



Social Security Legislation Rewrite Bill Social Services Select Committee

The Salvation Army New Zealand Fiji and Tonga Territory Submission

BACKGROUND

1. The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
2. We have over 90 Community Ministry centres and Churches (Corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society through God in Christ by the Holy Spirit's power.¹
3. This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand.
4. This submission has been approved by Commissioner Robert Donaldson Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.

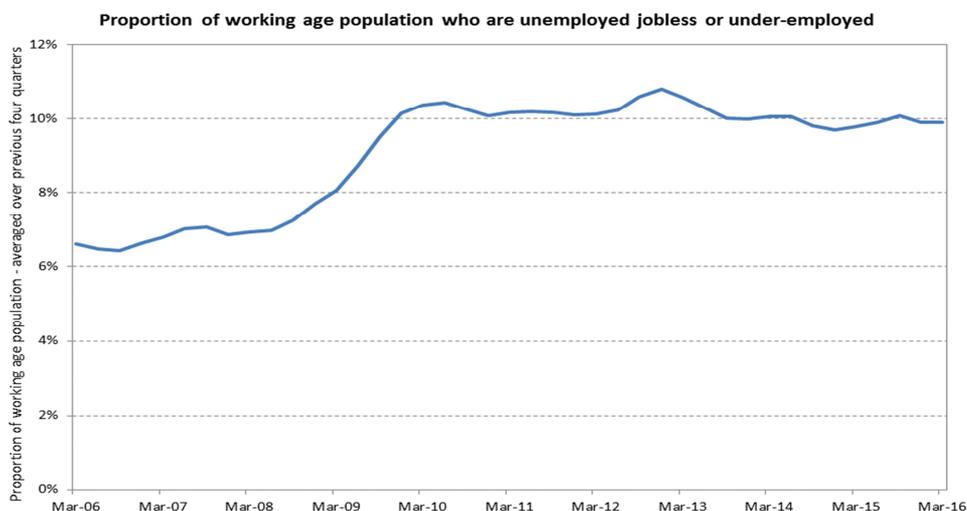
THE SALVATION ARMY'S OVERALL RESPONSE TO THE BILL

5. Rather than comment extensively on the content of this Bill, The Salvation Army wishes to raise a number of broader questions around the approach to social security policy being taken by the Government as enshrined in this Bill and several preceding amendments to the Social Security Act 1964.
6. The Army accepts as being quite valid one of the stated purposes of the Rewrite Bill: *'to improve accessibility by setting out clearly the existing requirements for eligibility, obligations, sanctions, and rights to review and appeal decisions, and how assistance is delivered'*. We however believe that not only does the Bill involve some minor changes to what might be called the 'parent legislation' on which this Bill is said to be based, but that much of the parent legislation is of doubtful merit. As such we think that it would be remiss to simply comment on the detail of the Bill without also raising some fundamental concerns which we have over some of the ideas and aims of the parent legislation. To do otherwise would accept the status quo as a fait accompli when in fact there are always opportunities for recovery and reform.

7. The Army's submission is based on the following topics or issues:
 - the relevance of current welfare policy and legislation to current and future labour markets,
 - the value of the Bill's principles and possibility of replacing these with principles which are more appropriate to social security legislation in the 21st century,
 - the absence in the Bill of any explicit focus on children's wellbeing, and,
 - the use of regulation rather than statute to decide and change detailed policy measures.

THE RELEVANCE OF CURRENT WELFARE POLICY TO FUTURE LABOUR MARKETS

8. It is The Salvation Army's view that the policy approach proposed in the Rewrite Bill and currently enshrined in the Social Security Act 1964 fails to acknowledge the challenges emerging around current and likely future labour markets. The Army believes that a more flexible and generous approach is required in the Bill and in supporting practice in order to be able to adequately respond to the income insecurity of many workers in today's labour market.
9. Members of the Committee will already be aware of the rise of so-called 'zero hours' contracts. While some legislative response has been made to this practice, the underlying pressures whereby many workers are casually or marginally employed most often on low wages persist. Some predictions suggest that over the next decade we will see increasing casualisation of work in the name of labour market flexibility². This is the rise of the precariat – a group of people who are at the bottom of the social strata and are forced to lead precarious, vulnerable and uncertain lives on the edge of the labour market and most likely the housing market. This is a group of mainly younger adults suffering high rates of unemployment. In Japan they are estimated to be more than 20 million people³.
10. No estimates of the numbers of people within the precariat in New Zealand have been made although good data exists around the numbers of people who are on the margins of the labour market. The Household Labour Force Survey provides estimates of the numbers of people who are officially unemployed, those who are otherwise jobless and those who are underemployed. Today there are around 370,000 people falling into one of these categories or around 10% of the working age population. The following graph shows the ten year trend in the proportion of the working age population in these positions.



11. It is important to appreciate that the proportions shown in the above graph have remained fairly constant since 2010. Since 2010 the economy has grown by a credible 16% while the number of people with jobs has risen by around 11%. Yet the number of people on the margins of the labour market without work, with unreliable work or short hours remains at 10% of the working age population or around 350,000 to 370,000 people. Is this the new normal?
12. If having such large numbers of people on the margins of the labour market is the new normal then it appears to The Salvation Army that the Social Security Rewrite Bill has the wrong focus. The Bill's focus and that of recent amendments to the parent legislation, the Social Security Act 1964, have clearly been informed by the recommendations of the Welfare Working Group and their 2010 report titled '*Reducing long-term benefit dependency*'. We assume that Committee members are familiar with this report so will not rehearse it here. To the Army this seems that reducing long-term dependency is quite a dismal goal for welfare policy especially when we consider the extent and nature of problems we are facing in New Zealand around entrenched poverty and increasing inequality. The question of the goals and ambitions of our welfare policy is discussed in the following section.
13. The emphasis in the Rewrite Bill and the parent legislation on reducing benefit dependency misses the larger point that the purpose of social security legislation and policy is to relieve poverty and material hardship faced by vulnerable people. Many people on the margins of the labour are vulnerable and materially poor due to uncertain and poorly paid employment. It is, the Army submits, the purpose of social security legislation to assist these people with flexible and appropriated targeted policies and programmes.
14. It is The Salvation Army's view that this is not the case. In the Army's assessment the Bill and parent legislation do not manage well the interface between benefits and work. In an era where some countries are contemplating the introduction of a universal basic income this clumsiness is somewhat anachronistic. When Switzerland is holding a referendum on the idea of every citizen receiving a basic tax funded income from the State, New Zealand's revised welfare law appears to be making it as difficult as possible for people in marginal employment to gain any support from the State. This stance in the Army's opinion is both unnecessary and unproductive.
15. The benefit-work interface is managed in two ways in the Rewrite Bill and its parent legislation. These are around income entitlements and rules around access to benefits. The Salvation Army submits that these provisions are unclear, somewhat arbitrary and provide poor incentives for people to engage in casual or temporary employment while receiving a benefit.
16. Income entitlement rules appear quite complex and multi-layered so that it is difficult for anyone not familiar with the legislation to understand what their entitlements and obligations are. For example s.24 and s.47 set minimum income provisions for those receiving a jobseeker support payment and youth payment - respectively. Parts 1 to 3 of Schedule 4 set payment rates along with the imposition of various income tests for the jobseekers support payment, the sole parent support payment and the supported living payment. Part 5 of Schedule 4 sets out both incentive payments and abatement rates for

the youth payment. Part 2 of Schedule 3 exhaustively describes what the term 'income' means. Schedule 2 sets out four separate income tests which have different thresholds and abatement rates. While these rates appear to have some relativities between them but are arbitrary in terms of the settings imposed. Part 1 of Schedule 5 sets asset limits while Part 2 sets income limits. Different benefits have different payment rates, different thresholds for abatements, different abatement rates and different maximums. In addition the age of a benefit recipient will determine the payment rates they are entitled to as does the age of their children – if they have any.

- 17.** The second way in which the benefit-work interface is managed under the Social Security Act 1964 and the Rewrite Bill is through rules around access and entitlement. These rules are generally contained in Part 6 of the Rewrite Bill but also arise in s.169 concerning unspecified 'pre-benefit activities', ss.208-209 where someone is deemed to have become willfully unemployed and in Schedule 2 which defines 'non-entitlement periods'. These rules are relatively complex and are subject to changing entitlements brought about through alterations to regulations rather than statutes. These rules do however apply to circumstances where individuals have formally left a job and then apply for a benefit. Circumstances where employment conditions change – perhaps due to seasonal variations, and where earnings diminish to levels which are or below benefit levels do not fit neatly into the processes described in Part 6. In addition while some provisions of Part 6 (s. 279 and s.282 specifically) place a statutory responsibility on Ministry of Social Development to process applications there are not statutory timeframes imposed on these processes which of course creates potential for delays. These delays are made worse by the fairly mean asset limits set for entitlement to a benefit (Schedule 5 part 1) which mean that any applicant has to spend any savings they may have accumulated during their time in employment before they can even qualify to apply for a benefit. In other words people have to be close to financially desperate before they can apply for a benefit. While there is provision under s.283 for MSD to grant a provisional benefit immediately these provisions appear only to apply in circumstances where a non-work-tested or limited work-tested benefit might eventually be available.
- 18.** The amounts set as thresholds for abatement of benefit payments as a recipient earns other income appear to be based on historic amounts which today bear little relevance to wages and in particular statutory minimum wages. For example a single person with no dependent children who receives a jobseekers support payment is able to earn up to \$80 (gross) per week before his or her benefit is abated at a rate of 70 cents in every extra dollar earned. It is difficult to trace the lineage of this \$80 figure but it is thought to date back at least to 2000. In 2000 the statutory minimum wage was \$7.55 which meant that such a person (then receiving the unemployment benefit) could work for more than 10 hours before they lost around 85 cents for every dollar they earned (70 cents/\$ in benefit abatement and 15 cents/\$ in income tax). In 2015 the statutory minimum wage was \$14.75 which meant of course that this hypothetical person could only work five hours before they faced a fairly discouraging effective marginal tax rate of at least 85%⁴. For a piece of legislation with a stated purpose *'to enable the provision of financial and other support as appropriate ... to help people find and retain employment'* this failure to recognise the disincentives imposed by arbitrary abatement rules is to The Salvation Army quite puzzling.

19. The Salvation Army believes that having welfare policy which is heavily focused on obligations and sanctions and pays little regard to incentives and opportunities, risks creating poverty traps. Poverty traps are created where incentive structures work against people striving to improve themselves. The high effective marginal tax rates and arbitrariness of the abatement regimes and entitlements embodied in the Rewrite Bill and its parent legislation do this. It is the Army's view that replacing incentives and opportunities with complex and arbitrary obligations and punitive sanctions fails to acknowledge both the reality of modern labour markets and the need for having welfare policy which keeps people out of poverty

A QUESTION OF PRINCIPLES

20. The Salvation Army is disappointed with the principles which are offered in the Rewrite Bill as the philosophical underpinning for New Zealand's social security legislation. We believe that these principles are quite narrow in their focus and lack any vision for what a decent social security system might achieve.
21. Essentially the five principles offered in s.4 of the Rewrite Bill about – work, work, preparing for work, income support for those unable to work and avoiding long-term welfare dependency. The single principle which recognises the role of social security legislation in providing income security is not referenced to any ideas outside of the processes offered in the legislation itself.
22. The principles offered in s.4 of the Rewrite Bill are clearly taken from the 2010 recommendations of the Welfare Working Group⁵. This report was titled '*Reducing long-term benefit dependency*' so was more or less focused on a single objective rather than the broader questions of social security in the 21st Century. To its credit the Welfare Working Group did offer other principles such as dignity, reciprocity and priority for children. Such ideas are completely absent from the principles offered in s.4 of the Bill.
23. The emphasis in the Rewrite Bill on reducing long-term welfare dependency sits at odds with recent forecasts by Treasury on what it expects to happen to benefit numbers over the next four years. In the 2016 Budget, Treasury forecast that the number of people receiving a working-age benefit would decline from 303,000 in 2015 to 276,000 by 2020⁶. We acknowledge that the number of people receiving a working age benefit has already fallen substantially from 351,000 in December 2011 to 301,000 in December 2015⁷. However, as discussed earlier in this submission there has been no matching decline in the numbers of people who are jobless or under-employed. There is in fact no research available to identify what has become of the 50,000 people who are now not receiving a benefit and in particular to identify if their social and economic wellbeing has been improved by this change.
24. It may be the case that diminishing marginal returns are setting in with the Government's attempts to reduce benefit numbers further. Certainly Treasury think so. If this is the case, and intuitively it makes sense, then focusing policy on a single objective which has already largely been achieved appears somewhat pointless.
25. The Salvation Army suggests that the Committee considers a broader and more inspiring set of principles than those offered in s.4. We suggest such a set might in turn guide a re-think of

how welfare policy might meet the challenges of rising inequality, enduring poverty for some groups of New Zealanders as well the demographic facts of an aging and more diverse population.

26. To this end The Salvation Army recommends the values offered by the Alternative Welfare Working Group in its 2009 final report *'Welfare justice for all'*. These values include:
- a focus on treating people who receive benefits with dignity, sensitivity and respect;
 - a focus on the needs of children;
 - adequacy of benefits to meet acceptable living standards;
 - recognition of the value of caring and voluntary work as well as paid employment; and
 - inclusion.⁸

A FOCUS ON CHILDREN'S WELLBEING

27. The Salvation Army remains concerned that New Zealand's welfare policy lacks an explicit focus on the wellbeing of children. There is, in the Army's opinion, some evidence, both in the Rewrite Bill and parent legislation, that children's wellbeing is being treated as an incidental concern against a primary concern of moderating adult behaviours. We believe that such a stance is lamentable and ask that the Committee reconsiders this approach as a priority.
28. Part 5 of the Rewrite Bill provides an extensive set of provisions around sanctions on those people who are receiving a benefit and fail, in MSD's judgment, to meet their obligations under Part 2 of the Bill. This more aggressive imposition of sanctions is a recent feature of welfare legislation and is part of an overall approach which makes receipt of income support more conditional. This conditionality also applies to those receiving benefits with dependent children so making children in effect the co-lateral damage of the sanctions approach. There is no reliable information on the numbers of children caught up in sanctions and benefit cancellation and it appears that MSD is reluctant to report such information⁹. The Army believes that at the very least MSD should be under a statutory obligation to report on the numbers of sanctions administered and the numbers of children affected by these. Such information would allow public scrutiny of the nature and effectiveness of this sanctions policy and its impact on children.
29. It might be argued that provisions in the Bill which place various 'social responsibilities' on people receiving a benefit are an example of a focus on children's wellbeing. Specifically ss.113 to 123 specify obligations and responsibilities for those people with the care of dependent children who are in receipt of a working age benefit. These obligations in the Army's view appear reasonable although we find it difficult to understand why these same obligations are not extended to families receiving Working for Families payments. In addition, we think it is counter-productive to use sanctions, as in s.122, against parents and guardians for not fulfilling their 'social obligations' toward their children when such sanctions can and do reduce the income which is available to support the children concerned.
30. The Salvation Army disagrees with the provisions contained in ss.204 to 207 relating to factors affecting benefit availability when a woman has a so-called 'additional dependent child'. These provisions effectively require a woman who has a child while already receiving a

benefit to be subject to work test requirements on that child's first birthday. The Army finds the justification for this policy which is found in s.204(2) to be quite implausible and we ask the Committee to re-examine this justification. In particular it is difficult to find any part of ss. 205 to 207 which recognise the 'care and development needs of children' as claimed in s.204(2)(b).

THE USE OF REGULATIONS TO DETERMINE POLICY SETTINGS

- 31.** The Salvation Army is concerned that increasing use is being made of regulations to determine policy settings and to allow for administrative flexibility outside the scrutiny of Parliament. The Army understands and appreciates the need for administrative flexibility in the application of any public policy. We believe however that such flexibility needs to be balanced against the certainty which is required for policy to be reliable and transparent. The balance between these is in part a question of political judgment or preference. We are concerned that this balance is weighted too far in favour flexibility perhaps to the point that actual policy settings have become unreliable and arbitrary.
- 32.** Part 8 of the Rewrite Bill covers powers to make regulations. Specifically s.397 provides a structure for the application of regulations to only some elements of welfare policy. Most of these elements appear reasonable and are generally within current practices which have not proven problematic to date.
- 33.** There are however several examples of what the Army believes are unreasonable or unwise flexibility. One example is that of s.169 and s.411 which effectively give the responsible Minister power to decide so-called 'pre-benefit activities'. These are in effect a further potential barrier to access to benefits and offer the potential to increase the conditionality of income support which recent amendments to welfare legislation have brought about. The Salvation Army advises against such discretion as we believe it is able to be applied away from public scrutiny and perhaps somewhat arbitrarily.
- 34.** A further level of flexibility rests with MSD and The Salvation Army has some concerns that this flexibility is unreasonable. For example s.286 allows MSD solely to decide what information it can require of people whose benefit entitlement is being reviewed. This review process is subject to various appeal rights yet MSD has unregulated discretion over information it can require of people relying on a benefit for their income. In the Army's view such discretion should not lay with the Government agency responsible for administering a contentious process but either with regulation or statute.
- 35.** The Salvation Army asks the Committee to have regard to the current balance between the use of statute, regulation and departmental discretion as a basis for administering welfare policy under the Rewrite Bill.

CONCLUSIONS

36. The Salvation Army is mindful that the Rewrite Bill is ostensibly about social security yet there is nothing in the Bill's principles and little in its processes which offer such security. In the Army's view this shortcoming is due to at least two factors. The first is the failure in both the Rewrite Bill and the parent legislation to address the realities of contemporary labour markets and the consequent precarious lives of perhaps hundreds of thousands of workers. The Army believes that this failure is a great injustice. The second failure is around the increasing conditionality which has crept into welfare legislation over the past five or six years. This conditionality is demonstrated both by the ever growing list of obligations on the part of recipients of benefits and by the quite onerous sanctions which might be applied against people who fail to meet these obligations regardless of how trivial they are.

The Salvation Army would like an opportunity to present a verbal submission in support of this written submission if the Committee has time for this within its deliberations. To arrange such an opportunity or for further information on this submission please contact:

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ENDNOTES

¹ <http://www.salvationarmy.org.nz/our-community/mission/>

² See for example Shamubeel Eaqub' opinion piece of 16 May 2016. *Job casualisation a global phenomenon*, Available at <http://www.stuff.co.nz/business/opinion-analysis/79953055/Shamubeel-Eaqub-Job-casualisation-a-global-phenomenon>.

³ See The Financial Times article of 1 July 2010 *Japan has to address the precariat* by Machiko Osawa and Jeff Kingston.

⁴ The effective marginal tax rate may approach 100% if abatement in supplementary benefits such as the Accommodation Supplement and provisions for student debt repayment are also taken into account.

⁵ See Welfare Working Group (2010) *Reducing long-term benefit dependency*; p.37. The first principle offered is 'recognition of the value and importance of paid work to social and economic wellbeing' while the first principle proposed in the Rewrite Bill is 'work in paid employment offers the best opportunity for people to achieve social and economic wellbeing'.

⁶ See figures on Table 6.3 p.127 of 2016 *Budget and Fiscal Update*

⁷ See MSD benefit statistics which are available at <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/index.html>

⁸ Alternative Welfare Working Group (2009) *Welfare justice for all*; p.20.

⁹ Child Poverty Action Group has attempted to gain this information under the Official Information Act without much success. See Wynd, D. (2014) *Sanctions: children – not seen not heard*. Available at <http://www.cpag.org.nz/assets/Backgrounders/140613%20Benefit%20Sanctions%20Report%20II%20June%202014.pdf>