

Summary of Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007

Income Management Regime

- The Bill sets up an income management regime, by insertion of a new part 3B into the *Social Security (Administration) Act 1999* (“**SSA**”), together with consequential amendments to other legislation, giving the Commonwealth in the Northern Territory and the Queensland Commission the power to regulate in whole or in part expenditure of income received through social security payments for:
 - a person who satisfies “the test” (see Part 3B, Div 2; see below) and lives in a declared relevant Northern Territory area (a relevant Northern Territory area is prescribed by the Bill) with Kalkarindji (Wave Hill) and Aputula (Finke) specified as such relevant areas in the Bill - cl.123UB SSA;
 - a person who a child protection officer of a State or Territory requires be the subject of the regime - cl.123UC SSA;
 - a person, or the person’s partner, has a child that does not meet school enrolment requirements - cl.123UD SSA;
 - a person, or the person’s partner, has a child who has unsatisfactory school attendance - cl.123UD SSA;
 - a person who the Queensland Commission (to be established) requires to be the subject of the regime - cl.123UF SSA.
- The Bill defines Part 3B and acts done, including those done by the Queensland Commission, under or for the purpose of the part or the income management regime as “special measures” under the *Racial Discrimination Act 1975* (“**RDA**”), and also excludes them from the operation of Part II of the RDA. The Bill also excludes the operation of any anti-discrimination laws of Queensland or the Northern Territory that would otherwise apply and has validation provisions.

Activity Agreements

- The Bill similarly prevents the RDA and Northern Territory anti-discrimination legislation from applying to implement guidelines or other acts done for the purpose of determining the terms of a “relevant activity agreement” in relation to an approved program of work for income support payment to a person ordinarily resident in a relevant Northern Territory area, for the following activity agreement types:
 - Parenting Payment;
 - Youth Allowance
 - Newstart; and
 - Special Benefit.
- Unlike the income management regime these provisions will affect any person who is ordinarily resident in a relevant Northern Territory area.

Territoriality

- The Bill refers to certain powers being conferred on the Minister to make declarations about any State or Territory: see cl.123TG SSA, however it is apparent that the Bill is directed to immediate operation in the Northern Territory.

Schedule 1—Income management regime

Part 3B - Income management regime

Division 1 - Introduction

Categories of Welfare Payments

- There are several wide categories of welfare payments defined in the Bill including:
 - a social security benefit;
 - a social security pension;
 - payment under ABSTUDY;
 - a service pension;
 - income support supplement; and
 - Defence force income support allowance.

Declared relevant Northern Territory Areas

- A determination by the Minister that a relevant Northern Territory Area is a declared relevant Northern Territory Area may remain in force for up to a 12 month period, however it may be extended for further 12 month periods.
- Interlocutory relief from a decision to make a determination or extension thereof may only be obtained from the Court if satisfied that there are exceptional circumstances.
- A determination is not a disallowable instrument.
- The Minister's obligations before making a determination include requiring him to have regard to:
 - the availability of information setting out the proposal to make a determination and consequences of an income management regime on a person in the area;
 - the opportunities that have been made available to people in the area to discuss with employees or officers of the Commonwealth a proposal and its consequences.

Priority Needs

- A person's priority needs are listed at cl.123TH SSA.
- Excluded goods and excluded services (cl.123TI SSA) include alcohol (defined as 1%), tobacco and pornographic material which includes films publications etc with an RC or X 18+ rating and gambling.

Division 2 - Persons subject to the income management regime

Subdivision A - Situations in which a person is subject to the income management regime

Persons may be subject to one of the specified regimes according to a test of:

- whether the person was physically present in the NT overnight at any time since 21 June 2007 and received a category of welfare payment ending at the end of the most recent instalment payment;
- has a payment nominee;
- is not captured by the other income management regimes.

Some procedural features of the specified regimes:

- Child protection
 - the Bill provides for a state or territory to be a declared area affected by the operation of the legislation;

- the Bill does not specify the grounds upon which a child protection officer may require a person to be the subject of an income management regime.
- School enrolment
 - the Bill provides for primary and secondary schools to be declared areas affected by the operation of the legislation;
 - The Minister may issue a notice requiring a person to provide evidence of school enrolment.
- School attendance
 - The Bill provides for the Minister to define whether or not unsatisfactory school attendance situation exists by legislative instrument.
 - There is provision for a warning to be issued.
 - There is provision for the Minister to determine that a person is exempt from being subject to this category of income management regime - the determination is to be made according the criteria specified in the Minister's legislative instrument.

Subdivision B - Exempt Northern Territory persons

- The Secretary may, by written notice to a person, determine that the person is exempt from Part 3B in relation each relevant NT area or specific relevant NT areas, and must have regard to:
 - family and kinship relations;
 - the area in which the person is physically present overnight;
 - the area in which the persons assets are located;
 - if the person has travelled outside the relevant NT areas;
 - frequency, duration and reason of that travel etc.
- A determination made in relation to each relevant NT area may be made by legislative instrument.

Subdivision C - Additional provisions relating to school enrolment and attendance

Division 3 - Establishment of the Income Management Special Account

- The Special Account is not to be held on trust

Division 4 - Income management accounts

Subdivision A - Income management accounts

- The Secretary may open an account for a person whether or not the person is not subject to the income management regime
- A person may only have one account.

Subdivision B - Account statements

- A person is entitled to request an account statement each 30 days.
- The Secretary must give a person an account statement each quarter if there was activity or it has a credit balance.

Subdivision C - Miscellaneous

- Where a person ceases to be the subject of the regime and the Secretary is satisfied that the person is not likely to be the subject of the regime within the next 60 days the account may be closed and balance reimbursed, subject to payment of debts to a third party or fourth party (with the consent of the person) and is to be paid in a manner determined by the Secretary within 12 months.

Division 5 - Deductions from welfare payments

Subdivisions A, B, C, D and E

- Between 50% and 100% of a person's welfare payment - determined according to the Category of payment and income management regime - may be deducted and diverted into the Special Account.
- Deducted amounts are taken to have been paid for the purpose of income tax law etc.

Division 6 - Debits from income management accounts

Subdivisions A, B, C and D

- The Bill provides for the Secretary, if aware of a priority need of the person, the person's partner, the person's children or any other dependants, to within a reasonable period take appropriate action directed towards meeting those priority needs.
- The Secretary must have regard to the best interests of the children.
- The Secretary must not unreasonably refuse a request from a person to have deducted income in the Special Account applied to non priority needs, provided that the debit would not cause the account to fall below what is reasonably required to meet the current and reasonably foreseeable priority needs of the person.
- The Secretary may issue vouchers to a person for a specified amount, or stored value cards, from funds drawn from the Special Account.

Division 7 - Information

- Coercive information gathering powers and disclosure exceptions are conferred on the Secretary

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