

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN LAW REFORM COMMISSION

Question No. 50

Senator Siewert asked the following question at the hearing on 18 October 2011:

Senator SIEWERT: I am interested in following up some recommendations from the committee's report on the review of compensation payments from last year and specifically the comments that were made in the report about Centrelink debt. Have you done any work or had a look at the waiver of debt provisions contained in social security legislation?

Prof. Flew: I would have to take that question on notice. Others have worked on that inquiry and I could get them to provide you with the information on that.

Senator SIEWERT: In that case, you will probably have to take this question on notice too. If you are looking at the issues, the recommendations and the comments that were made in the report, where are you up to in that process and what is the time frame for completing that work?

Prof. Flew: I will take that question on notice.

The answer to the honourable senator's question is as follows:

The ALRC has been looking at the issue of the 'waiver of debt' provisions contained in social security legislation as part of its current inquiry into Commonwealth Laws and Family Violence.

At the end of September, the ALRC published a discussion paper as part of this inquiry and waiver of debt was one area covered in Chapter 8, in which the ALRC proposed the following:

[Proposal 8-6] 'Section 1237AAD of the Social Security Act 1991 (Cth) provides that the Secretary of FaHCSIA may waive the right to recover a debt where special circumstances exist and the debtor or another person did not 'knowingly' make a false statement or 'knowingly' omit to comply with the Social Security Act. Section 1237AAD should be amended to provide that the Secretary may waive the right to recover all or part of a debt if the Secretary is satisfied that 'the debt did not result wholly or partly from the debtor or another person acting as an agent for the debtor'.

The ALRC has called for submissions on this and other proposals contained in the discussion paper, and will consider stakeholder responses when it formulates its final proposals for reform in its final report, due to be handed to the Attorney-General at the end of November..