

The Senate

Community Affairs
Legislation Committee

Social Services Legislation Amendment
(Queensland Commission Income
Management Regime) Bill 2017 [Provisions]

June 2017

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45th Parliament

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LIST OF RECOMMENDATIONS

Recommendation 1

2.39 The committee recommends that the Bill be passed.

Chapter 1

Introduction

Purpose of the Bill

1.1 The Social Services Legislation Amendment (Queensland Commission Income Management Regime) Bill 2017 (the Bill) was introduced into the House of Representatives on 24 May 2017.¹

1.2 The Bill amends the *Social Security (Administration) Act 1999* (the Social Security Administration Act) to continue the income management component of Cape York Welfare Reform for a further two years until 30 June 2019.²

1.3 Funding of income management was due to cease on 30 June 2017, however the Government has decided to extend income management in all existing locations until 30 June 2019 to ensure continuity of support for its participants.³

Background

1.4 Income management was first introduced in the Northern Territory in 2007 as part of the Northern Territory Emergency Response.⁴ Approximately 25 000 people in specific locations across Australia are now on income management, a large proportion of whom are Indigenous.⁵

1.5 Income management quarantines a proportion of a recipient's social security benefits on a BasicsCard (similar to an EFTPOS card) which can only be used at approved merchants and used to buy basic essentials of life such as food, clothing, housing and utilities.⁶ A BasicsCard cannot be used to withdraw cash or purchase excluded goods and services, including alcohol, pornography, tobacco products and gambling products and services.⁷

1.6 As part of the 2017-18 Budget, the Government announced that income management would be extended in all existing locations until 30 June 2019. Income

1 *House of Representatives Votes and Proceedings*, No. 52, 24 May 2017, p. 768.

2 Explanatory Memorandum, [p. 2].

3 Explanatory Memorandum, [p. 4].

4 Mr Mal Brough MP, Minister for Families, Community Services and Indigenous Affairs, 'National emergency response to protect Aboriginal children in the NT', *Media release*, 21 June 2007.

5 Explanatory Memorandum, [p. 4].

6 Department of Social Services, *Income Management* <https://www.dss.gov.au/our-responsibilities/families-and-children/programmes-services/family-finance/income-management> (accessed 15 June 2017).

7 Department of Human Services, *About the BasicsCard*, <https://www.humanservices.gov.au/customer/enablers/about-basicscard> (accessed 15 June 2017).

management is an element of the Cape York Welfare Reform program which operates in the Queensland communities of Aurukun, Coen, Hope Vale, Mossman Gorge and Doomadgee.⁸

1.7 The Social Security Administration Act provides that a person can only be subject to income management under section 123UF of the Act after a decision by the Family Responsibilities Commission made before 1 July 2017. The Bill amends this provision to apply to decisions made prior to 1 July 2019.⁹

Legislative scrutiny

Senate Standing Committee for the Scrutiny of Bills

1.8 The Senate Standing Committee for the Scrutiny of Bills considered the Bill in *Scrutiny Digest 6 of 2017* and made no comment on the Bill.¹⁰

Parliamentary Joint Committee on Human Rights

1.9 The Parliamentary Joint Committee on Human Rights (human rights committee) noted that placing a person on compulsory income management for any period of time engages and limits the right to equality and non-discrimination, the right to social security and the right to privacy and family.¹¹

1.10 The human rights committee noted that each of these rights was discussed in the context of the *2016 Review of Stronger Futures Measures* which focused on the income management regime's operation in the Northern Territory.¹² However, the committee's report also noted that the income management regime applied in Cape York and facilitated by the Queensland Family Responsibilities Commission may be less restrictive on rights than other location-based regimes such as that applied in the Northern Territory.¹³

1.11 Notwithstanding this, the human rights committee noted that the application of income management in Cape York may be compulsory rather than voluntary and therefore drew the Parliament's attention to the human rights implications identified in the *2016 Review of Stronger Futures Measures* report.

8 Explanatory Memorandum, p. 4. Note: While Doomadgee was not part of the initial Cape York Welfare Reform trial in 2007, income management was extended to Doomadgee in 2016.

9 Proposed subparagraphs 123UF(1)(g) and 123UF(2)(h).

10 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2017*, 14 June 2017, p. 60.

11 Parliamentary Joint Committee on Human Rights (PJCHR), *Report 5 of 2017*, 14 June 2017, p. 47.

12 PJCHR, *Report 5 of 2017*, 14 June 2017, p. 47; See also: PJCHR, *2016 Review of Stronger Futures measures*, 16 March 2016; PJCHR, *Eleventh Report of 2013: Stronger Futures in the Northern Territory Act 2012 and related legislation*, 26 June 2013.

13 PJCHR, *Report 5 of 2017*, 14 June 2017, p. 47.

Conduct of the inquiry

1.12 On 13 June 2017, the Senate referred the provisions of the Bill to the Community Affairs Legislation Committee for inquiry and report by 20 June 2017.¹⁴

1.13 Details of the inquiry, including a link to the Bill and associated documents, were placed on the committee's website.¹⁵ The committee wrote to relevant individuals and organisations inviting submission to the inquiry by 16 June 2017.

1.14 The committee received seven submissions which are listed at Appendix 1.

1.15 The committee thanks those individuals and organisations who contributed to the inquiry.

14 *Journals of the Senate*, No. 42, 13 June 2017, p. 1376.

15 See: Community Affairs Legislation Committee, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/QLDIncomeManagement (accessed 14 June 2017).

Chapter 2

Issues

Introduction

2.1 The Social Services Legislation Amendment (Queensland Commission Income Management Regime) Bill 2017 (the Bill) will allow the continuation of income management as part of Cape York Welfare Reform in five communities in northern Queensland.¹ The continuation of income management will ensure that welfare payments are used to meet the basic living essentials of vulnerable people and their dependents in the Cape York communities.²

The Cape York model

2.2 Cape York Welfare Reform was developed in 2007 by the Cape York Institute for Policy and Leadership (Cape York Institute) with the support of the Australian and Queensland governments.³ Cape York Welfare Reform is a partnership between the communities of Aurukun, Coen, Hope Vale and Mossman Gorge, as well as the Cape York Institute, the Australian Government and the Queensland Government.⁴

2.3 Cape York Welfare reform is unique in that it was developed by the communities which it would affect and encourages behavioural change through attaching reciprocity and communal obligations to welfare payments.⁵

2.4 The Cape York Welfare Reform commenced in the four partnership communities on 1 July 2008 and in 2016 income management was extended to the community of Doomadgee.⁶

2.5 The objective of Cape York Welfare Reform was to restore social norms and local Indigenous authority in the Cape York communities. In addition, the program aimed to initiate and support a positive change in social norms and community behaviours in response to chronic levels of passive welfare, social dysfunction and economic exclusion within these communities.⁷

2.6 The Family Responsibilities Commission (FRC) was established as a statutory authority by the Queensland Government to enforce social obligations such as the

1 Explanatory Memorandum, [p. 4].

2 The Hon Alan Tudge MP, Minister for Human Services, *House of Representatives Hansard*, 24 May 2017, p. 12.

3 See, Cape York Institute for Policy and Leadership, *From hand out to hand up: Cape York welfare reform project: Aurukun, Coen, Hope Vale, Mossman Gorge: design recommendations*, May 2007.

4 Department of Social Services, *Submission 7*, p. 1.

5 Family Responsibilities Commission, *Submission 6*, p. 1.

6 Department of Social Services, *Submission 7*, pp. 1-2.

7 Family Responsibilities Commission, *Submission 6*, p. 1.

proper care of children, abiding tenancy conditions in public housing and not committing drug, alcohol, gambling or family violence offences.⁸

2.7 Where these obligations are not met, Local Commissioners hold conferences with community members, refer people to support services and place a person on income management where necessary.⁹ In Cape York, conditional income management orders are issued for a defined period of time, generally 12 months, and FRC Commissioners determine whether 60, 75 or 90 per cent of a person's fortnightly welfare payment is quarantined.¹⁰

2.8 Local Commissioners are often elders or respected leaders in the community. The FRC considers that this strengthens the authority of decisions it makes as the decisions are made by the community's own Indigenous leaders.¹¹

2.9 The committee notes that the Cape York income management model differs from the Northern Territory model in that income management in Cape York is used as a sanction for individuals who have breached their obligations, whereas income management in the Northern Territory is applied universally to particular categories of income support recipients.¹²

2.10 Founder of the Cape York Institute for Policy and Leadership, Mr Noel Pearson, has commented previously that income management in Cape York encourages responsible behaviour rather than a reliance on welfare:

the difference from the [Northern] Territory is that the Cape York scheme encourages community members to take up their responsibilities. If people are being responsible, they are not affected by income management.¹³

2.11 The Explanatory Memorandum to the Bill notes that Cape York Welfare Reform has had a significant impact on the partnership communities which have seen improved school attendance, care and protection of children and community safety since the commencement of the program.¹⁴

8 Don Arthur, Social Services Legislation Amendment (Queensland Commission Income Management Regime) Bill 2017, *Bills Digest No. 110, 2016-17*, Parliamentary Library, Canberra, June 2017, p. 5.

9 Explanatory Memorandum, [p. 4].

10 Family Responsibilities Commission, *Submission 6*, p. 3.

11 Family Responsibilities Commission, *Submission 6*, p. 4.

12 Don Arthur, Social Services Legislation Amendment (Queensland Commission Income Management Regime) Bill 2017, *Bills Digest No. 110, 2016-17*, Parliamentary Library, Canberra, June 2017, p. 4.

13 Noel Pearson, 'Ineffectual bipartisanship ruins social policy', *The Australian*, 26 March 2011, p. 12.

14 Explanatory Memorandum, [p. 5].

Impact on Cape York communities

2.12 All submitters to the committee's inquiry expressed their support for income management in Cape York communities, in addition to other elements of the Cape York Welfare Reform program, and emphasised the positive impact it has had on their communities.

Family Responsibilities Commission

2.13 Submitters unanimously supported the work of the FRC and its role in income management. The FRC advised that:

The Commission is regarded as a critical mechanism to facilitate the rebuilding of intra-community social norms and to encourage behavioural change through attaching reciprocity and communal obligations to welfare and other government payments.¹⁵

2.14 The Cape York Institute expressed its support for the continuation of income management and the Cape York Welfare Reform program and explained that:

Income Management applied through the FRC model gives Indigenous people the power and authority to help their own community members build basic capability to understand their primary obligations to their children and their community, and their obligation to use welfare payments to pay the rent and electricity, and to provide food and clothing for the household.¹⁶

2.15 Coen Regional Aboriginal Corporation emphasised their support for the FRC as it gives local people the ability to hold other community members to account. Similarly, Aurukun Shire Council agreed that utilising the authority of elders in the community as Local Commissioners of the FRC was the best approach.¹⁷

2.16 This Bill will ensure that the FRC can continue to support Cape York communities and that FRC Commissioners can continue to utilise income management as a tool to support vulnerable people in these locations.

Child wellbeing and school attendance

2.17 The committee heard that the introduction of income management in the Cape York communities has seen a corresponding improvement in child wellbeing and school attendance. A 2012 evaluation of Cape York Welfare Reform found that progress had been made in stabilising social circumstances and fostering behavioural change, particularly in the areas of sending children to school, caring for children and increasing individual responsibility.¹⁸

2.18 The Cape York Institute reported that income management has been highly effective in ensuring quarantined benefits was used to meet basic needs and in their

15 Families Responsibilities Commission, *Submission 6*, p. 1.

16 Cape York Institute, *Submission 3*, p. 2.

17 Aurukun Shire Council, *Submission 1*, pp. 1-2.

18 Department of Social Services, *Submission 7*, p. 2.

experience, children were less likely to go hungry than they were before income management was implemented in Cape York communities.¹⁹

2.19 Coen Regional Aboriginal Corporation reported that Coen has the best school attendance of any Indigenous community school in Queensland and the only school to exceed the Queensland average school attendance rate.²⁰ Aurukun Shire Council also reported an increase in the number of children attending school following the introduction of the FRC and income management.²¹

2.20 While income management has had a positive influence on Cape York communities, submitters acknowledged that it would be sometime until it could be removed and that more progress could be made.²² The Explanatory Memorandum to the Bill noted that the continuation of income management is a key element of the Cape York reforms and will 'continue to assist in stabilising people's circumstances and fostering behavioural change, particularly in the areas of school attendance, parental responsibility and increasing individual responsibility.'²³

Extending the sunset date

2.21 The income management regime in Cape York is the only income management scheme with a legislated sunset date.²⁴ Since its establishment in 2007, income management in Cape York has been extended four times.²⁵

2.22 The *Social Security (Administration) Act 1999* currently provides that a person can only be subject to income management after a decision by the FRC made before 1 July 2017.²⁶ The effect of the Bill is to extend the sunset date to 1 July 2019 to allow the FRC to continue to make decisions to place individuals on income management.

2.23 The committee notes that the government is conscious that there are risks associated with ceasing income management suddenly without first implementing a mechanism to replace it and that an influx of cash to these communities could result in an increase in the levels of violence, hospitalisations and abuse.²⁷

19 Cape York Institute, *Submission 3*, p. 2.

20 Coen Regional Aboriginal Corporation, *Submission 2*, p. 1.

21 Aurukun Shire Council, *Submission 1*, p. 2.

22 See, for example: Hope Vale Shire Council, *Submission 5*, p. 1; Bamanga Bubu Ngadimunku Aboriginal Corporation, *Submission 4*, p. 1.

23 Explanatory Memorandum, [p. 4].

24 The Hon Alan Tudge MP, Minister for Human Services, *House of Representatives Hansard*, 24 May 2017, p. 12.

25 Don Arthur, Social Services Legislation Amendment (Queensland Commission Income Management Regime) Bill 2017, *Bills Digest No. 110, 2016-17*, Parliamentary Library, Canberra, June 2017, p. 8.

26 *Social Security (Administration) Act 1999*, s. 123UF.

27 Department of Social Services, *Submission 7*, p. 1.

2.24 In its submission, the Cape York Institute commended the work of the FRC but noted that the achievements to date would be 'seriously jeopardised if income management were to abruptly end on 30 June 2017.'²⁸

2.25 The Bamanga Bubu Ngadimunku Aboriginal Corporation echoed these views and supported the government's proposed continuation of income management:

When the time does come, the people of Mossman Gorge need to be empowered to drive what happens next so that we can stay on this road of positive change. The government can't just suddenly decide to end Income Management and the FRC, without letting us plan so that we keep going forwards and don't go backwards after making such hard won gains.²⁹

2.26 The Bamanga Bubu Ngadimunku Aboriginal Corporation went on to note that it will be some years before the foundations are solid enough in their community to remove support structures such as the FRC and income management.³⁰

2.27 Similarly, Hope Vale Aboriginal Shire Council also expressed support for the continuation of income management in their community. The Council advised that most people in the community are working hard to ensure that they are not reliant on the government in the future and that the government should not take things away that are helping.³¹

2.28 The FRC reiterated that any change to income management should be carefully and properly planned as it provides critical support to families and children in Cape York communities who would be at great risk of serious adverse outcomes if income management was suddenly removed.³² The FRC advised that these outcomes include 'children going hungry, worsening school attendance and increases in child safety and violence as a result of an influx of cash to individuals who have shown they are unable to meet their most basic obligations to their families and the community.'³³

2.29 The committee notes that income management also increases food security in communities and encourages local community stores to stock food and household goods which may be negatively impacted were income management to cease on 30 June 2017 as currently legislated.³⁴

2.30 The Department of Social Services informed the committee that the extension of income management in Cape York was discussed with the Queensland Government

28 Cape York Institute, *Submission 3*, p. 2.

29 Bamanga Bubu Ngadimunku Aboriginal Corporation, *Submission 4*, p. 1.

30 Bamanga Bubu Ngadimunku Aboriginal Corporation, *Submission 4*, p. 1.

31 Hope Vale Aboriginal Council, *Submission 5*, p. 1.

32 Families Responsibilities Commission, *Submission 6*, p. 5.

33 Families Responsibilities Commission, *Submission 6*, p. 5.

34 Explanatory Memorandum, [p. 4].

and Cape York Partnerships who agreed with the extension of the legislative arrangements to continue to support the work of the FRC.³⁵

2.31 The Department of Social Services also advised that extending income management for two years will ensure continuity of support for vulnerable participants and that it will allow the Government time to work through future directions for welfare quarantining.³⁶

Income management

2.32 Some community sector groups have been critical of income management in the past but have also recognised the differences between the Cape York model and other income management programs. For example, the Australian Council of Social Service (ACOSS) has acknowledged that the Cape York model of income management was not imposed by the government but was developed by the affected communities and that the FRC plays a unique role in case management, assessment and only refers individuals to income management as a last resort.³⁷

2.33 All submitters to this inquiry expressed the view that income management should be continued. The FRC advised the committee that it has always been of the view that income management is an essential element to continuing the successful operation of the Cape York Welfare Reform program and that it encourages community members to behave in a socially acceptable manner and consistent with community expectations.³⁸

2.34 Furthermore, the Cape York Institute noted that income management is not universally applied in Cape York communities and it is only applied to support the most at-risk individuals and their families who have failed to meet basic obligations such as sending their children to school, obeying the law and abiding by tenancy conditions.³⁹

2.35 The FRC acknowledged that income management can be perceived as a loss of choice for individuals but stressed that the overall benefit of income management to Cape York communities, which ensures households have sufficient money to feed, clothe and care for children, should not be overlooked.⁴⁰

2.36 The Department of Social Services reiterated these views, noting that income management in Cape York communities is a targeted program which is used as a tool to work with families to build their capability and resilience. A survey conducted

35 Department of Social Services, *Submission 7*, p. 2.

36 Department of Social Services, *Submission 7*, p. 1.

37 Australian Council of Social Service, *Compulsory income management: a flawed answer to a complex problem: Policy Analysis*, September 2014, http://www.acoss.org.au/images/uploads/Income_management_policy_analysis_September_2014.pdf (accessed 18 June 2017).

38 Families Responsibilities Commission, *Submission 6*, p. 4.

39 Cape York Institute, *Submission 3*, p. 1.

40 Families Responsibilities Commission, *Submission 6*, p. 4.

during the 2012 evaluation of Cape York Welfare Reform found that 78 per cent of people placed on income management felt that the program had made their lives better. This supports the view that income management in Cape York is used as both a mechanism for ensuring that welfare payments are spent on necessities, but also as an incentive for individuals to engage with social supports and make positive behavioural change.⁴¹

Committee view

2.37 The committee notes that all submitters to the committee's inquiry were supportive of the role income management, together with the FRC's role in referring individuals to income management, plays in the Cape York Welfare Reform program.

2.38 The committee is encouraged by reports that income management is having a positive impact on Cape York communities and sees significant benefits in the continuation of income management in this context.

Recommendation 1

2.39 The committee recommends that the Bill be passed.

Senator Jonathon Duniam

Chair

41 Department of Social Services, *Submission 7*, p. 2.

Australian Greens' Dissenting Report

1.1 The Australian Greens are concerned by the very quick time frame for this inquiry. A number of stakeholders have not had adequate time to prepare submissions.

1.2 The Australian Greens have opposed this measure since it was first introduced by the Howard Government in 2007 and do not support this Bill either.

1.3 The social safety net is one of the most important features of our democracy and way of life in Australia. It is meant to ensure that there is some minimum standard of living for each and every Australian. There are already stringent tests to access that support in the first place. To impose upon some of the recipients of that support that they must now demonstrate somebody's version of socially responsible behaviour is to promote the idea that disadvantage is primarily a result of the individual's failure to demonstrate the necessary social values and norms.

1.4 There were seven submissions to the inquiry, none of which provided any documented evidence of the supposed success of income management or referred to any current evaluations. We understand there has been no follow-up evaluation to the 2012 Government commissioned evaluation report discussed below.

1.5 The major source of information about income management in Cape York is the evaluation report commissioned by the Australian Government.¹ This report dates back to 2012 and was unable to demonstrate conclusively that income management in Cape York had met its stated aims.

1.6 Only three of the four communities demonstrated a reduction in the number of times that people were reported to the Family Relationship Council, and only then was there a 10% reduction in reports per person.² The evaluation report goes on to say that:

The reduction in breaches may not be a function of income management alone, as it is possible that the fact of being repeatedly brought before the FRC conferences encourages individuals to comply.³

1.7 The evaluation found that there had been improvements in areas such as school attendance and reductions in crime.⁴ However, income management is just one of a number of measures that have been implemented by the Cape York Welfare Reform Trial, which contributes to these changes.

1.8 To this end, J Rob Bray, when writing about the evaluation, in a paper in 2016 stated:

1 FaHCSIA, *Cape York Welfare Reform: Evaluation: 2012*.

2 FaHCSIA, *Cape York Welfare Reform: Evaluation: 2012*, p. 34.

3 FaHCSIA, *Cape York Welfare Reform: Evaluation: 2012*, p. 34.

4 FaHCSIA, *Cape York Welfare Reform: Evaluation: 2012*, pp. 3-5.

The question of the specific role of income management in achieving the changes was, however, more difficult to determine, with the report noting that:

... the evidence suggests that the impact of the local FRC Commissioners is in their listening, guiding and supporting role, rather than in the exercising of their punitive powers to order income management. (FaHCSIA 2012:50)⁵

1.9 Furthermore, two of the evaluation report's authors, Ilan Katz and Margaret Raven, subsequently noted in the *Indigenous Law Bulletin* that it is difficult to draw conclusions from this given that 'many other Indigenous communities in Queensland had also shown improvements'.⁶

1.10 The evaluation also found that:

The data indicate that some community members had become habituated to income management or had found ways around it. This appears in some cases to have produced unintended consequences, such as clients on income management harassing relatives for access to alcohol or drugs. It appears that for this group income management (and welfare reform more generally) has little effect.⁷

1.11 The evaluation report also notes that there is some community dissent about income management and the Basics Card, including concern about the 'the paternalistic nature of the intervention'.⁸

1.12 The majority committee report points to a survey conducted as part of this evaluation, saying that it 'found that 78 per cent of people placed on income management felt that the program had made their lives better'.⁹ However, it is the view of the Australian Greens that this should be supported by empirical evidence as perceptions are very different to real outcomes. In similar circumstances in the Northern Territory such perceptions proved to be incorrect as evidence later showed there was no difference in outcomes when compared to other similar communities.

1.13 On the weight of the evidence, the Australian Greens believe that income management is a failed and expensive policy that the Government is persisting with in the absence of any real justification. There are a number of other programs, which are not coercive in nature, such as Centrepay that can be used to help people manage their money better.

5 J Rob Bray, *Income Management Evaluations – What Do We Now Know? Placing the Findings of the Evaluation of New Income Management in the Northern Territory in Context* (Working Paper No 111, Centre for Aboriginal Economic Policy Research, 2016) p. 11.

6 I Katz and M Raven, 'Evaluation of the Cape York Welfare Reform Trial' (2013) 8(7) *Indigenous Law Bulletin* p. 19.

7 FaHCSIA, *Cape York Welfare Reform: Evaluation: 2012*, p. 212.

8 FaHCSIA, *Cape York Welfare Reform: Evaluation: 2012*, p. 34.

9 *Majority Committee Report*, p. 11.

1.14 The Greens support a direct investment in programs and communities that address the underlying causes of disadvantage people are facing rather than income management which is expensive to implement.

1.15 The money being spent on income management around Australia would be better invested directly into communities in order to provide specialist, direct programs to address things like financial management, education, better access to fresh food, a reduction in alcohol and drug abuse and better support for parents and people looking for work.

1.16 The evidence does not support the continuation of income management; it is an expensive failure and should be abandoned.

Recommendation 1

The Australian Greens recommend that the Senate not pass the Social Services Legislation Amendment (Queensland Commission Income Management Regime) Bill 2017.

Senator Rachel Siewert

APPENDIX 1

Submissions received by the Committee

Submissions

- 1** Aurukun Shire Council
- 2** Coen Regional Aboriginal Corporation
- 3** Cape York Institute
- 4** Bamanga Bubu Ngadimunku Aboriginal Corporation
- 5** Hope Vale Aboriginal Shire Council
- 6** Family Responsibilities Commission
- 7** Department of Social Services