

Senate Community Affairs Legislation Committee
Inquiry into Welfare Reform and Reinstatement of the Racial Discrimination Act
Canberra Hearing, Friday 26 February 2010

ANSWERS TO QUESTIONS ON NOTICE

Question No: WR 13

Topic: Effect of the Bill on the operation of the *Racial Discrimination Act 1975* (RDA) and the need for a 'notwithstanding clause'

Hansard Page: CA 54-55

Senator Siewert asked:

Perhaps it would help us if you were to look at the Human Rights Commission's submission, the Law Council's submission and the transcript of their evidence and respond to the points that they make, because just asserting that the bill does it, and that the second reading speech makes it clear, does not mean that it does it. It means that the government thinks it does.

...

Just because the government says it does, does not mean that it actually does, and certainly the Law Council and the Human Rights Commission have put a number of points about it not doing it. So maybe you could go through and, in writing, address the specific points that are raised in those submissions.

Answer:

1. The Department's view is that a 'notwithstanding clause' is neither necessary nor desirable, for the reasons set out in the opening statement made to the Committee on 26 February 2010 by Mr Rob Heferen, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs.
2. A number of points are made in the submissions and evidence of the Australian Human Rights Commission (the Commission) and the Law Council of Australia (the Law Council) as to why a 'notwithstanding clause' is necessary or desirable, and we will address the key points.

Does the Bill restore people's right to take action under the RDA – without the need for a 'notwithstanding clause'?

3. Several submissions have suggested that the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 (the Bill) will *not* restore the operation of the RDA and that an express 'notwithstanding clause' is necessary to ensure the RDA applies to the NTER legislation and to actions taken under it.

4. Schedule 1 of the Bill repeals all of the provisions that exclude the operation of the RDA in relation to the NTER. Schedule 1 also repeals all of the provisions that state that the measures contained in the NTER legislation are 'special measures'. The effect of these repeals is that the RDA will apply to the NTER, but the repeals are not retrospective. There is no need for an express provision which states that the RDA 'applies' to the NTER after the repeals contained in Schedule 1 take effect, because the repeals achieve that intention by removing the express provisions that excluded the operation of the RDA in relation to the NTER.

5. The effect of this is that, following the repeal, the RDA will apply to the NTER, and people will have their rights to bring appropriate proceedings. A complaint in relation to the administration of the NTER can be made in the usual way to the Australian Human Rights Commission, and then to a court, or, if there are disputes about the operation of the legislation itself, these can be raised in proceedings in a court. Of course, whether there has been a breach of the RDA in a particular case will still need to be determined by the Commission or the court.

6. The intention of the Bill is clear from its face and this is supported by the numerous statements of the Minister and the Government. The Second Reading Speech states that the provisions that modify the operation of the RDA, and the provisions that deem the legislation and acts under the legislation to be special measures, are to be repealed. The Explanatory Memorandum contains a number of statements about the effect of the repeal, including a clear statement that the RDA will no longer be excluded (pages 5 to 10). The Discussion Paper titled *Future Directions for the Northern Territory Emergency Response*, released by the Government on 21 May 2009, also makes clear the Government's intention to remove the provisions that exclude the operation of the RDA (page 8). The *Policy Statement: Landmark Reform to the Welfare System, Reinstatement of the Racial Discrimination Act, and Strengthening of the Northern Territory Emergency Response*, issued on 25 November 2009 when the Bill was introduced, states that all the laws that suspend the operation of the RDA will be repealed from 31 December 2010. Even the title of the Bill itself makes it clear that the Bill deals with the 'Reinstatement of the Racial Discrimination Act'.

7. While some other laws do contain express statements that the RDA applies to those laws, the inclusion of such a provision in this Bill is not necessary because of the text of the bill, the history and the supporting documents.

8. The submissions made by the Law Council of Australia (the Law Council) or the Australian Human Rights Commission (the Commissioner) appear to support the view that the Bill does restore the operation of the RDA and that, if the Bill is passed, people will have their rights to take action under the RDA in relation to the administration of the measures and the legislation itself.

9. In paragraph 31 of its written submission to the Committee, dated 10 February 2010, the Commission refers to “[t]he Government Bill’s reinstatement of the RDA” and, states, in paragraphs 34 and 35:

34. Once the RDA is reinstated, section 9(1) and 9(1A) will apply to decisions and actions done under or for the purposes of the legislation. The decisions and actions of Government Business Managers and Centrelink Officers, for example, will be able to be challenged as being either ‘directly’ or ‘indirectly’ discriminatory.
35. Section 10 of the RDA will also operate in relation to the NTER legislation itself. It will require the NTER legislation to be read so as to avoid operating in a discriminatory way (by denying or impairing the equal enjoyment of rights by people of a particular racial group). [...]

10. The Commission’s submission also notes, at paragraph 62, that the Bill “remove[s] existing provisions that deem the measure under the NTER legislation to be special measures and provisions that deem the whole of the legislation to be a special measure under the RDA”.

11. In his oral evidence to the Committee on 26 February 2010, Mr Graeme Innes, the Disability Discrimination Commissioner and Race Discrimination Commissioner, confirmed that the Bill does lift the suspension of the RDA in relation to the NTER legislation and actions done under it (Proof copy, Committee Hansard, Senate Community Affairs Legislation Committee, Friday 26 February 2010, page CA 28).

12. At paragraph 64 of the Law Council’s written submission to the Committee, dated 11 February 2009, the Council explains:

64. If the SS Bill is enacted in its present form, the full operation of the RDA will be restored under the NTER legislation, as well as NT Anti-Discrimination laws. [emphasis added]

13. From these submissions it appears that both the Law Council and the Commission agree that after the Bill is passed, in its current form without a ‘notwithstanding clause’, people *will* have their rights to take action under the RDA in relation to the administration of the measures and the legislation itself. As noted in paragraph 5, whether there has been a breach of the RDA in a particular case will be determined by the Commission or the court.

14. The Department notes that it is not desirable to include this provision in the Bill on the basis that it is not necessary to achieve the result of restoring people’s rights to take action under the RDA.

Is a ‘notwithstanding clause’ necessary to clarify whether actions are to be consistent with the RDA?

15. Given the views set out above, the concerns of the Law Council and the Commission that the RDA will not be reinstated by the Bill appear to be based on other legal issues about how a court may read the NTER legislation after it is amended. If their concerns are about more than that, they appear to be about whether a person will win a challenge when exercising their rights under the RDA, or more broadly about the fact that there are provisions which currently suspend the operation of the RDA. These wider issues do not support the need for a ‘notwithstanding clause’ and we will now address the legal issues about how a court may read the NTER legislation after it is amended.

16. As the Department understands it, the principal concern advanced by the Law Council and the Commission appears to be that, although people’s rights under the RDA are restored by the Bill, there is still a question about whether the amended NTER legislation authorises the Government to take actions that are directly or indirectly discriminatory under the RDA.

17. The Commission, in paragraph 38 of its submission, notes:

Such a clause would require all acts authorised under the legislation to be undertaken consistently with the RDA. [...]

18. At paragraph 71 of the Law Council’s submission, the Council states, in similar terms, that the purpose of the clause would be:

... to clarify that the legislation does not authorise conduct that is inconsistent with the provisions of the RDA. [...]

19. In short, once the legislation is amended, the RDA will apply without suspension and people can seek appropriate remedies for any actions that offend the RDA because they are directly or indirectly discriminatory and are not special measures. We note the repeal is not retrospective and whether there has been a breach of the RDA in a particular case will be determined by the Commission or the court.

20. The Commission and the Law Council, as well as other parties who have given evidence to the Committee, have advanced various legal maxims or presumptions of statutory interpretation to support the argument that there is a lack of clarity about whether the RDA is intended to apply to the NTER.

21. As stated above, the text of the bill, the history and the supporting documents all make the intention to reinstate the RDA clear. The Commission and the Law Council’s submissions do not identify the specific inconsistency to be addressed by the ‘notwithstanding clause’ and we note that courts avoid reaching findings of inconsistency, especially in the face of clear legislation.

22. It has also been suggested that the inclusion of a 'notwithstanding clause' would decrease the likelihood of challenges to the legislation. The Department does not agree. Following the repeals contained in Schedule 1 of the Bill, the RDA will apply to the NTER and people will have their rights to bring appropriate proceedings. Another reason that it is not desirable to include a 'notwithstanding clause' is that its interpretation could simply provide an additional matter for argument in any challenge.

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR14

Topic: Recording of takeaway alcohol sales

Hansard Page: CA59

Senator Crossin asked:

How many of the existing records have been collected—or looked at, noted or touched—by FaHCSIA throughout the Territory?

If you are going to take hours gathering it, don't worry. I just thought you might be able say that half-a-dozen have been referred to you or, 'We check them all monthly,' or, 'We check them constantly.' There is no system at this stage?

Answer:

The provisions relating to the recording of takeaway alcohol sales of greater than \$100 are administered by the Northern Territory Government.

The records created pursuant to these provisions are either stored on the licensed premises or at the direction of the NT Licensing Commission. Under the *Northern Territory Emergency Response Act 2007*, the records are to be retained for three years. Access to the records is usually made by, or through, the licensing inspectors in the NT Department of Justice.

Advice from the NT Government is that NT licensing inspectors and Police have accessed the records as part of the Department of Justice compliance program, and in support of Police operations. However the Department of Justice does not maintain any specific reporting regarding frequency of access to these records.

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Question No: WR16

Topic: Process for seeking exemptions under the new income management scheme

Hansard Page: CA61

Senator Siewert asked:

I have a specific question around exemptions. I am not going to re-trawl the ground that we covered last time. I appreciate that we have had several discussions about that. But, with respect to the process that will apply to an exempt person, the process that is used at the moment is quite a hefty one. For the benefit of Hansard, I am holding up the Social Security (Administration) (Exempt Northern Territory Person) Determination 2010. I am not going to name the person who is contained in this particular one, but this is a copy of one that was done for a particular person. Is this the sort of mechanism that will be used for each person who could be exempt in the future?

Answer:

See answer to WR18

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR17

Topic: Process for seeking exemptions under the new income management scheme

Hansard Page: CA 61

Senator Siewert asked:

That seems to me to be a complicated process. It has been said to me that it is not nice process, that people going through it have felt humiliated by the sorts of questions they had to answer. Is this going to be the same process, because it seems to me that that is quite an extended process? That is why I want to know.

Answer:

See answer to WR18

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR18

Topic: Process for seeking exemptions under the new income management scheme

Hansard Page: CA 61

Senator Siewert asked:

If it is possible, could you take it on notice to provide a bit more detail about how you envisage this process will work.

Answer:

Information about the exemption process under the proposed new income management scheme

Under the proposed scheme of income management, a legislative instrument will specify the criteria that individuals will need to meet to be exempted by the decision-maker. This will mean that anyone in the long-term unemployed or disengaged youth categories will be able to apply, and be granted, an exemption, providing they meet the criteria as set out in the legislative instrument. A separate legislative instrument will not be required for each individual exemption.

How does the current Ministerial exemption power operate?

The instrument referred to by Senator Siewert in the Committee hearing on 26 February 2010 – the *Social Security (Administration) (Exempt Northern Territory Person) Determination 2010* – was made under subsection 123UG(4) of the *Social Security (Administration) Act 1999* (the Administration Act).

Subsection 123UG(4) enables the Minister to determine, by making a legislative instrument, that an individual is exempt from the income management measure that currently operates in the Northern Territory under section 123UB of the Administration Act.

Subsection 123UG(4) also enables the Minister to determine, by legislative instrument, that a class of persons is exempt from the current NT income management measure. The Minister has made a class determination under this provision, the *Social Security (FaCSIA) (Exempt Northern Territory Persons) Determination 2007*, and the classes that are specified in the instrument are the following:

- a person who is in a relevant Northern Territory area or a declared relevant Northern Territory area as part of the implementation of the Australian Government package of national emergency measures to protect Aboriginal children in the Northern Territory;
- a student whose student income support payment is paid to a third party;
- a student who receives an ABSTUDY Residential Costs Option;
- a student who is enrolled in an educational institution outside a relevant Northern Territory area or a declared relevant Northern Territory area and is receiving a student income support payment at the away from home rate.

Class exemptions are administered by Centrelink and a separate legislative instrument is not required for each person.

Will subsection 123UG(4) continue to operate under the new scheme of income management?

It is proposed that section 123UG, including subsection 123UG(4), will be repealed by item 13 of Schedule 2 of the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 (the Bill).

No new provision equivalent to subsection 123UG(4) is proposed in the Bill.

Who can obtain an exemption under the new provisions?

The exemption process contained in the Bill is only relevant to individuals who are subject to income management under proposed new sections 123UCB (the disengaged youth measure) or 123UCC (the long-term welfare payment recipients measure).

If a person is subject to income management under proposed new section 123UCA (the vulnerable welfare payment recipients measure), a person can exit the measure if the Centrelink decision-maker decides to revoke the original determination under which the person is subject to the measure. While this is not described as an 'exemption', a revocation would have the same effect as an exemption: that is, the person would no longer be subject to the measure. Proposed new section 123UGA provides for the revocation process.

As is currently the case, a person is subject to income management under the child protection measure until the period of income management specified in the original notice ends, or the case manager revokes the notice to apply income management.

Under the proposed legislation, a person on voluntary income management will be able to exit at any time after the initial 13 weeks have ended.

Will exemptions be made on an individual basis under the new provisions?

Yes, exemptions will be determined on an individual basis. A person may apply to Centrelink for an exemption, or the Centrelink decision-maker may grant an exemption on his or her own initiative.

An example of where an exemption may be granted on Centrelink's own initiative is in relation to individuals who have no dependent children and are full-time students (and would therefore be able to obtain an exemption under proposed new subsection 123UGC(1)). If Centrelink is aware of this information from the person's Centrelink record, Centrelink can grant the exemption on their initiative.

Who will be the decision-maker for exemptions under the Bill?

Under the provisions contained in the Bill, the decision-maker for the exemption process is 'the Secretary'. In practice, this power is generally delegated to the service-delivery agency, Centrelink. There has not yet been a decision made about the delegation.

The relevant provisions are proposed new subsections 123UGB(1), 123UGC(1) and 123UGD(1).

Will exemptions be made by legislative instrument?

Decisions about whether to grant an exemption will be administrative decisions. The Bill expressly states that the relevant determinations are *not* legislative instruments.

The relevant provisions are subsection 123UGB(3), 123UGC(3) and 123UGD(6).

Because a decision about whether to grant an exemption will be an administrative decision, an individual will be able to seek review of the decision under the review provisions contained in Part 4 of the Administration Act.

Does the Minister have any capacity to make exemptions under the Bill?

Proposed subsection 123UGB(2) allows the Minister to specify, by legislative instrument, that a class of persons are exempt welfare payment recipients.

However, under proposed subsection 123UGB(1), the Secretary (or delegate) is still required to make the exemption decision in relation to a particular individual. That is, it will be the duty or function of the Secretary (or delegate) to decide whether a particular individual is a member of the class of persons specified in an instrument (if any) made by the Minister.

Because the decision under subsection 123UGB(1) will be an administrative decision, an individual will be able to seek review of the decision under the review provisions contained in Part 4 of the Administration Act.

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR19

Topic: Breakdown of Indigenous and non-Indigenous people subject tot the child protection income management scheme in WA

Hansard Page: CA64

Senator Adams asked:

Just on child protection, on page 6 of your opening statement you said: *Over 200 people are currently on child protection income management in Western Australia.* I am just wondering what the make-up of that is as far as Indigenous people are concerned. We have had a lot of criticism, of course, that this is completely with the trials—that they are discriminatory. I am just wondering what the break-up is of Indigenous people or others.

Answer:

Customers on Child Protection Income Management as of 19 February 2010

As at 19 February 2010, 213 people were on child protection income management in Western Australia. Of these, 180 were Indigenous, 31 were non-Indigenous and two did not disclose.

Of these customers, approximately one quarter were located in metropolitan Perth. In metropolitan Perth, an approximate even split of Indigenous and non-Indigenous people were on the measure. There was a higher proportion of Indigenous people on income management in the Kimberley.

Specific numbers of individuals in metropolitan Perth and the Kimberley have not been provided due to some categories having a sample size under 20. Low sample sizes create a risk that individuals could be identified.

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR21

Topic: Interim assessment report on the WA income management trial

Hansard Page: CA66

Senator Siewert asked:

I would like to go to the Western Australian trial. We have been through that before and we had evidence, which I am sure you have heard, from the Western Australian government. They talked about the interim assessment—and I know that I have asked for this before but I am going to try again. As I understand it, you have not even released it to the WA Government.

.....

That is my understanding from the evidence on Monday. So my question is: if that is correct, why haven't you even released it to the WA Government?

.....

I will ask again: is it possible for you to table those results so that I get that on record—again.

Answer:

The report on the interim review of income management in WA has been released to the WA Department for Child Protection. The release of the interim report to the public is a decision for the Minister for Families, Housing, Community Services and Indigenous Affairs. The Minister has not decided to release the interim report.

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR22

Topic: Interim assessment report on the WA income management trial – questions asked and guidelines for focus groups.

Hansard Page: CA66

Senator Siewert asked:

In the event that we cannot get the results, could you provide us with the guidelines? I understand that there were focus groups and surveys and interviews were undertaken. You told us that before and I think you said that in your answers here.

.....

Is it possible to be provided with the questions that were asked?

.....

And the guidelines that were given to people when they were undertaking the focus group work as well?

Answer:

The interim evaluation utilised *issues guides* for the focus group discussions and questionnaires for the face-to-face client interviews.

Attached are:

- issues guide for groups with service providers including financial counselors (A);
- issues guide for groups with representatives of peak organizations (B);
- issues guide for groups with DCP case workers (C);
- issues guide for groups with community leaders (D);
- issues guide for groups with Centrelink officers (E), and
- client questionnaires (F).

The issues guides were developed by ORIMA Research and the questionnaires were developed by CIRCA with input and guidance from AIHW and the Department. These products were developed with the consultation of all major stakeholders, including WA Department for Child Protection (DCP) and the Office of Indigenous Policy Coordination.

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR23

Topic: Suspension of income management for people travelling interstate

Hansard Page: CA67

Senator Crossin asked:

Has the department given some thought to either amending the act or even amending the Social Security Act to allow for the situation where, if you are travelling, say, outside the Northern Territory, you would be able to have your income management suspended for the duration of the travel?

.....

If you are not considering it, we might need to think about putting it in our report.

Answer:

There has been no decision made by Government to exempt people travelling interstate.

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR24 a

Topic: Breakdown of the \$350 million cost of the new measures

Hansard Page: CA68

Senator Siewert asked:

You answered my question about the breakdown of the \$350 million and what the different departments will get. Is it possible to find out what the funding is for—for example, what Centrelink will be spending \$85 million on in the next financial year, what DEEWR, DHS and FaHCSIA are spending the money on?

.....

So we can get an understanding of what that substantial investment is doing.

Answer:

Funding for Centrelink will cover:

- income management service delivery for all people who meet relevant criteria, including assessing eligibility, undertaking allocation interviews, making adjustments to allocations, responding to inquiries, assessment of exemption eligibility, issuing and replacing BasicsCards, and conducting exit interviews where required;
- travel to remote communities to enable people to have these services delivered face to face;
- implementing the BasicsCard merchant approval framework and supporting and monitoring approved merchants;
- conducting compliance reviews of approved merchants;
- undertaking relevant IT systems development, recruitment and training of staff;
- delivery of incentive payments and matched savings payments, and
- provision of payment mechanisms to third parties (Centrepay and direct deduction facilities).

Funding for FaHCSIA will cover:

- policy development and program management of income management, including ongoing micropolicy development and provision of policy advice to Centrelink;
- briefing of Ministers and the Government;
- establishing and monitoring a Memorandum of Understanding (MOU) with Territory child welfare services;
- relevant reporting requirements;

- handling correspondence and inquiries;
- engagement with stakeholders, and
- developing, managing and delivering evaluation activities, and coordinating communication activities.

Funding for DHS will cover:

- management of the BasicsCard transaction provider contract costs, including day to day issues resolution, legal issues, ongoing contract costs and service delivery policy coordination/portfolio briefing material.

Funding for DEEWR will cover:

- provision of policy advice and inputting to the overarching evaluation of the measure due to the range of DEEWR payments affected by the measure.

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Question No: WR24 b

Topic: Cost of administering the new income management scheme

Hansard Page: CA68

Senator Moore (Chair) asked:

A significant amount of money is going to infrastructure and staffing admin costs for departments going forward. I have a particular question about the Centrelink component of that.

.....

I am particularly interested to know what the program plan is for Centrelink, which is a delivery agency, in terms of the greater involvement and personal process under the proposal before us. In that \$4,400, will there be some form of expectation that people will not be isolated and that they will have greater hands-on support from the agencies?

Answer:

No overall per person unit cost has been used to derive the costings for the new scheme of income management. Costings take into account a wide range of factors such as the varying servicing needs and associated costs for remote or metropolitan locations, fixed costs, such as use of vehicles, and property operating costs. In addition, other requirements to ensure appropriate customer service and access are included in costings, such as additional personnel in Centrelink Customer Service Centres, call centres. Other elements such as the BasicsCard balance checking enquiry mechanisms involving hot linked telephones in community stores are also included.

The Centrelink service delivery offer for customers on new income management will include:

- Regular travel to remote communities by Remote Visiting Teams to enable people to have services delivered face-to-face and ongoing contact through Customer Service Centre's;
- Identification of potential high-risk customers and tailored service delivery to suit the specific requirements of those customers. For example identification of people who have a high number of replacement BasicsCards and discussion of alternative payment mechanisms;
- Regular reviews of deductions to ensure that the person able to meet their priority needs and those of their family over time;
- Flexible allocations arrangements to best suit customers current requirements;

- Discussions about the operation and functioning of the BasicsCard, including balance checking options, and consideration of the most appropriate payment option. For example, for some customers regular direct payments to community stores may be preferable to the BasicsCard for a number of reasons.
- Providing information and advice about exemption processes and requirements, and assessing customers' eligibility for exemptions.
- Annual reviews of exemptions
- Transitioning all current NTER customers onto the New IM measures or off IM including offering Voluntary Income Management

In addition Centrelink provides referrals to money management services. Money Management services provide education, information and support to help people learn skills to manage their money more effectively.

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR25

Topic: Consultation with welfare agencies – subsequent to Government announcement of its policy changes

Hansard Page: CA71

Senator Moore (Chair) asked:

The only question is a more general one about consultation with agencies in the area, so not specifically in the Northern Territory but in the area of social welfare generally: can you let us know—not necessarily today—what information sessions and consultation have been done with the larger welfare agencies that provide advice at different times to government; the timing of those and who attended?

.....

Anything to do with this particular process. It has been raised again today that there has been very positive interaction between agencies and the departments on a range of social welfare issues. There is a statement that that has not occurred in this area, and I would like to know what interaction has been had with the major agencies such as the ACOSSs, the welfare rights and those people on this issue.

Answer:

Following the introduction of the Bill before Parliament, the Department has held a series of briefing sessions with peak welfare sector and community sector organisations. These briefing sessions were provided to assist key stakeholders understand the proposed legislation, and to provide a forum in which to discuss any issues.

These briefing sessions took place in Darwin, Alice Springs, Sydney and Canberra, in December 2009 and February/March 2010.

The following organisations had delegates attend the briefings:

- Aboriginal Medical Services Alliance Northern Territory (AMSANT)
- Anglicare
- Northern Territory Anti Discrimination Commission
- Australian Human Right Commission (AHRC)
- Australian Council of Social Services (ACOSS)
- Brotherhood of St Lawrence
- Central Australian Aboriginal Legal Aid Service (CAALAS)

- Financial Counsellors Association of Queensland
- Law Society Northern Territory
- Northern Australian Aboriginal Justice Association (NAAJA)
- National Association for Prevention of Child Abuse and Neglect (NAPCAN)
- National Welfare Rights Network
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council
- Red Cross Australia
- Smith Family
- Social Inclusion Board
- Uniting Care

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR26

Topic: Consultation with welfare agencies – in the development of policy reforms

Hansard Page: CA71

Senator Siewert asked:

Has there been any consultation with any of the peak welfare sector or community sector organisations around these sorts of concepts in the run-up to the development of legislation?

Answer:

From June to the end of August 2009, the Australian Government conducted extensive consultations with Indigenous people in the Northern Territory and peak organisations about future directions for the Northern Territory Emergency Response (NTER), including income management. Some consultation meetings also took place in late May and early September.

The engagement process was delivered through a comprehensive four-tiered consultation approach, involving workshops with major peak organisations, and a separate workshop with the Northern Territory Indigenous Affairs Advisory Council. Workshops were held in Alice Springs, Darwin, Katherine, and Nhulunbuy.

Attendance at these workshops was by invitation. FaHCSIA National Office wrote to organisations inviting them to nominate representatives.

Three workshops were initially planned. The number was increased to five, to cater for a larger number of participants.

In addition, while not specific to the proposed legislative changes, the Department has periodic meetings with peak organisations, including the National Welfare Rights Network, Northern Australian Aboriginal Justice Association (NAAJA) and the Australian Social Inclusion Board in which a variety of social security issues are discussed with senior Departmental management.

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ANSWERS TO QUESTIONS ON NOTICE

Question No: WR27

Topic: Negative experiences with income management and the BasicsCard

Hansard Page: CA67

Senator Moore (Chair) asked:

There has been considerable evidence of negative experiences with income management and the BasicsCard in the Northern Territory. Some of it is definitely historical and goes back to the way it was implemented. Evidence today from the Salvation Army referred to a recent survey they conducted which talked about current issues from their perspective. There was a range of questions about Katherine.

.....

The major thing that has come up consistently in evidence and in submissions has been a concern about a further rollout of a system which people genuinely believe has not worked. There are philosophical issues about income management but there are also very basic and practical issues about it not working in certain places, that people are shamed by it and that where people wish to buy a large item they have to get quotes and take them back to Centrelink. That is what we have heard. It would be useful to get something back from the department on that.

Mr Sandison —We will look to ACOSS and Salvation Army statements around the BasicsCard and provide responses.

Answer:

Customer understanding of the BasicsCard

In relation to the Salvation Army's comments around the reported difficulty customers had in understanding how to use their BasicsCard, Centrelink works closely with all customers to ensure that they know how they can access their income managed funds, and in particular how they can use their BasicsCard. Centrelink has translated the BasicsCard fact sheets into Arrernte, Pitjantjatjara and Warlpiri languages to improve accessibility for non-English speaking customers. At the Centrelink office, there are also DVDs available in language for customers to view.

The Department is also working closely with Centrelink and the Money Management Strategies Branch to further support customers' understandings about the BasicsCard and

income management and how it works; so that income managed customers can better understand how to use their money and where their money is.

The BasicsCard uses the existing Electronic Funds Transfer Point of Sale (EFTPOS) system, with which many customers are familiar, because they generally receive 50 per cent of their welfare payment via this mechanism. However, the BasicsCard is only one available allocation method for income managed customers. Centrelink, in consultation with the customer, determines the most appropriate allocation method for the customer and the priority need. In some circumstances it may be more appropriate for customers to make direct allocations to community stores, or as one-off payments to third party organisations.

ACOSS' and the Salvation Army's submission to the committee commented on the reported difficulty customers have in finding out their BasicsCard balance and the associated humiliation in trying to purchase goods without a sufficient balance. The Government has implemented a number of mechanisms to address this issue.

Income managed customers are currently able to check their BasicsCard balance via the Income Management Line (13 2594) which is available 24 hours a day, 7 days a week. Customers can also phone the 1800 number (1800 057 111) which is free to home phones. There are facilities available in Centrelink offices for customer to check their BasicsCard balance at no cost to the customer, and they can also find out their balance by accessing the Centrelink website (www.centrelink.gov.au).

In addition, Centrelink has installed hot-linked phones in over 70 community stores in remote areas of the Northern Territory and Western Australia. Hot-linked phones provide customers with direct access to the Income Management Line to check their BasicsCard balance and to speak to a Centrelink Customer Service Adviser if required. The Government is also continuing to explore additional balance enquiry options in order to improve customers access to their BasicsCard balance.

In response to the Salvation Army's comments about the BasicsCard not working, a number of mechanisms are in place to deal with situations where a customer's BasicsCard does not work. In the event of system failure, the companies that support the BasicsCard have implemented rigorous monitoring and alert systems to ensure a fast response. Centrelink has also developed a range of contingency arrangements enabling Centrelink staff to quickly arrange alternate short-term payment options for customers, including direct payments to a store or payment by credit card or cheque, depending on the merchant.

Purchasing large items with the BasicsCard

In relation to ACOSS' comments around customers using their income managed funds to purchase goods from furniture stores, particularly in Katherine, the Minister last year approved furniture and electrical stores to be considered in scope for the BasicsCard, following an initial review of the BasicsCard Merchant Approval Framework. This has enabled customers to have more flexibility and choice when purchasing items such as furniture, whitegoods and kitchen and household appliances including microwave ovens, toasters, kettles and vacuum cleaners.

Customers can also purchase goods and/or services from stores using alternative payment methods or they can use the percentage of their welfare payment that is not income managed.

Provided that Centrelink is satisfied that the customer has met all their priority needs, Centrelink can arrange to make a one-off payment to a store on their behalf. In these circumstances, the customer is not required to get submit multiple quotes from stores. However, the customer does need to inform Centrelink of the cost of the item to enable Centrelink to transfer or write a cheque for the correct amount to the merchant.

Additionally, where a merchant is in an income managed area and may be eligible for the BasicsCard, Centrelink engages with them to ensure that they are offered the opportunity to become an approved BasicsCard merchant.

In December 2009, the Minister approved an increase to the daily spend limit on the BasicsCard from \$800 to \$1500, and the BasicsCard balance limit from \$1500 to \$3000 to make it easier for income managed customers to purchase larger items such as furniture and whitegoods.

Using the BasicsCard when travelling interstate

In response to ACOSS' comments around the difficulty customers find in using the BasicsCard when they travel interstate, Centrelink encourages customers to contact them prior to travelling so they can assist them to determine how they can access their income managed funds. Centrelink can provide alternative payment mechanisms to access funds such as stored value cards which can be used at most major retailers while travelling. There are also approved BasicsCard merchants in the Northern Territory, Queensland, Western Australia and South Australia however there are only a small number of stores approved for BasicsCard outside these areas. Centrelink can provide a list of merchants to income-managed customers for their information. From July 2010, Centrelink will be publishing a list of approved merchants on their website www.centrelink.gov.au.

Income management redirects 50 per cent of a customer's income support and family payments to be spent on priority needs, such as food, clothing, housing and household goods. Customers therefore also have access to 50 per cent of their welfare payment to spend at their discretion.