 July 2023: *Social Security Act 1991* (Cth) ss 23(5A), (5D).

194 The Treasury, *Australia's Future Tax System: The Retirement Income System—Report on Strategic Issues* (2009), 3.

195 Australian Institute of Superannuation Trustees, *Submission 47*.

organisations opposed any increase to the qualifying age for the Age Service Pension.¹⁹⁶

5.119 The Returned & Services League of Australia (RSL) and the Alliance of Defence Service Organisations (ADSO) argued that the qualifying age for Age Service Pension is not related to the qualifying age for the Age Pension.¹⁹⁷ ADSO said that the qualifying age is ‘an independent judgement based on the effects of war and should be seen as an absolute figure, not a top-down figure with reference to age pension’.¹⁹⁸

5.120 Stakeholders submitted that military service has adverse health effects for veterans.¹⁹⁹ The Department of Veterans’ Affairs stated that ‘studies into the health and well-being of veterans following military deployment have found statistically significant increases in mortality and morbidity among our veterans’.²⁰⁰ The RSL submitted that the contemporary experience of military service, including the multiple deployments served by many military personnel, may mean that the ageing effects of war are greater now than in the past.²⁰¹

5.121 Eligibility for an age-based income support payment may act as an incentive to leave the workforce, or a disincentive to continue participating in paid work.²⁰² However, the ALRC considers that there is a distinction to be made between removing barriers to work and raising the qualification age for an income support payment. The latter may compel veterans to remain in the labour force. In light of this and of evidence of the continuing adverse health effects of military service, the ALRC does not propose any increase to the qualifying age for Veterans’ Age Service Pension.

Age Pension and employment income

5.122 As well as its place in the social security system, the Age Pension forms one pillar of Australia’s three-pillar retirement income system, alongside compulsory saving through the superannuation guarantee and voluntary superannuation.²⁰³ The Age Pension acts as a safety net payment—ensuring that people over Age Pension age have access to an income that provides a reasonable minimum standard of living.²⁰⁴

196 Alliance of Defence Service Organisations, *Submission 49*; TPI Federation of Australia, *Submission 48*; The Returned & Services League of Australia Ltd, *Submission 24*. NWRN also opposed any increase to the qualifying age for Age Service Pension: National Welfare Rights Network, *Submission 50*.

197 Alliance of Defence Service Organisations, *Submission 49*; The Returned & Services League of Australia Ltd, *Submission 24*.

198 Alliance of Defence Service Organisations, *Submission 49*.

199 Ibid; Department of Veterans’ Affairs, *Submission 52*.

200 Department of Veterans’ Affairs, *Submission 52*.

201 The Returned & Services League of Australia Ltd, *Submission 24*.

202 B Headey, J Freebairn and D Warren, *Dynamics of Mature Age Workforce Participation: Policy Effects and Continuing Trends, Final Report* (2010), Melbourne Institute of Applied Economic and Social Research, 91.

203 The Treasury, *Australia’s Future Tax System: The Retirement Income System—Report on Strategic Issues* (2009), 8.

204 Ibid, 10.

5.123 A high proportion—68.3%—of persons over Age Pension age were in receipt of the Age Pension at March 2012.²⁰⁵ 40.9% of these were in receipt of the full rate of Age Pension.²⁰⁶ When combined with all forms of income support (including Commonwealth Seniors Health Card) 85% of persons over Age Pension age were in receipt of some income support at March 2012.²⁰⁷

5.124 A person may continue to work after reaching Age Pension age. If so, employment income will be assessed as part of the income test in determining eligibility to receive the Age Pension. At March 2012, 3.9% of Age Pension recipients had earnings from employment.²⁰⁸

5.125 A number of elements in the design of the Age Pension allow continued workforce participation after reaching Age Pension age. These include the design of the means test and Work Bonus.²⁰⁹

Means testing for Age Pension

5.126 Employment income, along with income from other sources, is assessed under the income test for Age Pension.²¹⁰ Each dollar of assessable income over the free area amount reduces the level of payment by 50 cents in the dollar.²¹¹

5.127 A number of submissions argued that the income test provided disincentives to work for Age Pension recipients.²¹² For example, the Australian Chamber of Commerce and Industry argued that ‘once eligible for an aged pension and associated benefits recipients become reluctant to seek higher remuneration from paid employment’.²¹³ The Government of South Australia supported removing or relaxing the income test for the Age Pension.²¹⁴ The Australian Council of Trade Unions and the Superannuated Commonwealth Officers’ Association Inc also supported a relaxation of the income test.²¹⁵

5.128 The increase in the payment rate for Age Pension in 2009 was weighed against a change in the withdrawal rate from 40 cents in the dollar to 50 cents in the dollar.²¹⁶

205 Senate Community Affairs Committee—Parliament of Australia, *2012-13 Budget Estimates Hearings Families, Housing, Community Services and Indigenous Affairs Portfolio: Response to Questions on Notice Question 76 (FaHCSIA)* (28 May 2012).

206 Ibid.

207 Ibid.

208 FaHCSIA, *Correspondence*, 6 July 2012.

209 The same means tests apply to Veterans’ Age Service Pension, and Work Bonus is also available to veterans.

210 *Social Security Act 1991* (Cth) s 1064-E1; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [4.2.1.10].

211 The current free area amount for a single person is \$152: DHS, *A Guide to Australian Government Payments 1 July–19 September 2012* (2012), 32.

212 Australian Chamber of Commerce and Industry, *Submission 44*; J Willis, *Submission 42*; ACTU, *Submission 38*; Australian Industry Group, *Submission 37*; Government of South Australia, *Submission 30*; Queensland Tourism Industry Council, *Submission 28*; National Seniors Australia, *Submission 27*; Olderworkers, *Submission 22*; Superannuated Commonwealth Officers Association, *Submission 14*.

213 Australian Chamber of Commerce and Industry, *Submission 44*.

214 Government of South Australia, *Submission 30*.

215 ACTU, *Submission 38*; Superannuated Commonwealth Officers Association, *Submission 14*.

216 National Welfare Rights Network, *Submission 50*.

This increase was justified on the basis of ensuring the long-term sustainability of the pension system, and so that increases in the payment could be targeted at those most in need.²¹⁷ Professor Peter Whiteford, Associate Professor Gerry Redmond and Dr Bruce Bradbury have noted that the increases in the Age Pension payment rate more than halved the poverty among persons aged 65 years and older.²¹⁸

5.129 The calibration of the means test is designed to strike a balance between the cost of an income support payment to the taxpayer, the adequacy of the payment and the incentives for people to undertake employment or earn other income. This is known as the ‘iron triangle’ of means testing.²¹⁹ Changes to the design of the means test along any of these axes will involve some trade-off against one or both of the others. For example, relaxation or removal of the means test would increase the cost of the income support payment to taxpayers.²²⁰

5.130 The ALRC is conscious that the primary purpose of the Age Pension is to act as a safety net payment. This is in keeping with the targeted nature of the system of income support payments. Significant relaxation or removal of the income test is at odds with such a targeted approach. The current income test appears to be an appropriate compromise between payment adequacy and incentives for private provision. Therefore, the ALRC does not propose any changes to the income test. Proposed changes to the Work Bonus scheme, addressed below, are intended to promote incentives to work while remaining consistent with payment design.

Work Bonus

5.131 ‘Work Bonus’ was introduced in 2009 to reduce the amount of employment income that is assessable in the Age Pension income test in an instalment period. Work Bonus allows a person to earn up to \$250 per fortnight, without it being assessed as income under the pension income test.²²¹ Any unused amount of the fortnightly \$250 Work Bonus accumulates in an ‘Employment Income Concession Bank’, up to a maximum amount of \$6,500.²²² Credit in this income bank can then be carried forward and be used to offset employment income that would otherwise be assessable under the pension income test.²²³ Work Bonus is also available to Veterans’ Age Service Pension recipients.²²⁴

217 Explanatory Memorandum, Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Bill 2009 (Cth).

218 P Whiteford, G Redmond and B Bradbury, ‘Razor Gangs and Welfare Reformers Must Not Lose Sight of Evidence’, *The Age (online)*, 20 April 2012, <www.theage.com.au/opinion/politics/>. However, the Brotherhood of St Laurence argued that the current assets test is inequitable in its treatment of home owners versus non-home owners: Brotherhood of St Laurence, *Submission 54*.

219 The Treasury, *Australia’s Future Tax System: Final Report* (2010), 498.

220 Ibid.

221 *Social Security Act 1991* (Cth) s 1073AA; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts/> at 30 August 2012, [3.1.14.10], [3.1.14.30].

222 *Social Security Act 1991* (Cth) s 1073AB.

223 Ibid s 1073AA; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts/> at 30 August 2012, [3.1.14.30].

224 *Veterans’ Entitlements Act 1986* (Cth) ss 46AA, 46AC.

5.132 Work Bonus was introduced in place of another incentive designed to promote prolonged workforce participation after Age Pension age, the Pension Bonus Scheme.²²⁵ Stakeholders largely welcomed the Work Bonus scheme.²²⁶ NWRN noted that Work Bonus appeared, on preliminary data, to be having some effect on the workforce participation of Age Pension recipients, as well as upon the amount of employment income they received.²²⁷ However, some submissions felt that awareness and understanding of Work Bonus was low among Age Pension recipients, and proposed greater information about and promotion of this scheme.²²⁸

5.133 Some stakeholders called for an increase in the Work Bonus amount, either through regular indexation or through a wholesale increase.²²⁹

5.134 The Pension Review noted that the indexing of pensions is critical to maintaining the standard of living of pension recipients.²³⁰ The ALRC considers that it is similarly important to index the Work Bonus amount to maintain over time the incentive for workforce participation for Age Pension recipients.²³¹ The ALRC therefore proposes that the Work Bonus amount be automatically indexed in the same manner as for Age Pension.

Proposal 5–5 The objective of Work Bonus is to provide incentives for recipients of Age Pension and Veterans’ Age Service Pension to continue in employment. To ensure that Work Bonus continues to achieve its objective, the following amounts should be indexed to the Pensioner and Beneficiary Living Cost Index:

- (a) the income concession amount under s 1073AA of the *Social Security Act 1991* (Cth) and s 46AA of the *Veterans’ Entitlements Act 1986* (Cth); and

225 ACCI recommended re-opening the Pension Bonus Scheme: Australian Chamber of Commerce and Industry, *Submission 44*. The majority of submissions received in relation to the Pension Bonus Scheme did not support such a re-opening: COTA, *Submission 51*; National Welfare Rights Network, *Submission 50*; Australian Institute of Superannuation Trustees, *Submission 47*; R Spencer, *Submission 08*.

226 COTA, *Submission 51*; National Welfare Rights Network, *Submission 50*; Australian Institute of Superannuation Trustees, *Submission 47*; National Seniors Australia, *Submission 27*; Older Women’s Network NSW Inc, *Submission 26*; Superannuated Commonwealth Officers Association, *Submission 14*.

227 National Welfare Rights Network, *Submission 50*.

228 Australian Institute of Superannuation Trustees, *Submission 47*; Olderworkers, *Submission 22*; Commonwealth Ombudsman Office, *Submission 16*.

229 COTA, *Submission 51*; National Welfare Rights Network, *Submission 50*; National Seniors Australia, *Submission 27*; Older Women’s Network NSW Inc, *Submission 26*; Superannuated Commonwealth Officers Association, *Submission 14*.

230 FaHCSIA, *Pension Review Report* (2009), 70. The maximum basic rate of Age Pension is indexed on 20 March and 20 September each year: FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [5.1.8.50].

231 Indexation of the Student Income bank amount for Austudy and ABSTUDY commenced on 1 July 2012: *Social Security and Other Legislation Amendment (Income Support for Students) Act 2010* (Cth) sch 1, pt 2, div 4.

- (b) the maximum unused concession balance under s 1073AB of the *Social Security Act 1991* (Cth) and s 46AC of the *Veterans' Entitlements Act 1986* (Cth).

Pensioner Education Supplement for Age Pension recipients

5.135 Pensioner Education Supplement (PES) is available to pension recipients (and certain other income support recipients) to assist with the costs of full or part-time study.²³² It is intended to help students improve their chance of finding a job through study.²³³ There is no maximum age limit for PES,²³⁴ however it is not available to Age Pension recipients or to persons in receipt of the Age Service Pension under the *Veterans' Entitlements Act*.²³⁵

5.136 For the purposes of PES, approved courses of education or study include secondary courses, tertiary courses including pre-vocational, diplomas, graduate certificates and Masters courses.²³⁶ There is no minimum duration for a course to be approved.²³⁷ A person is not eligible for PES if they have completed a course for a Masters degree, Doctorate or a qualification of the same standing at an educational institution.²³⁸

5.137 NWRN submitted that PES should be extended to Age Pension recipients, arguing that this restriction on eligibility is 'out of step with other Government policies which support participation through life-long learning'.²³⁹

5.138 The ALRC considers that there is a principled basis for extending PES to those over Age Pension or Veterans' Age Service Pension age. While the link between PES and workforce participation is not direct, extending access to PES for Age Pension and Veterans' Age Service Pension recipients is consistent with the broad objective of promoting mature age workforce participation. Excluding these pension recipients from access to PES arguably implies that they are 'retired' from the workforce.

232 *Social Security Act 1991* (Cth) s 1061PA; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.8.3.10], [3.8.3.20]. To qualify for PES, a person must be receiving a payment that attracts PES, be at least 16 years of age and be undertaking qualifying study.

233 DHS, *Pensioner Education Supplement* (2012) <www.humanservices.gov.au/customer/services/centrelink/pensioner-education-supplement> at 4 September 2012.

234 *Social Security Act 1991* (Cth) s 1061PK; FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [3.8.3.10].

235 *Social Security Act 1991* (Cth) s 1061PJ.

236 *Ibid* ss 1061PB(1), 1061PC; *Student Assistance Act 1973* (Cth) s 5D. *Student Assistance (Education Institutions and Courses) Determination (No 2) 2009* (Cth); *Student Assistance (Education Institutions and Courses) Amendment Determination (No 2) 2011* (Cth).

237 FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [1.1.A.210].

238 *Social Security Act 1991* (Cth) ss 23(1), 1061PB(2); FaHCSIA, *Guide to Social Security Law* (2012) <www.fahcsia.gov.au/guides_acts> at 30 August 2012, [1.1.Q.40].

239 National Welfare Rights Network, *Submission 50*.

Proposal 5–6 Pensioner Education Supplement is a payment to assist in meeting the costs of study in eligible secondary or tertiary courses. Section 1061PJ of the *Social Security Act 1991* (Cth) should be amended to provide that Age Pension and Veterans' Age Service Pension are payments attracting Pensioner Education Supplement.