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Submission on : The Social Security (Work Test) Amendment Bill

**From : NZ Federation of Family Budgeting Services Inc
Te Roopu Penapena Putea Whanau o Aotearoa**

Background

The NZ Federation of Family Budgeting Services Inc is a voluntary, non profit, bicultural organisation partially funded by the Government. Incorporated in 1975, it is the umbrella organisation for 165 affiliated budget services and 16 associate members throughout the country. The Federation works to support the development of budgeting skills, through free, supportive, confidential and culturally aware services.

During the year to 30 June 1997, member services assisted 19,878 client families needing ongoing help, and a further 18,476 requiring 'one off' assistance (one to three visits).

This reflects a significant workload increase for budget service personnel. Anecdotal evidence for the current year indicates that this trend continues, yet services are experiencing no increase in resourcing from Community Funding Agency Contracts. On the contrary, particularly in Auckland and Wellington, over-stretched budget services, have experienced sharp reductions in contract funding, while being expected to maintain or increase workload levels. Four out of five Budget service clients, in the year to June 1997, were beneficiaries – a significant shift in the 3:1 ratio reflected since 1991/92.

Budget advisers report that clients present with increasingly complex and severe financial and other problems, making it harder to devise a 'working' budget (where income at least equals essential expenditure). The proportion of income swallowed by housing costs is seen as a major contributor to client problems. It is increasingly 'normal' for clients who depend on Income Support for their income to operate a weekly deficit.

Budget services also report growing difficulty in recruiting, training and retaining a large enough pool of suitable volunteer advisers. Over the six years since 1991/92, Federation member services have been supported by, on average annually, 2300 volunteers. Most of these are advisers, and the rest are voluntary management committee and other service personnel. On paper, services are just about holding their own – mainly because each year a significant number of new advisers is trained (an annual average of 450). Increasingly (particularly in urban areas) beneficiaries are coming forward to be trained as voluntary budget advisers. This enables them to improve their skills and their employment prospects, should employment opportunities become available. However, current pressure on budget services makes it unlikely that they will be able or willing to provide voluntary work on the scope intended, or to administer, supervise or monitor the scheme envisaged by this legislation.

General Comment on the Bill

We are alarmed by the apparently indecent haste with which this legislation is being processed, and the lack of consultation with the voluntary sector. The passage under urgency of the Social Security Amendment Bill (No 5) has bypassed the democratic process even more markedly.

The intent that the Bill take effect from 1 October 1998 seems unworkable to us. Its provisions are detailed, and will require complex administration and regulation. There is not enough time available for appropriate systems to be put in place either for the Ministry or for community organisations. This will create rushed and partial solutions, whose long term effects are likely to be disastrous both for work tested beneficiaries and community organisations who will be expected to provide 'organised activities'.

The Bill's provisions are extraordinarily punitive. They give every appearance of being fiscally driven, rather than motivated by genuine intention to create real employment or to assist and support women and children who, as usual, bear the brunt of changes in welfare provision. We therefore urge that the Bill be withdrawn in its entirety.

We urge the expansion of existing skills development processes and support, such as Income Support's Compass programme and Training Incentive Allowance. We believe that the 'workfare' programme being promoted by this and associated legislation is inherently flawed. Any attempt to restructure welfare provision on the broad scale currently under way should be supported by thorough social, economic and family impact studies. Such are woefully lacking. An impact report on work test expansion since 1 April 1997 would also help to inform policy development.

Specific Comments

Short Title and commencement

As previously stated, the proposed timeframe is too short to allow workable regulations to be put in place, or staff to be well prepared

Part 1: Section 3 Right of Appeal

Should be renamed 'No Right of Appeal' in the interests of accuracy. We urge that right of appeal be reinstated. Its removal is contrary to natural justice and human rights (We are aware, and regret, that the Department is to remain outside the requirement that Government comply with its own Human Rights legislation)

Section 4 Voluntary Unemployment or loss of employment through misconduct

The provisions of this section are unnecessarily punitive and aggravate the existing vulnerability of employees. We are alarmed that this would remove all means of meeting basic needs from individuals and families.

Section 5 Mandatory Interviews

The wording of this section perpetuates the curious notion that persons receiving work-tested benefits have little or no self-reliance – again further stigmatising this group.

Section 6 Effect of work test on entitlement to supplementary benefits and on spouses

While it is good to see the legislator's acknowledge that there will be such an 'effect', the steps provided do nothing to ameliorate it.

Section 7 New Headings and sections inserted

(Amendments to the principal Act)

Section 101 Purpose of Section 60H and Sections 102 to 123B. Subsection (a): The Reference to ‘reciprocal obligations’, replacing the long-held adherence to a basis in rights, is disquieting. We seek an additional reference to reciprocal obligation for government actively to support job creation and to remove stigmatisation of beneficiaries.

Section 102 Application of work test

How will the chief executive make the judgement that the beneficiary is participating satisfactorily? Surely this implies a large-scale bureaucratic task? Is it Government’s intention that assessment and monitoring of ‘satisfactory participation’ be required of Community providers of ‘organised activities’? If so, please note critique of this notion, in General Comments, above. Community organisations are arguably better equipped to form this judgement, and are, in many cases, already working with beneficiary volunteers. They are not in a position to do so on the scale envisaged in publicity accompanying this legislation.

Section 103 Delayed application of work test

Reference to work test application ‘when the child attains a particular age’ is not reassuring. The ‘particular age’ must be spelled out. Is it envisaged that this remain at the levels specified at 1 April 1997 (already cause for grave concern)? Or is it possible that the age of the youngest child will be reduced even further? Current evidence of inappropriate interpretation of the 1 April 1997 regulations by Income Support staff are alarming. A six month interval (instead of the four weeks specified) after the child attains ‘the particular age’ would give more realistic time for child care arrangements and other adjustments to be put in place.

Section 104 Exemption from obligations

The grounds for exemption would be more transparent if they appeared in the legislation, rather than in regulations. While we acknowledge that regulations **can** sometimes allow greater flexibility in interpretation of the Act, the current trend in the Department seems to be toward greater rigidity.

The requirement (in subsection 5) for an interview, at the request of the chief executive, is not reassuring. Unless this process, and the training of interviewers, is significantly improved by 1 October, we are likely to see a proliferation of the kinds of adverse effect currently surfacing in the media and elsewhere. As indicated in our general comments on this Bill, we have no confidence that such improvements can realistically be expected in the time available.

We request an amendment to this section specifying that, in the case of an appeal against the chief executive’s decision to refuse an exemption, the work test not apply until the appeal’s outcome is known. This would avoid bureaucratic confusion and unnecessary stress. It is also fairer.

Section 105 Application for deferral of work test obligations

Given the concerns already expressed about regulatory controls, we would prefer the addition of ‘or other appropriate reason’ to (2)(a)

Section 106 Chief Executive may defer work test obligations

In line with our suggestion that the right of appeal be upheld, we submit that this be clarified by a requirement that the applicant be notified in writing (by the chief executive) of the outcome of the application.

Section 109 Organised activities

The haste with which this legislation is being processed is apparent in (1)(a). Section 114(1) is not the appropriate cross reference. Is Section 110(1) the appropriate one? The activities listed presuppose compulsion on the beneficiary. It would be more accurate to recognise that many work tested beneficiaries are working voluntarily at their own initiative, for community agencies. Perhaps this could be addressed in (2)(f) by the addition of "... whether initiated by the beneficiary, the CE, or a voluntary organisation".

Where a person's work capacity is reduced by sickness, injury or disability (2)(i), there should be provision for the appropriateness of such activities to be assessed by an approved medical officer.

Section 111 Work Tested beneficiary to accept offer of suitable employment

'Suitable employment' referred to in (1) **must** have regard to the person's age, status, skills and health. As usual, mention of 'work' and 'employment' in this legislation assumes that these terms equate with **paid** work. Such an assumption is insupportable. It completely dismisses parenting, for example. We suggest that this belief be corrected by the inclusion of 'community work, paid or unpaid' in subsection (2).

Section 112 Procedure for imposing sanctions

We oppose the suspension or cancellation of a benefit. It is our experience that many beneficiaries live in a permanent state of crisis. To exacerbate this by the means intended will visit undue hardship on individuals and families. Since financial sanctions are clearly the object of the exercise, we propose that, at most, a clearly controlled reduction be introduced.

We also believe that 5 working days' notice is insufficient (3). We propose that this be extended to at least 10 working days, to give genuine opportunity for appeal. We also strongly recommend that **no** sanctions be imposed until review procedures (and outcomes) are complete.

Section 113 Reduction of notice period

This appears both nonsensical and completely draconian. The legislation, as drafted, appears to regard Christmas Day (among others) as a working day – and, as stated above, 5 days is completely insufficient. So any reduction is quite unacceptable.

Section 114 Notices

The provisions of this section, other than personal delivery, are unreliable. Debate around Credit/Repossession legislation has addressed this question at length.

Section 115 Penalties

As stated, we oppose suspension or cancellation of benefit as a sanction in any part of the legislation, for the reasons already given. We do not accept that eviction, illness or hunger are desirable or civilised tools to promote employment. The latter is, ostensibly, the purpose of this flurry of legislation. It is difficult to escape the impression that this section could provide a handy mechanism for shifting sickness beneficiaries from their current entitlement level to the newly-introduced UB level for 'new' applicants. We are however, relieved that the Bill's drafters have belatedly noted the need to comply with the CYPFS Act, in the proviso concerning supervision of dependent children.

Section 116 Penalties for failure to participate in organised activity

We object to the sanctions prescribed in this section, for the same reasons given re Sections 4, 112 and 115 above. This section **must** include clear provision for appeal or other appropriate response by the beneficiary. Subsection (5) appears particularly obnoxious. If a person complies after warning they should be credited with doing so, not punished further.

Section 117 Penalties for failure to participate in organised activity to satisfaction of chief executive

This entire section is paternalistic and draconian. While provision for reduction of benefit is marginally more feasible than suspension or cancellation, we hold grave concerns for the impact of such a penalty. We are unconvinced that the bill makes any acceptable provision whereby failure to participate can reliably be established. We also take the view that additional administrative and bureaucratic demands on participating community organisations are unwarranted and insupportable. There is clearly no intention to resource such participation. Nor is there any apparent intention to monitor the effects of these change on anything other than cost audit basis.

Section 118 Calculation of failure rate

As stated re Section 117, calculation of failure rate is a mechanical exercise, whose meaning and usefulness are open to debate. Robust social audit of the bill's provisions, within a specified timeframe, would make more sense. We suggest that section 118 be dropped, and replaced by better measurement requirements.

Section 119 Effect of sanctions on married rate of benefit

This is punitive and unworkable. Were the drafters genuinely concerned about the impact on spouse and children, this section would make provision for the spouse to receive either the single rate or DPB.

Section 122 Effect of employment on non-entitlement period

Clause (2) is partially cancelled out by clause (3). We recommend that (3) be dropped. It is unnecessary, and counter to the publicised purpose of these changes.

Section 123 Effect of participation in organised activity on non entitlement period

Again, we suggest that reference in (2) to 'not less than 4 weeks after the non-entitlement period took effect' be deleted. Subsection (3) should, we submit, include provision for participation in paid or unpaid community work. This will recognise and value what is already occurring (as stated previously). The other provisions of this section appear petty and imply major bureaucratic operation. We suggest they be dropped, and the money thus saved be spent on job creation.

Section 123a Application of Health and Safety in Employment Act 1992

Again, we argue that 'work' must recognise both paid and unpaid work – and request that (1) be amended appropriately.

Section 123b Regulations

Our reservations about regulatory controls, stated previously, apply.

We wish to speak to this submission.

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