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FINANCIAL PENALTIES UNDER
THE REMOTE JOBS AND
COMMUNITIES PROGRAM

L. FOWKES AND W. SANDERS

Centre for
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Financial penalties under the Remote Jobs and Communities Program

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Abstract

In July 2013, a new Australian Government-funded labour market program was implemented across remote Australia: the Remote Jobs and Communities Program (RJCP). The program (now renamed and restructured as the Community Development Programme – CDP) had a case load of around 36 000 people, of whom about 85% were Indigenous. Most people in the program were required to participate in activities as a condition of receiving income support and were subject to the Job Seeker Compliance Framework, which sets out financial penalties and safeguards for those who fail to comply. This paper examines penalties applied to participants in RJCP during the two years from 1 July 2013 and compares them with penalties applied under the general equivalent program, Job Services Australia. We find that penalties were applied to RJCP jobseekers at a much higher rate, and that this was particularly the case for penalties associated with mandatory Work for the Dole-type activities and ‘persistent noncompliance’. The difference appears to arise from (1) more onerous program requirements in RJCP, (2) ineffectiveness of protections for remote jobseekers, and (3) different individual and local responses to program requirements and penalties. We end by noting the recent reform of RJCP into CDP and the likely impact on future application of financial penalties.

Keywords: income support, employment, participation requirements, compliance

Acknowledgments

This paper arises from a research project on the implementation of RJCP (now CDP), in partnership with Jobs Australia. The project has been funded by the Australian Research Council and Jobs Australia, starting in 2013 and continuing for up to four years (Linkage Project no. 130100226). The research aims to document the way that RJCP is implemented over its first few years. It includes interviews with, and surveys of, providers; interviews with clients and other stakeholders; and observations. The authors thank Jobs Australia for its ongoing support for, and assistance with, this research project.

Acronyms

ANU	The Australian National University
CAEPR	Centre for Aboriginal Economic Policy Research
CCA	Comprehensive Compliance Assessment
CDP	Community Development Programme
DHS	Australian Government Department of Human Services
DPM&C	Australian Government Department of the Prime Minister and Cabinet
EPP	Employment Pathway Plan
ESAt	Employment Services Assessment
JSA	Job Services Australia
RJCP	Remote Jobs and Communities Program

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Introduction

In July 2013, a new Australian Government-funded labour market program was implemented across remote Australia: the Remote Jobs and Communities Program (RJCP). According to the then Labor government, the new program was designed to accommodate the specific circumstances of remote communities, particularly Indigenous people, who were anticipated to represent around 85% of its client base. The Coalition government, elected in September 2013, moved administrative responsibility for RJCP to the Australian Government Department of the Prime Minister and Cabinet (DPM&C), and began putting its own stamp on it. During the two years from the beginning of the program to July 2015, the rate of penalties applied to RJCP jobseekers grew substantially, both in raw numbers and as a percentage of all penalties applied to all jobseekers. During this period, more than 47 000 financial penalties were applied to a case load of around 37 000 people. More than 6700 of these penalties fell into the category of 'serious failures', attracting a penalty of up to eight weeks without income support.

This paper sets out the available public data on these trends and suggests some likely causes. Towards its conclusion, it points to the likely additional impact of the most recent set of reforms to the program, which took effect on 1 July 2015. These included renaming the program the Community Development Programme (CDP).

Background

Under social security legislation, unemployed recipients of income support (known officially as jobseekers) have 'participation requirements'. This means that they are required to actively seek work and to participate in activities as a condition of receipt of benefits.¹ At 26 June 2015, there were 36 803 jobseekers in RJCP, of whom around 83% identified as Indigenous.² They represented around 4–5% of the total case load across all employment programs nationally, and around 28% of the Indigenous-identified case load across employment programs.³ Until 1 July 2015, the largest nonremote employment program was Job Services Australia (JSA) – now replaced by jobactive. In December 2013, JSA had a case load of 760 000, of whom around 9% identified as Indigenous (Forrest 2014:146). Within JSA, jobseekers were allocated to one of four service streams, based on length of unemployment and level of disadvantage. Around 69% of Indigenous people were in streams 3 or 4, reflecting a higher level of assessed disadvantage and/or longer-term unemployment (Forrest 2014:146). In

nonremote areas, the other large employment program was Disability Employment Services – with about 153 000 jobseekers at December 2013, of whom around 5% identified as Indigenous (Forrest 2014:150). People with equivalent levels of assessed disability in remote areas were referred to RJCP.

In recent evidence given to the Senate, DPM&C, which is responsible for RJCP, noted that:

- 95% of the most disadvantaged locations of the country according to the SEIFA (Socio-Economic Indexes for Areas) Index fall within the remote area of Australia serviced by RJCP (now CDP)
- around one-quarter of the 60 RJCP service regions had employment rates of less than 30% at the 2011 Census (see Fig. A1).⁴

More broadly, Indigenous people, including those living in remote Australia, experience higher rates of disability, chronic health conditions and mental illness, and have more limited access to relevant services (AIHW 2015).

The Job Seeker Compliance Framework sets out a series of penalties that may be applied to jobseekers when they fail to comply with participation requirements. The most common penalties arise from failure to attend rescheduled appointments with employment service providers (reconnection penalties⁵) and No Show No Pay penalties incurred when a jobseeker fails to attend an activity (e.g. training or Work for the Dole) set out in an individual plan. Penalties for serious failures – which can mean up to eight weeks loss of income support – are applied when a jobseeker refuses suitable work or has incurred frequent minor penalties (see the next section). The Australian Government Department of Employment publishes information on a quarterly basis about financial penalties applied to income support recipients under social security legislation (DoE, various dates). This includes information about the number of penalties applied to people in particular employment programs, although not total numbers of jobseekers by program. Examination of these data over the two years from the start of RJCP on 1 July 2013 suggests that the developing pattern of financial penalties in RJCP was significantly different from that in its major nonremote equivalent, JSA.⁶

Penalties applied to RJCP participants compared with JSA participants

From 1 July 2013 to 30 June 2015, JSA accounted for most jobseeker financial penalties applied under social security legislation, as shown in Fig. 1. During this two-year period, financial penalties under JSA reached a peak in the quarter ending September 2014 and then halved during the remainder of the 2014–15 financial year. In contrast, under RJCP, there was an initial drop in the number of penalties applied after September 2014, but the number rose again in 2015. In the final quarter to the end of June 2015, 22% of all financial penalties were applied to RJCP participants, more than four times their representation in the total jobseeker case load.

The principal explanation for the decline in overall penalties under JSA after September 2014 appears to have been a change in the process used to re-engage jobseekers after they failed to attend an appointment with their employment service provider. From September 2014, when jobseekers missed their regular appointment with their employment service provider, instead of contacting the Australian Government Department of Human Services (DHS)⁷ to arrange a ‘reconnection appointment’ (and to reinstate income support), they contacted the provider directly. This drove a large decline in reconnection penalties (i.e. those incurred for nonattendance at a reconnection appointment), as shown in Fig. 2. From the first to the fourth quarter of the 2014–15 financial year, these penalties declined by 72% in JSA and by 66% in RJCP. The impact of this change

on total financial penalties applied under RJCP was much less than under JSA because reconnection penalties represented a significantly smaller proportion of total financial penalties applied under RJCP (Table 1).

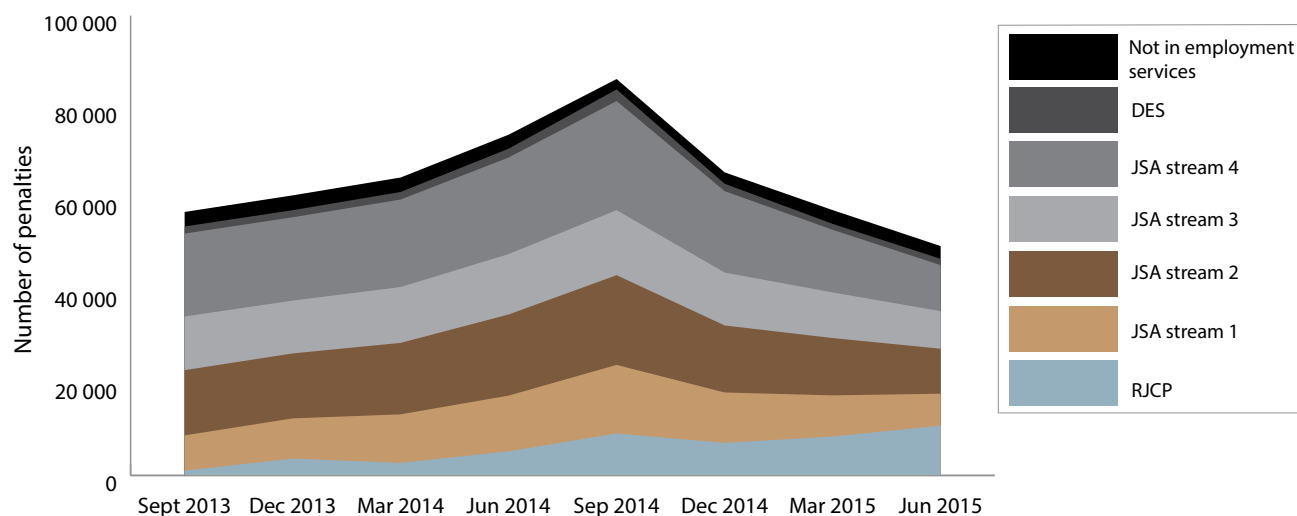
TABLE 1. Composition of penalties applied in JSA and RJCP, July 2013 to June 2015

Type of penalty	JSA (%)	RJCP (%)
Reconnection penalties	43.4	25.9
No Show No Pay (activity-related) penalties	42.4	59.7
Serious failures (all)	12.6	14.2
Other financial penalties	1.6	0.2
Total	100.0	100.0

JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

For RJCP jobseekers, the decline in reconnection penalties over the year to June 2015 was more than offset by a substantial rise in the largest category of RJCP penalty: No Show No Pay (activity-related) penalties (Fig. 3).⁸ These penalties were applied when a jobseeker did not attend an activity – for example, a Work for the Dole project or training session – that was included in their individual plan (or Employment Pathway Plan – EPP⁹) without a ‘reasonable excuse’.¹⁰ No Show No Pay failures attracted a penalty of one-tenth of an individual’s fortnightly income support payment for each day of nonattendance.

FIG. 1. Jobseeker penalties by employment program

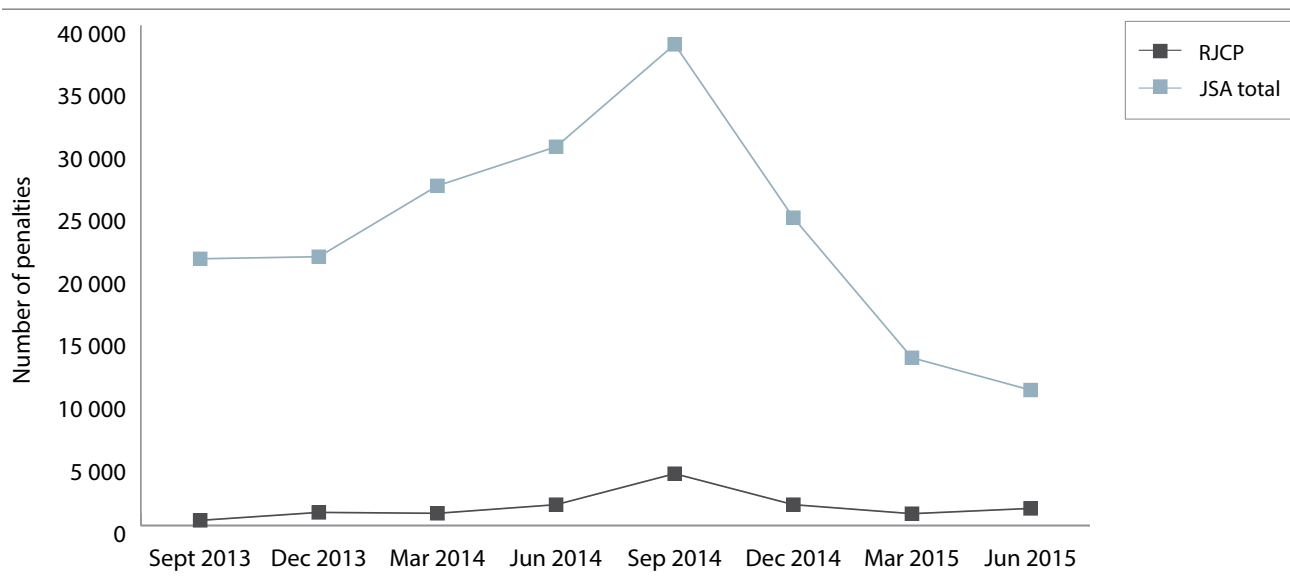


DES = Disability Employment Services; JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

Fig. 3 shows the numbers of RJCP and JSA clients who received a No Show No Pay penalty over the two years to 30 June 2015. There was a noticeable drop in these penalties in JSA in the final quarter (to the end of June 2015), which is likely to have been the result of reduced compliance activity as jobseekers and providers moved across to the new jobactive program.¹¹ However, even if this June 2015 quarter is excluded from analysis, there was a marked difference in the trends across the

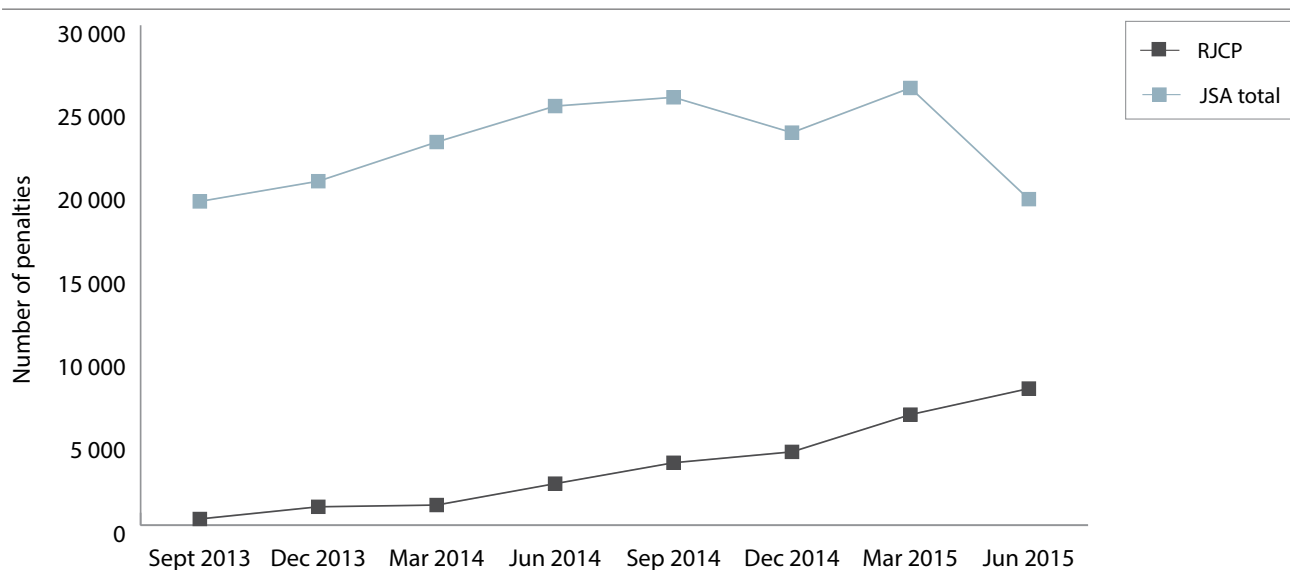
two programs. During the full year to March 2015, No Show No Pay penalties increased fivefold in RJCP while remaining steady in JSA. During the full year to the end of June 2015, nearly 23 000 penalties were applied to RJCP jobseekers for not attending their activities. This category of penalty accounted for 60% of all penalties applied in RJCP during the two years (Table 1), rising to 76% in the June 2015 quarter.

FIG. 2. Reconnection penalties under JSA and RJCP



JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

FIG. 3. No Show No Pay penalties (failure to attend activities)



JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

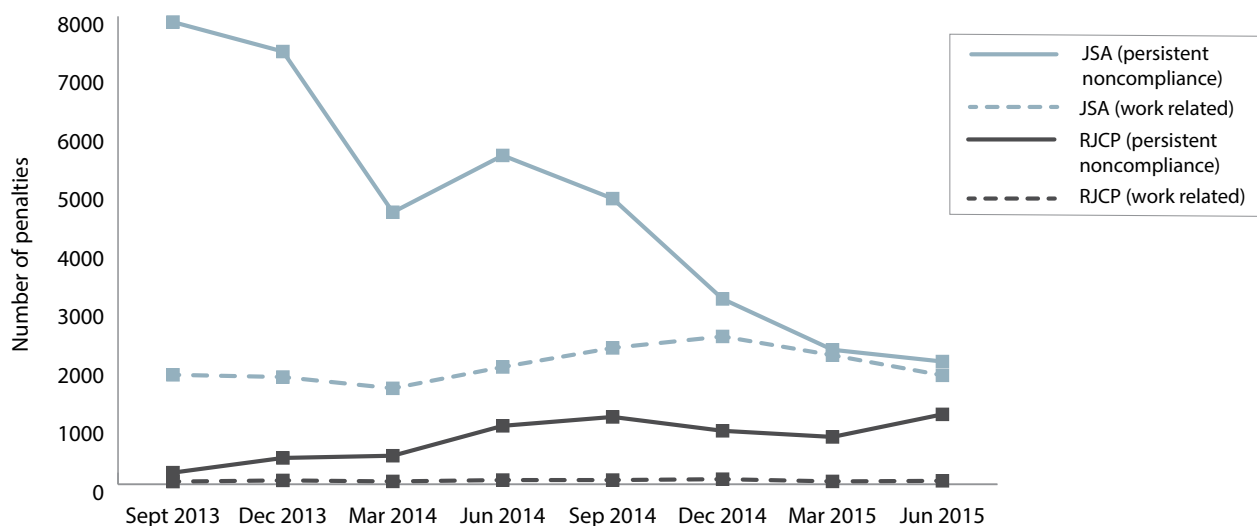
The third major category of financial penalty applied to RJCP participants was that arising from serious failures. There are two types of serious failures: those that are work related, including refusing a suitable job and misconduct leading to loss of employment; and those that relate to ‘persistent noncompliance’ with program requirements. DHS considers applying a serious failure penalty for persistent noncompliance when a jobseeker has incurred three other financial penalties (e.g. reconnection or No Show No Pay penalties) within a six-month period. If these lower-level penalties are applied to a group at a higher rate, this eventually flows into a higher rate of persistent noncompliance penalties for that group. Serious failures incur a penalty of eight weeks without income support, although this may be ‘worked off’.¹²

Fig. 4 shows that the rate of work-related serious penalties applied to both RJCP and JSA jobseekers remained fairly steady during the two years under consideration. However, there was an increase in the number of penalties for persistent noncompliance applied to RJCP jobseekers, coinciding with a marked decrease in these penalties applied to those in JSA. In

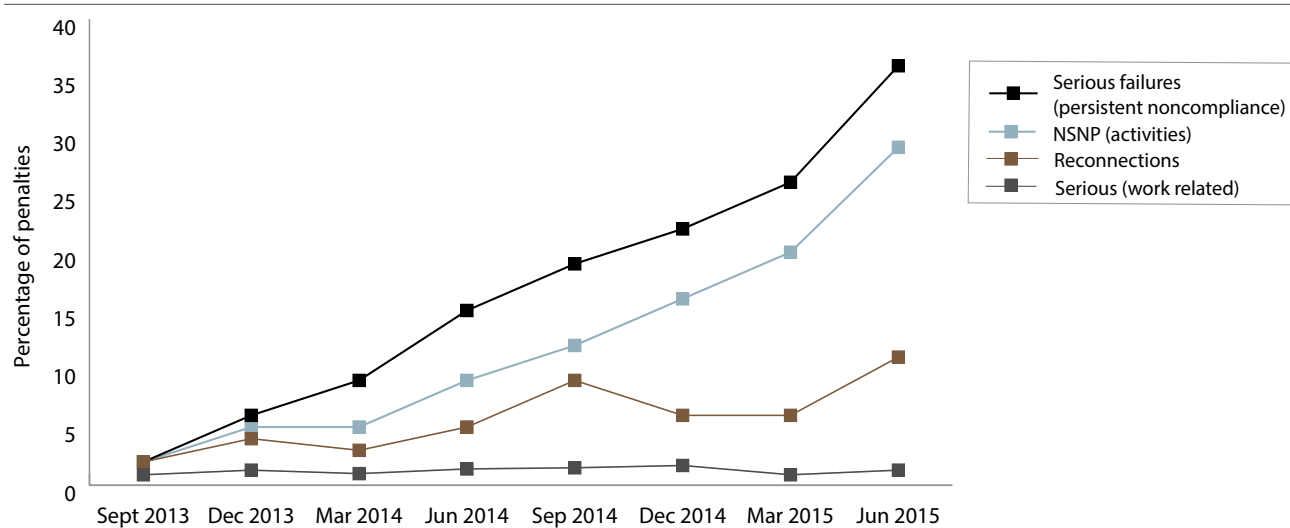
the June 2015 quarter, 36% of all penalties for persistent noncompliance with program requirements were applied to RJCP jobseekers – more than seven times their representation in the overall case load.

Fig. 5 shows the number of penalties applied to RJCP jobseekers, expressed as a proportion of all jobseeker penalties. While the Department of Employment does not provide quarterly information about how many individuals are in each program alongside how many of them have been penalised, we can determine from other sources that, at most, RJCP jobseekers comprise 5% of jobseekers who may be subject to a financial penalty. On this basis, they could be expected to receive around 5% of all penalties applied. However, Fig. 5 shows that, during the two years, RJCP jobseekers have become substantially overrepresented across all but one of the major categories of penalties. For example, RJCP jobseekers accounted for 29% of activity-related No Show No Pay penalties applied in the June 2015 quarter and 36% of all penalties for persistent noncompliance in that quarter. The one area in which RJCP jobseekers were underrepresented was the category that related to job refusal or ‘voluntary unemployment’.

FIG. 4. Serious penalties applied under RJCP and JSA



JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

FIG. 5. Proportion of financial penalties applied to jobseekers in RJCP (various categories)

NSNP = No Show No Pay; RJCP = Remote Jobs and Communities Program

What is going on?

During this two-year period, the pattern and rate of penalties applied to jobseekers under RJCP differed substantially from those applied under JSA, even though the same social security rules – the Job Seeker Compliance Framework – applied to both. Three likely contributing factors to this variation are identified and discussed here:

- more onerous program requirements for RJCP
- ineffectiveness of protections for remote jobseekers
- different individual and local responses to program requirements and penalties.

More onerous program requirements for RJCP

Job plans, or EPPs, set out what each individual must do to receive income support payments. The power to make these agreements has been delegated to contracted employment service providers, including JSA and RJCP providers (DSS 2015). However, the content of these plans – in particular, the level of program participation that is required of jobseekers – is largely prescribed by program rules that are included in employment service contracts and government-issued guidelines.

The program rules for RJCP providers from July 2013 specified that agreements with jobseekers had to include monthly appointments and could include job search,

where labour market opportunities were available. In addition, the rules stated that:

Under RJCP, job seekers *must* participate in activities on an ongoing basis (eg each fortnight). As a guide, the level of fortnightly participation that is typically expected of job seekers is as follows:

- full time activity tested job seekers: activities of around 40 hours per fortnight (and, as appropriate, job search)
- principal carer parents: activities of around 20 hours per fortnight (and, as appropriate, job search)
- job seekers with a partial capacity of at least 15 hours per week to work or temporary reduced work capacity of at least 15 hours per week: activities of around 20 hours per fortnight or to their capacity (and, as appropriate, job search). (DEEWR 2013:4) [emphasis in original].

This is a more onerous activity requirement than that placed on JSA clients in similar circumstances (see Table 2).¹³ In particular, while most RJCP jobseekers were required to participate in some form of activity for around 20 hours per week on a continuous basis from the time they started in the program, most JSA jobseekers were only required to participate in regular weekly activities after 12 months in the program, and then for up to 15 hours per week for six months of the year.¹⁴

TABLE 2. Mutual obligation requirements across programs

Category	JSA (2010 – June 2015)	RJCP (July 2013 – June 2015)
Appointment frequency	Generally monthly after initial period of self-directed job search; bimonthly during Work Experience stream	Monthly appointments
Activities	After 12 months, or 18 months for stream 4, enter Work Experience stream, which could include training, voluntary work, 'group activities' – such as Work for the Dole After 2 years in program, can be required to do Work Experience activities for 11 months of the year, where provider considers this beneficial	Year-round activity requirements start from day 1 – typically 40 hours per fortnight, with a minimum of 30 hours per fortnight for those in structured (group) activities
21–39 years of age	Once in Work Experience stream, 390 hours over 26 weeks if group activity (about 15 hours per week); less if in training, or voluntary or paid work	As above (around 20 hours per week, year-round)
40–49 years of age	Once in Work Experience stream, 150 hours over 26 weeks (about 11.5 hours per fortnight)	As above
Early school leavers who are 22 years of age or less	25 hours per week	25 hours per week
Principal carers or people with reduced capacity	Once in Work Experience stream, 150 hours over 26 weeks (about 11.5 hours per fortnight)	20 hours per fortnight

JSA = Job Services Australia; RJCP = Remote Jobs and Communities Program

The requirement for RJCP jobseekers to attend activities more often, and from an earlier stage, than their counterparts in JSA might be expected to flow into a higher rate of application of penalties for nonattendance at activities, simply as a result of there being more opportunities in each week for them to 'fail'. Fig. 5 shows that, by the end of the first year of RJCP (June 2014), the proportion of all activity-related penalties being applied to jobseekers under RJCP was significantly above their representation in the case load – that is, 9% of activity-related penalties compared with only 4–5% of the case load. The rate of these penalties did not stabilise at this level, but continued to climb over the following year, with the greatest acceleration occurring in the first half of 2015. During this period, although there was no major change to the RJCP rules, the election of a Coalition government in September 2013 was associated with an increased emphasis on 'structured activities' as the primary form of RJCP participation requirement, and this was reflected in increased monitoring and attention by contract managers. Structured activities (Work for the Dole) were distinguished from other activity options by the requirement for direct supervision of jobseekers, and recording and reporting daily attendance using timesheets, making it easier to track and report noncompliance. The sharpest increase in No Show No Pay penalties under RJCP followed an announcement by the Minister for Indigenous Affairs in December 2014 that, from 1 July 2015, activity requirements would increase to 25 hours per week of Work for the Dole, spread over five days per week throughout the year, and that provider fees would be linked to daily attendance at these activities (Scullion 2014, DPM&C 2015a). After this announcement, in the six months leading up to the implementation of the new rules, 14 835 No Show No Pay penalties were applied under RJCP, compared with 8149 during the previous six months.

The more onerous activity requirements from day 1 of RJCP under Labor laid a foundation for higher penalties. However, the policy signals of the Coalition minister and officials from DPM&C during 2014 appear also to have been important in driving provider behaviour. The combination has driven a substantially higher rate of No Show No Pay penalties and, in turn, a higher rate of penalties for persistent noncompliance under RJCP than that applied to other jobseekers, despite the application of a common legislative framework.

Ineffectiveness of protections for remote jobseekers

As income support payments have become more conditional upon meeting program obligations, governments have also (sometimes under pressure) put in place a series of protections for unemployed people who face losing their income support. Although negotiation, monitoring and reporting on individual jobseeker obligations are principally undertaken by contracted employment service providers, DHS makes final decisions about whether penalties should be applied. This department is responsible for administering processes that are meant to ensure that obligations are fair and reasonable, and that the withdrawal of income support does not cause undue harm to those affected.

When providers report an apparent compliance failure (a participation report), DHS undertakes a series of checks before applying a penalty. For example, it must verify that the jobseeker was notified of, and understood, their obligations and that the obligations were reasonable. In the year to June 2015, RJCP providers submitted 42 534 participation reports, of which 27% were rejected by DHS.¹⁵ Remote providers have often expressed frustration at this process, perceiving it to be overly bureaucratic, and arguing that the officers considering what excuses may be reasonable have little familiarity with the location, let alone the individual jobseekers (see, for example, Disney et al. 2010:72). Despite this, during the 2014–15 financial year, DHS was less likely to reject participation reports submitted by RJCP providers than other providers (27% rejection rate under RJCP, compared with 35% across employment services). Examination of recent information provided to Senate Estimates about reasons for participation reports being rejected suggests that around 30% of rejections were for administrative error (e.g. the activity was not properly reflected in the plan). In other cases, DHS found that the jobseeker did have a valid excuse for nonattendance – for example, a medical condition (11.5% of rejections), bereavement (6.1%) or caring responsibilities (4.1%), or that the activity requirement itself was unreasonable (10% of rejections).¹⁶

In addition to these general procedural protections, as participation requirements have extended to more categories of income support recipients with more challenging personal circumstances, additional protections have been introduced for people considered vulnerable (Disney et al. 2010:20). These measures rely on a series of formal assessments by DHS of the work capacity and personal circumstances of individuals. When people apply for income support, DHS administers

a questionnaire that is designed to identify obstacles they might face to employment – the Job Seeker Classification Instrument. This may trigger referral for a professional assessment of work capacity – an Employment Services Assessment (ESAt) – which is designed to ensure that the employment and program expectations of individuals are reasonable, given their health issues, disabilities and circumstances.¹⁷ DHS may also attach a Vulnerability Indicator to the jobseeker's record, alerting DHS and provider staff that the jobseeker's circumstances may affect their ability to meet program obligations. Following the initial assessment, providers can also identify any other, or new, circumstances that might affect participation, again triggering referral for an ESAt.

These systems are intended to ensure that the participation requirements for individuals are reasonable, particularly in cases where people have a disability (e.g. a cognitive impairment), have mental or other health problems, or are experiencing personal crises, such as homelessness or domestic violence.

ESAts are designed to be conducted face to face by a health or allied health professional.¹⁸ However, in the period from 1 July 2015 to 31 October 2015, while 79% of all ESAts were conducted face to face (including via videoconference), only 35% of ESAts involving RJCP (now CDP) clients were conducted face to face or via videoconference.¹⁹ Of ESAts in relation to RJCP clients during this period, 17% were conducted solely by reviewing evidence held on file. Interpreters were used on only nine occasions (1.7% of ESAts conducted with RJCP clients), despite the high proportion of clients for whom English is not their first language.²⁰ The effectiveness of assessments may also be affected by lack of access to professional and community services in remote areas (Disney et al. 2010:75). DHS assessors rely heavily on evidence provided by health and other treating professionals, particularly where assessments are not face to face. Problems for jobseekers in accessing these services mean that participation barriers faced by remote Indigenous people may not be properly identified or documented. The Department of Employment itself identified these issues in a 2012 report, in which it attributed substantial underrepresentation of remote Indigenous people in stream 4 of JSA (the stream reserved for the most disadvantaged clients) to failure to interview face to face and to lack of nonvocational services in remote areas (DEEWR 2012:31–33).

A further protection in the Job Seeker Compliance Framework operates before application of a serious penalty for persistent noncompliance. Before this penalty is applied, a specialist DHS officer (generally a social

worker) must conduct a Comprehensive Compliance Assessment (CCA). The CCA is designed to examine the reasons for noncompliance, including any underlying personal or health issues affecting the individual. Where DHS finds that a jobseeker has persistently failed to comply, and has done so 'intentionally, recklessly or negligently', an eight-week penalty can be applied. Alternatively, DHS may:

- refer the jobseeker for an ESAt
- change the jobseeker's service stream (JSA only)
- make another decision – for example, alter the EPP or refer to alternative assistance services (called an 'other outcome')
- make a finding that the conditions for finding persistent noncompliance are not there ('no outcome').²¹

Table 3 shows that, where RJCP clients were referred for CCAs during the 2014–15 financial year, DHS was significantly more likely to make a finding of persistent noncompliance than for other jobseekers (65.5% for those in RJCP versus 44.7% for all jobseekers). DHS was much less likely to refer RJCP jobseekers than other jobseekers to other forms of assistance or support (25.5% versus 38.5%).

Given the prevalence in remote communities of factors that are likely to lead to noncompliance – such as mental illness, substance abuse and personal violence – it is surprising that DHS is more likely to consider that remote clients' actions were not affected by these types of issues, and less likely to refer them to alternative assistance. As with ESAts, the means of assessment may be important. Table 4 shows that CCAs were almost never conducted face to face for RJCP clients (1.1%). Again, we suggest that failure to properly identify and document underlying issues is a significant contributor to worse outcomes for RJCP jobseekers through CCAs.

TABLE 3. Outcome of Comprehensive Compliance Assessments, 2014–15

Outcome	RJCP		All (includes RJCP)	
	Number	%	Number	%
Referral for ESAt	na ^a	na ^a	2 586	6.9
Stream changed ^b	0	0.0	329	0.9
Other outcome	1 587	25.5	14 391	38.5
No outcome	515	8.3	3 339	8.9
Persistent noncompliance	4 073	65.5	16 713	44.7
Total	6 215	100.0	37 358	100.0

ESAt = Employment Services Assessment; na = not available; RJCP = Remote Jobs and Communities Program

a No data available because the number in each quarter was less than 20.

b RJCP does not have service streams.

Source: Department of Employment, quarterly jobseeker compliance data, 2014, 2015

TABLE 4. Delivery method for Comprehensive Compliance Assessments, 2014–15

CCA delivery method	Other programs		RJCP		Total	
	Number	%	Number	%	Number	%
Face-to-face interview	3 902	12.8	65	1.1	3 967	10.8
Phone interview	26 530	87.2	6 107	98.9	32 637	89.2
Total	30 432	100.0	6 172	100.0	36 604	100.0

CCA = Comprehensive Compliance Assessment; RJCP = Remote Jobs and Communities Program

In 2010, one year after the introduction of most of the elements of the current Job Seeker Compliance Framework, an independent review was conducted of its efficacy. The review panel expressed concern over the operation of protections in the framework in remote areas:

The new compliance system faces great difficulties in remote areas, especially in relation to Indigenous people. While some of its innovative safeguards are preventing hardship which might otherwise have occurred, there is a clear risk that Participation Reports and participation failures will continue to accumulate for reasons which have more to do with the dearth of opportunities and services in these areas than with recalcitrance on the part of job seekers. (Disney et al. 2010:75)

Further, the review panel argued that:

It is clear that shortages of non-vocational services are greatly weakening the efficacy and fairness of the compliance system in many regional areas. (Disney et al. 2010:75)

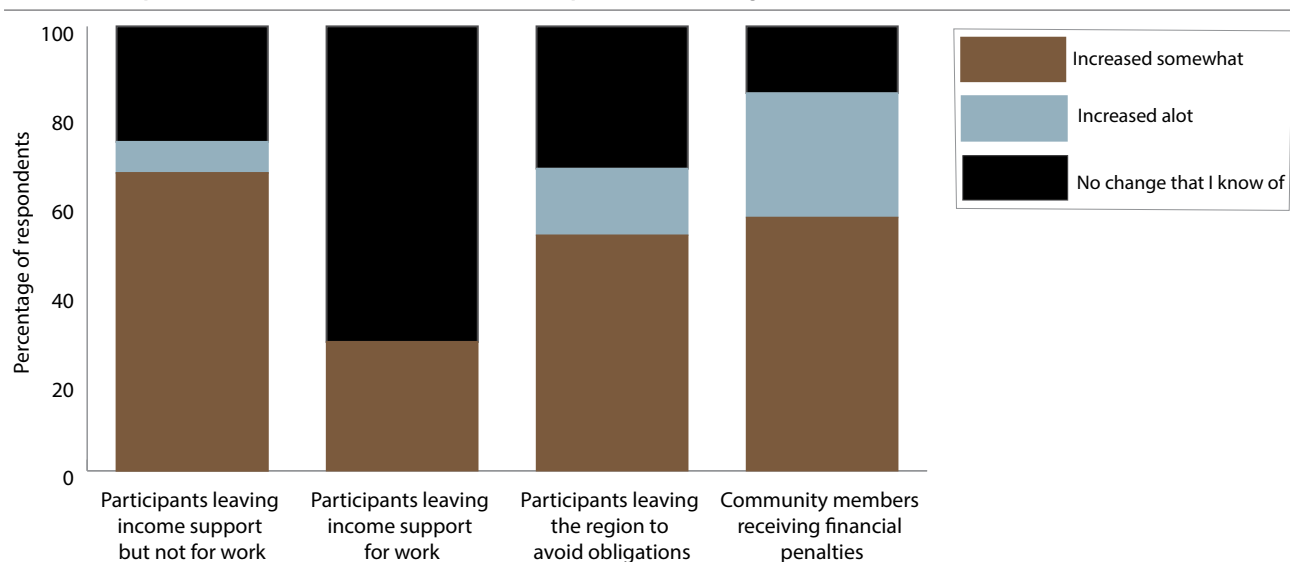
The protections that are in place to ensure that unemployed people are not subject to harsh or unreasonable penalties rely on the effective operation of

communications, assessment and treatment services in the places where they live. The lack of these services in many remote areas appears likely to be contributing to higher penalty rates through imposition of unreasonable requirements on people who have significant nonvocational barriers, and the failure of measures designed to prevent harsh penalties applying to the most vulnerable.

Different individual and local responses to program requirements and penalties

Noncompliance with program requirements may reflect difficulties faced by individuals in meeting the requirements, but there is also evidence that some people more actively reject or resist the rules imposed on them. In response to a recent survey conducted by one of us for the two peak bodies that represent RJCP providers (National Employment Services Association and Jobs Australia), many providers reported that the latest reforms to RJCP were not only generating increased penalties, but also increasing the numbers of RJCP jobseekers leaving income support without a job, or leaving the region to avoid RJCP obligations (see Fig. 6).

FIG. 6. Impact of RJCP reforms, from RJCP provider survey



RJCP = Remote Jobs and Communities Program
Notes:

1. N = 28, of a possible 38 providers.
2. No respondents reported decreases.

The withdrawal of people from income support has also been noted in media reports during 2013–15 (e.g. Wild 2013, Betts 2015, Rothwell 2015, Wahlquist 2015). In 2012, the then Northern Territory Coordinator-General for Remote Services identified significant disengagement from income support in that jurisdiction, noting that:

According to the Census a large and increasing part of the Aboriginal population do not regard themselves as part of the labour force, particularly young men between 15 and 24 years of age. (Havnen 2012:176)

As Havnen suggested, further research is needed to uncover the level of, and reasons for, disengagement by these people. Although poverty is a major problem for people in remote communities and has serious long-term effects, it does not follow that remote Indigenous people will necessarily respond to the threat of financial penalties by complying with program requirements. The practice of sharing food and cash within family and kinship networks may shield individuals from the full effects of financial penalties. In these cases, although an individual may not experience the full impact of loss of income, the effect will be felt across their family and local community. In some areas, customary or informal economic activity may be used to supplement or substitute for income support – at least for a period. On the other side of the equation, the rewards from participation in labour market programs are not always clear in communities with limited job prospects. In the period from 1 July 2013 to 31 December 2015, 6436 participants were recorded as having achieved 13 weeks of employment through RJCP/CDP.²² However, from 1 July 2013 to 30 June 2015, 6721 serious (eight-week) penalties were imposed on participants. Jobseekers in remote areas were more likely to receive a serious penalty than to secure employment that lasted for at least 13 weeks. On this basis, it is understandable that jobseekers in remote areas might question the value of participation.

Those who are eligible to participate, but are not participating, in the income support system tend to be overlooked by policymakers when considering the design and effectiveness of labour market programs. But, if it is true that they are present in significant numbers in remote areas, that they are often young men and that their numbers are increasing, this could be expected to have long-term effects – for example, in increasing rates of crime, hunger, itinerancy and long-term disengagement from the workforce.

Implications of 1 July 2015 changes

From 1 July 2015, RJCP was substantially changed and renamed CDP. From this date, activity-tested income support recipients aged 18–49 have been expected to participate in 25 hours of Work for the Dole activities, spread over five days per week, 12 months per year (with some provisions for allowable leave). For most, this has meant an increase in both the number of hours worked each week and the number of days of attendance, on top of what were already more onerous mutual obligation requirements than those applying in nonremote parts of the country.

These changes to requirements were accompanied by a substantial shift in contracting arrangements with providers. Provider payments have been directly linked to recorded hours of attendance in Work for the Dole.²³ Where clients fail to attend without a reasonable excuse, a provider will only retain their payment for that period where they report noncompliance to DHS and are able to re-engage the person in Work for the Dole within two weeks. While providers have retained some discretion to allow absences or to identify people as not able to participate in Work for the Dole (e.g. because of mental illness or other health issues), in each case this will lead to reduced fees. Referral to other services – such as rehabilitation or counselling – is allowed, but, if provider payments are to be maintained, attendance at these other services must be monitored daily and must meet the hours requirement. This is likely to be difficult in areas with limited community services.

Alongside these new payment arrangements, a new Programme Management Framework has been introduced, which includes the following as one of its performance targets:

All Eligible Job Seeker non-attendance is handled swiftly and appropriately in accordance with Guidelines and the Funding Agreement. This includes:

- 100% of Eligible Job Seeker non-attendance is followed-up with the Eligible Job Seeker and actioned in the IT system on the same day.
- If no Valid Reason or Reasonable Excuse for Eligible Job Seeker non-attendance exists, 100% of Provider Attendance Reports and Non-Attendance Reports are submitted to DHS within 2 business days of non-attendance by Eligible Job Seeker. (DPM&C 2015b)

While the rules still suggest that providers can choose strategies other than compliance to re-engage jobseekers, both their performance ratings and financial outcomes will be reduced as a result (DPM&C 2015bc).

Cumulatively, these changes have increased further the opportunity for people to fail to comply, increased pressure on providers to report nonattendance, and increased the disparity between the requirements of jobseekers in remote areas and jobseekers elsewhere. As the new CDP rules are implemented, there will almost certainly be increases in financial penalties applied in some of the poorest communities in the country.

One other development must be noted here. On 2 December 2015, the Minister for Indigenous Affairs tabled a Bill in the Senate that would, if passed, enable him to remove remote areas from those provisions of social security legislation that set out obligations, penalties and protections for jobseekers, and to create new rules (set out in Regulations) in their place.²⁴ The proposed legislation would also enable the government to move some of the decisions currently made by DHS in relation to income support payments across to CDP providers. Analysis of the intent and likely impact of that Bill is beyond the scope of this paper.

Conclusion

The legislative framework under which income support is administered in remote Australia is (at least for now) the same as that in the remainder of the country, but available data from the first two years of RJCP suggest that the outcomes for beneficiaries have been quite different. More onerous program requirements – particularly in relation to mandatory Work for the Dole-type activities – have generated significantly higher levels of smaller penalties, and these in turn have contributed to higher application of eight-week penalties for persistent noncompliance. The systems that should protect vulnerable people from unreasonable requirements rely on the adequacy of DHS assessments, and on the availability of services in remote locations to identify and document individual capacity limitations. A shortage of these services means that at each stage of the process – from the setting of requirements, to assessment of vulnerabilities, to investigation of reasons for noncompliance – RJCP clients seem to be at a disadvantage. In some cases, people are leaving the income support system altogether, placing them beyond the reach of employment assistance, and increasing

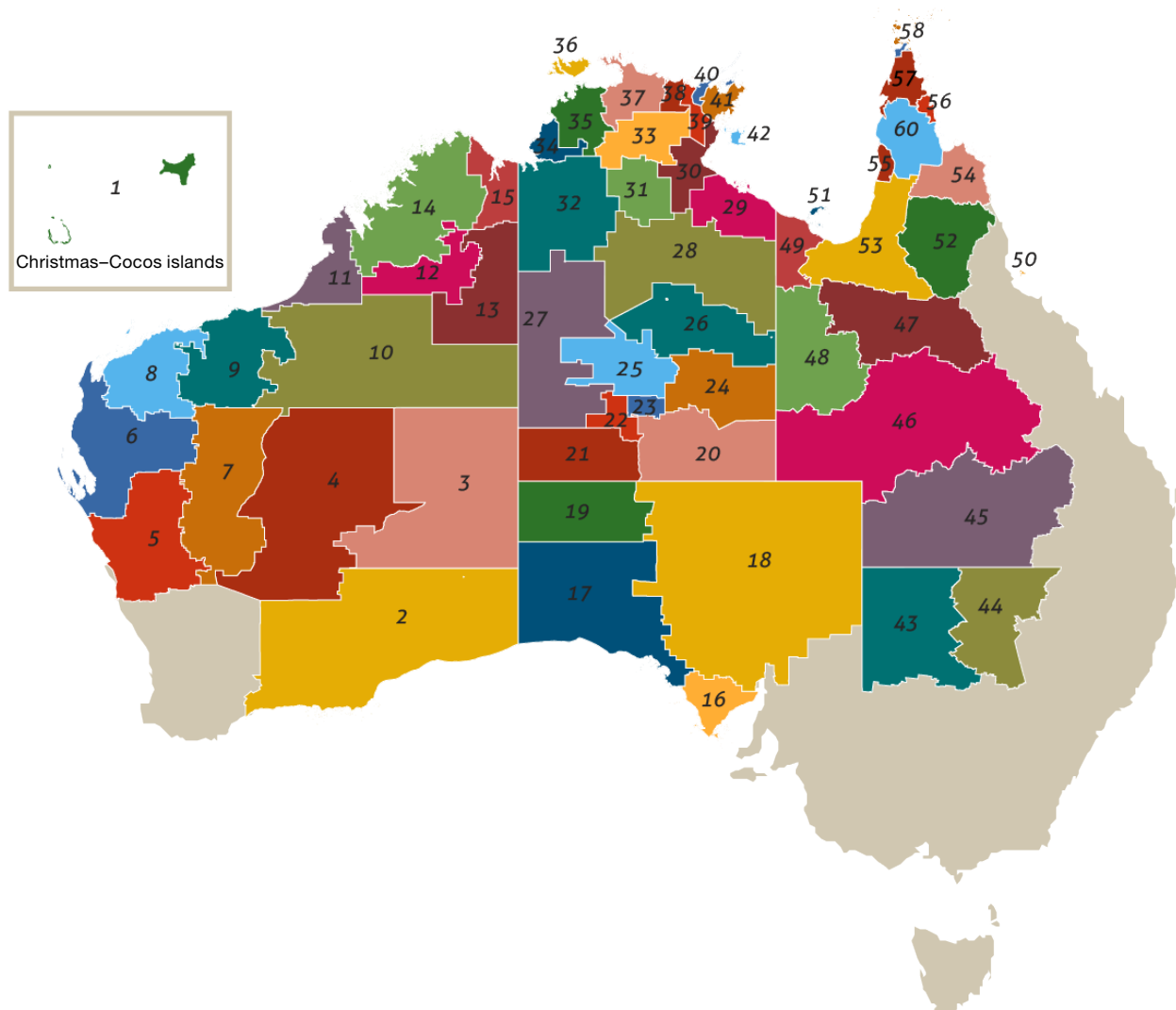
financial pressure on families and communities. As the compliance effects of the new CDP start to emerge, the question arises as to whether an appropriate balance has been struck between the assistance afforded remote unemployed people and the effects of financial penalties on them and their families.

Notes

1. Currently, those with participation requirements are recipients of Newstart, Youth Allowance (Other), Parenting Payment (with a youngest child of 6 years or older), Disability Support Pension recipients (under 35 with compulsory requirements) and Special Benefit (subject to an activity test).
2. Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19–23 October 2015, answers to questions on notice, question reference no. 143.
3. Forrest 2014:150, figures at December 2013. The most recent data suggest that CDP clients represent around 3.8% of the national employment program case load, but the authors note a recent departmental estimate of 5% of national case load.
4. DPM&C submission to the Senate Inquiry into Social Security Legislation Amendment (Community Development Program) Bill 2015:10–11.
5. Reconnection penalties apply where a jobseeker has failed to attend an appointment, has had a reconnection appointment scheduled, and then fails to attend that appointment without a reasonable excuse.
6. At the time of writing, this was the full extent of published compliance reports. With 30 June 2015 marking the end of JSA and the end of the first iteration of RJCP, this is a logical end point for this analysis.
7. Widely known as Centrelink. Centrelink became part of DHS in 2011.
8. No Show No Pay penalties may also be applied in other circumstances – for example, for failing to attend a job interview. However, these other categories account for less than 2% of penalties overall, and less than 1% in RJCP, so have been disregarded here for greater simplicity.
9. ‘Employment Pathway Plan’ is the term used in social security legislation. However, these agreements were known as Individual Participation Plans in RJCP, and are now known as Job Plans.
10. For the penalty to be applied, the provider needed to report the nonattendance to DHS, which then had to determine that the conditions for the sanction applied.
11. The letting of the new jobactive contracts – which took effect from 1 July 2015 – meant that providers changed in many locations, and that both providers and DHS were engaged in the process of moving jobseekers across to the new program.
12. Eight-week penalties may be waived in cases of financial hardship, but this is relatively rare. In the year to 30 June 2015, only 238 waivers were granted (1%). The client may also ‘work off’ their penalty by working an additional 25 hours per week for eight weeks. During the past year, 77% of serious penalties were worked off, although figures for RJCP clients – who already had a higher weekly work requirement – were not available. It is unclear how the new 25-hour-per-week requirement will affect the ability to work off eight-week penalties.
13. The exception was early school leavers aged 22 years or less.
14. It appears that relatively few JSA jobseekers have been referred to group activities with this mandatory hours requirement. Most have been referred to training, voluntary work, part-time work or some other form of activity (OECD 2012:106). The scope to do this was in RJCP, but the emphasis, particularly following the September 2013 election of the Coalition government, has been on structured activities.
15. Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19–23 October 2015, answers to questions on notice, question reference no. 152.
16. Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19–23 October 2015, answers to questions on notice, question reference no. 152. ‘Unreasonable’ here includes unreasonable commute (4.3%), unreasonable requirement (4%) and inappropriate referral (1.6%).
17. Refer to Section 1.1.E.104 of the *Guide to social security law* (DSS 2015). In JSA or jobactive, this may include referring to an assistance stream with a stronger focus on nonvocational assistance or to Disability Employment Services. A Job Capacity Assessment may also be conducted to consider the impact of health or disabilities on eligibility for the Disability Support Pension (Section 1.1.J.10 of the *Guide to social security law*).
18. See, for example, guidance to clients referred to assessments at www.humanservices.gov.au/customer/enablers/employment-services-assessments-and-job-capacity-assessments.
19. Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19–23 October 2015, answers to questions on notice, question reference no. 146.
20. Senate Public Affairs and Finance Legislation Committee, Supplementary Budget Estimates, 19–23 October 2015, answers to questions on notice, question reference no. 147.
21. See <http://guides.dss.gov.au/guide-social-security-law/3/1/13/70>.
22. DPM&C, additional information provided to the Senate Public Affairs and Finance Legislation Committee Senate Inquiry into Social Security Legislation Amendment (Community Development Program) Bill 2015, 26 February 2016.
23. There was an initial transition period up to 31 December 2015 when providers were guaranteed income based on a 75% Work for the Dole attendance rate.
24. Social Security Legislation Amendment (Community Development Program) Bill 2015.

Appendix A RJCP regions

FIG. A1. Map of the 60 RJCP regions



RJCP = Remote Jobs and Communities Program

References

- AIHW (Australian Institute of Health and Welfare) (2015). *The health and welfare of Australia's Aboriginal and Torres Strait Islander peoples*, AIHW, Canberra.
- Betts A (2015). Daly River's unemployed face disappointment and despair. *ABC News*, 26 February 2015.
- DEEWR (Australian Government Department of Education, Employment and Workplace Relations) (2012). *Servicing Indigenous job seekers in Job Services Australia*, DEEWR, Canberra.
- (2013). *RJCP operational guidelines: participation requirements*, version 1.1, effective 9 July 2013, DEEWR, Canberra.
- Disney J, Buduls A & Grant P (2010). *Impacts of the new job seeker compliance framework: report of the independent review*, Australian Government Department of Education, Employment and Workplace Relations, Canberra.
- DoE (Australian Government Department of Employment) (various dates). Quarterly job seeker compliance data, www.employment.gov.au/job-seeker-compliance-data.
- DPM&C (Australian Government Department of the Prime Minister and Cabinet) (2015a). *Draft funding agreement 2013–2018, Remote Jobs and Communities Programme*, 26 March 2015, DPM&C, Canberra.
- (2015b). *Remote Jobs and Communities Programme: programme management framework guidelines*, effective 1 July 2015, DPM&C, Canberra.
- (2015c). *Community Development Programme: guidelines handbook*, effective 7 September 2015, DPM&C, Canberra.
- DSS (Australian Government Department of Social Services) (2015). *Guide to social security law*, version 1.217, <http://guides.dss.gov.au/guide-social-security-law>.
- Forrest A (2014). *The Forrest review: creating parity*, Australian Government Department of the Prime Minister and Cabinet, Canberra.
- Havnen O (2012). *Office of the Northern Territory Coordinator-General for Remote Services final report: June 2011 – August 2012*, Northern Territory Government, Darwin.
- OECD (Organisation for Economic Co-operation and Development) (2012). *Activating jobseekers: how Australia does it*, OECD Publishing, Paris.
- Rothwell N (2015). Rebellion thwarts remote control. *The Australian*, 24 January 2015.
- Scullion N (Minister for Indigenous Affairs) (2014). *More opportunities for job seekers in remote communities*, media release, Canberra, 6 December.
- Wahlquist C (2015). Kalgoorlie mayor singles out Aboriginal people over antisocial behaviour. *The Guardian*, 20 October 2015.
- Wild K (2013). Cultural wall sees Indigenous men miss pay. *ABC News*, 13 June 2013.

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