

7. Social Security

Contents

Summary	151
Australia's social security system	152
Categories of income support payments	153
Means testing and employment income	155
Complexity as a barrier to work	156
Information provision	157
Employment services	159
Employment services reform	160
Accessing job search assistance	161
Job search assistance and job seeker obligations	161
Employment assistance for mature age job seekers	163
Newstart Allowance and mature age job seekers	165
Adequacy of allowance payments	166
Activity test requirements for mature age job seekers	167
Withdrawal rates for mature age job seekers	168
Disability Support Pension	169
Qualification for Disability Support Pension	170
Carer Payment	172
Carer Payment and mature age persons	172
Qualification for Carer Payment	173
Age-based pension payments	176
Age Pension and employment income	176
Pensioner Education Supplement	178

Summary

7.1 This chapter considers aspects of the social security system that act as barriers to work for mature age persons. The ALRC recommends an evaluation of the methods for communicating information about social security payments and entitlements to mature age persons. It also recommends that staff of employment services providers be provided with training tools to improve the quality of job search assistance for mature age persons.

7.2 The ALRC also makes recommendations about specific income support payments. The ALRC recommends that the process for review of Disability Support Pension be clarified. It also recommends that a more flexible interpretation to combining care with work, education, training or voluntary work be taken when assessing qualification for Carer Payment. Finally, the ALRC recommends that the

Work Bonus amount for the Age Pension and Veterans' Age Service Pension be indexed.

Australia's social security system

7.3 The primary purpose of Australia's social security, or transfer, 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 individuals and families. These include age and other pensions, Newstart Allowance and other allowance payments, Family Tax Benefit and supplementary payments.² Income support payments are made to people 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.

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

7.5 The legislative basis of the social security system is the *Social Security Act 1991* (Cth) (the *Social Security Act*) and the *Social Security (Administration) Act 1999* (Cth). The legislative basis for family payments is *A New Tax System (Family Assistance Act) 1999* (Cth) and *A New Tax System (Family Assistance Act) (Administration) Act 1999* (Cth). 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.⁴

7.6 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).

7.7 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 a review of the

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. Concession cards and their effect on mature age workforce participation are addressed in the Discussion Paper: Australian Law Reform Commission, *Grey Areas—Age Barriers to Work in Commonwealth Laws*, Discussion Paper 78 (2012), 137–140.

4 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* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013; FaHCSIA, *Family Assistance Guide* (2013) <www.fahcsia.gov.au/guides_acts/> at 21 March 2013. 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 1137. 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.

tax and transfer system.⁵ In 2009, the Pension Review considered pension payments for seniors, carers and people with disability.⁶ In addition, in 2012, the Senate Education, Employment and Workplace Relations References Committee conducted an inquiry into the ‘adequacy and appropriateness of the allowance payment system for job seekers 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’ (the Allowance Payment Inquiry).⁷

7.8 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, the ALRC recognises that these barriers are multi-faceted, and unlikely to be resolved by law reform alone. For example, stakeholders have argued that the lack of willingness of employers to hire mature age persons contributes significantly to joblessness for persons in this age group.⁸

7.9 Mature age persons may also have multiple barriers to employment, in addition to age. For example, the National Welfare Rights Network (NWRN) noted that ‘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, Professor Peter Whiteford has cautioned against seeing social security reform as a standalone remedy for the difficulties faced by many job seekers:

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

7.10 Income support payments are aimed primarily at providing a minimum adequate standard of living. However, the different qualification requirements and payment rates

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

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

7 Senate Education, Employment and Workplace Relations References Committee—Parliament of Australia, *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).

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.

attached to various payments also reflect judgments about recipients' expected relationship to the labour force.

7.11 The primary income support payments are categorised into two groups—pensions and allowances. Pensions have historically been provided on the basis that recipients were not expected to undertake paid work. These include: Age Pension, Carer Payment, Parenting Payment,¹² and Disability Support Pension. Pension recipients generally are not required to seek paid work as a condition of payment. They are paid at a higher rate than allowances to reflect the expectation that the pension will be a person's sole source of income for an extended period.¹³

7.12 Allowances for job seekers, including the main working age payment, Newstart Allowance, are paid on the basis that recipients are willing and able to work, and not expected to need income support for an extended period.¹⁴

7.13 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.¹⁵ Allowances are also paid at a lower rate than pensions to act as an incentive to obtain paid employment.¹⁶

7.14 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.¹⁷ In 2009, the Pension Review also found that pensions paid to those below Age Pension age should actively support people to participate in employment.¹⁸ In addition, while allowance payments were historically designed as short term payments, a large proportion of Newstart Allowance recipients spend long periods of time on the payment.¹⁹

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.

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

14 The Treasury, *Australia's Future Tax System: Consultation Paper* (2008), 92. Allowance payments, including Austudy and ABSTUDY, are also made to students, again on the basis that the period of time on income support will be limited.

15 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* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [1.1. A.40].

16 The Treasury, *Australia's Future Tax System: Final Report* (2010), 493, 496.

17 A medical model of disability sees disability as caused by a person's impairment. By contrast, a social model considers disability as the effect of the interaction between a person with a particular impairment and their social and physical environment: Productivity Commission, *Disability Care and Support* (2011), 271.

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

19 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, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 63.

Means testing and employment income

7.15 The means test for an income support payment has two parts: an income test and an assets test. Payment is calculated by applying the test that results in the least amount of payment.²⁰

7.16 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.²¹

7.17 The income test allows a person to earn some employment income while still 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.²²

7.18 In addition to the income test, other aspects of income support payment design help to smooth the transition between income support and work, or to allow persons with fluctuating earnings to combine work and income support.

7.19 ‘Working Credit’ aims to encourage people of workforce age who receive income support payments to take up full-time, part-time, or casual work.²³ 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 1,000.²⁴ Accrued working credits are then used to offset employment income, effectively increasing the income free area for a payment.²⁵

20 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [4].

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

22 DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 27.

23 *Social Security Act 1991* (Cth) s 1073D; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.1.11.10].

24 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* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.1.11.20]. The Allowance Payment Inquiry recommended that the Working Credit limit be increased from 1,000 to the equivalent of three months work at the minimum wage: Senate Education, Employment and Workplace Relations References Committee—Parliament of Australia, *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), vii.

25 *Social Security Act 1991* (Cth) ss 1073F, 1073H; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [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)

7.20 ‘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.²⁶ Work Bonus is discussed more fully below.

7.21 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 that is made up entirely or partly of employment income, a recipient can be paid certain supplementary benefits and remain eligible for a concession card.²⁷ In addition, payment may be resumed without reapplication during this period if income reduces to a level where income support is payable again.²⁸ The Allowance Payment Inquiry recommended that the period of time that a person may resume payment without reapplication after ceasing to receive income support be increased to one year.²⁹

7.22 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.³⁰

7.23 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

7.24 In this section, the ALRC recommends that DHS should evaluate the effectiveness of its methods for communicating information about social security payments and entitlements to mature age persons.

7.25 The income support payment system in Australia is highly targeted. It achieves this through making distinctions between payment categories—such as for carers, people with disability and those unemployed—and by means testing of payments.³¹ The object is to direct payments to those most in need and to maintain the sustainability

s 1073J; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.11.30].

26 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.1.14.30].

27 *Social Security Act 1991* (Cth) ss 23(4A), 23(4AA), 1061ZEA, 1061ZMA; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.1.12].

28 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [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: DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), [3.1.12].

29 Senate Education, Employment and Workplace Relations References Committee—Parliament of Australia, *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).

30 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’s circumstances: FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.9.2.30].

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

of the system.³² The result is ‘the most targeted system of cash transfers in the OECD’.³³

7.26 A corollary of targeting is complexity. Submissions to this Inquiry suggested that this complexity itself is a barrier to work.³⁴ 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

7.27 DHS utilises a range of methods to provide information about income support payment eligibility, conditions and the effect of work upon payments. This includes advice to mature age persons on application for income support.³⁵ Information is also provided: online; in print, through letters and publications including the *News for Seniors Magazine*; as well as by telephone. DHS has emphasised its commitment to improving the way it communicates information, submitting that it

endeavours to display information to the public in a simple, logical manner and recently became the first government department to achieve a gold level certification for the use of plain language on the Human Services website from the Plain English Foundation.³⁶

7.28 However, the ALRC has heard that mature age persons find information about social security difficult to understand and navigate. A number of submissions identified access to information about income support payments as a problem for mature age persons.³⁷

7.29 The increasing emphasis on providing information online was also identified as a potential problem for mature age persons, whose access to and familiarity with information technology may be limited.³⁸ Research conducted in 2011 by DHS suggested that a range of communication methods are appropriate for mature age persons. This research found that mature age job seekers utilise the DHS website, but also value ‘direct contact with staff members as part of ongoing support’.³⁹ Self-funded

32 Ibid, 489.

33 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.

34 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*.

35 DEEWR, DHS and FaHCSIA, *Submission 101*.

36 Ibid.

37 Australian Chamber of Commerce and Industry, *Submission 85*; 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*.

38 National Seniors Australia, *Submission 92*; L Masters, *Submission 36*; National Seniors Australia, *Submission 27*; Commonwealth Ombudsman Office, *Submission 16*.

39 DEEWR, DHS and FaHCSIA, *Submission 101*.

retirees were found to be relatively more ‘comfortable with online channels, while ... most aged pensioners preferred printed and face-to-face communication’.⁴⁰

7.30 Mature age persons from culturally and linguistically diverse (CALD) backgrounds may find it particularly difficult to access social security information. The Federation of Ethnic Communities Councils of Australia (FECCA) noted that:

Unfamiliarity with concepts such as social welfare, communication issues and lack of knowledge restricts older CALD people’s ability to understand and access many mechanisms that established Australians take for granted, including a full understanding of social security entitlements.⁴¹

7.31 In addition to ensuring that information is accessible, stakeholders emphasised that such information must be easy to understand. A number of stakeholders suggested that mature age persons currently find information about social security difficult to comprehend.⁴²

7.32 NWRN submitted that activity test requirements were poorly understood by mature age job seekers. It argued that many mature age job seekers were concerned about the impact of ill health on their ability to comply with the conditions of their income support payment:

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.⁴³

7.33 Other submissions suggested that mature age persons find it difficult to understand the effect of paid work upon income support payments. For example, the Australian Chamber of Commerce and Industry (ACCI) commented that ‘there are generally no problems with accessibility to information but the areas of concern involve the complexity of eligibility arrangements and the consequences of altered circumstances’.⁴⁴ National Seniors commented that:

Older Australians continue to report a lack of knowledge and a high level of confusion regarding the eligibility for income support payments and work incentives. There is also fear about the potential loss of concessions and support payments if seniors undertake additional paid work.⁴⁵

7.34 Some stakeholders argued that information about incentives to take up paid work is not effectively communicated to mature age income support recipients. For example, in relation to the Age Pension, COTA noted that ‘there is not a good

40 Ibid.

41 Federation of Ethnic Communities’ Council of Australia (FECCA), *Submission 80*.

42 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*.

43 National Welfare Rights Network, *Submission 50*.

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

45 National Seniors Australia, *Submission 92*.

understanding of how the Work Bonus operates ... It needs to be promoted more widely'.⁴⁶

7.35 Difficulty in accessing and comprehending information about 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 recommends that the DHS should evaluate how it could communicate this information to mature age persons more effectively.

7.36 DEEWR, DHS and FaHCSIA agreed that 'it would be feasible for DHS to undertake targeted evaluation of its methods for communication information to mature age persons about social security, contingent on funding and resources'.⁴⁷

Recommendation 7-1 The Department of Human Services should evaluate the effectiveness of communication of 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 possible exemptions from the activity test;
- (c) how to calculate the effect of taking up paid work on income support payments; and
- (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

7.37 This section outlines the Australian Government's employment services system, and employment assistance provided to mature age job seekers. The ALRC recommends that DEEWR ensure that training tools are made available to employment services provider staff about the barriers to work faced by mature aged persons.

7.38 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.⁴⁸ The Disability Employment Services (DES) system provides employment services for job seekers with disability.⁴⁹ JSA and DES providers

⁴⁶ COTA, *Submission 51*.

⁴⁷ DEEWR, DHS and FaHCSIA, *Submission 101*.

⁴⁸ DEEWR, *Job Services Australia* (2013) <<http://deewr.gov.au/job-services-australia-jsa>> at 21 March 2013.

⁴⁹ DEEWR, *Disability Employment Services* (2012) <<http://deewr.gov.au/disability-employment-services>> at 21 March 2013. DES providers also provide employment services under contract with DEEWR.

assist individual job seekers to find paid work, and also connect job seekers to skills development and training opportunities.⁵⁰ 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).⁵¹

7.39 Australian Government employment services are generally provided to persons in receipt of an income support payment.⁵² Job seekers receiving activity-tested payments, such as Newstart Allowance, are required to connect with a JSA provider as a condition of fulfilling this test.⁵³ Job seekers who receive non-activity-tested payments, such as Disability Support Pension and Carer Payment, may also volunteer to use JSA or DES.⁵⁴

Employment services reform

7.40 A number of submissions to this Inquiry argued that the employment services system requires thorough reform in respect of both the resources and assistance provided to disadvantaged and long-term unemployed job seekers.⁵⁵ Such comprehensive reform is beyond the scope of this Inquiry.

7.41 The contract arrangements for JSA, as well as one arm of DES, expire on 30 June 2015.⁵⁶ The Australian Government has begun consultations about potential reform of the employment services system in advance of this new contracting period.⁵⁷

50 DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 129.

51 From 1 July 2013, 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: Australian Government, *Remote Jobs and Communities Program General Fact Sheet* (2012).

52 In some cases, persons not in receipt of income support may be eligible to access Australian Government employment services. Persons aged 15–21 not employed for more than 15 hours per week or in full time education and vulnerable persons aged 15–21 who are full time students and ‘Drought Force’ participants are considered ‘fully eligible’ for employment services. Other persons who are not: full time students; working in paid employment for 15 hours or more per week and not on income support; overseas visitors on working holiday visas or studying in Australia; or prohibited by law from working in Australia may access limited services from employment services providers: DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 129–30.

53 *Social Security Act 1991* (Cth) s 601; DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), [3.2.8.10].

54 DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 129–130.

55 ACTU, *Submission 88*; Brotherhood of St Laurence, *Submission 54*; National Welfare Rights Network, *Submission 50*.

56 There are two types of services provided by DES. The Employment Support Service is for people with a permanent disability and with an assessed need for longer-term, regular, ongoing support in the workplace. The Disability Management Service is for people with disability, an injury, or a health condition who need the help of an employment service but do not expect to need long-term support in the workplace: DEEWR, *Disability Employment Services* (2012) <<http://deewr.gov.au/disability-employment-services>> at 21 March 2013. Employment Support Service contracts were re-tendered in 2012 and will run from March 2013 to June 2018: DEEWR, *Employment Services—Building on Success Issues Paper* (2012), 7.

57 DEEWR, *Employment Services—Building on Success Issues Paper* (2012).

7.42 This consultation process provides opportunities for reform of the employment services system to provide better support for mature age job seekers. The ALRC agrees with NWRN that it is essential that ‘older job seekers and their representatives and advocates have the opportunity to have their say in the improvements needed in employment services’ in this consultation process.⁵⁸

Accessing job search assistance

7.43 There may be a waiting period between the date a person becomes unemployed and the date they become eligible to receive income support. Access to Australian Government employment services is generally linked to receipt of income support. This means that there will often be a delay before a person can begin to receive help to find a job.

7.44 For example, persons claiming the main unemployment payment, Newstart Allowance, may be subject to a ‘liquid assets waiting period’ before they will qualify for payment. If a person has liquid assets above a ‘maximum reserve amount’, this waiting period will apply. The maximum reserve amount for a single person with no dependants is \$2,500. For a person who is a member of a couple or who has a dependent child, the amount is \$5,000.⁵⁹ The maximum reserve amounts will double from 1 July 2013.⁶⁰ Depending on the amount of liquid assets a person possesses above the maximum reserve amount, the liquid assets waiting period may range from one week to a maximum of 13 weeks.⁶¹

7.45 Early employment assistance may be particularly beneficial for mature age job seekers. As the Tax Review noted, ‘skills and the likelihood of gaining employment decline if people are out of work for long periods’.⁶² A person with liquid assets above the maximum reserve amount may wait up to 13 weeks before accessing such assistance. However, the liquid assets waiting period is a matter affecting all those seeking Newstart Allowance, and therefore wider than the scope of this Inquiry. The ALRC suggests that waiting periods for access to employment services could be further reviewed when considering reform of the employment services system for the new contracting period from 1 July 2013.

Job search assistance and job seeker obligations

7.46 JSA and DES providers are required by the Employment Services Code of Practice to provide individualised job search assistance to job seekers.⁶³ The level of employment assistance job seekers receive is determined by an assessment of their level of disadvantage in the labour market. Disadvantage is assessed based on a range

58 National Welfare Rights Network (NWRN), *Submission 99*.

59 *Social Security Act 1991* (Cth) s 14A.

60 *Social Security Legislation Amendment (Fair Incentives to Work) Act 2012* (Cth) sch 2.

61 The Liquid Assets waiting period begins from the date of ceasing work or study, or making a claim for income support: *Social Security Act 1991* (Cth) s 598.

62 The Treasury, *Australia’s Future Tax System: Consultation Paper* (2008), 111. See also Brotherhood of St Laurence, *Submission 54*.

63 DEEWR, *Employment Services Code of Practice* (2013) <www.foi.deewr.gov.au/documents/employment-services-code-practice> at 21 March 2013.

of factors including age, gender, recency of work experience and vocational qualifications.⁶⁴ Persons assessed as being relatively more disadvantaged receive more intensive assistance.

7.47 To satisfy their activity test requirements, Newstart Allowance recipients are generally required by social security law to enter into an Employment Pathway Plan (EPP) with an employment services provider.⁶⁵ An EPP sets out a mix of vocational and non-vocational activities that a job seeker must participate in as a condition of payment.⁶⁶ The activities contained in an EPP are intended to improve a person's employment prospects.⁶⁷ In setting the terms of an EPP, a person's age, as well as characteristics including education, experience, skills, physical condition and health, must be taken into consideration.⁶⁸

7.48 The EPP is intended to be 'individually tailored' and negotiated between the job seeker and the provider. However, commentators have argued that this tailoring and negotiation may not occur in practice.⁶⁹ 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'.⁷⁰

7.49 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,⁷¹ and the increased likelihood of their having caring responsibilities for people with disability, the frail aged and grandchildren.⁷² These considerations may also require that a mature age person has access to the available exemptions or suspensions from EPPs.⁷³

64 DEEWR, *Job Seeker Classification Instrument: Factors and Points version 1.1*.

65 In specified circumstances, a job seeker may be exempt from the activity test and not be required to enter into an EPP: *Social Security Act 1991* (Cth) s 605; DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), [1.1. E.103].

66 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.2.8.30].

67 DEEWR, DHS and FaHCSIA, *Submission 101*.

68 *Social Security Act 1991* (Cth) ss 501A, 606; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.2.8.50].

69 L Fowkes, *Rethinking Australia's Employment Services*, Whitlam Institute Perspectives Papers 6 (2011), 14; M Considine, J Lewis and 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.

70 M Considine, J Lewis and 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.

71 DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 80.

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

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

Employment assistance for mature age job seekers

7.50 During this Inquiry, the ALRC heard concerns that mature age job seekers are not receiving the appropriate employment assistance needed to re-engage in the workforce.⁷⁴ Some stakeholders submitted that employment services providers were insufficiently responsive to the needs of mature age job seekers. For example, 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.⁷⁵ 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.⁷⁶

7.51 These difficulties may be compounded for mature age job seekers with multiple barriers to work. For example, the Australian Federation of Disability Organisations (AFDO) submitted that its members ‘often hear complaints that DES providers do not have sufficient understanding of the issues related to disability’.⁷⁷ FECCA reported that its consultations with CALD communities across Australia had found a ‘low level of cultural competency ... among Job Services Australia staff’.⁷⁸

7.52 The Australian Government has recognised that mature age job seekers may benefit from additional employment assistance. From 1 January 2013, the Mature Age Participation—Job Seeker Assistance Program provides increased support to some job seekers aged 50 and over who are registered with Job Services Australia. This program will provide approximately 6,700 mature age job seekers with intensive employment assistance.⁷⁹

7.53 The ALRC does not make specific recommendations for additional job search assistance to be provided to mature age job seekers. As the NWRN pointed out, age is only one indicator of potential need for increased assistance.⁸⁰ While supporting appropriate recognition of the needs and preferences of mature age job seekers, NWRN argued that

the employment service system should provide high quality support for all job seekers, and [NWRN] would be alarmed if ... [it] were to be fragmented according to

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

75 Commonwealth Ombudsman Office, *Submission 16*.

76 Olderworkers, *Submission 22*.

77 Australian Federation of Disability Organisations, *Submission 78*.

78 Federation of Ethnic Communities’ Council of Australia (FECCA), *Submission 80*.

79 Australian Government, *Budget 2012–13: Budget Paper No 2* (2012) <www.budget.gov.au> at 21 March 2013; Australian Government, *Mid-Year Economic and Fiscal Outlook 2012-13* (2012), 211. In addition, the Experience+ Career Advice service provides professional career counselling and a resumé appraisal service to all job seekers and workers aged 45 years and over: DEEWR, *Free Career Advice* (2012) <www.deewr.gov.au/> at 21 March 2013.

80 National Welfare Rights Network (NWRN), *Submission 99*.

age as opposed to vulnerabilities and identified barriers to employment. Additional high quality, tailored and individualised supports need to be provided, for example, to young job seekers, Indigenous job seekers and those who are long term unemployed.⁸¹

7.54 However, the ALRC does recommend that DEEWR provide employment services provider staff with training tools about the barriers to work faced by mature age job seekers.⁸² Stakeholders supported this idea when proposed in the Discussion Paper.⁸³ In the Employment Services Code of Practice, the Australian Government has undertaken to support employment services providers by ‘evaluating and sharing best practice to enable continuous improvement in the delivery of employment services’.⁸⁴ The provision of training tools by the Australian Government is in keeping with this statement.

7.55 The ALRC notes the recommendation made by the Advisory Panel on Employment Services Administration and Accountability that the employment services workforce be professionalised. Such professionalisation would include ‘agreed knowledge, skills and competency standards for provider staff ... [and] recommended minimum qualifications’.⁸⁵ Improving the ability of employment services provider staff to engage appropriately with mature age job seekers accords with the more general goal of improving staff competence.

7.56 This recommendation will also promote better compliance with social security law, by improving the ability of employment services provider staff to tailor EPPs appropriately for mature age job seekers.

7.57 This recommendation could be integrated into existing systems so as not to unduly increase the compliance burden on providers. For example, access to training about mature age job seekers could be provided as part of the existing suite of ‘Learning Centre Training modules’ provided by DEEWR.⁸⁶ For example, an online cultural awareness training package in relation to Indigenous job seekers has recently been developed.⁸⁷ Similarly, in August 2012 a Mental Health Capacity Building e-learning package was released to assist employment services provider staff to identify and support people living with mental illness.⁸⁸ The mental health training package was developed with input from mental health organisations, psychiatric

81 Ibid.

82 Australian Law Reform Commission, *Grey Areas—Age Barriers to Work in Commonwealth Laws*, Discussion Paper 78 (2012), Proposal 5–2.

83 Australian Industry Group, *Submission 97*; National Seniors Australia, *Submission 92*; ACTU, *Submission 88*; Brotherhood of St Laurence, *Submission 86*; Federation of Ethnic Communities’ Council of Australia (FECCA), *Submission 80*; Australian Federation of Disability Organisations, *Submission 78*; Diversity Council of Australia, *Submission 71*.

84 DEEWR, *Employment Services Code of Practice* (2013) <<http://foi.deewr.gov.au/documents/employment-services-code-practice>> at 21 March 2013.

85 DEEWR, *Advisory Panel on Employment Services Administration and Accountability Final Report* (2013), 28.

86 DEEWR, DHS and FaHCSIA, *Submission 101*.

87 Ibid.

88 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).

rehabilitation services and employment service provider peak bodies.⁸⁹ A similar package, drawing on relevant expertise, may be beneficial for mature age persons.

Recommendation 7–2 To enhance the capacity of staff of Job Services Australia, Disability Employment Services and the Indigenous Employment Program 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 and training tools about:

- (a) age discrimination;
- (b) the effect that illness, disability and caring responsibilities may have on the capacity of mature age persons to work;
- (c) diversity among mature age job seekers; and
- (d) Australian Government programs targeted at mature age job seekers.

Newstart Allowance and mature age job seekers

7.58 This section considers the situation of mature age job seekers in receipt of Newstart Allowance. The ALRC does not make any recommendations for reform of Newstart Allowance, on the basis that any reforms to this payment are not most appropriately targeted based on the age of recipients.

7.59 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 60–64.⁹⁰

7.60 For the purposes of Newstart Allowance, ‘mature age’ is defined as 55 years and over. At June 2012, there were 98,050 recipients, or 18% of the total Newstart Allowance population, in this age group.⁹¹ This number has almost doubled since June 2002.⁹² The increase has been driven by the phasing out of Partner Allowance, Mature Age Allowance and Widow Allowance, as well as the increasing age of eligibility for the Age Pension for women.⁹³

7.61 Approximately 50,000 Newstart Allowance recipients aged 55 years and over are ‘very long-term’ income support recipients (in receipt of income support for two years or more).⁹⁴ This represents approximately half of the total Newstart Allowance

89 Ibid.

90 DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (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.

91 DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 44, 92.

92 Ibid, 92.

93 Ibid, 59, 92.

94 Ibid, 79.

recipients in this age bracket,⁹⁵ as well as 20% of all very long-term income support recipients.⁹⁶

7.62 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.⁹⁷ At June 2012, there were 99,884 Newstart Allowance recipients with a partial capacity to work.⁹⁸ Of these, 27.1% were aged 55 years and over.⁹⁹ Persons with a partial capacity to work made up 27.6% of all Newstart Allowance recipients in this age group.¹⁰⁰

Adequacy of allowance payments

7.63 It has been argued that the current rate of Newstart Allowance¹⁰¹ is too low to provide an adequate minimum standard of living, as well as to enable effective job search activity.¹⁰² This may be particularly so for mature age job seekers, who may have substantial financial commitments.¹⁰³

7.64 NWRN submitted that the rate of Newstart Allowance is a barrier to workforce participation. It argued that ‘income support payments need to provide a sufficient income to enable people to look for work and to cover job search costs’.¹⁰⁴

7.65 Additionally, NWRN argued that the gap between payment rates for pensions and allowances ‘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’.¹⁰⁵ The Tax Review has also noted that the differences in rates of payment can ‘create disincentives to work or incentives to move to higher payments’.¹⁰⁶

95 Ibid, 44.

96 Ibid, 79.

97 *Social Security Act 1991* (Cth) s 16B; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [1.1. P.56].

98 DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 80.

99 Ibid.

100 Ibid, 44, 80.

101 At 20 March 2013, the basic rate of Newstart Allowance for a single person with no children is \$497 per fortnight. For a single person aged 60 years or over after nine continuous months on payment, the rate was \$537.80 per fortnight: FaHCSIA, *Indexation Rates March 2013* (2013).

102 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.

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

104 National Welfare Rights Network, *Submission 50*.

105 Ibid.

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

7.66 In 2012, the Allowance Payment Inquiry considered the adequacy of the allowance payment system for jobseekers.¹⁰⁷ A number of submissions to that Inquiry argued that the rate of payment of Newstart Allowance creates barriers to work.¹⁰⁸ 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.¹⁰⁹

7.67 The Allowance Payment Inquiry found that ‘Newstart Allowance does not allow people to live at an acceptable standard in the long term’.¹¹⁰ However, rather than recommend any increase to the rate of Newstart Allowance the Inquiry recommended that additional resources be focused on moving people off income support and into work.¹¹¹

Activity test requirements for mature age job seekers

7.68 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.¹¹² At 29 June 2012, 19,582 (21.8%) of all activity-tested mature age job seekers were satisfying their requirements in this way.¹¹³

7.69 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 these activities and are required to accept suitable paid work or referral to interviews.¹¹⁴ In addition, they may access or continue to access the full range of

107 Senate Education, Employment and Workplace Relations References Committee—Parliament of Australia, *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).

108 Stakeholders who argued that the rate of payment amounts to a barrier to work included: 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.

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

110 Senate Education, Employment and Workplace Relations References Committee—Parliament of Australia, *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), 54.

111 *Ibid.* An income support bonus of \$105 (to be indexed by the CPI) for a single Newstart Allowance recipient (as well as recipients of certain other payments) will be paid on a twice-yearly basis beginning in March 2013: *Social Security Act 1991* (Cth) ss 919, 920, 1191–1194.

112 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* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.2.8.20].

113 DEEWR, *Correspondence*, 23 July 2012.

114 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.2.8.50].

services available through their employment services provider on a voluntary basis.¹¹⁵ Job seekers not satisfying the concessional activity test have the same participation obligations as other job seekers.¹¹⁶ In the Discussion Paper, the ALRC decided against proposing that any changes be made to this activity test.¹¹⁷

Withdrawal rates for mature age job seekers

7.70 Newstart Allowance has undergone significant reform since the early 2000s. The primary consequence of the reforms has been a significant extension of its scope to encompass a wider population group, including parents of young children, people with a partial capacity to work and the mature aged.¹¹⁸ These reforms have meant that Newstart Allowance increasingly treats groups of recipients differently—for instance, through different activity test requirements.¹¹⁹

7.71 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.¹²⁰ Income between \$62 and \$250 per fortnight reduces payment by 50 cents in the dollar. Income above \$250 per fortnight reduces payment by 60 cents in the dollar.¹²¹

7.72 In the Discussion Paper, the ALRC asked about the possible effect on incentives for workforce participation of changing the income test withdrawal rate for Newstart Allowance recipients aged 55 years and over.¹²²

7.73 There was some support for reducing the withdrawal rate for mature age recipients of Newstart Allowance.¹²³ The Brotherhood of St Laurence (BSL) contended that the current withdrawal rates act as a barrier to taking up part-time or casual work:

harsh taper rates result in little financial benefit from part-time work and many people are wary of the risks of taking up casual or short-term employment, namely the job coming to an end and having to reapply for income support. Facilitating and supporting the transition into part-time employment may have benefits for longer-

115 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.

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

117 Australian Law Reform Commission, *Grey Areas—Age Barriers to Work in Commonwealth Laws*, Discussion Paper 78 (2012), 127–129.

118 For a summary of the reforms, see: DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 28–29, 139–146.

119 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* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [1.1. A.40].

120 DHS, *A Guide to Australian Government Payments: 1 January–19 March 2013* (2013), 34. By comparison, the income free area for pension payments is \$152 per fortnight.

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

122 Australian Law Reform Commission, *Grey Areas—Age Barriers to Work in Commonwealth Laws*, Discussion Paper 78 (2012).

123 National Seniors Australia, *Submission 92*; Brotherhood of St Laurence, *Submission 86*; Australian Chamber of Commerce and Industry, *Submission 85*.

term and more highly disadvantaged jobseekers in relation to confidence and work experience, and with assistance, may lead to full-time employment.¹²⁴

7.74 However, other stakeholders argued against any change to the income test for mature age job seekers.¹²⁵ The Australian Council of Trade Unions (ACTU) did not support any change, on the basis that it could ‘lead to an increase in the complexity of the income support system’. The ACTU and NWRN suggested that, rather than making changes for mature age Newstart Allowance recipients alone, the income test for all Newstart Allowance recipients should be considered in a more comprehensive review of the income support system.¹²⁶

7.75 The ALRC has concluded that changes to the withdrawal rate are more appropriately considered in the context of a systemic review of income support payments. As a consequence, it makes no recommendation to change the income test withdrawal rate for mature age Newstart Allowance recipients.

7.76 The ALRC notes the Allowance Payment Inquiry recommendation that the income free area—the amount of income that a person may receive before their Newstart Allowance payment starts to reduce—be increased to six hours work per fortnight at the minimum wage for long-term Newstart Allowance recipients.¹²⁷ The Allowance Payment Inquiry made no recommendation to change the withdrawal rate.

7.77 Any increase to the income free area would improve the financial reward from paid work for all long-term Newstart Allowance recipients, including those who are mature age. The ALRC supports further consideration of the Allowance Payment Inquiry’s recommendation to this effect.

Disability Support Pension

7.78 Uncertainty about the possible effect of paid work on qualification for Disability Support Pension (DSP) may act as a disincentive to work for recipients of the payment, the majority of whom are mature age. The ALRC recommends that the *Guide to Social Security Law* should be amended to clarify that undertaking paid work for fewer than 30 hours per week will not trigger a review of qualification for DSP.

7.79 DSP recipients are the largest group of working age income support recipients. At June 2011, there were 818,850 recipients of DSP.¹²⁸ Of these, 67.5% were aged 45 years or over; 65% aged 45–64; and 2.5% aged 65 years and over.¹²⁹

124 Brotherhood of St Laurence, *Submission 86*.

125 Australian Industry Group, *Submission 97*; ACTU, *Submission 88*.

126 National Welfare Rights Network (NWRN), *Submission 99*; ACTU, *Submission 88*.

127 Senate Education, Employment and Workplace Relations References Committee—Parliament of Australia, *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), vii. A ‘long term’ Newstart Allowance recipient is a person who has been in continuous receipt of payment for 12 months or more: DEEWR, FaHCSIA, DHS, DIISRTE, *Submission to the Senate Inquiry on the Adequacy of the Allowance Payment System for Job Seekers and Others* (2012), 63.

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

129 *Ibid.*

Qualification for Disability Support Pension

7.80 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.¹³⁰

7.81 To qualify for DSP a person must generally have a ‘continuing inability to work’ due to permanent physical, intellectual or psychiatric impairment.¹³¹ The severity of impairment to a person’s work functioning is rated by reference to ‘Impairment Tables’.¹³² Applicants for the DSP must have an impairment rating of 20 points or more.¹³³

7.82 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.¹³⁴ A person whose impairment is not severe¹³⁵ must also have participated in a program of support.¹³⁶

7.83 Proportionally few DSP recipients receive employment income. At May 2012, 70,243 recipients (less than 10%) had income from employment.¹³⁷

7.84 Since 1 July 2012, all DSP recipients can work for at least 15 hours per week but fewer than 30 hours per week without their qualification for the payment being affected.¹³⁸ This is the case notwithstanding that to qualify for DSP a person must be assessed as having a work capacity of fewer than 15 hours a week.¹³⁹

Review of qualification for Disability Support Pension

7.85 The review process for qualification for DSP may act as a disincentive to workforce participation for recipients.

130 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.

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

132 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.

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

134 *Ibid* s 94(1)(c)(i), (2), (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* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.6.1.10].

135 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).

136 *Ibid* s 94(2)(aa). A person who is assessed as being permanently blind is automatically qualified for a Disability Support Pension, and does not have to demonstrate a continuing inability to work: *Social Security Act 1991* (Cth) s 95; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.6.2.40].

137 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).

138 *Social Security Act 1991* (Cth) s 96.

139 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.6.1.12].

7.86 A range of reviews may apply to DSP recipients. 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.¹⁴⁰

7.87 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 customer remains qualified for DSP (eg because the customer service adviser discovers that the recipient is working)’.¹⁴¹

7.88 Centrelink also conducts ‘profiling reviews’ of DSP recipients, selectively identifying and reviewing certain recipients.¹⁴² FaHCSIA has stated that its practice is not to make public the parameters used to select a person for a profiling review, but that ‘employment predictors by themselves are not enough to select a pensioner’.¹⁴³

7.89 All reviews of qualification for DSP use the Impairment Tables that are currently in force to assess a person’s level of impairment.¹⁴⁴ These Tables were reviewed in 2011 and new Tables took effect from 1 January 2012.¹⁴⁵ Analysis carried out for FaHCSIA suggested that 36–45% of persons who qualified for DSP under previous Impairment Tables would not qualify when assessed under the new Tables.¹⁴⁶

7.90 This has led to concern about the effect of taking up paid work upon the likelihood of being reviewed for qualification for DSP.

7.91 DEEWR, DHS and FaHCSIA submitted that ‘there is no evidence that the processes for reviewing ongoing eligibility for Disability Support Pension (DSP) create barriers to mature age participation in the workforce’.¹⁴⁷

7.92 However, other stakeholders submitted that a lack of information about the review process for qualification for DSP was acting as a disincentive to paid work for recipients.¹⁴⁸ NWRN strongly endorsed a ‘recommendation to encourage the Government to provide greater transparency about the circumstances that can trigger a review’.¹⁴⁹ NWRN reported that

140 Ibid, [6.2.5.15].

141 Ibid, [6.2.5.18].

142 Ibid, [6.5].

143 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).

144 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.6.3].

145 Ibid.

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

147 DEEWR, DHS and FaHCSIA, *Submission 101*.

148 National Welfare Rights Network (NWRN), *Submission 99*; National Seniors Australia, *Submission 92*; Brotherhood of St Laurence, *Submission 86*.

149 National Welfare Rights Network (NWRN), *Submission 99*.

The information and advice lines at our member centres receive consistent and regular feedback from people anxious that any history of work or earnings will potentially trigger a review, at some point in the future.¹⁵⁰

7.93 BSL agreed that lack of clarity about the review process for DSP qualification may act as a disincentive to mature age participation.

7.94 It is appropriate that there should be some mechanism for review of a person's continued qualification for DSP. However, uncertainty about the circumstances of review may be acting as a disincentive to increased workforce participation for DSP recipients. The ALRC therefore recommends that the *Guide to Social Security Law* be amended to ensure that the parameters for review are consistent with recent amendments to the *Social Security Act* that allow a DSP recipient to work at least 15 hours per week but fewer than 30 hours per week and remain qualified for DSP.¹⁵¹

Recommendation 7-3 The *Guide to Social Security Law* should be amended to provide that undertaking paid work for fewer than 30 hours per week will not trigger a review of qualification for Disability Support Pension.

Carer Payment

7.95 Carer Payment provides income support to people who, because of caring responsibilities, are unable to support themselves through substantial paid employment.¹⁵² 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 recommends that the current rules be more flexibly interpreted to better allow carers in receipt of Carer Payment, the majority of whom are of mature age, to combine care with work or study.

Carer Payment and mature age persons

7.96 There is a correlation between informal care, mature age and gender. 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'.¹⁵³

7.97 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 over; 57% were aged 45–64 and 11% were aged 65 years and

150 Ibid.

151 *Social Security Act 1991* (Cth) s 96.

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

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

over.¹⁵⁴ Carer Payment recipients were predominantly women—69% of total recipients at December 2011.¹⁵⁵

7.98 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.¹⁵⁶ This is a form of care that is likely to increase with the ageing of the population.

7.99 Bittman, Hill and Thomson’s longitudinal study has shown that working age carers experience difficulties in combining paid work and care. Carers are more likely than non-carers to reduce their hours of work or exit from the labour force and to earn lower levels of income.¹⁵⁷ Thus, the ‘privatisation of care’ objective stands in tension with the goal of promoting workforce participation, given the difficulty of combining paid work and care.¹⁵⁸ The question of how to enable Carer Payment recipients to establish or maintain an attachment to the paid workforce falls squarely within these policy tensions.

Qualification for Carer Payment

7.100 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.¹⁵⁹ 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.¹⁶⁰

7.101 In specific circumstances Carer Payment recipients are permitted to cease caring temporarily 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.¹⁶¹ This is often referred to as the ‘25-hour rule’.

154 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).

155 Ibid.

156 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.

157 Ibid, 261.

158 Ibid, 256.

159 *Social Security Act 1991* (Cth) ss 197B–197K, 198; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.6.4.10].

160 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [1.1. C.310]. See also *Milne and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs* [2008] AATA 689, [7]; *Callaghan and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs* [2010] AATA 506, [26]; *Yanz and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs* [2012] AATA 410; *Del Vecchio and Secretary, Department of Families, Community Services and Indigenous Affairs* [2007] AATA 1145.

161 *Social Security Act 1991* (Cth) s 198AC(4); FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.6.4.70]. A person may also temporarily cease

7.102 DEEWR, DHS and FaHCSIA submitted that the 25-hour rule provided ‘a reasonable amount of time to work, study or train and still meet the constant care requirement’.¹⁶² By contrast, a number of other stakeholders considered that the 25-hour rule acted as a barrier to mature age workforce participation.¹⁶³ 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’.¹⁶⁴

7.103 Carers Australia has stated that the current income support structure is limited in its ability to support transitions between caring and employment. It argued 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’.¹⁶⁵

7.104 A number of commentators have highlighted the difficulties faced by carers in re-entering the workforce when caring responsibilities cease.¹⁶⁶ For example, research published by the Australian Institute of Family Studies has noted that:

many carers, particularly those of working age, will not remain carers all their life. Caring status can change for a number of reasons, including the death of the person being cared for, the requirement for institutional care, partial or full recovery of the person requiring care, and a change of primary carer. There is strong evidence that long periods out of the labour force can make it difficult to re-enter the labour market.¹⁶⁷

7.105 This was echoed in submissions to this Inquiry.¹⁶⁸ 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’.¹⁶⁹

7.106 The rules restricting participation in paid or unpaid work or study, while still in receipt of Carer Payment, may act as barriers to work for mature age carers. The *Guide to Social Security Law* states that qualification for Carer Payment should be reviewed if a person ceases to care for more than 25 hours per week to participate in training,

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* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.6.4.40].

162 DEEWR, DHS and FaHCSIA, *Submission 101*.

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

164 COTA, *Submission 51*.

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

166 For example, 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.

167 B Edwards, D Higgins, M Gray, N Zmijewski, and M Kingston, *The Nature and Impact of Caring For Family Members with a Disability in Australia* (2008), Australian Institute of Family Studies Research Report 16, 108.

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

169 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*.

education, employment or voluntary work, as the person may no longer satisfy the constant care criteria.¹⁷⁰

7.107 In the Discussion Paper, the ALRC proposed that the *Guide to Social Security Law* be amended to indicate that the current 25-hour rule be more flexibly applied.¹⁷¹ Most stakeholders supported this proposal.¹⁷² While supporting this proposal, BSL was concerned to emphasise that the care provided by Carer Payment recipients should be acknowledged as productive work in its own right.¹⁷³ BSL also asserted that Carer Payment recipients should not be obliged to engage in paid employment.¹⁷⁴

7.108 There are a number of instances in which participation in paid or voluntary work, education or training that exceeds 25 hours per week may be compatible with the constant care requirement. For example, Carers Australia noted that

changes in the use of technology, particularly the widespread use of internet capacities open up a wide range of opportunities for carers to combine employment, training volunteer work or educational pursuits from home with their ongoing caring responsibilities.¹⁷⁵

7.109 The *Guide to Social Security Law* currently recognises one example where paid work, voluntary work, education or training undertaken in the home may be compatible with a care recipient's need for constant care.¹⁷⁶ There is scope for further examples to be included in the *Guide to Social Security Law* to illustrate how care may be combined with home-based work or study. Such examples could include online education or training, or teleworking.¹⁷⁷

7.110 The ALRC considers that making it easier to retain an attachment to the paid workforce, to volunteer, or to obtain or update skills through training or education will

170 FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [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.

171 Australian Law Reform Commission, *Grey Areas—Age Barriers to Work in Commonwealth Laws*, Discussion Paper 78 (2012), Proposal 5–3.

172 National Welfare Rights Network (NWRN), *Submission 99*; National Seniors Australia, *Submission 92*; ACTU, *Submission 88*; Brotherhood of St Laurence, *Submission 86*; Australian Chamber of Commerce and Industry, *Submission 85*; Carers Australia, *Submission 81*; Federation of Ethnic Communities' Council of Australia (FECCA), *Submission 80*; Australian Federation of Disability Organisations, *Submission 78*. Australian Industry Group supported Proposal 5–4: Australian Industry Group, *Submission 97*.

173 Brotherhood of St Laurence, *Submission 86*. See Chapter 2 for further discussion of unpaid care work.

174 Ibid.

175 Carers Australia, *Submission 81*.

176 Australian Law Reform Commission, *Grey Areas—Age Barriers to Work in Commonwealth Laws*, Discussion Paper 78 (2012), Proposal 5–4. The Guide currently provides one such example. 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* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.6.4.70].

177 Colmar Brunton Research and Deloitte Access Economics, *NBN Enabled Telework: The Economic and Social Impact on Labour Force Participation* (2012), prepared for the Department of Broadband, Communications and the Digital Economy.

benefit Carer Payment recipients. It may assist recipients to combine work and care, or in equipping them to engage in paid work after they cease caring. To facilitate this, the ALRC recommends that the Guide be amended to reflect a more flexible application of the 25-hour rule, and to provide further examples of combining care with work or study.

Recommendation 7–4 The *Guide to Social Security Law* should provide that a temporary cessation of constant care due to participation in paid employment, unpaid 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.

Age-based pension payments

7.111 There are two age-based pension payments: the Age Pension and the Veterans' Age Service Pension.¹⁷⁸ This section considers the treatment of employment income in means testing for these payments. The ALRC recommends that the Work Bonus amount—an amount of employment income that is disregarded in calculating the rate of payment for Age Pension and Veterans' Age Service Pension—be indexed in order to maintain its value as a workforce incentive.

7.112 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. 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.¹⁷⁹

Age Pension and employment income

7.113 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 saving.¹⁸⁰ The Age Pension acts as a 'safety net' payment—ensuring that people over Age

178 The current qualifying age for the Age Pension is 65 years for men and 64.5 years for women: *Social Security Act 1991* (Cth) s 23(5A), (5C). From 1 July 2013 the qualifying age for women will be 65 years: *Social Security Act 1991* (Cth) s 23(5D). Age Pension age for both men and women will rise incrementally from 65 to 67 between 1 July 2017 and 1 July 2023: *Social Security Act 1991* (Cth) s 23(5A), (5D). Veterans' Age Service Pension is available to veterans of the Australian Defence Force who have rendered qualifying service: *Veterans' Entitlements Act 1986* (Cth) s 36. It is currently available to male veterans who are aged 60 years and over and to female veterans who are aged 55 years and over: *Veterans' Entitlements Act 1986* (Cth) ss 5QA, 5QB. The Veterans' Age Service Pension is paid at the same rate as the Age Pension and is subject to the same income and assets tests.

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

180 *Ibid.*, 8.

Pension age have access to an income that provides a reasonable minimum standard of living.¹⁸¹

7.114 A high proportion—68.3%—of persons over Age Pension age were in receipt of the Age Pension at March 2012.¹⁸² Of these, 40.9% were in receipt of the full rate of Age Pension.¹⁸³

7.115 There is no requirement for Age Pension recipients to engage in paid work as a condition of receiving payment. However, 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.¹⁸⁴

7.116 If a person continues to work after reaching Age Pension age, employment income will be assessed as part of the income test in determining eligibility to receive the Age Pension. Each dollar of assessable income over the free area amount reduces the level of payment by 50 cents in the dollar.¹⁸⁵ At March 2012, 3.9% of Age Pension recipients had earnings from employment.¹⁸⁶

Work Bonus

7.117 Work Bonus reduces 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.¹⁸⁷ Any unused amount of the fortnightly \$250 Work Bonus accumulates in an 'Employment Income Concession Bank', up to a maximum amount of \$6,500.¹⁸⁸ 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.¹⁸⁹ Work Bonus is also available to Veterans' Age Service Pension recipients.¹⁹⁰

7.118 DEEWR, DHS and FaHCSIA reported that early indicators show that Work Bonus is having a positive impact on workforce participation and on the amount of employment income earned by Age Pension recipients:

Since the new Work Bonus was introduced, the number of pensioners of Age Pension age with employment income in the previous 12 months grew by around 15.25 per cent from 118,000 (July 2011) to over 136,000 (July 2012). During that same period

181 Ibid, 10.

182 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).

183 Ibid.

184 The same means tests apply to the Veterans' Age Service Pension. Work Bonus is also available to Veterans' Age Service Pension recipients.

185 The current income free area for Age Pension is \$152. DHS, *A Guide to Australian Government Payments: 1 January–19 March 2013* (2013), 32.

186 FaHCSIA, *Correspondence*, 6 July 2012.

187 *Social Security Act 1991* (Cth) s 1073AA; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.1.14.10], [3.1.14.30].

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

189 Ibid s 1073AA; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.1.14.30].

190 *Veterans' Entitlements Act 1986* (Cth) ss 46AA, 46AC.

the average gross employment income of pensioners with employment income grew by more than 5 per cent from \$16,694 to \$17,498.¹⁹¹

7.119 In the Discussion Paper, the ALRC proposed indexing the Work Bonus amount.¹⁹² Most stakeholders supported this proposal.¹⁹³ As the Pension Review noted, the indexing of pensions is critical to maintaining the standard of living of pension recipients.¹⁹⁴ The ALRC considers that it is similarly important to index the Work Bonus amount to maintain over time the incentive for Age Pension recipients to maintain an attachment to the workforce.¹⁹⁵ The ALRC therefore recommends that the Work Bonus amount be automatically indexed.

Recommendation 7–5 The objective of Work Bonus is to provide an incentive for recipients of Age Pension and Veterans’ Age Service Pension to continue in paid employment. To ensure that Work Bonus continues to achieve its objective, the following amounts should be indexed:

- (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
- (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

7.120 Pensioner Education Supplement (PES) is a payment available to most pension recipients (and certain other income support recipients) undertaking qualifying study.¹⁹⁶ There is no maximum age limit for PES.¹⁹⁷ However, it is not available to

191 DEEWR, DHS and FaHCSIA, *Submission 101*.

192 Australian Law Reform Commission, *Grey Areas—Age Barriers to Work in Commonwealth Laws*, Discussion Paper 78 (2012), Proposal 5–5.

193 National Welfare Rights Network (NWRN), *Submission 99*; National Seniors Australia, *Submission 92*; ACTU, *Submission 88*; Australian Chamber of Commerce and Industry, *Submission 85*; Federation of Ethnic Communities’ Council of Australia (FECCA), *Submission 80*.

194 FaHCSIA, *Pension Review Report* (2009), 70. The maximum basic rate of the Age Pension is indexed on 20 March and 20 September each year: FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [5.1.8.50].

195 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.

196 *Social Security Act 1991* (Cth) s 1061PA; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [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. 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: *Social Security Act 1991* (Cth) 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).

197 *Social Security Act 1991* (Cth) s 1061PK; FaHCSIA, *Guide to Social Security Law* (2013) <www.fahcsia.gov.au/guides_acts> at 21 March 2013, [3.8.3.10].

Age Pension recipients or to persons in receipt of the Veterans' Age Service Pension under the *Veterans' Entitlements Act 1986* (Cth).¹⁹⁸

7.121 In the Discussion Paper, the ALRC proposed that PES be extended to Age Pension and Veterans' Age Service Pension recipients. There was some support for such an extension.¹⁹⁹ For example, NWRN submitted that the current restriction on eligibility is 'discriminatory and unfair' and 'out of step with other Government policies which support participation through life-long learning'.²⁰⁰

7.122 Undertaking study after Age Pension or Veterans' Age Service Pension Age may allow a person to gain or update employment-related skills.²⁰¹ It may also have other benefits. It may promote social inclusion and social connectedness, as well as better health.²⁰²

7.123 However, the payment of a supplement to engage in study is at least one step removed from workforce participation, in that there is no necessary connection between its receipt and subsequent engagement in paid work. The ALRC has concluded that there is an insufficiently direct link between payment of PES and workforce participation to justify a recommendation to extend PES to Age Pension and Veterans' Age Service Pension recipients in the context of this Inquiry.

7.124 However, access to education, training and skills development is an important broader issue that affects mature age persons' ability to participate in the workforce. The ALRC has recognised this in recommending that skills, education and training be a priority area in a National Mature Age Workforce Participation Plan.²⁰³

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

199 National Welfare Rights Network (NWRN), *Submission 99*; National Seniors Australia, *Submission 92*; ACTU, *Submission 88*; Brotherhood of St Laurence, *Submission 86*; Federation of Ethnic Communities' Council of Australia (FECCA), *Submission 80*.

200 National Welfare Rights Network, *Submission 50*; National Welfare Rights Network (NWRN), *Submission 99*.

201 See Chapter 1 for further discussion of re-skilling issues for mature age persons.

202 National Seniors Productive Ageing Centre, *Later Life Learning: Unlocking the Potential for Productive Ageing* (2010), 12.

203 See Rec 3-1.

