



MAX PLANCK INSTITUTE
FOR SOCIAL LAW AND SOCIAL POLICY

Social Law Reports

Terry Carney

AUSTRALIA: BUILDING TOWARDS A CONSERVATIVE VISION OF WELFARE?

Reported Period: 2014

Cite as: Social Law Reports 1/2015

© Max Planck Institute for Social Law and Social Policy, Munich 2015.

Department of Foreign and International Social Law

All rights reserved.

ISSN 2366-7893

Max Planck Institute for Social Law and Social Policy

Amalienstraße 33, D-80799 Munich, Germany

Tel.: +49 (0)89 38602-0 · Fax: +49 (0)89 38602-490

E-mail: info@mpisoc.mpg.de

<http://www.mpisoc.mpg.de>

CONTENT OVERVIEW

- 1. THE CURRENT ECONOMIC, POLITICAL AND SOCIAL SITUATION 1
 - 1.1. Overview..... 1
 - 1.2. Statistical Measures 1
- 2. POLICY AND PROGRAM CHANGES 2
- 3. MAJOR POLICY CHANGES IN PROSPECT 3
 - 3.1. The McClure Report 3
 - 3.2. Re-balancing Federalism 4
 - 3.3. Supported Decision-Making 4
- 4. THE LEGISLATIVE FRAMEWORK..... 5
 - 4.1. Recent Amending Acts 5
 - 4.2. Significant Bills Defeated in the Senate or Awaiting Passage 7
- 5. CONCLUSION 8
- 6. REFERENCES 11

LIST OF ABBREVIATIONS

ABS	Australian Bureau of Statistics
ALRC	Australian Law Reform Commission
AUD	Australian Dollar
CPI	Consumer Price Index
DSP	Disability Support Pension
FTB	Family Tax Benefit
MYEFO	Mid-Year Economic and Fiscal Outlook

1. THE CURRENT ECONOMIC, POLITICAL AND SOCIAL SITUATION

1.1. Overview

The 2014 calendar year proved to be less auspicious than anticipated, not only for the economy but also for the popularity of the first full year in office of the recently elected conservative government (Coalition Liberal-National party). Sharp downturns in international prices for resources, such as the halving of the iron ore price and reductions in the price of coal, severely impacted Budget revenue forecasts, while the perceived unfairness of savings measures in the May 2014 Budget led to blocking of a large number of welfare measures by the upper house (the Senate), and loss of electoral support. A cabinet reshuffle on 21 December 2014 saw the appointment of a new Minister for Social Services and foreshadowing of a 'families package' comprising enhanced family payments, child care benefits and parental leave payments to form the centrepiece of the 2015-16 Budget to be brought down in May 2015.

The deterioration in the fiscal picture over the course of the calendar year was significant, with the December 2014 mid-point of fiscal year update revealing a further AUD\$43 billion decline in the budget position over the forward estimates since the introduction of the May 2014 Budget. This deterioration was due, among other things, to a AUD31.6 billion drop in forecast tax revenues (AUD14.4b being in company tax, 8.6b in personal tax) and AUD10.6 billion inflation of outlays attributed to blocked savings measures, or softening of savings measures as concessions required to obtain passage of other government initiatives such as repeal of the carbon tax and the mineral resource rent tax (MYEFO 2014: 2, 22-23, 45). Although a number of the blocked measures relate to other portfolios (such as the co-payment for medical consultations) the impact of the Senate in delaying social services cuts has been estimated by the Mid-Year Economic and Fiscal Outlook (MYEFO) to cost the budget \$1.3 billion in 2014-15 and \$547 million in 2015-16. The prospect of returning a Budget surplus has moved out to at least 2019-20 (ibid, 31).

1.2. Statistical Measures

Economic conditions in Australia remained healthy by international standards, but the end of the long resources boom due to declining world demand and lower prices saw a deterioration in the fiscal position during calendar year 2014.

Seasonally adjusted unemployment in October 2014 was 6.2 per cent (ABS 2014c) compared to 5.7 per cent at the same point in 2013 (ABS 2013c), and rose slightly to stand at 6.3 per cent for November 2014. Unemployment is predicted to reach 6.5 per cent in 2015, up by 0.25 points on the Budget forecast (MYEFO 2014: 16). The October 2014 workforce participation rate of 64.6 per cent (ABS 2014c) was lower than at the same time in the previous year (64.8 per cent: ABS 2013c) or the year before that (65.1 per cent: ABS 2012), making this the third year of reversal of the increased participation achieved over recent decades (having risen from 63.3 per cent in 1995 to reach 65.0 by 2006: ABS 2006; 2007).

Inflation in the major capital cities, as measured by the 'consumer price index' (CPI), ran at 2.3 per cent over the period September 2013 to September 2014 (ABS 2014b), compared to 2.2 per cent over the equivalent period for the previous year (ABS 2013b) or the 3.5 per cent and 3.6 per cent

experienced in 2009 and 2010 (ABS 2011). Interest rates remained low in domestic terms across the year at 2.5 per cent, consistent with this being the bottoming out of interest rate reductions.

Economic growth as at June 2014 for fiscal year 2013/14 was 3.1 per cent seasonally adjusted (ABS 2014a), compared to 2.6 per cent for the previous fiscal year (ABS 2013a), but the 2014-15 Budget forecast a slowing to 2.5 per cent, a figure maintained at the halfway point of the year in the MYEFO up-date (MYEFO 2014) even though the December 2014 MYEFO estimate of nominal GDP halves (to 1.5%) the 3 per cent forecast in the May Budget due to factors such as declining prices for resource exports and changes in the terms of trade (the exchange rate ended the year with the AUD in the low 80 cent range against the US dollar, but had risen during the year before falling back as the US economy recovered).

2. POLICY AND PROGRAM CHANGES

Policy and program changes achieved during 2014 were comparatively few, beyond the 2014-15 Budget brought down in May 2014 honouring Election commitments such as introduction of the 'green army' for young people and provision of monetary incentives for very disadvantaged job-seekers to take and keep work,¹ and a raft of Budget savings measures.

Among the savings measures enacted during the year were tightening of means tests on child-related payments (Family Tax Benefit), including reducing from July 2015 the primary earner threshold for Part B FTB from \$150,000 to \$100,000; capping Part A FTB so it ends in the last year of schooling; freezing for 3 years until July 2017 indexation increments to thresholds and 'cut-outs' for higher income earners in receipt of FTB Part B or child care rebates; and reducing from 3 years to 56 weeks the period during which family payments such as FTB can be paid while living overseas. The Parliament also approved freezing indexation of means test thresholds for social security payments (for pausing for 2 years from July 2015 for working age payments and for 3 years from July 2017 for non-working age payments); extending the income test for seniors health card and other concession to include account-based pension and superannuation income; increasing from 25 to 35 years the period of Australian working life required for full pension under bilateral social security 'reciprocity' agreements; reducing the overseas portability periods for various payments (to 28 days for disability pensions); and other measures summarised under the heading 'Legislation; Amending Acts' (E,1 below).

This modest set of achievements over the year was due to the Senate's rejection of more radical savings measures such as shifting indexation of pensions from a productivity to a less generous cost of living index, continuing to increase the retirement age to peak at 70 years of age by 2035 rather than 67 by 2023, and denying unemployment benefits to young people for 6 months (but requiring them to meet activity test obligations during this period in order to qualify for payment after 6 months).

¹ Further: <http://lpaweb-static.s3.amazonaws.com/13-08-27%20The%20Coalition%E2%80%99s%20Policy%20to%20Increase%20Employment%20Participation%20-%20policy%20document.pdf>. However take-up has been miniscule over the first six months of the scheme, with just 510 of the projected 32,000 benefiting from the AUD10,000 subsidy for employers taking on long-term unemployed people over the age of 50 (Shields 2015: 5).

The third of these blocked measures was the most emblematic of the new Government's welfare philosophy. If ever subsequently enacted it would make unemployment benefits for those under 30 immediately conditional on participation for six months in work-for-the-dole or approved study and training, require proof of making 40 job applications a month (later halved due to employer opposition to fielding so many applications), impose on applicants without at least three years of full time employment a new non-payment 'waiting' period of six months (reduced pro rata for previous employment less than 3 years) and reinstate a six month waiting period should any initial (or subsequent) period of up to six months of unemployment payment (conditioned on work for the dole or training) still fail to result in the person obtaining employment. As explained later, this encapsulated key government themes of cutting numbers in receipt of welfare, imposition of mutual obligation requirements designed to change behaviour and inculcate self-reliance, and shifting some portion of responsibility for welfare onto community groups (Mendes 2014). Government modelling of the anticipated impact of such harsh policies was that an additional 550,000 applications annually would have been made to charities for food vouchers, household goods and clothing, assistance with meeting rent or utility payments, or other assistance. The Budget therefore set aside AUD230 million for grants to non-government and charitable agencies to assist in covering these emergency payments (Harrison and Donnelly 2014: 7).

The remaining developments during 2014 were also designed to restrict outlays, such as freezing the staged gradual increases in the superannuation guarantee levy mandatory superannuation contributions from 9 to 12 per cent until July 2021, resuming its climb two years beyond the July 2019 date originally set for full achievement of the target (MYEFO 2014: 4).

However, the most significant (and most durable) long-term policy changes may lie in two other areas: any future changes stemming from the interim report released in June 2014 from the McClure panel (Australia 2014), and the proposal for radical devolution of responsibilities back to the States and Territories, as discussed in the next section.

3. MAJOR POLICY CHANGES IN PROSPECT

3.1. The McClure Report

The interim report of the McClure Panel released during 2014 flags measures such as moving to just four basic payment categories (working age payment; a disability support pension; an age pension; and a child payment), with different 'tiers' of support, consistent with the previously anticipated 'simplification' agenda of rationalisation of benefit categories and associated means tests, supplements or other rules (Carney 2014).

The Panel also proposes further tightening of eligibility for payments such as the Disability Support Pension ('DSP') over and above the 2014-15 Budget announcement of reviewing all under-35 applicants granted prior to new tighter rules were introduced in July 2006. In place of a rule restricting DSP to those with a capacity for work of 15 hours or less per week, McClure proposes confining DSP to those without *any* capacity for work and assessed as being *permanent*, rather than the current basis of assessing work capacity prospects over the next 2 years (Australia 2014: 6, 47, 51-52). The Panel does recognise a need to invest in enhanced services and supports for people with

complex or entrenched barriers to participation (based on New Zealand's 'investment' strategy for avoiding long-term dependency) and is mindful of ensuring that compliance regimes do not impact adversely on children (Australia 2014: 10) and that there are '[p]rotectio...for vulnerable people' (ibid, 81) However such further tightening of conditions surely risks contradicting these aspirations.

With respect to compliance, the McClure Panel saw wisdom in preserving a graduated regime which is 'progressive, with timely, lighter measures first [and] the strongest sanctions...reserved for serious non-compliance' (ibid, 10), but recommends that sanctions be imposed on a more 'timely' basis. For workforce age payments, it is envisaged that this might be achieved by 'giving employment service providers greater management of sanctions, including suspension and penalties' (ibid, 81) and imposition of behavioural conditions (like drug testing: ibid, 160). The first is problematic because contracted private-sector job service providers are imbued with enterprising business culture rather than wedded to process values of government agencies (Carney and Ramia 2002), while the second has a chequered history in Britain (Harris 2010).

While several welfare measures proposed in the 2014-15 Budget are consistent with these recommendations, it remains to be seen how vigorously the Government prosecutes the case for major welfare reform in light of the unpopularity of its May 2014 Budget and Senate opposition to passage of its more radical elements.

3.2. Re-balancing Federalism

The second and most radical legacy for the future arguably lies in the Abbott Government's new federalism and its anticipated implications for welfare services, with longer-term plans for the national government to *vacate* certain fields of welfare it has traditionally occupied (Bajkowski 2013).

However in its first term of government it appears that the federal/state cooperative welfare *services* component of Australia's welfare state — such as welfare housing, child care services, and disability services — will be the major targets for welfare reform, not just because the report of the National Commission of Audit (2014: Ch 6) and forthcoming reports on the federal system have or will so recommend, but also because the record of achievement under 'cooperative federalism' through federal-state funding agreements has been very patchy (Menzies 2011).

Root and branch reviews of both the taxation system and of federal-state relations are slated for 2015, beginning with a White Paper on tax, but while these can be anticipated to advance this agenda, it is unlikely that any major recommendations will be pursued prior to the 2016 federal Election.

3.3. Supported Decision-Making

In December 2014 the government tabled the final report of the Australian Law Reform Commission reference to examine the implications for federal law of the UN *Convention on the Rights of Persons with Disabilities* (ALRC 2014).

The report found a pressing need for reform of 'nominee' provisions in social security (representative payees in the USA), in residential aged care, and in the new National Disability Support Scheme (currently in the early stages of its full roll-out). Thousands of Australian social security recipients have their money managed for them by a 'payment nominee', while some form of substitute

decision-making power is also increasingly sought as a condition of entry to residential aged care. The ALRC report proposes to avoid wherever feasible any resort to reliance on such *substitute* decision-making power of nominees, replacing such arrangements with provision for supporters who would assist to realise the ‘will, preferences and rights’ of the person, rather than hold any proxy decision-making powers.

The Federal Government has yet to indicate its response to these proposals, though the second largest state of Victoria legislated in 2014 to enable personal appointments of ‘supporters’ (further, Carney 2015d; 2015c; 2015b).

4. THE LEGISLATIVE FRAMEWORK

No change has been made in the basic architecture of the legislation governing social security payments (for details of all payments, see: Carney 2013a). The legislation continues to be administered by the Department of Human Services through a statutory agency called Centrelink. Decisions made by officers of Centrelink are reviewable on their merits, with two levels of merits review. The first tier (presently the Social Security Appeals Tribunal) now schedules single member hearings for the vast majority (now 86%) of appeals (Carney and Bigby 2014), and from July 2015 this level is to be merged as a Division of the mega-tribunal responsible for second tier review of administrative decisions (the Administrative Appeals Tribunal).

Social security law is currently found in five enactments, each of which is frequently amended:

- *Social Security Act 1991* (Cth)
- *Social Security (Administration) Act 1999* (Cth)
- *Social Security (International Agreements) Act 1999* (Cth)
- *Family Assistance Act 1999* (Cth)
- *Family Assistance (Administration) Act 1999* (Cth)

4.1. Recent Amending Acts

- *Social Services and Other Legislation Amendment Act 2014* (Act No 14 of 2013)

This Act includes various measures, including: adopting a more collaborative industry approach to problem gambling; extending by two years to the end of 2015 the income management scheme in Cape York linking income support with behaviour such as school attendance; capping FTB Part A so it ends with the calendar year in which schooling ceases; raising from 25 to 35 years the period of Australian working life needed to qualify for full means tested pension overseas after the 26 week portability is exhausted; extending to additional payment types the provision for charging interest on overpayment debts not already being paid off by deductions from another payment; changing arrangements for access to certain student start-up loans; ending provision for late enrolment in the closed pension bonus scheme for people deferring pension after reaching pension age; freezing for 3 years until July 2017 indexation increments to thresholds and ‘cut-outs’ for higher income earners in

receipt of FTB Part B or child care rebates; and reducing from 3 years to 56 weeks the period during which family payments such as FTB can be paid while living overseas.

- *Social Security Legislation Amendment (Increased Employment Participation) Act 2014* (Act No 35 of 2014).

This Act implements election commitments to provide a 'bonus' of a tax free payment of \$2,500 for a young person (18-30) who has been in receipt of unemployment payments for 12 months and who maintains employment and remains off unemployment payment for a continuous period of at least 12 months, with a further \$4,000 for doing so for another 12 months. The Act also makes provision for payment of relocation assistance (up to \$6,000 to regional areas, \$3,000 if to a metropolitan area) where a person unemployed for 12 months (including a person receiving parenting payment) agrees to relocate in order to take up employment. The non-payment penalty period for a person who then voluntarily leaves such a job is increased from 12 to 26 weeks.

- *Family Assistance Legislation Amendment (Child Care Measures) Act 2014* (Act No 66 of 2014).

This Act freezes the child care rebate amount (at \$7,500) and maintains the income thresholds at July 2014 rates for the three following financial years, by suspending indexation of those amounts.

- *Social Security Legislation Amendment (Green Army) Act 2014* (Act No 73 of 2014).

This Act sought to make provision from July 2014 for recruitment (by a contracted private sector provider) of an environmental workforce of people aged 17-24 years, intended to peak at 15,000 by 2018. However, not having direct constitutional power beyond responsibility for international treaties on the environment, the High Court rulings in *Williams v Commonwealth of Australia* [2014] HCA 23 and *Williams v Commonwealth of Australia* [2012] HCA 23 that the executive power of the federal government does not extend to programs beyond a head of power (further, Gerangelos 2012) — serves to preclude any recruitment for participation in the vast range of environmental matters lying squarely within State or Territory responsibility.

- *Social Services and Other Legislation Amendment (Seniors Health Card and Other Measures) Act 2014* (Act No 98 of 2014)

This Act indexes, from September 2014, the eligibility thresholds for the concessional health care card available to seniors by reference to the less generous consumer price index, and makes a number of machinery of government changes.

- *Dental Benefits Legislation Amendment Act 2014* (Act No 115 of 2014).

This Act provides for waiver of some overpayment debts arising under a since closed (in 2012) scheme for subsidising dental treatment for people with chronic medical conditions and complex dental needs.

- *Social Services and Other Legislation Amendment Act (2014 Budget Measures No. 6) Act 2014* (Act No 122 of 2014).

This Act implements a number of less controversial measures in the 2014-15 Federal Budget (initially defeated when part of a larger Bills, initially the *Social Services and Other Legislation Amendment Bill (Budget Measures No 1) Bill 2014* and the *Social Services and Other Legislation Amendment Bill (Budget Measures No 2) Bill 2014*).

The measures enacted include, among others: ceasing indexation of the clean energy supplement (renamed an 'energy supplement'); including from 1 January 2015 account-based pensions and superannuation income streams as income for the purposes of the income test for the seniors card income test; pausing for 2 years from July 2015 the assets value limits on all working age payments; pausing for 3 years from July 2017 the assets value limits for all pensions (non-working payments); providing for review against previously tightened criteria of all disability pensions paid to those under 35 (previously grandfathered and assessed under the older more generous criteria); tightening from January 2015 overseas portability periods for student payments and limiting disability (DSP) portability to 28 days a year; limiting the FTB Part A 'large family' supplement to families with 4 or more children; and from July 2015 reducing the threshold of the primary earner for Part B FTB from \$150,000 to \$100,000 pa.

- *Social Security Legislation Amendment (Strengthening the Jobseeker Compliance Framework) Act 2014* (Act No 131 of 2014).

This Act introduced a less harsh version of compliance measures rejected in the failed *Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill*, by providing that from 1 January 2015 failure to attend an appointment leads to immediate suspension of payment until that appointment is kept (with back payment on attendance), while from 1 July 2015 back pay will be lost if the person does not have a reasonable excuse for missing the original appointment. Provision is also made to remove by Ministerial instrument certain categories of unemployed people from the 'over 55 years' dispensation allowing compliance to be shown by undertaking voluntary or part-time work.

4.2. Significant Bills Defeated in the Senate or Awaiting Passage

- *Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014*.

This Bill would have intensified compliance penalties for refusal of suitable work or three participation failures within a six-month period, by removing the ability to stop the further accrual of the loss of payment penalties simply by rectifying the breach (such as by attending a missed appointment), and by removing the financial hardship waiver of the 8 week non-payment penalty (applicable when liquid assets are less than AUD2,500).

- *Social Services and Other Legislation Amendment Bill (Budget Measures No 1) Bill 2014*.

This Bill included elements ultimately enacted as part of the *Social Services and Other Legislation Amendment Act (2014 Budget Measures No. 6) Act 2014* but it was defeated due to opposition to measures such as indexing parenting payment single (PPS) payment rate increases by reference to the consumer price index rather than average weekly male earnings from September 2014.

- *Social Services and Other Legislation Amendment Bill (Budget Measures No 2) Bill 2014*.

This Bill included elements ultimately enacted as part of the *Social Services and Other Legislation Amendment Act (2014 Budget Measures No. 6) Act 2014* but it was defeated due to opposition to measures such as indexing pension increases by reference to the consumer price index rather than average weekly male earnings from September 2017 and continuation of gradual increases in the pension age to peak at 70 rather than 67 years.

- *Social Services and Other Legislation Amendment Bill (Budget Measures No 4) Bill 2014.*

This Bill re-packaged items from the previously defeated Bills No. 1 and No. 2 above, including the new lower indexation base for pension increases, along with provision for the new work for the dole regime for young people. This Bill was defeated due to opposition to these measures, although less controversial elements were later enacted as part of the *Social Services and Other Legislation Amendment Act (2014 Budget Measures No. 6) Act 2014.*

- *Social Services and Other Legislation Amendment Bill (Budget Measures No 5) Bill 2014).*

This Bill reintroduced from defeated Bills the provision for CPI pension indexation and continuing the phased increase in the pension age to peak at 70, but it too was defeated in the upper house.

- *Social Services and Other Legislation Amendment Bill (Seniors Supplement Cessation) Bill 2014.*

This Bill re-introduced from the defeated *Social Services and Other Legislation Amendment Bill (Budget Measures No 1) Bill 2014* the provision to cease, from September 2014, payment of seniors supplement to holders of the Commonwealth Seniors Health Card. The Bill failed.

- *Social Services and Other Legislation Amendment Bill (Student Measures) Bill 2014.*

This Bill re-introduced in amended form, measures withdrawn from the *Social Services and Other Legislation Amendment Act 2014*) to change start up scholarship arrangements and impose an interest charge on unrepaid student debt where the debtor was not in receipt of a social security payment from which debt repayment withholdings could be made.

- *Tribunals Amalgamation Bill 2014.*

This Bill would merge the lower tier review undertaken by the free-standing and specialist Social Security Appeals Tribunal ('SSAT') into the generalist Administrative Appeals Tribunal (the 'AAT', which already serves as the second tier of merits review of social security decisions). The merger, which also absorbs the Migration Review Tribunal and Refugee Review Tribunal, translates the SSAT into the newly named Social Services and Child Support Division of the AAT, without altering any of its operational details other than very minor changes for consistency with the other Divisions of the AAT. It is based on recommendations of the National Commission of Audit (National Commission of Audit 2014) and is consistent with those of the Productivity Commission (Productivity Commission 2014).

5. CONCLUSION

As previously anticipated (Carney 2014), the welfare agenda of the Abbott Government in its first year in office concentrated on themes and principles set down in the policy Platform taken to the 2013 Election.

These themes were neatly summarised by Philip Mendes as being: to reduce welfare expenditure by cutting numbers on payments; emphasising obligations as well as entitlements (while also pressing the unemployed to become self-reliant); focusing on changing irresponsible behaviour rather than

pursuing social justice; and shifting some of the burden from government to community groups (Mendes 2014). Tightening of the means test on family tax benefit payments during 2014 is an example of the first, while stalled changes to unemployment payments for young people, along with failed attempts to intensify penalties for compliance breaches, illustrate the mutual obligation, self-reliance and behavioural change themes. Extension of indigenous income management by two years is another (Bielefeld 2014).

The forward agenda remains consistent with these themes, with only a small prospect that the incoming Minister will do other than accelerate the pace of implementation of savings measures, along with development of the foreshadowed 'families package' to be considered for inclusion in the 2015-16 Budget to be brought down in May 2015. This latter is expected to cover and integrate measures across child-related payments (FTB), the scheme of subsidies for child care costs (Child Care Benefit and rebates), and the Prime Minister's much criticised (and already scaled-back) over-generous paid parental leave scheme.

One more radical proposal which might yet attract interest however is that by the Forrest Review into Indigenous welfare and participation, that welfare quarantining be extended to the whole population in the form of a 'healthy welfare' smartcard unable to be redeemed for expenditure on non-essentials like alcohol, drugs or gambling (Forrest 2014: 27). This proposal mirrors long-standing statements made while the current government was in Opposition, in favouring extension of income management extension to all by way of such a basics card (Mendes 2014: 6). The release of the Forrest Report in 2014 was accompanied by extensive media coverage of this measure, which is suggestive of strategic government 'leaks' designed to create a receptive climate for its possible adoption. Any such measures would further intensify what Philip Larkin characterises for Britain as the 'new Puritanism' (Larkin 2014).²

Simplification of the number of payment categories to just four as proposed in the interim McClure Report (Australia 2014) remains the most likely major reform initiative over coming years, given the favourable assessment of similar moves in New Zealand, despite the cautionary note struck by the limited gains reaped in Britain (Harris 2013). While it is unlikely that any major steps will be taken in this direction prior to the 2016 federal Election, it is possible that some minor rationalisations of benefit conditions may be contemplated in the May 2015 Budget to prepare the ground for such a reform.

As the developments summarised above would indicate, the Australian welfare system is becoming more 'conditional' in character (Carney 2015a) while also taking on a more multi-hued character as a consequence of the diversity of different rationales reflected in the mix of measures (Carney 2013b), a trend consistent with the view implicit in the discussion paper for the UN Research Institute for Social Development that national models of welfare are diversifying and becoming harder to discern or predict with certainty (MacGregor 2014).

In the longer-term, 2014 may yet go down as marking the small beginnings of an era of welfare policy impressed with a more genuinely 'Conservative' stamp than previously witnessed in Australia. An era

² One former Minister in the Hawke-Keating Government went so far as to advocate in an opinion piece in the Murdoch press that social security payments be conditional on use of contraception to avoid having children while on welfare payments (Johns 2014).

entailing re-balancing the federal compact of Federal and State/Territory relations to withdraw the national government from responsibilities first exercised by the conservative Menzies Coalition Government in the 1960s and consolidated by Governments of both political persuasions since the 1970s, by funding and attaching conditions to funding for welfare housing, disability services, emergency accommodation, and other key welfare *services* thought to benefit from national leadership and policy direction.

While perfectly consistent with the Constitutional responsibility of the national government for income support transfer payments while the States and Territories are responsible for welfare and health services (Carney 2013b), should this agenda be realised it may be seen as slightly ironic that the first initiative of the newly elected government was to change the name of portfolio from the Minister for Social Security to its current title of Minister for Social Services, only to largely shed such responsibilities for services.

6. REFERENCES

- ABS (2006). *Australian Social Trends 2006*. Canberra, Australian Bureau of Statistics.
- ABS (2007). *Labour Force Australia, October 2007*. Canberra, Australian Bureau of Statistics.
- ABS (2011). *Consumer Price Index, September 2011*. Canberra, Australian Bureau of Statistics.
- ABS (2012). *Labour Force, Australia, October 2012*. Canberra, Australian Bureau of Statistics.
- ABS (2013a). *Australian National Accounts: National Income, Expenditure and Product, June 2013*. Canberra, Australian Bureau of Statistics.
- ABS (2013b). *Consumer Price Index, Australia, September 2013*. Canberra, Australian Bureau of Statistics.
- ABS (2013c). *Labour Force, Australia, October 2013*. Canberra, Australian Bureau of Statistics.
- ABS (2014a). *Australian National Accounts: National Income, Expenditure and Product, June 2014*. Canberra, Australian Bureau of Statistics.
- ABS (2014b). *Consumer Price Index, Australia, September 2014*. Canberra, Australian Bureau of Statistics.
- ABS (2014c). *Labour Force, Australia, October 2014*. Canberra, Australian Bureau of Statistics.
- ALRC (2014). *Equality, Capacity and Disability in Commonwealth Laws: Final Report*. Sydney, Australian Law Reform Commission.
- Australia (2014). *A New System for Better Employment and Social Outcomes - Interim Report of the Reference Group on Welfare Reform to the Minister for Social Services*. Canberra, Department of Social Services: 1-171.
- Bajkowski, J. (2013). *National Commission of Audit to Probe Far and Wide*. Government News. Sydney, The Intermedia Group.
- Bielefeld, S. (2014). "Compulsory Income Management and Indigenous Peoples — Exploring Counter Narratives amidst Colonial Constructions of 'Vulnerability' " *Sydney Law Review* 36(4): 695-726.
- Carney, T. (2013a). "Social Security (title 22.3)". In: *Laws of Australia* Sydney: Thompson Reuters: i-xiv, 1-318.
- Carney, T. (2013b). "Where Now Australia's Welfare State." *Diritto Pubblico Comparato ed Europeo [Journal of Comparative and European Public Law]*(4): 1353-1370.
- Carney, T. (2014). *Australia 2013: Heralding Collaborative Welfare & Simplification?* Munich, Germany, Max Planck Institute for Social Law and Social Policy.
- Carney, T. (2015a). "Conditional Income Transfers and Choice in Social Services: Just more conditions and more markets?". In: G. Meagher and S. Goodwin, *Sold Off: Markets, rights and power in Australian social policy*. Sydney: Sydney University Press: 343-368.
- Carney, T. (2015b). "Searching for Workable Alternatives to Guardianship for Vulnerable Populations?" *Ethics, Medicine and Public Health* 1(1): 113-119.
- Carney, T. (2015c). "Supported Decision-making for People with Cognitive Impairments: An Australian perspective?" *Laws* 4(1): 37-59 [page references to pre-publication manuscript].
- Carney, T. (2015d). *Supporting People with Cognitive Disability with Decision making: Any Australian contributions to international debates?* 8th Annual Roundtable on Intellectual Disability Policy, 'Supporting People with Cognitive Disability with Decision making: Learnings from recent Australian research and international experiences,' C. Bigby and J. Douglas. La Trobe University, Melbourne, Living with Disability Research Centre.

- Carney, T., Bigby, C. (2014). Social security and welfare rights - What role for social work? In Simon Rice, Andrew Day (Eds.), *Social Work in the Shadow of the Law*. Sydney, Australia: Federation Press: 343-368.
- Carney, T. and G. Ramia (2002). *From Rights to Management: Contract, new public management and employment services* The Hague, Netherlands: Kluwer Law International.
- Forrest, A. (2014). *Creating Parity*. Canberra, The Forrest Review.
- Gerangelos, P. (2012). "The Executive Power of the Commonwealth of Australia: Section 61 of the Commonwealth Constitution, 'Nationhood' and the Future of the Prerogative." *Oxford University Commonwealth Law Journal* **12**(1): 1-35.
- Harris, N. (2010). "Conditional Rights, Benefit Reform, and Drug Users: Reducing dependency?" *Journal of Law and Society* **37**(2): 233-263.
- Harris, N. (2013). *Law in a Complex State: Complexity in the law & structure of welfare*. Oxford: Hart.
- Harrison, D. and B. Donnelly (2014). *Welfare Groups Warn Changes Will Spark Catastrophe*. Sydney Morning Herald. Sydney, Fairfax.
- Johns, G. (2014). *No Contraception, No dole*. The Australian. Sydney.
- Larkin, P. M. (2014). "The New Puritanism: The Resurgence of Contractarian Citizenship in Common Law Welfare States." *Journal of Law and Society* **41**(2): 227-256.
- MacGregor, S. (2014). *Welfare: Theoretical and Analytical Paradigms*. Geneva, United Nations Research Institute for Social Development.
- Mendes, P. (2014). "The Income Security policies of the Australian Liberal Party in Opposition." *Practice Reflexions*: 1-12.
- Menzies, J. (2011). "Blowing Hot and Cold--Intergovernmental Relations Capacity in the Commonwealth Government." *Australian Journal of Public Administration* **70**(4): 408-420.
- MYEFO (2014). *Mid-year Economic and Fiscal Outlook 2014-2015*. Canberra, Commonwealth Government.
- National Commission of Audit (2014). *Towards Responsible Government [Report of the National Commission of Audit--Phase 1]*. Canberra, National Commission of Audit.
- Productivity Commission (2014). *Access to Justice Arrangements*. Canberra, Productivity Commission. **1**.
- Shields, B. (2015). *Just 500 Join Over 50's Job Scheme*. Sydney Morning Herald. Sydney, Fairfax: 5.

Terry Carney, Ph.D.
Emeritus Professor of Law
University of Sydney
Sydney, Australia