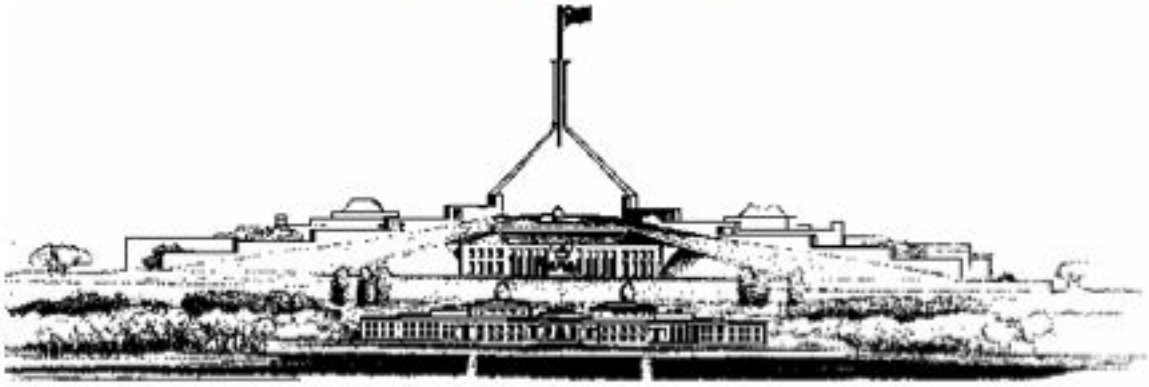
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND VOCATIONAL REHABILITATION SERVICES) BILL 2006

Second Reading

SPEECH

Thursday, 15 February 2007

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date	Thursday, 15 February 2007	**Source**	House
Page	17	**Proof**	No
Questioner		**Responder**	
Speaker	Gillard, Julia, MP	**Question No.**	

Ms GILLARD (Lalor) (10.06 am)—Unfortunately, the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006 is a bill that is all about mistakes. It tries to rectify old mistakes and on the way it manages to make a whole lot of new mistakes. It is in fact a grab bag of unrelated measures ranging from the straightforward through to the incompetent. In part it makes some minor changes to social security rules to increase consistency, particularly in respect of recipients of CDEP. In part it deals with the recovery of debts in cases where financial case management has resulted in overpayments. This is fair enough in principle, although there are considerable concerns in relation to implementation.

In part it enables the government to proceed with its plan to open the marketplace for publicly funded vocational rehabilitation services—in fact, a tender process has already begun. Once again we note the remarkable arrogance in the Howard government's attitude, an arrogance we are used to. And here is another example: the arrogance of opening up the tender before the bill has passed. It is that kind of arrogance that the Howard government exudes after 11 years in office. The principle that rehabilitation services should compete in the market is not necessarily a problem in itself, but the process and lack of safeguards to protect Australians who are at risk is very worrying indeed.

So these measures have a range of impacts. Some measures fix old mistakes. Some measures create new mistakes. But one measure that is completely unjustifiable, that has absolutely no merit, is that which fraudulently claims to be a Welfare to Work measure, and that is a measure to restrict access to the pensioner education supplement. This is the Howard government's approach to moving people from welfare to work—just put people on lower payments, stop them from getting the training they need and then tell them to get a job; and, if they do, then take back most of what they earn. The Howard government has never explained how reducing access to education and training helps people get a job, and there would be a reason for that: it is not capable of explanation.

Let me be absolutely clear. Labor supports welfare reform that helps people move from welfare to work. Labor is by definition the party of work and the party of working Australians. We believe work is in the best interests of the individual and in the best interests of the community. Communities are healthier, more cohesive and more prosperous when members of the community are gainfully employed and socially engaged. Individuals have a greater sense of self-esteem if they are contributing to their community. Work is one of those essential things which, like family and friends, give us meaning in our lives. So Labor would be very pleased to support an approach to welfare reform that actually tackled the reasons why people were not working and provided practical solutions to increased participation in work. Real welfare reform would provide more reward for effort and support training opportunities for the jobless. After all, a person can only get a job in our society if they have the skills an employer needs. Instead of having this skills based approach, the Howard government's welfare changes have reduced the financial rewards from work and make it harder for people to get the education or training that they need to get a job.

There is nothing wrong with applying mutual obligation to people who can work. That is exactly what Australians expect. If you get a benefit you should do something in return. But why not harness mutual obligation so that it serves more than a philosophical purpose? Why not help everyone to get more out of mutual obligation? For some people the best form of mutual obligation is the requirement to find a job. Other people start further behind. Some people have an extremely limited education and, correspondingly, limited job prospects in today's economy. For them mutual obligation should require that in exchange for income support they get themselves in a position where they have the skills an employer needs, and then they should be required to get a job.

This seems such an obvious policy and yet the Howard government simply refuses to implement it. Labor have made it perfectly clear that we share the Australian expectation that people who can work should work, and people who genuinely cannot work should be cared for. Some people, obviously because of caring responsibilities or a disability, may not be able to work at all or may only be able to work part time. It is part of the Australian culture of a fair go that we recognise people's capacities and care for those who are in this situation. We all know that many people with a disability want to work but find it extraordinarily hard to find an employer who will

actually give them a go and take them on. Indeed, the Howard government has done very little to change these negative attitudes towards the disabled in our community.

The truth is that many parents are not working because they cannot get child care, or child care is so expensive that after they have paid for it they may end up worse off than if they were looking after their kids at home. Many people who want to work, particularly mothers whose partners are working, face such high effective marginal tax rates that they would be working more to fill John Howard's coffers than to provide for their own families.

Most people who are not employed have extremely limited education and training. They lack the skills employers need. Most jobs nowadays require a post-school qualification and, despite Australia having a very low rate of official unemployment, there are still vast numbers of people—around 2.3 million Australians—who want to work or want to work more hours than they currently do. With Australia in such desperate need of more skilled workers and with people being so much better off working than on welfare, it is economically irresponsible and socially dangerous for the Howard government to stop jobless Australians from getting education and training. Instead of actually investing in jobless Australians so that they can build a career for themselves and support the economy, the Howard government is just hoping that the resources boom will provide a permanent source of jobs and prosperity. Skilled migration certainly will not be enough. Too many developed economies are competing for skilled migrants as they combat the diminishing labour supply resulting from the ageing of their populations.

This bill, particularly the clauses related to the pensioner education supplement, continues the Howard government's failed approach to workforce participation and welfare reform. We would welcome this government introducing a bill that delivers real welfare reform. We know that Australia needs to increase participation and we know that people are better off working than on welfare. We would welcome a bill that delivers real welfare reform but this bill is not it. I will outline the reasons why Labor opposes this bill.

When a person receives Newstart allowance or youth allowance, they will generally have to engage in activity in return for the income support. In some cases they may be required to attend a vocational rehabilitation service. Currently this service is provided by the Commonwealth Rehabilitation Service, but the Howard government has been working towards making rehabilitation services contestable so that private providers can tender for contracts. As a matter of principle, this has not been strongly justified by the government. Labor is yet to be convinced that increasing competition is in itself going to improve rehabilitation services rather than just increase duplication and bureaucracy while reducing oversight.

The people who use these services are often very much in need. Labor's priority is to ensure that the people who need these services get the best possible services, whether these services are provided by the Commonwealth Rehabilitation Service or by another provider. However, this bill does not contain that guarantee; indeed, quite the opposite applies. Because many private providers are not compliant with the provisions of the Disability Services Act, the Secretary of the Department of Employment and Workplace Relations may allow services to be provided by some providers who do not have a certificate of compliance. This has caused considerable concern amongst advocates of people with a disability and mental health advocates, who are concerned that providers may not have the necessary expertise to deal with clients with complex mental health issues.

Another, perhaps greater, concern amongst advocates of people with a disability and mental health advocates is the removal of the requirement that individual rehabilitation programs be approved by the secretary under the Disability Services Act. Currently this approval is delegated to the Commonwealth Rehabilitation Service. Clearly, it is inadequate to remove this safeguard in the context of contestability without putting equivalent, alternative safeguards in place. Mr John Mendoza, of the Mental Health Council of Australia, who would be well known to many members of this House because of his passionate advocacy of the cause of those who have a mental illness in our society, has said:

> These measures take us in the opposite direction to the international evidence on what works for the employment of people with mental illness.
>
> The Council is concerned that the Government's proposed changes will impact on the ability of people with mental health problems to gain meaningful employment.

Mr Mendoza went on to say that the government must provide assurances that specific rehabilitation programs are developed for mental health consumers. Unfortunately, the Howard government is not interested in listening to Mr Mendoza's call, let alone acting on it, and an assurance from the Howard government, as we well know, is not

actually worth all that much. Similarly, there is a concern that there is no guarantee that vocational rehabilitation services will be accessible to clients with a range of disabilities. There are also concerns over whether people who have to participate in rehabilitation in order to meet the requirements of their activity agreement have adequate appeal mechanisms if they believe the rehabilitation program is not appropriate for their needs.

The bill reduces parliamentary scrutiny of any guidelines associated with the provision of vocational rehabilitation services. It appears that the government is seeking to avoid any possibility of disallowance that could delay the commencement of these services. With unseemly arrogance, the Howard government, through its Department of Employment and Workplace Relations, has already commenced a purchasing process in relation to these services to commence on 1 July 2007. Yet again the Howard government is treating this parliament with contempt.

There is also some concern that the advice in the explanatory memorandum is that the guidelines relevant to this issue will be subject to disallowance under the Legislative Instruments Act while the amendment procedure is temporarily suspended. However, Labor has received advice that this position is legally unclear. My colleague Senator Wong has written to the Minister for Workforce Participation seeking clarification of this issue, particularly an assurance that the guidelines are subject to disallowance and will remain subject to disallowance during the period of the suspension provided for in this bill.

The Minister for Workforce Participation, when summing up, may seek to clarify this matter for the House. The principle that overpayment should be recovered is of course a sensible one and Labor supports it. Naturally, if someone gets a payment to which they are not entitled, it is unfair on others and harms the integrity of the social security system, so it is fair that such overpayments be repaid. Across the spectrum of government payments there are provisions for the government to recover overpayments that are made. So Labor supports this aspect of the bill. However, there is a major difference between government payments and financial case management. Other payments exist in legislation. They exist as entitlements for people in particular circumstances. Financial case management, on the other hand, is entirely discretionary. Financial case management is in fact a by-product of the Howard government's extreme compliance regime—a regime that even conservative commentators, such as Andrew Bolt, have described as too harsh.

This regime provides that people who commit certain breaches will lose all their income support for eight weeks. In some cases, this can be for three minor breaches, such as in the case of the pregnant woman in rural New South Wales who was unable to attend a scheduled interview because of morning sickness. It was her third infraction and she lost her payments. In other cases, this penalty applies after just one breach. Looking at the area where this bill and the Howard government's extreme approach to industrial relations collide, if you are sacked unfairly in a company of fewer than 100, we know you have no ability to argue that you have been dismissed unfairly under the Howard government's laws. Yet the current compliance regime provides that if you are sacked for what your employer calls misconduct, even if in truth you have been sacked unfairly, you will not get income support for eight weeks. That, of course, is what happens when you combine industrial relations laws with welfare changes.

If this penalty has been applied to you and you have lost your income support for eight weeks, you may be eligible for assistance through financial case management. If the Howard government considers you to be exceptionally vulnerable, exceptionally at risk—that is, to take an example, if you require medication or have vulnerable dependants—you may be able to get some or all of your essential expenses covered. Centrelink may cover costs such as food, rent and utilities, or a charity may do this on Centrelink's behalf. Generally, these payments are much lower than the income support would have been. But, despite the fact that a great many people are losing their payments for eight weeks under the Howard government's laws, there is no provision in law for financial case management. It is entirely discretionary.

We know from the last round of Senate estimates that, up to 30 September last year, in the first three months of this regime, 1,921 people had been subject to the eight-week non-payment penalty, but only 120 of those had received financial case management, much fewer than one in 10. While it is entirely reasonable to recover an overpayment—for example, if there was undeclared income or if the income support is restored—there is a serious lack of transparency as to what the entitlement actually was and therefore the extent of any overpayment. The lack of transparency is potentially as bad for taxpayers as it is for income support recipients. There seems to be no real reason why financial case management could not exist in legislation and its entitlements and payments be subject to review and appeal. We call on the government to improve the transparency and fairness so that everyone concerned, the income support recipients, the taxpayers and the administrators, knows where they stand.

Pensioners who study or train in an approved course can access the pensioner education supplement; recipients of allowances such as Newstart or youth allowance cannot. Under the Welfare to Work changes, people who move from the disability support pension or parenting payment to Newstart or youth allowance were supposed to retain their pensioner education supplement until they completed their course of study. This bill breaks that promise.

In relation to the vocational rehabilitation services aspect of the bill, I said that a Howard government assurance was not worth very much. Here, in relation to this issue, we see that proposition proved for us. The bill changes the arrangements for the transitional group of disability support pension recipients—that is, those who were granted disability support pension after the May 2005 Welfare to Work announcement and before the July 2006 implementation date. If they are transferred from the disability support pension to Newstart or youth allowance after a second or subsequent post 1 July 2006 review, they will lose their eligibility for the pensioner education supplement and effectively not be considered part of the transitional group. They will only be able to continue to access the pensioner education supplement if they no longer qualify for a disability support pension as a result of their first disability support review after 1 July 2006. Why would that be the case? Frankly, I have no idea.

Part of the rationale for a compliance system, which I discussed a moment ago, is to limit welfare fraud. But what limits are there on the fraud of the Howard government, which talks of the need to move people from welfare to work and then lays roadblocks along that very path? Labor have consistently argued that restricting the pensioner education supplement to stop Welfare to Work candidates from getting it is short-sighted and against the national interest of meeting skills shortages. Labor take quite a different approach from the government. We believe that those who are jobless and lack skills should be encouraged to gain the skills they need to get a job.

When the bill gets to the consideration in detail stage, I will be moving an amendment that highlights our opposition to this absurd measure. For clarity, I foreshadow that when we reach consideration in detail Labor will have a series of very detailed amendments to this bill, which I will move at that time. As the Leader of the Opposition has said and said again, Australia needs an education revolution. We need to increase participation, and all the evidence shows that if you invest in education and training you increase participation. It is with these concerns, and a genuine commitment to increasing workforce participation, that Labor opposes this bill.