Social Security and Other Legislation Amendment (Disability Support Pension Participation Reforms) Bill 2012

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Social Policy Section

Contents

Purpose ................................................................................................................................. 4
Background .......................................................................................................................... 4
Disability Support Pension ................................................................................................. 4
Welfare to Work reforms to the Disability Support Pension ............................................... 5
  DSP recipient numbers 2001 – 2011 ............................................................................. 6
Other reforms to the Disability Support Pension .............................................................. 7
Aspects of Disability Support Pension ............................................................................... 7
  Ability to work .................................................................................................................. 7
  Difference from Newstart Allowance .............................................................................. 8
  Impact of the assessment process on work participation ............................................... 9
  Suspension of Disability Support Pension during an attempt to return to work ............. 9
  Additional assistance provided ...................................................................................... 9
  Comment ......................................................................................................................... 10
Employer attitudes to employing persons with a disability ............................................... 11
2011–12 Budget initiatives for Disability Support Pension .............................................. 12
Schedule 1–Work rule for Disability Support Pension ....................................................... 12
  Allowing some Disability Support Pension recipients to work for up to 30 hours a week .................................................................................................................................. 12
  Relevant provisions ....................................................................................................... 12
  Cost .................................................................................................................................. 12
  Comment ......................................................................................................................... 13
Schedule 2—Participation requirements for Disability Support Pension

Relevant provisions

Cost

Comment

Schedule 3—Portability of Disability Support Pension

Portability

Change proposed in the Budget

Committee recommendation

Savings

Relevant provisions

Schedule 4—Average weekly earnings and other amendments

Background

Relevant provisions

Concluding comments
# Glossary

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>Australian Bureau of Statistics</td>
</tr>
<tr>
<td>AP</td>
<td>Age Pension</td>
</tr>
<tr>
<td>CSAA</td>
<td>Child Support (Assessment) Act 1989</td>
</tr>
<tr>
<td>CPI</td>
<td>Consumer Price Index</td>
</tr>
<tr>
<td>DEEWR</td>
<td>Department of Education, Employment and Workplace Relations</td>
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<tr>
<td>DSP</td>
<td>Disability Support Pension</td>
</tr>
<tr>
<td>FaHCSIA</td>
<td>Families, Housing, Community Services and Indigenous Affairs</td>
</tr>
<tr>
<td>HCC</td>
<td>Health Care Card</td>
</tr>
<tr>
<td>IP</td>
<td>Invalid Pension</td>
</tr>
<tr>
<td>MA</td>
<td>Mobility Allowance</td>
</tr>
<tr>
<td>NSA</td>
<td>Newstart Allowance</td>
</tr>
<tr>
<td>PBLCI</td>
<td>Pensioner, Beneficiary Living Cost Index</td>
</tr>
<tr>
<td>PCC</td>
<td>Pensioner Concession Card</td>
</tr>
<tr>
<td>pf</td>
<td>per fortnight</td>
</tr>
<tr>
<td>PBS</td>
<td>Pharmaceutical Benefits Scheme</td>
</tr>
<tr>
<td>SSA</td>
<td>Social Security Act 1991</td>
</tr>
<tr>
<td>SSAA</td>
<td>Social Security (Administration) Act 1999</td>
</tr>
<tr>
<td>VEA</td>
<td>Veterans’ Entitlements Act 1986</td>
</tr>
<tr>
<td>WtW</td>
<td>Welfare to Work</td>
</tr>
</tbody>
</table>

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Social Security and Other Legislation Amendment (Disability Support Pension Participation Reforms) Bill 2012

Date introduced: 15 February 2012

House: House of Representatives

Portfolio: Families, Housing, Community Services and Indigenous Affairs

Commencement: Sections 1–3, Part 1, Division 1 of Schedule 4 and item 25 of Schedule 4 to the Bill on the day of Royal Assent; Schedules 1–3 on 1 July 2012; Part 1, Division 2 of Schedule 4 on 1 January 2013; Part 1, Division 3 of Schedule 4 on 1 July 2013 and item 26 of Schedule 4 to the Bill on 20 March 2013.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

The primary purpose of the Social Security and Other Legislation Amendment (Disability Support Pension Participation Reforms) Bill 2012 (the Bill) is to amend the Social Security Act 1991 (SSA) to provide for greater workforce participation by some recipients of the Disability Support Pension (DSP).

This is achieved by allowing recipients of DSP to work more hours without having their payment suspended or cancelled, and imposing participation requirements on those younger DSP recipients with some work capacity.

Background

Disability Support Pension

The DSP is the largest workforce-age income support payment provided by the Commonwealth Government. It is the largest both in terms of the number of recipients and the outlays on the program. As at June 2011, there were 818 850


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were $13.35 billion.\(^2\) In the welfare payments area, only the Age Pension (AP) program is larger in terms of an income support program, with 2.25 million recipients as at June 2011\(^3\) and $32.15 billion in outlays for the 2010–11 year.\(^4\)

The DSP has its origins in the Invalid Pension (IP) that was legislated for along with the AP in 1908, with the first payments commencing in 1910. The IP was reconfigured and renamed DSP with the Disability Reforms of November 1991.\(^5\)

Currently, DSP recipients do not have to satisfy an activity test and/or participation requirements in order to qualify for payment as do other income support recipients of working age such as Newstart Allowance (NSA) recipients. This is a legacy of the fact that both the original IP, and its replacement the DSP, have been targeted at persons with a significant inability to undertake work. The Budget initiatives which give rise to this Bill seek to impose participation requirements on some DSP recipients. They are targeting those younger DSP recipients with some work capacity.

### Welfare to Work reforms to the Disability Support Pension

The most significant recent reform to the DSP program was with the Welfare to Work (WtW) changes which took effect from July 2006.\(^6\) A person is qualified for DSP if, amongst other things, the person has a ‘continuing inability to work’. The WtW measures altered the ‘continuing inability to work’ requirements by reducing the hours that a person had to be unable to work for from 30 hours a week to 15 hours a week. This made the ‘continuing inability to work’ requirements much tougher to qualify for DSP. It was, at that time, anticipated that this significant tightening of the access to DSP would put downward pressure on the growth in recipient numbers. This did not happen.

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3. Ibid., p. 76.
4. Ibid.

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### DSP recipient numbers 2001 – 2011

<table>
<thead>
<tr>
<th>Year</th>
<th>Total DSP numbers as at June</th>
<th>% increase from the previous year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>623,926</td>
<td>3.6</td>
</tr>
<tr>
<td>2002</td>
<td>658,915</td>
<td>5.6</td>
</tr>
<tr>
<td>2003</td>
<td>673,334</td>
<td>2.2</td>
</tr>
<tr>
<td>2004</td>
<td>696,742</td>
<td>3.5</td>
</tr>
<tr>
<td>2005</td>
<td>706,782</td>
<td>1.4</td>
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<tr>
<td>2006</td>
<td>712,163</td>
<td>0.8</td>
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<tr>
<td>2007</td>
<td>714,156</td>
<td>0.3</td>
</tr>
<tr>
<td>2008</td>
<td>732,367</td>
<td>2.6</td>
</tr>
<tr>
<td>2009</td>
<td>757,118</td>
<td>3.4</td>
</tr>
<tr>
<td>2010</td>
<td>792,581</td>
<td>4.7</td>
</tr>
<tr>
<td>2011</td>
<td>818,850</td>
<td>3.3</td>
</tr>
</tbody>
</table>

As can be seen from the table above, the 2006 WtW changes appeared to have had an impact—but it was short lived.

The amending act of July 2006 which comprised the WtW reforms contained savings provisions which operated so that some DSP recipients continued to qualify for payment under the pre-existing rules. The effect of the savings provisions was to create some different categories of DSP recipients. These are:

1. persons who claimed before 11 May 2005. These DSP recipients were not affected by the continuing inability to work changes. Any subsequent review of their qualification will be made against the former **continuing inability to work** test of at least 30 hours a week
2. persons who claimed DSP from 11 May 2005 to 30 June 2006. These DSP recipients were also assessed against the previous **continuing inability to work** test of for 30 hours a week. However, when their continuing qualification to DSP is subsequently reviewed (every two or five

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8. 11 May 2005 was the date the 2005–06 Budget was handed down in the Parliament and the DSP changes were announced.

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years), it will be against the new **continuing inability to work** test of 15 hour a week. If those persons are assessed as being able to work more than 15 hours a week, they are no longer qualified for DSP. The main alternative payment is NSA where they have work search and participation requirements, and

3. persons who claimed DSP on, or after, 1 July 2006 are assessed against the then new **continuing inability to work** test of 15 hours a week. Where a claimant does not satisfy the test, and it is assessed that they can work for more than 15 hours a week, there DSP claim is rejected and the main alternate income support payment is NSA where they are required to seek suitable paid work—mainly part-time work.9

The amendments contained in this Bill target some of the DSP recipients in categories 2 and 3 above.

**Other reforms to the Disability Support Pension**

There have been other changes to the DSP program since 2006. The major change by the Gillard Government was affected by the *Social Security and Other Legislation Amendment Act 2011*.10 That Act removed the DSP Impairment Tables11 from the body of the SSA and located in a Legislative Instrument authorised by the Minister. These changes were instigated by a Government initiated review of the Impairment Tables.12 The rationale for the change was to enable the Impairment Tables to be updated regularly in response to developments in medical or rehabilitation practice.

**Aspects of Disability Support Pension**

As at June 2011, only 8.5 per cent of DSP recipients reported earnings from employment and this level has been consistent over at least the last 10 years.13 The information below sets out some of the possible reasons for this.

**Ability to work**

There are no participation requirements placed on DSP recipients, and hence no direct pressure to work. However, the very nature of the payment requirements (that is, the 15 hours a week inability

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11. For the purposes of DSP, the Impairment Tables are tables designed to assess impairment in relation to work. They consist of a set of tables that assign ratings in proportion to the severity or impact of the impairment on function as it relates to work performance.

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to work test) means that many DSP recipients may have difficulty in working. There are no figures available on how many DSP recipients are available to work at all, but even at a maximum level of 15 hours a week, job opportunities are likely to be limited. The nature of the medical condition may also limit the type of work that can be undertaken.

It should be noted that nearly 25 per cent of DSP recipients are aged 60 years or more and also 53 per cent have been on income support for more than 10 years.

**Difference from Newstart Allowance**

Another possible reason that work participation is so low among DSP recipients is that many see employment participation as a risk to their continuing DSP qualification. The alternative income support payment is NSA, which is less advantageous, compared to the DSP for the following reasons:

- NSA is paid at a lower rate ($486.80 per fortnight (pf)) than the DSP ($689.00pf)
- the DSP rate also has the Pension Supplement of ($59.80pf single) added on
- NSA has tighter income testing with a lower free area and a lower cut off limit than applies to the DSP
- the assets test for pension has a taper which reduces the maximum rate when the free area is reached, whereas the asset test for NSA has a straight cut-off when the free area limit is reached
- indexation of the DSP rate is the same as the AP which is linked; to movements in earnings rates, to the Consumer Price Index (CPI) and to the Pensioner, Beneficiary Living Cost Index (PBLCI). The NSA rate is indexed to movements in the CPI alone
- DSP recipients are issued with the Pensioner Concession Card (PCC), which provides access to discounted pharmaceuticals under the Pharmaceutical Benefits Scheme (PBS). The PCC may also provide access to various concessions from state and territory governments and local councils consisting of reductions on property and water rates, reductions on energy bills, a telephone allowance, reduced fares on public transport, reductions on motor vehicle registration, or free rail journeys. NSA recipients are issued with a Health Care Card (HCC) which provides access to the PBS but are not offered the same attractive concessions as pensioners
- DSP has no activity test requirements—NSA does, and
- DSP is not taxable income—NSA is.

At June 2011, there were 84 607 DSP recipients who were not receiving DSP in June 2010. Of these ‘new entrants’ to DSP, 44.5 percent were not in receipt of another income support payment in June 2010 and 55.5 percent were income support recipients, with 40.0 per cent on NSA at June 2010. 

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15. Ibid., table 23.
16. Rates apply as of February 2012. The DSP rate includes the Pension Supplement.
17. Ibid.

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Despite the relative ‘attractiveness’ of DSP over NSA, it should be noted that applicants still have to meet the eligibility requirements, that is be assessed as being unable to work for at least 15 hours a week, in order to qualify for DSP. During the year June 2009 to June 2011 there were 151 815 claims for DSP finalised. Of these claims, 61 103 who were rejected or 40.2 per cent of claims. Of the rejections, 74.0 per cent were medical rejections.

Impact of the assessment process on work participation

A further possible reason for the low numbers of DSP recipients engaged in employment arises from the DSP qualification requirements and the claim process. To qualify for DSP a person must be assessed as having a continuing inability to work for at least 15 hours a week and that this will be sustained for at least the next 2 years. This assessment process requires the claimant to prove a sufficient work inability or incapacity. The grant of DSP may be interpreted by the claimant as a formal decision of the Government that they are unable to work and they are not expected to work.

Suspension of Disability Support Pension during an attempt to return to work

Amendments have been made over time to the DSP qualifications in an attempt to encourage work participation. For example, prior to 1 July 2006, DSP payment could be suspended rather than cancelled for up to two years if the recipient notified Centrelink, within the required notification period, that they started full-time work on a long term basis. However, payment could only be restored if the reason for the cessation or reduction in work was due to their disability. From 1 July 2006, a DSP recipient can have their DSP suspended, not cancelled, where they are attempting work of more than 15 hours a week. From 1 July 2006 there is no longer a requirement that the cessation of work or reduction in hours be due to the disability in order to restore DSP.

Suspension is much more beneficial than cancellation because when payment is cancelled, the person must lodge a new claim and satisfy whatever qualification criteria are relevant at that time. However, suspension does not require a new claim and if, at some point in the future, the recipient needs/wishes to resume receiving payment of DSP, payment can be restored without a new claim.

This is particularly important for those DSP recipients granted before 11 May 2005 as they are ‘saved’ under the 30 hour a week inability to work test. If payment was cancelled and they were required to lodge a new claim and requalify for DSP, the 15 hour a week test would apply.

Additional assistance provided

DSP recipients who participate in employment may receive the following incentives to take up a job:

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20. Medical rejections refers to medical condition being short-term or the claimant did not achieve the minimum of 20 points of impairment.

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• suspension of DSP payment for up to two years, rather than cancellation upon a return to work
• accelerated restoration of DSP following reduction or cessation in employment within two years
• continued use of their PCC for 12 months
• access to working credits\(^{22}\)
• payment of certain supplementary benefits during the employment income nil rate period, and
• payment of the higher rate of Mobility Allowance (MA).\(^{23}\)

DSP recipients undertaking work or training may be able to qualify for the following supplementary benefits, if they meet the relevant qualification criteria:

• MA - can be paid while undertaking sufficient amount of work/training and also meeting the unable to use public transport without substantial assistance test\(^{24}\)
• Rent Assistance – if paying sufficient private rent
• Pension Supplement - payable to a DSP recipient aged 21 years or more
• Remote Area Allowance – fortnightly payment to a resident of Tax Zone A or Special Tax Zone B – $18.20pf (single) or $15.60pf each (partnered)
• Education Entry Payment – a one-off lump-sum payment of $208.00 when a person commences a qualifying education course
• A PCC
• Pensioner Education Supplement – fortnightly payment for a DSP recipient undertaking study – the rate for 2012 is $62.40pf
• Bereavement Assistance – where a person has a partner and the partner dies, DSP can be continued to be paid at the combined partnered rate for up to 14 weeks after the date of death
• Youth Disability Supplement – payable to a DSP recipient aged less than 21 years with no child – as at February 2012 the supplement is $114.00pf
• Pharmaceutical Allowance, Telephone Allowance, Utilities Allowance – payable to a DSP recipient aged less than 21 years, and
• Work for the Dole supplement – fortnightly supplement of $20.80pf payable to a person undertaking a Work for the Dole program

Comment

As can be seen above, there are quite a lot of current concessions a DSP recipient can receive while working and provide some incentives to undertake work. However, the fact that less than 10 per

\(^{22}\) Working credits refers to the accumulation of a notional credit for each fortnight without any employment income. Up to $48 per fortnight can be accrued or 3.4285 credits. The maximum working credit balance a recipient eligible for working credit can accrue is 1000 working credits. Where employment income is then received and this is in excess of the income test free area, accumulated working credits can be used first before the rate of DSP is reduced.

\(^{23}\) MA can be payable where a person cannot use public transport without substantial assistance and needs to travel to and from home when looking for work, doing work or training. A higher MA rate of $120.40pf is payable where the DSP recipient is working, or looking for work, in the open labour market for more than 15 hours a week.

\(^{24}\) Ibid.
cent of DSP recipients have employment income arises from a range of other factors influencing work participation decisions.

**Employer attitudes to employing persons with a disability**

While incentives encouraging DSP recipients to engage in employment are of benefit, the other major component of the diaspora is the attitude of employers and the willingness of employers to employ a person with a disability. A recent survey report by the Department of Education, Employment and Workplace Relations (DEEWR) indicates there are employers willing to employ persons with a disability. The survey revealed a generally favourable attitude towards employing people with disability and a perception among employers that most people with disability have a strong work ethic. Medium and large employers were more inclined to rate positively than small employers, suggesting that larger businesses may have greater capacity to support special needs in the workplace. Survey participants were generally positive about the concept of recruiting people with disability. Reservations, where expressed, related to perceived financial risk associated with upfront costs and any ongoing productivity issues.

Contrasting with this survey of employers, comments by person’s with a disability on employer attitudes paint a different picture, especially for those with a mental illness or intellectual disability.

Negative attitudes and misconceptions about disability means few employers—whether government, non-government or corporate—appear willing to employ anyone with a disability. In some cases there was clear discrimination, with qualified candidates reportedly sidelined solely because of their disability. People with a history of mental illness or an intellectual disability appeared to be particularly stigmatised. In other cases, employers seemed unwilling to employ a person with a disability due to misconceptions about the cost of modifications and adaptive technology.

More than 33 per cent of submissions identified difficulties with employment, ranging from active and open employer discrimination to misconceptions and misunderstandings about the needs of people with disabilities. What was clear from the submissions was that people with disabilities want to work. What most lack is not ability but opportunity. Submissions detailed difficulties in seeking, obtaining and retaining employment. By far the biggest barrier identified was employer attitudes. These ranged from entrenched discrimination to misconceptions about the adjustments required for some people with disabilities. Discrimination occurred in those

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26. Ibid.


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cases where otherwise qualified candidates for jobs were screened out or overlooked simply because of their disability. 28

This report provides a different view of employer attitudes to employing people with a disability than the DEEWR survey of employers above.

2011–12 Budget initiatives for Disability Support Pension

The Government announced two initiatives for the DSP program targeting work participation in the 2011–12 Budget. These were:

- allowing DSP recipients to work for up to 30 hours a week29, and
- participation requirements for some DSP recipients requiring them to attend quarterly participation interviews. 30

Schedule 1—Work rule for Disability Support Pension

Allowing some Disability Support Pension recipients to work for up to 30 hours a week

As outlined above, the WtW reforms operate so that there are some DSP recipients with a work inability test of 15 hours a week and some with a 30 hours a week inability test. The amendments presented in Schedule 1 to this Bill target those with a 15 hours a week inability to work test. At present, where they undertake work for more than 15 hours a week, they no longer qualify for DSP. If they have a residual entitlement to income support, they probably have to claim NSA which, for the reasons stated above, is a significant disincentive for a recipient to attempt such a pathway.

Relevant provisions

Item 2 of Schedule 1 to the Bill inserts a new section 96 into the SSA so that those DSP recipients who would otherwise cease to qualify for DSP if they obtained paid work for at least 15 hours a week but not more than 30 hours a week will continue to qualify for DSP.

The amendments will allow a DSP recipient, subject to the 15 hour a week inability to work test, to work for more than 15 hours a week and up to 30 hours a week and remain qualified for DSP. This is an important incentive.

Cost

The Explanatory Memorandum states that ‘the estimated cost of the modified work allowance for some DSP recipients is an extra $7.6 million over four years from 1 July 2012’. 31 According to the

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28. Ibid., p. 38.

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Budget papers, this is broken down to extra costs of $0.8 million in 2011–12, $6.7 million in 2012–13, $1.4 million in 2013–14 followed by savings of $1.3 million in 2014–15. The extra cost is made up of administrative costs and also the continuation of DSP when a person is working, rather than the person being provided with NSA over the same period. It is interesting that there are estimated to be savings in the out years and this probably arises from persons receiving higher amounts of income from employment.

These costs/savings are mere estimates as this type of measure for DSP recipients with the more severe work incapacity requirement of 15 hours a week has not been tried before. What has been assessed in the past is a recipient’s work incapacity—not their work capacity. The real results will only be known after it has been in operation for several years. The Government estimates that this change will encourage around 4,000 DSP recipients to take up work, and 3,900 recipients who are already employed to work extra hours.33

Comment

As noted above, it appears that the disincentive for DSP recipients to work for more than 15 hours a week is significant. The only real alternative income support payment now is NSA which is comparatively disadvantageous financially. Notwithstanding the reforms of the Disability Reform Package of November 1991, it is likely that DSP continues by some to be seen as the old IP but with another name. If this is the case, reforms to date have not succeeded in changing that mindset.

Schedule 2—Participation requirements for Disability Support Pension

At present there are no provisions in the SSA or the Social Security (Administration) Act 1999 (SSAA) that require a DSP recipient to attend an interview to discuss employment participation. There are powers to require a DSP recipient to attend an interview necessary to determine or review their qualification or to undergo an interview for a work capacity assessment.

Relevant provisions

Schedule 2 to the Bill contains amendments to the SSA targeting DSP recipients aged less than 35 and imposes participation requirements to attend an interview upon request, and to develop a participation plan to enhance work capacity.

31. Explanatory Memorandum, Financial Impact Statement, p. 2, viewed 22 February 2012, http://parlinfo/parlInfo/search/display/display.w3p;adv=yes;orderBy=customrank;page=0;query=Title%3A%20Participation%20Dataset%3AbillsCurBef,billsCurNotBef;rec=1;resCount=Default
32. Ibid., p. 179.
Item 1 inserts the new qualification requirements into the SSA for those DSP recipients who are:

- aged under 35 years
- assessed as being able to work for at least eight hours a week, and
- where has a dependent child, the youngest child is aged six years or more.

If a DSP recipient meets all of these criteria, then the participation requirements of new section 94A are to apply as set out in item 2. Failure to meet the requirements of the participation plan as set out in new section 94A will mean the person is no longer qualified to DSP. The form and requirements of the participation plan are to be set out by the Secretary, which means they will be set out in guidelines issued by the Secretary. Item 2 also contains new provisions to allow for some circumstances where a participation plan might not be imposed, for example, by reason of illness/accident (new section 94C), an expected or recent confinement (new section 94D), where the person is engaged in supported employment (new section 94E) or in special circumstances as set out in guidelines to be set out by the Secretary (new section 94F).

In simplified terms, the participation requirements will be made up of:

- new DSP recipients and current DSP recipients (aged under 35) with some work capacity will have participation requirements
- those assessed as being able to work for eight hours a week or more (and who are not working) will be required to attend interviews to create a participation plan
- the participation plan will be aimed at community interaction and employment
- as part of a plan, participants could be referred to the Disability Employment Service and Job Services Australia programs to increase their capacity to engage in the community and workforce
- interviews will be quarterly for the first 18 months of payment, then twice yearly thereafter
- interviews will continue for those aged under 35 with a partial work capacity
- those aged under 35 with a work capacity assessment, who it is considered are likely to benefit, will have a revised assessment to see if they are able to work for eight hours a week or more, and
- recipients with an assessed capacity of less than eight hours a week, who are in open employment or an Australian Disability Enterprise or the Support Wage System, will not be subject to participation requirements.

Cost

The Explanatory Memorandum states that the ‘estimated cost of the modified work allowance for some DSP recipients is an extra $92.8 million over four years from 1 July 2012’.

According to the Budget papers, this is broken down to extra costs of $8.4 million in 2011–12, $27.7 million in 2012–13, $36.5 million in 2013–14 and $20.1 million in 2014–15. The extra cost is dominated by the running costs of the participation interviews and the provision of Disability Employment Service and Job Services Australia services. However, it is interesting to note the costs are reduced in the out

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35. New paragraph 94(1)(da).
36. Ibid.

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years by savings from program outlays probably arising from more DSP recipients with earned income from employment participation.

As noted above, the predicted costs are mere estimates as participation requirements for DSP recipients have not been undertaken before. The real results will only be known after the proposed participation requirements have been in operation for several years.

Comment

There are some carrot and stick elements in the participation requirements. The stick will be that attendance at interviews and compliance with the elements of the participation plan will be a requirement. The carrot will be the extra assistance that DSP recipients engaged in employment/training can be provided with and the benefits of employment including increased income. The critical element of this sort of approach is how well the benefits of employment participation are promoted to DSP recipients.

The majority of DSP recipients aged under 35 years have either intellectual/learning conditions (51.3 per cent) or psychological/psychiatric (19.7 per cent) as their primary medical condition. As noted above, employers are particularly reluctant people with non-physical disabilities. Hence, even if DSP recipients are provided with incentives to participate in employment, the jobs may not be available.

Participation plans are not a new element for persons with restricted job capacities arising from a disability. Currently, there are some NSA recipients who do not qualify for DSP as it is assessed they are able to work for more than 15 hours a week. These NSA recipients would also have work search and participant requirements notwithstanding their restricted work capacities.

Schedule 3—Portability of Disability Support Pension

The Government announced in the 2011–12 Budget changes to the portability of the DSP, allowing some DSP recipients to take their pension overseas for longer periods than the current 13 weeks.

Portability

Portability of a payment refers to a person going to live overseas and continuing to receive the payment. Generally, DSP can only be taken overseas for a period for up to 13 weeks, unless the person is going to a country with which Australia has an international social security agreement.

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39. Australia currently has an international social security agreements with 29 countries – Austria, Belgium, Canada, Chile, Croatia, Cyprus, Czech, Denmark, Finland, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Latvia, Malta, Macedonia, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak, Slovenia, Spain, Switzerland, USA.
Change proposed in the Budget

The Budget proposed changes to the portability of DSP in respect of those DSP recipients with a severe and permanent work capacity, and with no future prospect of being able to work. It is proposed to allow these types of DSP recipients to take their DSP payment overseas permanently. Ancillary payments to the DSP like Rent Assistance, the Pension Supplement and also Carer Payment and/or Carer Allowance paid to a carer would cease after 13 weeks.

Committee recommendation

This issue of the capacity to take DSP overseas for a period of longer than 13 weeks was considered by the Senate Standing Committee for Community Affairs in 2010. The Committee heard representations from an Australian diplomat who had been compelled to decline a posting overseas. He had a severely disabled 28 year old son (on DSP) whom he cared for. It was submitted that he could not accept any overseas posting as his son’s DSP was only payable for up to 13 weeks whilst absent from Australia. The Committee was concerned by the issues and suggested that FaHCSIA and the Minister look for ways to resolve the situation.40

Savings

The estimated savings of the expanded portability of DSP is $19.0 million over four years from 1 July 2012.41 These savings are realised from the non-payment of the ancillary payments provided to DSP recipients that will cease after absence overseas for 13 weeks. While the payment of the primary pension, the DSP is continued, the ancillary payments are not. In many/most cases, the DSP recipients who may want to take advantage of their DSP being portable, would otherwise have stayed in Australia and continued to attract DSP and also the ancillary payments.

Relevant provisions

Item 10 inserts a new section 1218AAA into the SSA providing for an unlimited portability period for some DSP recipients. The DSP recipients to be allowed this unlimited portability are those who meet the following criteria:

- are severely impaired as required by section 94(3B). This means the person has an impairment score of 20 points or more as provided by the DSP Impairment Tables, and
- the Secretary is satisfied the severe impairment will last for at least the next five years and the person is not able to do any work.


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Schedule 4—Average weekly earnings and other amendments

Background

Quite a few payment rates and other income measurement processes in welfare legislation refer to, and are linked to, movements in the CPI or to average earnings rate figures provided by the Australian Bureau of Statistics (ABS). The ABS publishes different figures using different schedules. References to the CPI and earnings rates have been published quarterly. The ABS is no longer going to publish some figures quarterly but six monthly.

Relevant provisions

Schedule 4 to the Bill contains necessary amendments to the Child Support (Assessment) Act 1989 (CSAA), the SSA and the Veterans’ Entitlements Act 1986 (VEA) to accommodate the fact that some ABS indices will no longer be published quarterly.

Concluding comments

This Bill contains some significant amendments to the SSA—in terms of placing, for the first time, participation requirements on some DSP recipients. Since IP was introduced in 1908, and then replaced by the DSP in November 1991, there have not been any participation requirements placed on DSP (or IP) recipients. The Government’s stated aim for the work participation initiatives in the Bill are to recognise the long-term value of work as opposed to long-term dependency on income support.42 The Government is also motivated by the drivers of the other changes to the DSP program over recent years; that is, the ever increasing numbers of DSP recipients and concerns that some could, and should, be engaged in employment.43

The work participation initiatives in the Budget are laudable but how effective they will be remains to be seen. The critical element will be promoting the benefits of, and access to, work as opposed to being on DSP (solely or partially). This is covered in the participation interviews set out in Schedule 2. However, it should be noted that the new participation requirements are targeted at those aged under 35 years, whilst 84 per cent of DSP recipients are aged 35 or more.44

The key to the success of participation plans will be how well the positive message of work engagement is communicated to DSP recipients—and whether DSP recipients are genuinely persuaded. The current arrangements—particularly the potential loss of DSP qualification—seem to actively discourage work engagement by DSP recipients. The benefits of employment for DSP

44. Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), Characteristics of Disability Support Pension Recipients: June 2011, Canberra, FaHCSIA, op. cit.

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recipients are there in terms of higher levels of income, increased social participation, better long-term health outcomes and also reduced levels of Government outlays.

The changes to the portability rules for some severely impaired DSP recipients are beneficial.