



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

**SOCIAL SECURITY AND OTHER
LEGISLATION AMENDMENT (WELFARE
REFORM AND REINSTATEMENT OF
RACIAL DISCRIMINATION ACT) BILL 2009**

Second Reading

SPEECH

Wednesday, 25 November 2009

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date	Wednesday, 25 November 2009	Source	House
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Questioner		Responder	
Speaker	Macklin, Jenny, MP	Question No.	

Ms MACKLIN (Jagajaga—Minister for Families, Housing, Community Services and Indigenous Affairs) (9.53 am)—I move:

That this bill be now read a second time.

This bill amends the social security law, the Northern Territory National Emergency Response Act 2007 (NTNER Act) and other laws giving effect to the Northern Territory Emergency Response (NTER).

It introduces landmark reforms to the welfare system which, over time, will see the national rollout of a new scheme of income management of welfare payments in disadvantaged regions across Australia.

Income management is a key tool in the government's broader welfare reforms to deliver on our commitment to a welfare system based on the principles of engagement, participation and responsibility.

Welfare should not be a destination or a way of life.

The government is committed to progressively reforming the welfare system to foster individual responsibility and to provide a platform for people to move up and out of welfare dependence.

The reforms included in this bill tackle the destructive, intergenerational cycle of passive welfare:

- By quarantining 50 per cent of regular welfare payments and 100 per cent of lump sum payments, to make sure money is spent on life's essentials and in the best interests of children.
- By setting objective and clear criteria that will determine if an individual is subject to income management.
- By offering evidence based incentives and responsibility targeted exemptions to families who demonstrate responsible parenting and to young people and long-term unemployed who take personal initiative through participation in education or training. Personal money management and saving will also be rewarded.

Individuals will also be able to voluntarily sign up to the new income management scheme and will be eligible for incentives when they do so.

From 1 July, 2010, the new scheme will start in urban, regional and remote areas of the Northern Territory, which has the highest proportion of severely disadvantaged communities in Australia.

Existing powers for income management in prescribed Indigenous communities will be repealed.

This bill honours the government's commitment to reinstate the Racial Discrimination Act 1975 (Racial Discrimination Act) in relation to the NTER legislation.

The bill also provides the legislative basis to underpin the sustainable, long-term development phase of the NTER. The government will continue to take strong action to close the gap in the Northern Territory, working in close partnership with Indigenous Australians, recognising that they are central to developing effective solutions and driving change.

Since November 2007, the Australian government has strengthened and expanded the allocation of resources to the Northern Territory Emergency Response, investing more than \$1.2 billion extra to help overcome decades of government failure.

However, the NTER will never achieve robust long-term outcomes if measures rely on the suspension of the Racial Discrimination Act.

Aboriginal people across the Northern Territory were consulted on eight measures outlined in the government's *Future Directions* discussion paper: income management, alcohol and pornography restrictions, five-year leases, community stores, controls on the use of publicly funded computers, law enforcement powers and business management areas powers.

The consultations were unprecedented in scale and conducted intensively over more than three months. More than 500 meetings were held.

The government has listened to what people had to say and has considered their extensive and valuable feedback. The consultations have informed our approach to the changes proposed through this bill.

The government believes that the NTER has improved the wellbeing of Aboriginal Territorians living in the prescribed areas. Nevertheless, the government recognises that much more needs to be done. The bill will strengthen the NTER by reinstating the Racial Discrimination Act. The government believes that all NTER measures are either special measures under the Racial Discrimination Act or non-discriminatory and therefore consistent with the Racial Discrimination Act.

Restrictions on alcohol and pornography will remain. The evidence shows that community solutions to restrict alcohol can be more effective than blanket restrictions and, for this reason, the government has decided to allow evidence based variations to the alcohol restrictions at the request of a community under certain circumstances.

The five-year leases under the NTER have been adjusted to ensure the areas involved are minimised and compensation is paid and to ensure that they are utilised in beneficial ways.

The community store licensing regime has been strengthened to further enhance food security in remote communities.

The law enforcement powers of the Australian Crime Commission will be adjusted so that the use of the special powers under the NTER are for the benefit of Indigenous victims of crime.

The government has decided to continue with the controls on the use of publicly funded computers and business management areas powers without change. The government considers these to be special measures.

While the consultations revealed a variety of views about income management, many participants reported that income management had delivered discernible benefits, particularly to children, women, older people and families.

More money was being spent on food, clothing and school related expenses; people were saving for large purchases such as fridges and washing machines; less money was being spent on alcohol, gambling, cigarettes and drugs; and 'hugging' had decreased.

From 1 July 2010, a new income management scheme will start across the Northern Territory—in urban, regional and remote areas—as a first step in a future national rollout of income management to disadvantaged regions. It will apply to all welfare recipients within the specified categories and is thus a non-discriminatory measure and consistent with the Racial Discrimination Act.

The Racial Discrimination Act 1975

This bill meets the government's commitment to introduce legislation into the parliament in 2009 so that the Racial Discrimination Act applies to the NTER.

A key feature of the bill is the repeal of provisions that modify the application of:

- the Racial Discrimination Act in relation to the NTER, the Queensland Family Responsibilities Commission and approved programs of work for income support;
- Northern Territory anti-discrimination laws in relation to the NTER and approved programs of work for income support; and
- Queensland anti-discrimination laws for the purpose of the Queensland Family Responsibilities Commission.

This bill also contains a number of amendments to the existing NTER measures. Apart from the income management scheme, which is designed to apply in a non-discriminatory fashion to any citizen in the Northern Territory within the specified categories, the government has redesigned a number of the other measures dealt with by this bill so that they are more sustainable and more clearly special measures under the Racial Discrimination Act.

The bill removes the provisions that deem the legislation and acts done under the legislation to be special measures, as those provisions could be said to have the indirect effect of suspending parts of the Racial Discrimination Act. However, this does not alter the fact that the government considers that the redesigned measures are special measures under the Racial Discrimination Act.

Special measures help people of a particular race to enjoy their human rights equally with others. They are an important part of the Racial Discrimination Act because they allow governments, when it is necessary, to make special laws to ensure the protection of the human rights of the people who need it most.

The government understands the important decisions that need to be made before introducing special measures. The government has given careful consideration to the need for these laws as a necessary and appropriate way to address the challenges facing Indigenous people in the Northern Territory and as part of the transition of the NTER to the long-term development phase. The NTER measures that are special measures are all time limited.

Alcohol Restrictions

Alcohol misuse continues to be a threat to the safety of Aboriginal women, children and the elderly and is one of the most serious issues facing Aboriginal people in the Northern Territory.

Under the NTER, new laws were introduced to ban drinking, possessing or supplying alcohol in or transporting alcohol into a prescribed area. There were a small number of exemptions to allow licensed premises with controlled drinking hours to continue to operate and provisions to monitor takeaway sales of alcohol across the whole of the Northern Territory.

Overall, a strong view emerged from the consultations that alcohol controls are required. Some communities wanted the existing strong restrictions to remain in place but there was a widespread view that the current one size fits all approach to alcohol restrictions may not be the most effective way to minimise alcohol harm.

The government will retain the existing alcohol restrictions but, with the Northern Territory government, will work with communities to implement locally negotiated alcohol management plans which meet a number of criteria.

These include hard evidence in each community that the proposed changes will lead to a reduction in the level of alcohol related harm in that area.

The government will closely monitor trends in alcohol related harm in communities and, if it is necessary, will have the capacity to reimpose alcohol measures.

The consultations showed also that many people felt a sense of shame and humiliation about signs relating to alcohol restrictions and prohibited material placed outside their communities. The government agrees that a more flexible approach to the placement and wording of signs is required, and the proposed changes to the NTNER Act reflect this approach. The proposed changes to the act remove the existing rigid requirements on where signs must be erected and allow more discretion on the wording used.

Northern Territory police were given the authority to, without warrant, enter a private residence and apprehend and take into custody a person who was believed to be intoxicated. In response to community concerns about these powers, the NTNER Act will be amended. Police will only have that power in a particular prescribed area if someone from that area has requested that police be allowed that power.

The existing provisions in the NTNER Act that relate to record keeping for takeaway alcohol services exceeding \$100 or of more than five litres of wine will be repealed because they have not been effective.

Restrictions on pornography

The Northern Territory emergency response also placed restrictions on the possession and supply of sexually explicit and very violent films, publications and computer games in prescribed areas of the Northern Territory.

These prohibitions have been retained following consideration of the views expressed during the consultations. Many respondents said that they did not want pornography in their communities and they wanted some form of restriction left in place.

This bill provides that, if people living in prescribed areas believe that the restrictions are no longer necessary, an application can be made to remove them.

Lifting restrictions will require consultation by the minister with law enforcement agencies and the Minister for Home Affairs. The history of violence or sexual abuse in the community will be taken into account, as well as any evidence that children have been exposed to pornography and whether residents believe that existing restrictions should continue to apply.

A declaration to remove the restrictions on prohibited material under the NTER legislation would mean that these areas would be subject to the same restrictions on sexually explicit and violent material as in other parts of the Northern Territory.

Law enforcement powers

The current provisions enable the Australian Crime Commission to use its powers in relation to serious violence or child abuse committed by or against, or involving, an Indigenous person.

The bill will restrict the use of powers to where serious violence or child abuse is committed *against* an Indigenous person.

This will ensure the Australian Crime Commission's use of its special powers in relation to violence and child abuse is for the benefit of Indigenous victims of crime.

Five-year leases

The government currently holds five-year leases over 64 Northern Territory communities. All leases expire by the end of August 2012.

This bill confirms the beneficial intent of the five-year leases to improve the delivery of services and promote economic and social development.

The bill ensures that the leases are permitted to be used for these purposes and not for other uses such as mining. It also ensures that administration of the leases must also follow guidelines on the use of land and be conducted in a manner which respects Aboriginal people and culture.

The government is committed to the progressive transition of the five-year leases to voluntary leases and the bill obliges the Commonwealth, at the request of landowners, to negotiate voluntary leases in good faith. The leases have already been improved by a substantial reduction in lease boundaries and the payment of rent has commenced, based on independent valuations undertaken by the Northern Territory Valuer-General.

Community stores

This bill supports the government's ongoing commitment to build a best practice model for the operation of community stores, reflecting their contribution to the health and wellbeing of Aboriginal people.

Under the Northern Territory emergency response, community stores in prescribed areas of the Northern Territory are able to be assessed and licensed if they meet requirements.

This bill provides an explicit food security objective for stores licensing and establishes a legislative link between community store licensing and the eligibility of a store to participate in the income management arrangements.

The new provisions strengthen the governance of community stores and provide a wider range of options to intervene where stores are not meeting licensing requirements. The amendments also provide for review of key licensing decisions by the Administrative Appeals Tribunal.

Income management

Income management helps people to order their lives and provide for their children. It operates at the day-to-day level of people's lives, giving them access to the basics of life by reducing the amount of welfare funds available for substance abuse and other risky behaviours. This in turn provides a pathway for their participation in the broader economy and society.

The government has already implemented a range of strategies in the interests of children including:

- the Cape York welfare reform trial in Queensland;
- income management for child protection in Western Australia;
- the school enrolment and attendance measure in the Northern Territory and Queensland;
- voluntary income management in Western Australia; and
- the learn or earn strategy, which puts requirements on parents and young people to make sure those young people are participating in education, training or employment.

The measures included in this bill build on and expand these strategies.

In the Northern Territory, more than half of parents interviewed in four prescribed areas for an evaluation of income management compiled by the Australian Institute of Health and Welfare (AIHW) reported that their children were eating more, weighed more and were healthier.

The Northern Territory emergency response redesign consultations identified that income management had delivered discernable benefits. While there was a divergence of views, the majority of comments said that income management should continue. In the tier 2 meetings, people frequently said that income management should apply to all welfare recipients across Australia.

The government recognises the benefits that income management can have for other disadvantaged regions.

From 1 July 2010, a new scheme of income management will begin to be implemented, as a first step, in the Northern Territory. The Northern Territory has the highest proportion of severely disadvantaged locations in Australia.

The categories of people that the new income management arrangements will apply to are:

- people aged 15 to 24 who have been in receipt of specified payments for more than three months such as youth allowance and parenting payment;
- people aged 25 and above on specified payments such as Newstart allowance and parenting payment for more than 12 months;
- people referred for income management by child protection authorities; and
- people assessed by Centrelink social workers as requiring income management due to vulnerability as a result of financial crisis, domestic violence or economic abuse.

The government has chosen these groups based on their need for support due to their high risk of social isolation and disengagement, poor financial literacy, and participation in risky behaviours.

In addition, people can choose to voluntarily opt into the income management arrangements.

The new scheme allows people in the first two categories to seek exemptions from income management by providing evidence that they are undertaking responsible parenting, or, for those without children, engaging in study, or participating in employment. The new scheme will also include incentives for voluntary income management, and a matched savings scheme for participants in compulsory income management. This reflects our commitment to using income management as a tool to assist people.

The operation of the new scheme of income management in the Northern Territory will be carefully evaluated. The first evaluation progress report is expected in 2011-12. The other income management trials currently

underway in Western Australia and Queensland will also continue to be evaluated. Future rollout elsewhere in Australia will be informed by the evidence gained from this evaluation activity. Future implementation will also be informed by other criteria, including evidence of disadvantage in other regions of Australia and consideration of where income management could benefit individuals and families.

To assist future decision making, the government will also be offering a limited number of interested Aboriginal communities in the Northern Territory the opportunity to consider the development of an additional community-based approach to re-establishing social norms, drawing on the learnings from the Cape York welfare reform trial.

The new scheme of income management has been designed to be non-discriminatory for the purposes of the Racial Discrimination Act. The Racial Discrimination Act will apply in relation to the new scheme of income management from commencement of implementation in July 2010.

The government has set out its approach to the legislation in a policy statement. The measures contained in this bill give effect to the government decisions outlined in that statement.

Conclusion

This bill meets our commitment:

- to re-instate the Racial Discrimination Act and its application to the Northern Territory emergency response;
- retain the benefits of welfare reform; and
- to extend the benefits of income management to the wider community.

It provides a stronger legislative basis for the current Northern Territory emergency response measures and lays the foundations for sustainable development across remote communities in the Northern Territory.

It demonstrates our commitment to sustained, long-term action in the Northern Territory, working in partnership with Indigenous Australians to develop and drive policies and programs to close the gap.

The bill tackles, on a national scale, the entrenched cycle of passive welfare through a new system of income management and incentives to support people moving from welfare to personal responsibility and independence.

The bill reflects the government's determination to put children and families at the centre of our welfare reform agenda.

I commend the bill to the House.

Debate (on motion by **Dr Stone**) adjourned.