



Gt7707

Ms Jackie Morris
Committee Secretary
Senate legal and Constitutional Affairs Committee
Department of the Senate
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Parliament House
Canberra ACT 2600

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Re: Inquiry into the Appropriation (Northern Territory Emergency Response) Bill (No. 2) 2007-08

Dear Ms Morris

The National Welfare Rights Network (NWRN) is pleased to be able to provide the following brief comments for the consideration of the Committee. The National Welfare Rights Network (NWRN) is a network of 14 community legal centres throughout Australia which specialise in Social Security law and its administration by Centrelink. Based on the experience of clients of NWRN members, the Network also undertakes research and analysis, develops policies and position papers, and advocates for reforms to law, policy and administrative practice.

NWRN member organisations provide casework assistance to their clients in the form of information, advice, referral and representation. NWRN member organisations also conduct training and education for community workers, they produce publications to help Social Security recipients and community organisations understand the system and maximise their clients' entitlements.

Our comments relate specifically to the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007*. Given the short time-frame for the inquiry, our comments are necessarily brief.

Given the enormity and significance of the issues under consideration by the Committee, we hope that the Committee will give due attention to the issues raised in our submission.

Yours sincerely

Michael Raper
President, National Welfare Rights Network

1. Introduction

Outlined below is a brief summary of some specific concerns which illustrate the deficiencies of the proposed legislative framework.

2. Removal of appeal rights

All people living within the declared relevant Northern Territory areas are subject to income management however, unlike all other people who are subject to income management, are unable to appeal any decisions made under part 3B beyond the Centrelink internal review process.

We submit that this provision adversely discriminates against people living in these areas.

3. The overuse and lack of scrutiny of legislative instruments

Much of the detail of who is to be affected and how is not enshrined in the legislation itself but left to the Minister to define by means of legislative instruments.

Further, at least one such instrument, 123TE(13) of the Bill, which enables the Minister to declare new relevant Northern Territory areas in which residents would be subject to income management, is not subject to section 42 (disallowance) of the Legislative Instruments Act 2003, and as such will not be subject to Parliamentary scrutiny.

4. Priority needs

Legislative description of what will be considered a "priority need" is set out in section 123TH of the Bill. While the legislators appear to have tried to include all potential priority expenses, we consider this to be an impossible task. For this reason, we believe a discretion should be added to this section. Aside from the likelihood of the legislators having missed potential priority needs, given the length of time that a person may be subject to income management it would be impossible to predict all possible future priority needs. We submit that the only way to address this is to give the Secretary discretion to include other expenses as meeting the priority needs criteria.

5. Section 123UG exempt Northern Territory persons

The matters to which the Secretary is to have regard under this section relate solely to a person's geographical situation, for example, where they might ordinarily live. For similar reasons as those discussed in the "priority needs" section above, there needs to be a discretion to consider other grounds on which a person can be exempt from income management.

6. Adequate time to improve school attendance

Section 123UE does not adequately ensure that a person will have adequate time to try to improve their child's unsatisfactory school

attendance after receiving a formal warning. The section refers to the whole or part of an applicable school period, which in turn is to be determined by the Minister in a legislative instrument. In our opinion it would be prudent to ensure that a person should have at least the whole of an applicable school period.

7. Payments to third and fourth persons

A number of sections contained in Division 6 provide that amounts from a persons income management account can be utilised by or directed to third and even fourth persons with the consent of the first person. While we can see some utility in this we have grave concerns about potential abuse, particularly in domestic violence situations.

8. Independent appeals rights under attack in the Northern Territory

The right to appeal has always been a fundamental protection for Social Security recipients against bureaucratic neglect and error. However, the Government intends to remove the rights to external appeal to the Social Security Appeals Tribunal (SSAT) for Northern Territorians who are subject to the Income Management of their welfare payments. This sets a very dangerous precedent to strip away this protection for an entire group of Australians based solely on where they live. These decisions could have huge implications for families.

The Minister states that the alternative is to appeal to the Federal Court. This would require a barrister, enormous expense, the risk of paying the Government's costs and has a 28 day appeal limit.

A person would also have to know how to fill in an application for the Federal Court, and there is a scarcity of free legal assistance in the NT, with only one Legal Aid Office and only one generalist Community Legal Centre.

It is difficult to accept the Government's rationale as to why Indigenous communities in the Northern Territory are to be denied access to independent review of decisions relating to the quarantining of welfare payments when other Australians in other parts of the country will be able to exercise their full appeal rights.

Of particular concern to Welfare Rights advocates is that the Government's approach undermines efforts by Centrelink over recent years to improve the use of and awareness of the appeals system.

9. General inequities

We also note the following inequities:

- People subject to income management – Queensland Commission who receive Age Pension or Carer Payment will not have these primary income support payments affected by income management, unlike all other Age Pensioners and Carer Payment recipients who are subject to income management.
- Certain people in receipt of certain Veteran's payments cannot have their primary income support payment subjected to income management deductions. This is in contrast to people whose main income support payment is a Social Security payment.

10. Activity requirements in the Northern Territory

Welfare Rights has serious concerns about the impact of the wide-ranging changes that will affect large numbers of jobseekers in the Northern Territory and the Activity Requirements that they will now have to undertake.

One document that the Department of Employment and Workplace Relations entitled *Northern Territory Emergency Response Information for all Providers of Australian Government Employment Services (PAGES) including CWC, JN, DEN, VRS, JPET and PSP*, dated 24 July 2007, highlights the implications of the removal of CDEP and the acceleration of Remote Area Exemptions (RAEs) will have on local jobseekers.

Many Indigenous jobseekers, many who live in remote areas, on outstations and town camps, will enter the activity tested system facing other jobseekers.

For most jobseekers, the default position will be *Work for the Dole* (WFTD), as, realistically, there will be few "paid" jobs, at least in the foreseeable future. WFTD will be 15 hours a week and will generally be done on a permanent basis (that is, 12 months a year).

The DEWR document states that: "Job seekers assessed and referred to a Disability Employment Network, Personal Support Program, Jobs, Placement, Employment and Training or Vocational Rehabilitation Services provider (via the JCA where required) should be commenced as quickly as possible in the services." However, it continues on to make the extraordinary statement that: "In most instances, participation in WFTD will improve these job seekers employment prospects."

In non-Indigenous communities participants of these intensive support programs to get people ready for work and overcome multiple and entrenched barriers to employment are not seem as fodder for WFTD programs.

Personal Support Program can be given year exemption from looking for work, because it is acknowledges that they have multiple barriers to both economic and social participation and are nowhere near ready to work.

Disability Employment Network has participants with disabilities and other barriers to work, who need ongoing help and assistance to find and stay in work.

Welfare Rights believes that there duty of care issues in making these Indigenous Australians, who may have serious health conditions, undertake part-time work of 15 hours a week.

11. Medical certificate requirements for people living in town camps and outstations

The DEWR document later highlights the things the JNM's must tell the jobseeker. It states they must "advise them of the requirement to provide medical certificates for illness and incapacity." How is a person in a township or remote area supposed to find a GP to obtain a medical certificate so as not to fall foul off the tough compliance regime and avoid a "participation failure".

12. Indigenous eight week no payment penalties will soar

NWRN has grave concerns that the combination of policy changes in the NT, including the accelerated removal of remote area exemptions, the end CDEP and the mainstreaming of employment services to JNM's, will lead to an explosion of eight week no payment penalties amongst Indigenous job seekers. Little data has been made available by DEWR on the incidence of Indigenous penalties under the new compliance system since it was introduced in 1 July 2006, but data from Senate Estimates revealed that in the first three months of operation Indigenous Australians accounted for 29% of all eight week no payment penalties. Out of a total of 170 eight week non-payment penalties incurred in Western Australia over the period, 50 were Indigenous.

The impact of penalties on Indigenous communities is particularly severe. Indigenous kinship responsibilities may obligate community members to support one another and share resources. Multiple penalties incurred by a number of individuals in an Indigenous community may therefore lead to a considerable loss of resources. As Indigenous communities are often already experiencing extreme disadvantage, this may be particularly devastating.

13. Conclusion

The Welfare Rights Centre Sydney has grave concerns about the basic premise of withholding income support and family payments in an attempt to affect behaviour.

We are concerned that the measures proposed will not achieve the outcomes that the Government says it hopes to achieve by their



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introduction. The limited time provided to look at this complex legislation has meant that it is impossible to make detailed submissions about the numerous deficiencies, including gross inequities, fundamental unfairnesses and unnecessarily complex administrative provisions.