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STANDING COMMITTEE ON COMMUNITY AFFAIRS

Reference: Family Assistance and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2009

TUESDAY, 28 APRIL 2009

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**SENATE STANDING COMMITTEE ON
COMMUNITY AFFAIRS**

Tuesday, 28 April 2009

Members: Senator Moore (*Chair*), Senator Siewert (*Deputy Chair*), Senators Adams, Bilyk, Boyce, Carol Brown, Furner and Humphries

Substitute members: (As per most recent Senate Notice Paper)

Participating members: Senators Abetz, Back, Barnett, Bernardi, Birmingham, Mark Bishop, Boswell, Brandis, Bob Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hanson-Young, Heffernan, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlam, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Stephens, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: (Insert, in alphabetical order, the names of senators provided by committee secretary)

Terms of reference for the inquiry:

To inquire into and report on:

Family Assistance and Other Legislation Amendment (2008 Budget and other Measures) Bill 2009 [provisions]

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Committee met at 1.03 pm**ALTMAN, Professor Jon Charles, Private capacity**

CHAIR (Senator Moore)—Our inquiry this afternoon is into the provisions of the [Family Assistance and Other Legislation Amendment \(2008 Budget and Other Measures\) Bill 2009](#). Welcome, Professor Altman. We have your submission—thank you very much. Do you have any comments to make on the capacity in which you appear today?

Prof. Altman—I appear in an individual capacity but also as Director of the Centre for Aboriginal Economic Policy Research at the Australian National University.

CHAIR—Thank you. The small number of members here today does not reflect the interest in this bill; it is rather the workload and the other committees that are meeting around the country. But your evidence will be in *Hansard* and available to the whole committee. I invite you to make an opening statement and then we will go on to questions.

Prof. Altman—Thank you very much. I will just say a few things. There comes a time when one needs to continue to reiterate that a policy direction that a government is taking—in this case, the Rudd government and the abolition of the CDEP, the Community Development Employment Project scheme—is wrong. This direction is wrong structurally and wrong because of the economic downturn, which is being interpreted by most as just cyclical. It is also, I should add, morally wrong because in October 2007 the government, when in opposition, committed to reinstate, not effectively abolish, CDEP.

The complex changes to the Social Security Act that this committee is looking at have been brought about by the clumsy process developed to dismantle the CDEP scheme. Policy reasons for these appear to be twofold. First, CDEP is inferior to properly paid work, which no-one questions, including those who choose to exit CDEP when such work is made available. Second, CDEP is inequitable with Work for the Dole, which is true, but this inequity is what makes CDEP worse. Giving most CDEP participants less pay and less work will not assist their predicament.

At a time when we hear much talk of middle-class welfare and industry welfare, the equity concern seems rather disingenuous as a reason to dismantle CDEP, as one is left with the first policy argument, which is empirically disproven with the government's own provision of jobs, especially in the Northern Territory, under programs such as Working on Country and other properly paid positions in community services, which CDEP participants exit to when available.

Inactivity, especially intergenerationally, has terrible social consequences in many Indigenous communities, as it would anywhere else, and yet the proposed reform to CDEP is likely to create more inactivity, not less. This is because, while reform will move people into some public sector funded work, it will not address the structural circumstances of most Indigenous communities linked to remoteness, historical neglect and an inadequate economic base. Nor does it address the likely problems associated with the disempowerment of community controlled organisations and the growing dominance of the state in such communities, a situation that has existed historically with poor outcomes. There is a suggestion in all this that a top-down, externally imposed project of improvement will work better than bottom-up, community controlled local knowledge, which a vast development literature and comparative experience indicates is wrong. At the heart of CDEP's success are community organisations with the capacity to drive projects and to unite often politically divided communities to common development action for improvement. Such an approach needs to be replicated, not undermined.

It is reported by FaHCSIA that there are only about 17,000 CDEP participants remaining, although I question this figure in our submission. If it is correct, though, it would be interesting to know what has happened to the about 20,000 who have moved off CDEP in the last three years. Some figures in our submission suggest that more than 40 per cent are moving to income support, but in remote Australia I would estimate that this figure is likely to be far higher, possibly as high as 70 per cent, depending on the number of jobs made available.

The number of CDEP participants will decline further from 30 June this year in non-remote Australia, while in remote Australia two categories of CDEP participants will emerge incrementally from 1 July: existing grandfathered participants and new entrants. Those grandfathered will be able to work more, earn more and have a more benign income taper—arguably features at the heart of CDEP's success—while those who join after 1 July will be treated no different from other income support beneficiaries. They will only earn welfare equivalent and have limited capacity for top-up work or wages beyond the free zone available to others. This is

inequity writ large. It is also likely to undermine incentives for organisations to perform, given that they only have a wage subsidy time frame of two years until grandfathering provisions end. It is because of this reform that we are seeing the complicated administrative issues that this committee is looking at.

In my view—and I have made this clear now on a number of occasions—effectively abolishing CDEP within a limited time frame is creating an administrative nightmare, and this is poor policy making. What Aboriginal communities need is productive activity, community control and development of organisations, capacity and community infrastructure. What government should be targeting is long-term unemployment in these communities, which is currently of similar proportions as CDEP participation in terms of numbers and is likely to get far higher quickly.

In structural terms, the absence of commercial opportunity means that we need to think creatively about how to grow meaningful activity, and we need to be realistic about how long such a development process might take. We will not close the employment gap even with CDEP in the immediate term, and even in the long term it is unlikely that Indigenous communities will be subvention free, especially in remote regions, like much of non-Indigenous remote Australia.

I end by appealing yet again to this committee to advocate for a serious reconsideration of the government's decision to affectively abolish CDEP and the intended and unintended negative consequences that are likely to occur because of this decision, especially at this point in the Australian macro-economic cycle when we are going to see growing unemployment rather than growing employment.

Senator SIEWERT—You mentioned in your proposal that we are now going to have to bifurcate—as I think you put it. Basically we are now going to have two categories under the CDEP. We already have problems with the Racial Discrimination Act. Is that a further problem with the RDA?

Prof. Altman—I do not see an RDA issue in this because I think this is being done to all participants in the scheme. It is interesting, because of course historically in the scheme you used to have Indigenous and non-Indigenous Australians, but now that has changed and it has become an Indigenous-specific program. I guess you have a change in terms of the time frame in relation to the program. According to one point of view, what you are doing with grandfathering is giving people a two-year opportunity to continue the status quo. In my opinion, if you are going to effectively abolish the scheme, I think that the two year grandfathering period actually does introduce an administrative complexity rather than one that is differentiating people on the basis of race.

Senator SIEWERT—Can we go through those numbers again. You have gone through them in your submission but you have also talked about the number of people participating and the number of people who are going to be affected. There is anecdotal evidence that suggests that a lot of people have in fact dropped out of the system, but other information that I have had from estimates indicates that the previous compliance regime impacted disproportionately on Aboriginal people; the number of breaches went up. Certainly the anecdotal evidence that I have had is that people got rolling breaches and then disappeared from the system. I have concerns about the number of people. Do you have any evidence or information that would indicate the number of people this has happened to? Also, my strong concern with these changes is that we are going to see more people come up against the new compliance, and we may see the same thing happening because there will be a cohort of people that have never been in the income support system; they have been in CDEP.

Prof. Altman—I think your concerns are well grounded. Historically we know that Indigenous people do run the risk of greater breach rates with the income support system, the welfare system. There is a risk that, as people shift from working from the community based organisations under CDEP and become accountable to Centrelink offices, the breach rate might increase. There is a risk that people will leave income support and basically exit either the labour market or the social security system. That is a risk.

One of the very positive elements of the CDEP scheme is that people were employed by their community based organisations that knew a great deal about their 'clients', who were generally members of these community organisations. What you are going to do now—and this is the way I see it anyway—is have different participants accountable to different organisations in different ways. One will be a community controlled organisation and another will be a state agency. I think that is potentially extremely problematic.

Senator SIEWERT—Will they be accountable to both in some instances? They will, won't they?

Prof. Altman—It is a little unclear to me. From the way I read it new participants will be getting their income support from Centrelink but probably the reporting will come from the community based organisation. From the perspective of a CDEP organisation, how do you explain to your membership that you now have two

categories of client? And, again from the perspective of that organisation, isn't it likely that any dissatisfaction with that new system is going to be, if you like, grounded with the organisation rather than being grounded with a remote government that has imposed this change in direction?

Senator SIEWERT—Can I take you back to the question I first asked, and I realise I asked multiple questions. In the research you have been doing have you had any indication of the numbers or that what we have been hearing anecdotally has in fact happened—and that is people are dropping out of income support completely, so they do not show up in the figures anymore?

Prof. Altman—We certainly have not got any empirical evidence for that. At a more general level, it concerns me that there is a real lack of transparency about the number of CDEP participants and where they are located. I guess if I go back now three or four years to when CDEP was administered by ATSIC one could get very accurate data about the number of participants, where they were located and the activities in which they were participating. That sort of information is just not readily available from DEEWR or FaCSIA at the moment.

The latest information that we have received is that there are only 17,000 people still participating in CDEP. We question that and we question whether that includes the Torres Strait. Also, when we have asked for a breakdown between remote and non-remote Australia, we have been told that we cannot get that information. When the first round of CDEP abolition comes in on 1 July this year we will not know how many people in non-remote Australia will be moved off CDEP and then of course we also will have no sense of how many of the participants after 1 July are likely to be grandfathered as distinct from new entrants.

The way people leave CDEP is to either get another job or go into unemployment, but often what happens is they get breached from CDEP by their own organisations because they have gone on extended leave or do not turn up for work. These community based CDEP organisations hold people accountable, so they can breach them as well. That will generate places for new entrants, but it is quite unclear how the mix between old and new participants in the scheme might unfold.

CHAIR—Have you always had this difficulty getting figures?

Prof. Altman—It has certainly been difficult to get figures since about 2005. There seems to have been a different culture of accountability in relation to CDEP. ATSIC used to publish information annually in the annual report—

CHAIR—Regularly, yes.

Prof. Altman—But since DEEWR took over CDEP during the Howard years and it was treated as a labour market program, figures became increasingly hard to come across. Increasingly we have had to rely on resources like the census and the labour force survey to get a sense of how many people are on CDEP. I was quite surprised when FaCSIA informed us that there were only 17,000 people still on the scheme, which again suggests to me one way or another through either exits or abolitions we have lost about 20,000 since about 2004-05.

CHAIR—If it has gone to 17,000—if that figure is the publicly accepted figure—you have not been able to ascertain what has happened to the gap? You have not been able to get that information from anybody?

Prof. Altman—No.

CHAIR—We will be asking the department this afternoon.

Prof. Altman—The best figures we have are for the Northern Territory where we know approximately 1,100 have now moved to properly funded employment.

Senator SIEWERT—That is 900 fewer than they said were going to.

Prof. Altman—It still leaves, according to the government's figures, 6,600 on CDEP.

Senator SIEWERT—We are assuming 6,600 are still on CDEP?

Prof. Altman—I think that was the figure that was given in the recent update on the Northern Territory emergency response intervention.

Senator SIEWERT—In paragraph 10 of your submission you say—and you touched on this before—that the most disadvantaged groups, including Indigenous Australians, are the worst affected in terms of job losses when we are going into an economic crisis, and you have referenced that there. One issue that has been raised with me is that, particularly with the Aboriginal Australians who have moved into real jobs or been taken on through the new job creation schemes—the Twiggy Forrest examples—they are last on so they will be the first

off. It is going to be harder to get jobs for Aboriginal Australians but where they have recently gained employment are they then likely to be the first put off? Is that the reality or a myth?

Prof. Altman—Generally in labour market economic literature that would be regarded as the reality. We do not want to overlook the fact that 20,000 Indigenous Australians did gain employment over the five years between 2002 and 2007. I agree with you that we need to watch very carefully how many of those 20,000 might be laid off in relation to existing employment because they would have been late entrants into the labour force.

Again, while it is very hard to get firm figures, certainly discussions that I have had with some mining companies suggests that while every effort is being made to preserve Indigenous positions in large mines, Indigenous workers are not fully protected from the downsizing that you will see. So you can expect some proportion to lose their jobs. In some situations, they may be advantaged because they are local people; they are not fly in, fly out. Also, it depends on what position they fill at a mine site. But nevertheless, I think there is a real risk that not only will you see growing unemployment as CDEP is abolished, as employed CDEP participants become unemployed, but also you are likely to see that some of those 20,000 new jobs are also shed and so you are likely to see a growth in Aboriginal unemployment. There is a paper on the CAEPR website that Boyd Hunter recently published that looks at this issue quite carefully, including by industry sector.

Senator HUMPHRIES—You said in your opening remarks that we would all agree that a full-time job is a better alternative than CDEP. What has been put to me is that CDEP has been around for 30 years and it has become, in many communities, a crutch which effectively acts as a barrier for people to transition to full-time work because this easier option is available. What you have said suggests that in many communities that is just not true, and I could accept that. But isn't there still some force to the argument that while CDEP operates widely across Indigenous Australia, it will in many cases effectively be a barrier to full-time proper employment and that to transition towards a more normalised working environment, you need to greatly minimise the accessibility to CDEP, if not abolish it altogether?

Prof. Altman—I do not disagree with what you say, but I do think you need to look at the labour market situation and labour market opportunities community by community. What you will find in most communities is that there is some what you might call full-time or proper employment, because that proper employment may in fact be structured in a less than full-time way, as it often is with the Working on Country program. It might be structured as 26 or 30 hours per week. But you are also going to find in those communities that, as well as CDEP employment, you also now have Work for the Dole, so you basically have three categories of opportunity. I would argue that CDEP, which almost represents a form of secondary labour market, is far superior to people being on Work for the Dole or being inactive. My argument would be, to use your metaphor of a crutch, that it is probably better to have crutches than to have none in these sorts of circumstances. It is better to recognise that we will never have in the foreseeable future adequate full-time employment for everybody who wants work, so we are better to structure the balance of the people of working age population to become actively engaged in CDEP.

In saying that, I do recognise that in some communities, CDEP works exceptionally well and in others it works very badly. Again, the challenge we face is to recognise that where we run a CDEP program, we really should be doing that in a fair dinkum way so that people are given an opportunity to engage productively and work or to participate in training, to have additional hours of work and to have the capacity to earn additional income. They are the positive things you see where CDEP is working properly. And then the evidence says that when people participate, possibly over several years, in CDEP, when a properly paid job comes along, they are able to exit into that position. It is no surprise that when programs like Working on Country came along, the people who took up those opportunities exited CDEP. They were not coming from the long-term unemployed, they were coming from people who were, in that local circumstance, relatively work ready and relatively well trained. It is CDEP that provided them with that stepping stone, if you like, to that proper employment. I guess I do not buy the argument that the wholesale abolition of CDEP will somehow give people incentive to move to full-time employment, even if that full-time employment were available. In most circumstances, we know that adequate full-time employment just is not there at the community or regional level.

Senator HUMPHRIES—If we accept that the goals should be to transition as many people as possible into full-time employment, are you arguing for a discretion based approach towards communities, where you say, 'These are the sorts of jobs we can potentially create here and we'll help the provision of those jobs, but for

those areas where we can't provide a full-time job, we will have CDEP as a fallback,' and you take each community on a case-by-case basis?

Prof. Altman—Absolutely. That is what I am advocating, that you look at opportunities and you look at them in a rigorous way, which I think we do not tend to do on either a community by community basis or a regional basis. You also look at people's aspirations because that is important. In many situations people are not looking for full-time work, but they might be looking for properly paid part-time work, and that is an aspiration that is shared by several million non-Indigenous Australians who also have a preference for part-time work. But the main thing I would be emphasising is that by focusing too much on CDEP, we are overlooking a high-level problem in these communities—that is, lying behind CDEP are many people who are long-term unemployed, who cannot even become CDEP participants. What I would be arguing is that we should be growing the number of CDEP participants, bringing in those who are long-term unemployed, to give them work experience, opportunity for training, opportunity for structured work for a community-based organisation, and it can be in community services or it can be in enterprise development—whatever area you want. But in all of this debate about CDEP, we are overlooking the fact that there is probably a larger number of people who are long-term unemployed than people who are participating in the CDEP scheme. I think policy focus should be on those people to a greater extent than on CDEP.

Senator HUMPHRIES—Can I put to you another point of view—that is, in a large number of remote Indigenous communities around Australia, normal jobs are effectively a mirage and that the best you can do is create pretend jobs, that in reality a better long-term policy would be to say that we might expect some migration of younger people out of those communities into larger regional communities or capital cities to find work in much the same way that a lot of non-Indigenous Australians leave small country towns and go to the big smoke to get a job. Is there any strength to that argument in your opinion?

Prof. Altman—I think in some situations you will see young people migrate for employment. In some situations you might see that migration being circular—in other words, them exiting the home community for a period of employment but then going back. I do not have a problem with a large proportion of employment in remote communities being public sector funded. I think that is not unusual in many remote circumstances in Australia. But I do think that you have to be cognisant of the fact that Indigenous people—again, without making blanket statements—in many situations have a much stronger connection to country and place than other Australians who, research shows us, are much more open to migrating for employment than Indigenous people.

The other comment that I would make—and I made it in my opening statement, but maybe I made it too quickly—is that I think our policy approach in the last two or three decades has not focused enough on developing an economic base in these remote places. I think part of what we are seeing is a legacy of that. I would also add that now, as we are seeing fundamental changes in our views about security of water, climate change and emerging new industries like carbon abatement and sequestration, with the right investments there might be far more employment opportunity in these remote communities than we might have thought historically.

So I think, again, what we need to do in a policy sense is look at regions one by one and look at communities one by one and undertake an audit of what is available in terms of opportunity, what opportunity could be grown and what is the capacity of the labour force and the population to take up these opportunities. I am not saying that is something that can happen very quickly but, again, many of these employment problems have been with us now for a very long time, and maybe we need to start recognising that we need to start thinking about these solutions as a longer term process rather than thinking that quick abolition of CDEP will force people into real employment or that quick abolition of CDEP will see some sort of exodus of the Indigenous labour force to other urban centres where, again, the evidence suggests people will find it just as hard to get jobs as they do in remote localities.

CHAIR—We do apologise for running out of time, Professor. If there is anything you think we have not covered sufficiently, given your evidence and your submission, please let us know, please get back to us. I know you have followed this so closely and will continue to do so. When you have a look at it and you think we have missed something that you would like to have on record, please do so. We thank you for your ongoing interest.

[1.37 pm]

BEAUMONT, Ms Kate, President, National Welfare Rights Network Inc.

BOLTON, Ms Genevieve, National Liaison Officer, National Welfare Rights Network Inc.

THOMAS, Mr Gerard, Policy and Media Officer, National Welfare Rights Network Inc.

Evidence from Ms Beaumont was taken via teleconference—

CHAIR—Welcome. You have information on parliamentary privilege and the protection of witnesses. We have your submission: thank you very much. If any or all of you would like to make an opening comment, you can, and then we will go to questions. Have you worked out amongst yourselves who is going to do that?

Ms Bolton—Yes, Kate, as president, will make the opening statement.

CHAIR—Ms Beaumont, the floor is yours.

Ms Beaumont—I wish to thank the committee for providing us with the opportunity to talk to you today. We are appearing on behalf of the National Welfare Rights Network, a national network of 14 community legal centres which specialise in delivering information and advice about social security, law and policy to clients all around Australia. During the last year, the National Welfare Rights Network has facilitated and supported the secondment of four welfare rights workers working in the Northern Territory providing social security assistance and advocacy to those impacted by the Northern Territory intervention. The perspective which we bring to this inquiry is derived from the casework we undertake on behalf of our clients, including the experiences gained in our work in the Northern Territory.

We wish to set out some of the key issues we see in relation to the impact of the provisions of the proposed bill. At schedule 1 it incorporates changes to remove the delivery of family tax benefit, including claims for past periods from the Australian Taxation Office. At schedule 2 it extends appeal rights to the Social Security Appeals Tribunal to decisions made under part 3B of the Social Security (Administration) Act and particularly the Northern Territory income management category. At schedule 3 it includes major changes to the Community Development Employment Project, which will see a two-tiered CDEP scheme in operation from 1 July 2009 until the eventual removal of CDEP from 1 July 2011.

The National Welfare Rights Network is broadly supportive of schedule 1 of the proposed bill, which relates to the removal of the option of claiming family tax benefit through the Australian Taxation Office, including claims for past periods. The current family taxation system, introduced in 2001, permitted families the choice of delivery through direct fortnightly instalments from Centrelink or the taxation system from the ATO as a lump sum payment. Since its implementation family tax benefit has been riddled with issues in its design, which have resulted in far too many families ending up with debts that should have been avoided. One major flaw with the current system is that different assessment methods are used, as claims made through the ATO are subject to self-assessment whilst those made through Centrelink and Medicare are subject to a decision-making process.

From our casework experience, the differential processes resulted in inconsistencies and were particularly vulnerable to error, which often resulted in debts, especially in shared-care cases. These debts when challenged administratively were routinely overturned, as the claims made through the ATO were often unscrutinised and unsubstantiated. The proposed changes will still allow individuals the flexibility to choose to be paid in a lump sum rather than to receive fortnightly instalments to avoid incurring family tax benefit debts, although these will be delivered through Centrelink and Medicare rather than the ATO. The National Welfare Rights Network supports the changes to achieve consistency in decision making.

The second schedule of the proposed bill relates to addressing an area that the National Welfare Rights Network has long believed required urgent action from the government and which is in line with one of the recommendations of the Northern Territory Emergency Response Review Board. The schedule removes the barrier contained in the Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007 that stipulated that decisions made under the Northern Territory income management category in part 3B of the Social Security (Administration) Act were not subject to review by the Social Security Appeals Tribunal. The current provisions bar decisions made under the Northern Territory income management category from access to any external review or scrutiny available for other decisions made under social security law.

Whilst the National Welfare Rights Network are supportive of the proposed change, we remain concerned that despite providing access to external appeals this will not result in any discernible change as long as other deficiencies in the construction of the Northern Territory income management legislative provisions are not addressed. Specifically, we highlight that the legislation permits only very limited exemptions from the income management regime for those who reside in a declared Northern Territory area, thus making challenge of decisions in the first instance or through the appeals system a futile exercise. Again, the National Welfare Rights Network call for an end to the current blanket application of compulsory income management in the Northern Territory and urge the committee to give serious consideration to this issue in its deliberations.

The third schedule of the proposed bill will have the most impact, as it relates to major reforms of the Community Development Employment Project scheme, which will see CDEP phased out completely by 30 June 2011. CDEP has been a major employment program within Indigenous communities since its establishment in 1977 and has been, in our network's view, a preferred alternative to unemployment or reliance on income support. Whilst the CDEP has enjoyed mixed success, it has provided significant infrastructure and services in remote Indigenous communities through the provision of services which would not have been provided if left to government. Though the government has announced that there will be a jobs package to allow for conversion of CDEP positions in government service delivery to properly paid jobs, it is unlikely that all CDEP jobs will be replaced.

Whilst our network acknowledge our area of expertise lies in social security law rather than in relation to employment programs per se, we are well aware of the potential outcomes of the phasing out of CDEP. From 1 July 2009 all new CDEP participants will receive income support payments rather than CDEP wages or CDEP supplement. These new CDEP participants on income support, if in declared Northern Territory communities, will also be subject to income management, whereas CDEP wages have not been subject to income management in the past. Those who are continuing on CDEP after 1 July 2009 will retain access to CDEP wages and CDEP supplement.

The practical effect of the bill will be to create two schemes for participants, with differential treatment of old and new participants on CDEP that will add an extra dimension of complexity. Additionally, if continuing CDEP participants have a break of two weeks from CDEP, they will lose access to CDEP wages and CDEP supplement. The National Welfare Rights Network agree with the proposal of NAAJA that a longer break should be permitted. However, we have argued for 12 weeks, which aligns with the grandfathering provisions that exist for parenting payment (single). With new CDEP participants being placed on income support, it is likely most will be placed on activity tested payments such as Newstart allowance and become subject to the compliance system, which includes financial penalties for infractions.

The network has observed a pattern of repeatedly high incidences of social security penalties incurred by Indigenous people over a long period of time under the various permutations of the social security compliance arrangements. In 1999 Sanders found that Indigenous breach rates were higher than non-Indigenous breach rates across all age groups and genders. Indigenous people were also four times more likely than non-Indigenous people to incur at least three administrative breaches. In 2002, as a consequence of a disproportionate number of calls being taken from Indigenous people in certain areas, the National Welfare Rights Network requested data under freedom of information which confirmed that Indigenous people were two to three times more likely to incur a penalty than non-Indigenous people.

Figures released by the Department of Employment and Workplace Relations in early 2007 showed that in the first three months of the new penalty system Indigenous participation failures were at 47 per cent compared to 39.9 per cent for non-Indigenous people. Data from Western Australia were particularly concerning, showing that out of a total of 170 eight-week non-payment penalties incurred in Western Australia 50 were imposed on Indigenous people. In August 2007, in answer to questions on notice in the Senate, the government provided data on the number of eight-week no-payment penalties in the first year of the new system, ending 30 June 2007. In relation to Indigenous Australians, the figure had jumped from 658 people losing payments for eight weeks to 1,644 in the first year of Welfare to Work—representing 9.4 per cent of all eight-week non-payment periods.

Whilst it appears that penalty numbers have fallen recently, as noted in our written submission, it is difficult to obtain an accurate picture of the incidence of Indigenous penalties because the data on the Department of Education, Employment and Workplace Relations website for the year 2007-08 is not comparable to data that has been previously provided to Senate estimates committees, which give a breakdown of Indigenous penalties by Centrelink area. We are also reliably informed that, due to the sensitivity of the issues associated with the

Northern Territory intervention and income management, a much more flexible approach has been applied by Centrelink to avoid the imposition of penalties. However, our experience has shown us that the evidence of ongoing and consistent efforts to minimise and reduce the incidence of penalties on Indigenous job seekers is mixed. Unfortunately, the focus on prevention and harm minimisation waxes and wanes, often spurred on by public exposure of the problem, the high incidence of penalties upon Indigenous job seekers and the political will of the day.

National Rights Welfare Network is justifiably concerned that the greater number Indigenous people forced onto income support payment rather than CDEP from 1 July 2009 will significantly increase the risk of penalties again climbing, particularly because systemic factors which have historically placed Indigenous job seekers at high risk of having penalties imposed in the first place have never really been addressed. Also, given the intent of the new compliance regime to impose a work like culture through the use of a complex system of no show, no pay, the risk of Indigenous people losing income without the capacity for this to be recovered will be even greater. This is particularly concerning given that Indigenous people are less likely than others within the community to challenge decisions made by Centrelink. The National Rights Welfare Network urges the committee to recommend to parliament that the CDEP reforms in their current form should not be supported. Thank you.

CHAIR—Thank you, Ms Beaumont. Senator Siewert.

Senator SIEWERT—Ms Beaumont, you touched very quickly on the external right of appeal, saying that it was long overdue, but you also made the comment that it is of little value, of no practical benefit. I am very conscious of time, so I am trying not to take up too much time, but are you able to explain your comment about it having no practical benefit, please.

Ms Beaumont—In relation to the exemptions that are provided with the Northern Territory legislation, there are very limited circumstances in which the exemptions can be granted. Usually that is by someone being able to show that they are not part of that community, and the minister also has discretion in relation to that. So, if someone is residing in a Northern Territory declared community, even if they are able to manage their money, they are able to provide for their priority needs and for their children and there are no instances of neglect or anything like that, there is still no way for them to show that they should not be income-managed. That is the difficulty that is there within the legislation.

Senator SIEWERT—My reading of it, as with your comments, is that it means nothing.

Ms Beaumont—Well, next to nothing, and that is very unfortunate—that the way the legislation has been structured there is very little discretion that can be exercised. That is the difficulty that the welfare rights workers in the Northern Territory have had, because individuals cannot necessarily prove that they should not be income managed just because they live within a certain community. In a way it is similar to the child protection income management in Western Australia: if Child Protection make the decision that someone should be under that income management stream, although that person has a right of appeal to the SSAT and the Administrative Appeals Tribunal, they cannot necessarily appeal the decision that they should be under child protection income management.

Mr Thomas—A further reason why the granting of appeal rights to the SSAT is not going to have a significant impact is that Indigenous people simply do not use the appeals system. At Senate estimates a few years ago, there was a breakdown given of who appealed through the various levels of appeals, and in one case in one year there was one person in the Northern Territory who appealed to the SSAT. So that is what we are facing. Certainly, Welfare Rights Network has raised the issue of the low level of appeals with Centrelink for quite a number of years. That is a different issue, but it is relevant to the issues that you are considering today.

Senator SIEWERT—I wanted to quickly move on to the issue around breaches, compliance and CDEP. First off, I think you were here when I asked Professor Altman about a number of breaches, which you mention very briefly in your submission. The other question is: what do you expect to happen when the new compliance regime comes in at the same time that the changes to CDEP come in?

Mr Thomas—I might start with that. I think we will see the number of eight-week no-payment penalties fall quite considerably. But, in relation to participation failures, I think we will see a significant number being imposed on Indigenous job seekers. In 2006-07, there were 26,000 participation failures applied to Indigenous job seekers; in 2007-08, there were 32,000.

Roughly speaking, those participation failures under the new system will translate to no show, no pay penalties. That will be a loss of income for one day's loss of activity, payment, interview or connection—

something that is not attended to—of \$45 per day. That is the sort of impact. And that is, from last year's situation, without getting rid of the CDEP. We are certainly concerned that there will be a significant jump in those numbers, particularly as there are a whole lot of changes happening to Job Network anyway. It will take some time for that to settle down.

Senator SIEWERT—When you say that instead of being breaches there will be no show, no pay, my concern is—and I raised this in the debate in the Senate with the changes in the employment reform process—that three no show, no pays is where the comprehensive compliance assessment kicks in. I acknowledge that that does not necessarily then kick you straight into a breach, but it has the potential to. If they strictly enforce the new rules, if you do not show up for three days you can get a compliance assessment and then you can end up being breached. You commented about it not increasing the number of breaches. Have you looked at that potential, or am I being too worried?

Mr Thomas—Certainly that is a potential. My understanding is that some of the technicalities around this are going to be in disallowable instruments and you would hope that the eventuality that one event is counted as three periods does not occur. I think that is something certainly for the committee to consider as a real possibility—unless it is addressed by the instruments, which have not seen the light of day in parliament yet.

Senator SIEWERT—When I raised the issue in the Senate, I certainly was not given any assurance that that would not be the case. So there is a potential there, unless it is dealt with through the instruments?

Mr Thomas—Obviously and quite clearly.

Ms Bolton—The other point we would make is that the linchpin of the new system, particularly in relation to the example you have given of three no show, no pays, is the operation of the comprehensive compliance assessment. We understand that the intention is to provide those assessments, wherever possible, face to face. That is in recognition of the purpose behind those assessments in terms of there being greater capacity to be able to identify what might be going on and what the particular needs might be. It certainly raises further concerns in relation to the ability for that to happen in remote and very remote communities. If that is not there our further concern would be the extent to which that might act as an effective safeguard mechanism in terms of being able to identify the reasons for the alleged noncompliance.

Senator SIEWERT—Thank you. I want to go back to the first schedule and your comment on page two of your submission. You say that you would oppose any attempt to remove the option of making a payment period claim through Centrelink or Medicare. Are you concerned that that is in fact the case or are you just flagging that to make sure it is not going to happen?

Ms Bolton—I am just simply flagging it to recognise that that can be a very effective mechanism for some people who receive family tax benefit payments and can in actual fact act as an effective debt prevention mechanism.

CHAIR—You have not checked with the department if that is their intent?

Ms Bolton—No.

Senator SIEWERT—That is an issue we will ask the department about. I have one final question. I want to go back to the CDEP and the issue around the number of Aboriginal people who have been breached, the number of people on CDEP and access to data. You were here when I was asking Professor Altman about the numbers on CDEP. He expressed concern about getting access to data from DEEWR. Do you have similar problems?

Mr Thomas—Yes. There is data on the DEEWR website, but it is simply not comparable to previous data. It does not show the number of three-strike failures, which lead to eight-week no payment penalties, in Indigenous communities, for example. It is very difficult to flesh out what is happening unless there is an agreement about a set range of data so we can make sure that this system is working as intended, that it is not having negative consequences, particularly for Indigenous people.

Senator HUMPHRIES—Professor Altman said that he felt that there was some justification to the argument that in some cases CDEP became a bit of a crutch, but he felt that there ought to be a community-by-community approach where you could phase out CDEP where there were real jobs for people to transition to but you would retain it where it was important—where those jobs were not available or where you needed backup for the jobs that were provided on a full-time, normalised basis. You do not suggest an alternative to the present CDEP reform, so would you embrace the approach that Professor Altman has put forward, which I

have just summarised, would you suggest some other course of action or do you take the view that CDEP is fine and there is no need to reform the operation of CDEP at the moment?

Mr Thomas—We do not think that CDEP is fine. Certainly it has been a mask for the lack of attention to the employment of Indigenous people, not paying them for real jobs and for real work. We have recognised for a number of years that some CDE programs work well and some do not. There are a range of barriers to the employment of Indigenous people and I think the CDEP has a good record where it works well, so I do not think a blanket approach is going to work, but I think it sounds reasonable on a case-by-case basis. At least CDEP does provide a safety net and an organised activity, and it is of great assistance to the community and to the infrastructure in the community. It is quite vital that those things continue.

Senator HUMPHRIES—I have one other question. You say on page 4, in respect of appeals to the SSAT:

There is also a real issue as to whether the jurisdiction of the SSAT or AAT would extend to reviewing decisions made by the Minister.

The decisions that SSAT and AAT would be able to review would generally be decisions of the department. Why do you raise the issue of decisions by the minister? Are you suggesting that the amendments as they are framed potentially encompass decisions made by the minister?

Ms Bolton—I do not think that is a clear issue. It is raised in the context that currently the legislation provides two avenues for an exemption to be made: through Centrelink or through the minister. There is a view that the minister has wider discretion and is not bound by the same factors that Centrelink has to take into account in granting the exemption. The point was made in that context.

Senator HUMPHRIES—But do you think the legislation, as framed, could encompass a right of review to the SSAT for a decision that the minister has made using those wider criteria?

Ms Bolton—I do not know and I do not think that it is an area of law that has been settled. Some recent tribunal decisions have looked at the issue in another context and no clear view was expressed. The decision was simply decided on a different basis, so I think that still leaves the issue open.

CHAIR—There are no further questions, but if you think there is something we have not covered in your submission and the evidence you have given this afternoon please get back to us. But I think the issues that you raised in your submission have been picked up in the questions. Thank you very much for your time and the ongoing work you do in this field.

[2.04 pm]

COLLINS, Ms Priscilla, Chief Executive Officer, North Australian Aboriginal Justice Agency

PENGILLEY, Ms Annabel, Welfare Rights Officer, North Australian Aboriginal Justice Agency

WODAK, Ms Helen, Advocacy Manager, North Australian Aboriginal Justice Agency

Evidence was taken via teleconference—

CHAIR—I welcome our next witnesses, from NAAJA, who are giving evidence via teleconference from the Northern Territory. We are running slightly late; I do apologise for keeping you waiting. We are in the unusual situation of having the screens on the floor, so we are actually looking down at you—there is no easy way of doing this. In the room we have Senator Gary Humphries from the ACT, Senator Sarah Hanson-Young from South Australia and Senator Katrina Bilyk from Victoria. I am from Queensland and we are expecting Senator Rachel Siewert back; she has just had to go and do a phone conference.

I know you have received information on parliamentary privilege and the protection of witnesses, and I know we have interviewed at least two of you before, and maybe all three of you, at different times, so you know how the system operates. We have your submission; thank you very much. Would any of you like to make an opening statement? Then we will go to questions.

Ms Collins—Thank you for giving us the opportunity to speak to you today. For those around the table who are not aware, NAAJA is the North Australian Aboriginal Justice Agency. We are an Aboriginal Torres Strait Islander legal service that provides legal advice and assistance in the north zone of the Northern Territory. We have offices in Catherine, Darwin and Nhulunbuy, and the focus of NAAJA's services is on rural and remote communities. In addition, we have a substantial criminal law practice and we have a civil law practice that includes two welfare rights solicitors seconded through the National Welfare Rights Network to provide individual client assistance and capacity building in relation to income management and Centrelink.

We have two main concerns about the bill. Schedule 2 provides for appeal rights under the income management regime, and, while NAAJA supports this as a principle, this support is qualified by the fact that these appeal rights will have limited real effect in practice. In our submission we have given two examples which we are happy to discuss in more detail. NAAJA's position is that the recommendations of the NTER Review Board with respect to the removal of compulsory, blanket income management should be implemented as a matter of urgency. We know that the government has announced that legislation to make the income management regime comply with the Racial Discrimination Act is to be introduced. We believe that any such changes should implement the NTER Review Board recommendations by introducing voluntary and trigger based income management. This would give the appeal rights under the bill real meaning and effect.

In schedule 3, the proposed reforms to the CDEP will have significant impact on remote communities. The most detrimental of these will be the transfer of a potential 6,000 people on CDEP into income support payments and under income management. We are also concerned about the effects of transition arrangements for the CDEP participants. We understand that government policy is that people who have a break from CDEP for more than two consecutive weeks, other than for approved leave, will lose their grandfathered status. We welcome the provisions for breaks of more than two weeks as approved leave, but we have a number of concerns that we would be happy to discuss with the committee in more detail. Another concern is that, after 1 July 2009, CDEP participants will come under income management. We recommend that CDEP participants be exempt from income management.

CHAIR—Thank you very much. Senator Humphries.

Senator HUMPHRIES—That last point you made about CDEP participants being exempt from income management stems, I assume, from a view on your part that the income management regime is essentially unhelpful or inappropriate and you would prefer that it not apply to as many people as possible—or have I read too much into your comment there?

Ms Pengilley—That might be putting it a little bit too strongly. What NAAJA hears is that some people see the scheme as helpful, some people are deeply upset and offended by it and find it unhelpful, and a separate group simply find it unhelpful because it is inconvenient. The reason we suggested exemptions from income management for CDEP participants be considered is so that there is some incentive for people to participate other than nothing, other than receiving a Centrelink benefit. It would give people something.

Senator HUMPHRIES—That comes back to the question of the operation of CDEP itself and how well or badly it has fared across the board. The witnesses before you today have conceded that CDEP has been effective and has supported appropriate programs in some communities, but in other places it has not been effective. The government clearly takes the view that the lack of effectiveness in some areas needs to be addressed and hence is moving effectively to phase it out. If we accept, as you have obviously postulated, that CDEP can play a valuable role, how do we structure it so that those examples where it does not work are eliminated or phased out and those where it does work are retained?

Ms Wodak—It is important that—as the committee has already discussed—it be dealt with on a case-by-case basis rather than with a blanket approach. The blanket approach has been one of the main criticisms of income management, both from a human rights perspective but also from an on-the-ground perspective—it applies to everybody irrespective of their position. So it is a question of looking at what CDEP programs in particular cases have been successful and building on those successes. We support the move to real jobs in communities. There have been a number of people who have been on CDEP for a long time and that should not have been on CDEP, who deserve to be on real jobs with superannuation and all of the other entitlements that full-time employment would have given them. But the concern is that there are not enough real jobs in communities to cover all of the people on CDEP and that there are going to be a number of people who are going to be disadvantaged under the scheme. Our concern is also that a number of important community programs might not continue. The number of community programs that existed under CDEP is an indictment on the fact that many government agencies—both Territory and federal—have used CDEP as a means by which they can subsidise, in effect, the provision of services in remote communities. The concern is: what is going to happen to those places once these CDEP changes roll out?

Senator HUMPHRIES—Do you think getting real full-time jobs in some remote communities in your neck of the woods is really a mirage, that many of these communities cannot now and probably never will sustain jobs other than subsidised, supported jobs provided through government? If that is the case, the option of either CDEP or some kind of employment program is really a less desirable object than, for example, providing the means for younger Aboriginal people to transition to other communities—maybe larger regional centres—where real jobs are actually available.

Ms Wodak—The first thing I want to say is that we are primarily a legal service. Our comments about CDEP are made from our perspective of providing legal services in remote communities. We are not involved in training and service delivery with respect to employment. I just want to make that qualification. You just cannot speak globally about all of the different communities that we service in respect of whether or not there is capacity for real jobs that has not been fully realised. Our understanding is that the advent of the shire councils in the Northern Territory has resulted in there being an increase in real jobs that are being provided for in remote communities. Some of our lawyers come back from attending bush courts in remote communities talking about the increased numbers of their clients coming to court that are actually involved in employment, wearing uniforms and benefiting from shire councils being rolled out. There is a variety of different experiences around employment in the Northern Territory.

Ms Pengilley—A one size fits all global solution is not going to be the solution; it needs to be community by community. This is more from a personal than a professional standpoint, but I just want to make the point that real jobs will suit some people, but in remote communities there is a very different way of life. Some people speak a different language and I do not know whether imposing this real jobs model on those communities is necessarily desirable or right.

Senator HUMPHRIES—I take your point. I want to come back to the point that you were making about appeals. I think you welcomed some widening of access to appeals in your opening comments, but I forget whether it was you or the previous witnesses who said that existing appeal rights were very rarely exercised by people in remote communities, which would beg the question: are any changes here to widen access really going to make any difference? What is the reason that so few Indigenous people in remote communities access their appeal rights? Is the solution to that problem through organisations such as your own, which obviously provide advocacy for those people?

Ms Pengilley—You asked a two-part question, Senator; I have forgotten the first part.

Senator HUMPHRIES—What is the reason that so few people are accessing their appeal rights?

Ms Pengilley—There are lots of reasons. The first reason is lack of education, lack of knowledge about the appeal rights, and that is part of the work that NAAJA is trying to do—that is, educating people about the appeal rights that they have. Another reason is simply that Centrelink is a service that is delivered primarily in

the English language, and in remote communities many people do not have a grasp of English sufficient to navigate the complexities of the appeals process. A third reason is that it is apparent that Indigenous people, particularly Indigenous people in the Northern Territory, have been subject to wave after wave of different legislative schemes, one after the other, and that many people are resigned. It is a constant barrage of schemes and rules and some people just give up, sadly.

Ms Wodak—It is important to put this into context: in the majority of communities that we deal with, there are a number of people within those communities who live very traditional lives where English is a second, third or fourth language. There are often low levels of literacy and the entire workings of the mainstream legal system are often very foreign to them. In our experience, prior to the welfare rights project starting both at NAAJA and CAALAS, there was a very limited opportunity for people to access welfare rights assistance in the Northern Territory. People were used to Centrelink making decisions and they just lived with whatever those decisions were. It is a long-term, slow process of trying to provide education in advocacy about the ability of people to use appeal mechanisms.

Senator HUMPHRIES—Can you tell me how many people in the past 12 months you have represented on appeals under social security laws?

Ms Pengilley—Quite a small number. We have been doing community legal education and advice, so not a great deal. Senator Humphries, in terms of income management, one reason is because there is not much to appeal. In terms of the broader areas, there is a trend of people simply expecting decisions, not feeling empowered to challenge them. So they might go to their local officer and say, ‘What’s this all about?’ And the person will say, ‘This happened because of X, Y, Z,’ and the person just goes away not feeling that there is something they can do about that.

Ms Wodak—What we have found through the case work is that very profound misunderstandings have occurred between our clients and Centrelink as to what the Centrelink requirements were, what Centrelink communications had meant to them, and those have led to very serious consequences for clients. It has led to prosecutions, it has led to debts. What we are experiencing through our case work is really the tip of the iceberg in terms of the misunderstandings and the communication difficulties that people in remote communities are experiencing with respect to welfare rights decisions. Also, there is a lot of confusion within the communities that we service about the operation of the different schemes that are currently applying to them. In the communities that we service that have—overall there is a perception that with the school enrolment and attendance measures that some people believe they have already started being breached under those measures even though they have not actually started. People did not understand about whether they were being breached under participation failures or under school attendance. The relationship of income management to all of that has been very confused. We anticipate that the two separate schemes involving CDEP participants are going to further add to that confusion. There have been really profound changes in the way that welfare is being received in remote communities in the Northern Territory in a very short space of time, and a lot of people are really struggling to catch up with that.

CHAIR—Ms Wodak, the situation you have described, has that been a recent thing caused by the recent changes? Or, in the experience of your organisation, have the kinds of confusion, trust issues and language communication issues been long-standing issues when it comes to interaction between welfare departments and the community?

Ms Wodak—I would say that a lot of these issues probably existed prior to the raft of changes, but because there is so much more interaction with Centrelink now in people’s daily lives—income management requires a lot of contact with Centrelink—Centrelink, to its credit, has done a lot more remote visits to remote communities and has really understood the importance of face-to-face contact with Centrelink recipients—some of these issues are being highlighted now. They always existed, but the time frame in which there have been significant changes has really been quite extreme.

CHAIR—From what you are saying, the kinds of things you are talking about with the relationship between departments and the community have been discussed for a long time across the country, but particularly in the Northern Territory. What I am saying is: somehow the new system, which has had major changes and it has been complex, has enforced more interaction, which creates more confusion in itself. So you had a pre-existing problem, and on top of that problem there is more time taken to get through what is happening now.

Ms Wodak—I think so. I would say that I think Centrelink has learnt very valuable lessons through its experiences in remote communities. It is much more understanding now of the importance of not relying

solely on written correspondence and those types of communication. But we still find significant problems. Even words that people think might be commonly understood in the broader community are not understood in Aboriginal communities. Annabel has had cases where words like 'income' and things like that have not been understood and they have had dramatic implications for particular clients.

Ms Pengilley—These might be people who are in the workforce and working effectively in their jobs, but this does not go to their level of English literacy. The inconvenient truth that English is not the language of the Top End has not been grappled with—it has not been faced or properly acknowledged.

CHAIR—You genuinely believe that the system has not accepted the lack of English fluency?

Ms Pengilley—Yes.

CHAIR—Okay. It is good to have it on record. We are getting very short of time. Senator Siewert.

Senator SIEWERT—I hope I am not asking you to repeat an answer; I had to leave the room to do a phone link-up for another committee. Going back to this issue around the exemptions, you comment in paragraph b) on page 4 of your submission that as a result of these changes people will have:

... no effective avenue for relief under the Bill because prima facie the current income management regime provides no basis on which a resident in declared relevant areas could seek exemption on these grounds.

My understanding of both your submission and your comments is that they are effectively the same as what National Welfare Rights Network has said—that the changes made here in fact deliver no real outcomes for Aboriginal people.

Ms Pengilley—That is exactly right. The legislation is drafted to ensure that anyone who is captured is subject to the regime in a relevant Northern Territory declared area, so there is going to be very little to actually appeal about where people are not in declared areas.

Senator SIEWERT—We have been talking quite a bit with other witnesses about the issues around CDEP and the new compliance regime under the employment reform process. Have you had a chance to look at that in much detail?

Ms Pengilley—No, we have not. Ms Bolton is actually coming up to train us this week on compliance issues, so we do not have a lot to say except that, as Helen pointed out before, the system is already incredibly complex and it looks like the new compliance regime will add more complexity. When some people do not even really understand the basis on which they are being paid, to add all these complexities on top is problematic.

Senator SIEWERT—I am hesitant to ask this as you obviously already have a huge workload, but, if after your briefing this week any other issues come up relating to CDEP, would you perhaps just quickly send us a supplementary submission?

Ms Pengilley—Certainly.

Senator SIEWERT—That would be very much appreciated.

Senator HUMPHRIES—One last question: you commented that there ought to be a 13-week tolerance of people being away from CDEP before their grandfathering arrangement is cut off, as opposed to the two-week period that the government suggested. What you say sounds reasonable—unless you take the premise, which the government obviously does, that people should be moved off CDEP over the next couple of years. If you accept that we should be moving people away from CDEP, isn't that an argument that a longer period is just counterproductive—it simply preserves more people on a lifeboat which is going to be sunk anyway within a couple of years?

Ms Pengilley—I guess so. I suppose it is just seeking to preserve rights or benefits that people have for as long as possible. We raised some quite specific points in paragraph b) in our submission about the transition provisions, and we wondered if the committee has received any information on these questions. We cannot understand from the publicly available information how this transition scheme is going to work.

CHAIR—We will be asking the department, who are the next witnesses. Is it paragraph b) 'further changes required'? Is that the area?

Senator SIEWERT—You are talking about the transition provisions where you ask that series of questions, aren't you?

Ms Pengilley—Yes.

Senator SIEWERT—It is where you talk about the source of the power to make this rule and the status of this rule, isn't it?

Ms Pengilley—Yes.

CHAIR—We will ask the department those questions.

Senator SIEWERT—We are looking at them now.

CHAIR—Yes, they are ready.

Ms Pengilley—There is that sort of FaCSIA fact sheet that is not even dated. That is the only source of the rule that I could find.

CHAIR—We will ask those questions for you.

Ms Pengilley—Thank you.

CHAIR—That is the end of our questioning time. We do appreciate your submission and the ongoing interest you have in these areas. I echo Senator Siewert's request: if there is anything that you think we have not covered, if there is something you think that we should cover, please get back to us, particularly after you have had your briefing. Thank you very much. The departmental answers to your questions will be in the *Hansard*.

Ms Pengilley—Thank you.

[2.32 pm]

BOARD, Ms Helen, Branch Manager, CDEP Program Management Branch, Department of Families, Housing, Community Services and Indigenous Affairs

DOMAN, Mr Bernie, Section Manager, CDEP Operations, CDEP Program Management Branch, Department of Families, Housing, Community Services and Indigenous Affairs

HEFREN-WEBB, Ms Elizabeth, Section Manager, Welfare Payments Reform Branch, Department of Families, Housing, Community Services and Indigenous Affairs

MATTHEWS, Mr Gavin, Branch Manager, Welfare Payments Reform Branch, Department of Families, Housing, Community Services and Indigenous Affairs

SOUTHWELL, Mr Peter Guilford, Acting Branch Manager, Family Payments Branch, Department of Families, Housing, Community Services and Indigenous Affairs

WANNAN, Mr Ian, Section Manager, Family Payments Branch, Department of Families, Housing, Community Services and Indigenous Affairs

CHAIR—I welcome officers from the Department of Families, Housing, Community Services and Indigenous Affairs. Information on parliamentary privilege and the protection of witnesses and evidence has been provided. As departmental officers you will not be asked to give opinions on matters of policy, although this does not preclude questions asking for explanations of policy or factual questions about when and how policies were adopted. We have not got a submission from you. Has anyone from the department been delegated to make an opening statement?

Mr Southwell—No.

CHAIR—Okay. We will go to questions. You have heard the previous witnesses. We will have some general questions from Senator Siewert and Senator Humphries first and then we will make sure that these questions are given.

Senator SIEWERT—I am wondering if we could just knock off that question about schedule 1. The National Welfare Rights Network at the bottom of page 2 of their submission say that they hope that you are not removing the option of going for a past period claim through Centrelink or Medicare.

Mr Southwell—No, there will still be the option of making past period claims or lump sum claims through Centrelink or Medicare.

CHAIR—Maybe we will keep on with that part of the bill, the family payments area. I know there will be questions on the CDEP, but if senators have questions on the first part of the bill we will do that first. Mr Southwell, we asked the Welfare Rights Network whether they had asked you about that issue and they said they had not. Have you had questions from organisations such as the National Welfare Rights Network on the proposed changes that you have had to respond to in the last couple of months?

Mr Southwell—In relation to FTB?

CHAIR—Yes.

Mr Southwell—Not that I am aware of. There was a meeting with Welfare Rights fairly recently, I understand, but no FTB questions were relayed on to us.

CHAIR—Okay, I was just interested in that.

Senator SIEWERT—In that case, I have finished with schedule 1. I want to move on to schedule 2, which is access to the external appeal rights.

CHAIR—Senator Humphries, do you have anything on schedule 1?

Senator HUMPHRIES—No.

CHAIR—You may have seen from the submissions that there was not a great deal of questioning on that area. We will move on to the Indigenous areas now. The first area of questions is around appeal changes.

Senator SIEWERT—All the submissions that we have had that have made comment on that have basically said that they think it is good that in principle they have appeal rights but in effect it does not actually mean a lot. What is your response? That is my reading of it, too. I would be delighted if in fact we were all wrong.

Mr Matthews—In general, the legislation reflects the government statement of 23 October, where it effectively made two statements, one of which was to restore appeal rights, which had come up in a number of sources. That is really what this legislation does: it restores appeal rights in relation to the legislation as it currently stands. Obviously that then means that the appeal rights relate to the conditions that are set up in the existing legislation. The amounts that are appealable are effectively around the exemptions policy—the things where there is actual decision making by Centrelink or by the delegate with the authority to make those decisions set out in the legislation. That is really around things such as the exemptions. Hypothetically, somebody may appeal, for example, their allocations at Centrelink—how they have actually nominated their money to be set up. There are other elements such as—

Senator SIEWERT—Sorry, can I to stop you there. I thought that decisions about allocation of quarantined money were part of a process of agreement anyway.

Mr Matthews—It is, generally, but, hypothetically, if there were some level of dispute then potentially somebody could appeal through that process. Given the way that it has been set up, the implementation and the fact that it has tried to be done as collaboratively as possible with the person, we would not really expect there would be many cases where anybody would want to do that. We want to get a higher level of involvement from the person about where their money is going. That is part of the intention and what we are trying to get out of it. But, potentially, you could get an appeal.

The other main area is really around the residual funds, where somebody is exiting the scheme and has funds, where there is some decision making. There are elements where a person may have some reason to appeal. But in terms of the point they are making around, ‘Is the person subject to income management or not?’ obviously where you have a scheme where it is universal, there is not a lot of decision making around that element.

Senator SIEWERT—Okay. Thank you.

Mr Southwell—Madam Chair, are there likely to be more questions on schedule 1?

CHAIR—I do not believe so, Mr Southwell.

Mr Southwell—May we be excused?

CHAIR—Certainly, yes. There will not be now! If there are, they will be put on notice.

Senator SIEWERT—Everyone seems happy.

CHAIR—Mr Matthews, is there any possible way of getting something from the department which talks about what this area of appeal could cover—as we did not have a submission? Questions were raised a few times about the issues this could cover. Is there any way we could get something from the department—

Mr Matthews—We can take that on notice?

CHAIR—that we would be able to look at in terms of the whole legislation: if it were introduced, what kinds of areas would be appealable? I think that would be of interest to the committee.

Mr Matthews—We will take it back to our legal people. I would imagine that that is something that would be possible.

CHAIR—Thank you. Anything else on appeals, Senator Siewert?

Senator SIEWERT—The National Welfare Rights Network in its submission at 3.2.b says:

It remains unclear the extent to which this shortcoming could be remedied through the extension of external rights of appeal.

Sorry, that sentence relates to the previous issue.

There is also a real issue as to whether the jurisdiction of the SSAT or AAT would extend to reviewing decisions made by the Minister.

Mr Matthews—In general, policy wise, at the moment the only ministerial exemptions we have are the classes of exemptions that have been set up broadly in three categories: people who have moved into the community to assist with the intervention; the students who are being paid at a living away from home rate; and students whose payment is being made to a third party. So it exempts those people from income maintenance. That is a ministerial decision that has been made by legislative instrument. In general, whilst the legislation provides capacity for it, we do not envisage the minister making individual determinations. There have been no cases at this point where the minister has decided to name by legislative instruments person X to be exempted. We do not envisage that will be done, although it is a residual power. If that were to be used by

the minister and somebody wished to appeal it, then normally the course for reviewing ministerial decisions is through ADJR. A person could seek for that to be reviewed by the SSAT. The SSAT may consider that or it may not. That would be something that would need to be considered by the SSAT.

Senator SIEWERT—Okay. You cannot tell us whether they would or would not?

Mr Matthews—It is a little bit vague. It is something about the way the Social Security Act works. In general, as a starting point, we do not envisage that the minister will be making individual determinations. If there were to be an individual exemption, generally we would see it through the minister making legislative instruments on classes of individuals, such as the three that exist at the moment. That is the normal way that it is done.

Senator SIEWERT—Thank you. I do not have any more questions on that.

Senator HUMPHRIES—Just to clarify the last answer you gave, Mr Matthews, would a decision by the minister on a class be appealable by an individual as a member of that class?

Mr Matthews—No, the decision of the minister to make a legislative instrument that sets up a regime—say, for example, with the students exempting those classes of people—would not be something that the SSAT would normally get involved in as to whether the minister had made the right instrument or structured it the right way. The administration of that by Centrelink then potentially could be appealed. If, for example, there was a student who thought they would be subject to that class but the decision of Centrelink was not to, then that went through the ARO process and they were still unsatisfied with that, they could then take that through to the SSAT and ultimately the AAT.

Senator HUMPHRIES—It must be rare for the situation to arise where a minister made a decision about an individual that might be appealable under the regime.

Mr Matthews—There has not been a case to date.

Senator HUMPHRIES—No, okay.

Senator SIEWERT—I have one more question on the point that NAAJA raised in their submission, which was: this is implementing one of the recommendations of the board; what about the others? I suspect I know the answer, but I will ask it anyway.

Mr Matthews—I think you do know the answer: it is a matter for government, basically—sorry.

Senator SIEWERT—I thought I would get it on the record.

CHAIR—On the general appeals issue, Mr Matthews, we have heard evidence that talks about the very low level of appeals that occur anyway from the Aboriginal community and in particular the Northern Territory community, where most of this legislation would apply. Does the department have any process in place—through Centrelink or yourselves in terms of the joint responsibility—addressing that issue, which I know is very longstanding but nonetheless has been raised by three of the witnesses with a concern about this particular element of the legislation?

Mr Matthews—I probably cannot comment in terms of the overarching appeal across all of the social security law. It goes well beyond the area in which I work. I can probably answer about what we will do in the income management regime and these particular appeal rights to assist people to understand that there is this capacity.

One of the things we have got through income management is that Centrelink staff visit communities quite regularly. They go out with a remote visiting team consisting of a few members, generally with interpreters, on average between every two and five weeks. The average is about three weeks. It is sometimes longer; it is sometimes shorter. But, generally speaking, it is reasonably quite frequent. When the legislation is passed, we will be using that method to communicate this particular change to people. We will also provide information through the government business manager network and the ICC network. So we will be undertaking some things to ensure that people in the communities are aware of their rights through that process. Centrelink also has agents in the communities, and we will obviously be making sure that they have information to assist people in becoming aware of their capacity to appeal.

Senator SIEWERT—I will now move to the other schedule—CDEP, which has had the most comment made about it. Ms Board and Mr Doman, I do not think either of you were here when Professor Altman was talking about CDEP, although you will have seen his submission. He made a comment both in his submission and before the committee about a lack of access to information and to the figures for how many people we are

talking about for a start. Is it possible to get up-to-date figures for the number of people who are on CDEP and whether they are non-remote—that is, more regional? How many people are going to go off CDEP as of 1 July 2009? How many people will stay on it? How many people are we talking about being grandfathered? Is it possible to get that information?

Ms Board—Yes, it is. We do provide information to CAEPR. We did that a few weeks ago. We cannot always answer some of the data questions because it is apples and oranges in the way in which data is classified. But certainly, we have been providing information to CAEPR about actual figures. Do you want some of those figures now?

Senator SIEWERT—It would be helpful to have them now.

CHAIR—Yes, I think that would be very useful.

Senator SIEWERT—I am very reluctant to take up too much time, but the figures that I just asked for would be very useful.

Mr Doman—There are currently 17,319 CDE P participants, and 73 per cent of those are in remote areas. That is approximately 12,643. From the changes, approximately 5,000 would cease in the locations where CDEP will no longer be.

Senator SIEWERT—There are 5,000 as of the middle of this year?

Mr Doman—Yes, from 30 June.

CHAIR—Your area maintains those figures now?

Mr Doman—Yes.

CHAIR—So, in terms of the collation of data and public figures, it is your area in FaHCSIA that is responsible for that?

Ms Board—Yes.

Senator SIEWERT—Is it possible to get those figures broken down into regions? For example, how many are in the Northern Territory? How many are in northern Western Australia?

Mr Doman—Yes, we can do that. I do not think we can do it now, but we can get that information to you.

Senator SIEWERT—If you could give that to us regionally, that would be good.

Mr Doman—I have some figures for the Northern Territory. At 11 February, 5,689 were in the Territory.

Senator SIEWERT—How many of those will finish on 1 July?

Ms Board—None. It will all remain the same.

Senator SIEWERT—So they are all going to be counted as remote in the NT?

Ms Board—In the Northern Territory, yes. There are no changes in the Territory.

Senator SIEWERT—If you could provide the committee with figures for the rest of the spread of CDEP by region for those people who are going to come off it by 1 July and also for the 12,643, that would be appreciated.

Ms Board—Certainly.

Senator SIEWERT—Thank you.

CHAIR—Senator Siewert, the other thing Professor Altman was asking for was information about why people drop off.

Senator SIEWERT—Yes.

CHAIR—Is there any way that that data is collected? His point, and you will be able to read the *Hansard*, was that a certain figure was given 12 months ago as the number of people on CDEP. The current figure is 17,000, and he has concerns about whether that does actually reflect everybody on CDEP. One of the big issues is finding out why they are no longer on CDEP—whether they have got employment, dropped out of the system, gone on to a welfare payment or left the area. It was about tracing that form of data. Is that available through your database?

Mr Doman—Yes, some of that is available through 'exit reasons', which are put in the system when someone leaves. So, provided they have given a reason for why they left—

CHAIR—And we can get that?

Mr Doman—You could, yes. We could break that down.

CHAIR—That would be very useful.

Ms Board—The other information about CDEP which I think is of note is that there is a very high churn factor. I think something like 50 per cent of CDEP participants move in and out of CDEP. In terms of actual data, where people have moved from the urban and regional reform measure, which occurred 1 July 2007, DEEWR has actually tracked what has happened to those people who, through the reform process, moved off. Very often—

Senator SIEWERT—Did you say they have?

Ms Board—Yes, they have. Very often, people leave CDEP for a number of reasons, one of which is that they have found employment, they have moved somewhere else or they have moved on to income support. So we can probably get some information about those who have moved back into income support, but, once people have left a CDEP provider, it is very hard for us to track them.

Senator SIEWERT—That leads me to another set of questions. I realise you are not from DEEWR, so you may have to take these on notice, but it has to do with an issue that we were talking about before—and I think you were here for part of that discussion—which is, under the changes to CDEP, the number of people who move on to income support and then get caught up in the new compliance regime. I am wondering whether you have looked at that. I am aware that the government has put in place some measures to assist people in transition. But have you looked at how many people you anticipate are going to be caught up in the new compliance processes?

Mr Doman—From the CDEP point of view, that is difficult to determine because it will only be the new participants, those commencing after 1 July, who will be on income support. The continuing participants will remain on CDEP wages, so they will not have those compliance issues.

Senator SIEWERT—And at the moment you have got 5,000-odd that are going to be—

Ms Board—In the Territory.

Senator SIEWERT—You have got approximately 5,000 people who are coming off CDEP who will then be going on to income support—Newstart, basically.

Ms Board—Those who are in CDEP on 30 June will be considered to be grandfathered participants, so they will remain on CDEP wages for two and a bit years. So we are anticipating—

Senator Humphries interjecting—

Ms Board—Unless they have a two-week break that is not allowed. So those people who are on CDEP as of 30 June in areas where CDEP will continue will be on CDEP wages for two years.

Senator SIEWERT—Yes; they are grandfathered—but there is a group that is not grandfathered, isn't there?

Ms Board—We are anticipating a small percentage of people on CDEP from 1 July will be new participants. Mostly they will be those people who have been grandfathered for a foreseeable amount of time—two years.

Senator SIEWERT—Okay.

Ms Board—So we are undertaking information sessions just to ensure that people are aware of the consequences if they are not on CDEP up to 30 June, and obviously we would expect the CDEP providers to give information to new participants as well as those who are grandfathered, and make the rules very explicit. The job services providers will also need to give information to new participants in particular about the compliance measures.

Senator SIEWERT—Okay. Have you done any work with DEEWR about how you are going to keep people in? You are going to have people there who are not used to dealing with compliance regimes, under the old or the new provisions under the employment reform process. Are you working with DEEWR to work out how you are going to forestall some of the problems that may occur?

Ms Board—Certainly. Just to clarify, with the current CDEP—and the rules will continue for those who are grandfathered—there are compliance rules in relation to no work, no pay. So people who are currently on CDEP are used to that regime. We are certainly working closely with DEEWR around the development of service level agreements that will occur between the job service provider and the CDEP provider, where it will

be spelt out how both organisations are going to work together to make sure they provide the best possible service to the Indigenous job seeker. So a lot of that kind of information will be captured in terms of how they will relate to each other. As I said, we have been working closely with Centrelink about the information that goes to participants.

CHAIR—Before we run out of time, I have to ask those questions that NAAJA asked us to ask. They are talking about the grandfathering arrangements and the issue around the break of no more than two consecutive weeks. Their questions are: what is the source of power that makes this rule? What is the status of this rule? How will approved leave be defined? Will approved leave include leave without pay? Will the decision to determine whether or not leave is approved be open to review?

Mr Doman—Most of the rules around this reflect what is currently in place for a CDEP participant. If they are absent for a period exceeding two weeks and they have not taken approved leave, they are exited from the CDEP, so they are no longer eligible for CDEP, and potentially they would need to go back on income support or reapply back to CDEP.

CHAIR—So that is the current rule?

Mr Doman—That is the current rule.

CHAIR—There is nothing different?

Mr Doman—Basically what we are proposing under the new rule is that they will still continue under CDEP, but if they do not work for two weeks and they have not provided an explanation or it has been paid leave then they would be exited and they would not be able to come back on CDEP.

Senator SIEWERT—Who makes that decision?

Mr Doman—The CDEP provider would make that decision. They would also make the decisions around what constitutes paid leave and what does not. They are required to meet minimum standards. For example, they may have more generous cultural leave and things like that. They also would have the ability to negotiate with participants. If, perhaps, they needed time off they could make up the time at another stage. We basically also have to be aware that the Commonwealth is funding the CDEP provider based on the number of people they are paying CDEP wages to. If we allow a break, getting beyond the two weeks, you are getting into a situation where Commonwealth money is being paid to a provider who does not have a use for it—it is not being used for a significant purpose—which is why it would be very difficult to have 13 weeks or something like that. But basically the rule is the same as it is now for a current participant.

CHAIR—So you are using the same rules you have now, but the point here is that they are not allowed to return. If they are suspended or terminated from CDEP they can reapply.

Mr Doman—Currently, yes, they can reapply.

CHAIR—Under this provision they cannot.

Mr Doman—No, under this provision they would need income support and would need a referral to CDEP.

Ms Board—So they could be referred back to CDEP but they would be on income support.

CHAIR—Yes, that is the point. Then, presumably, they just get treated the same as a new participant.

Mr Doman—Yes.

Senator HUMPHRIES—I turn to the National Partnership on Indigenous Economic Participation, which COAG is setting up for 13,000 Indigenous Australian jobs for four years. According to Professor Altman this arrangement begins on 1 July this year. He said at the time of his submission that we have not seen details of these sorts of jobs—where they will be and so forth. Can you give me an idea of when we expect to see them and how they will be rolled out?

Ms Board—Currently FaHCSIA is undertaking a jobs audit with all the CDEP providers to identify which jobs are currently being subsidised through CDEP wages. Part of that audit process will then go back to DEEWR, who will then negotiate with the various Australian government agencies to identify which of those current CDEP subsidised jobs should be transitioned into fully-paid positions. We expect that that process will take until around May-June and that the positions will commence on 1 July. There will be up to 2,000 jobs, primarily in remote areas.

Senator HUMPHRIES—So a person in a CDEP position could be told around 1 July, ‘Your position is now a full-time, paid position.’ Presumably the nature of the job might change as part of that process and

potentially the conditions would be adjusted. You would not expect there to be 13,000 jobs as of that time, would you? I assume those 13,000 jobs will be phased over a period of time.

Ms Board—All I can talk to are the 2,000 jobs that were part of the jobs conversion package. I cannot comment on the other positions. For the 2,000 government funded positions, we will rely on the organisation offering them to Indigenous people. Where possible, we hope the CDEP participant who has been sitting in a job would move into that job.

Senator HUMPHRIES—A number of witnesses today have argued that a real job is better than a CDEP position—and I think we would all accept that—but they have suggested that we need a community-by-community assessment of which jobs can be converted and which ones cannot be and therefore should be retained under the CDEP model. It is not clear to me from what you have been able to describe of this process under the Indigenous Economic Participation National Partnership that we are going to get that kind of community-by-community situation arising. It sounds a bit more like department by department identifying positions that can be converted into real employment. Is that really based around what is possible within individual communities? Is it possible that you will end up, for example, with successful Indigenous enterprises in some communities simply collapsing because real jobs are not created to keep them going? Could the lifeblood of some small communities simply disappear because this process will not deliver some alternative to the CDEP support which has kept those sorts of enterprises on their feet?

Ms Board—Where CDEP will continue, there are a number of options for how we match expectations around employment. Firstly, each of the funding agreements will be negotiated with the provider, whereby we will set particular targets. Those will be based on knowledge of the local employment opportunities. In particular, we will focus on how we can ensure through the work readiness program that people are properly able to move into jobs when they become available. That is the first thing. We will negotiate that through contracts. Secondly, we will expect the provider to develop community plans, where they will look at employment opportunities as well as ways in which people can get proper work experience. In many cases that would be through a social enterprise that is functioning in that community. Whilst there may not be actual paid jobs in those social enterprises, there will be nothing to stop a CDEP provider setting up a work experience or a host employment opportunity in that social enterprise because that will give a person the opportunity to experience working and to get those skills.

Senator HUMPHRIES—My question really is this. Is that exercise going to be done on a community-by-community basis? Will it be done on the basis of program by program or department by department? How can we be sure that this process will not leave some communities with effectively no support for an existing successful enterprise which is built on CDEP?

Ms Board—It would be negotiated through our agreement with the provider. As well as that we would hope that the CDEP provider would link into the Indigenous employment strategy that will be developed by the Job Services provider. They would need to work seamlessly together. So we are going to see a much greater effort in looking at what the opportunities are, what the current vacancies are and what is stopping people moving into those positions. We will obviously be negotiating closely with DEEWR in terms of their agreement managers working closely with the Job Services providers and likewise with our own people making sure that where there are opportunities we are actually ensuring that they are getting the proper support that is needed.

Senator HUMPHRIES—What you are saying, in summary, really is that you think a lot of the good that was done by successful CDEP programs around the country can be sustained but it is really a matter of the execution of this new program. There are a lot of departments to come together to work effectively together to make sure that we preserve the best of what is in operation at the moment.

Ms Board—That is right. As well as CDEP and the Indigenous Employment Program, there is Indigenous Business Australia. There are other programs available to assist Indigenous small business. But we are mindful that social enterprises in many locations are the centre of the particular community and we would hope that, through the development of community plans, we will be able to link people into those programs.

Senator HUMPHRIES—When we want to follow how this is going over the next few years, can we do that through the FaHCSIA estimates or do we need to be asking questions in all of the estimates committees which cover different departments where there are currently programs that might be relevant, such as that for DEEWR? Where can we keep track of what is going on? Which committee or committees do we have to be doing this through?

Ms Board—I think in the main it will be through DEEWR because they are responsible for Indigenous job seekers and CDEP is one place where job seekers can be referred to. We will certainly be able to give information around the targets that we have set in relation to training targets and employment targets. But I guess in the first instance it will be DEEWR as well as ourselves.

Senator HUMPHRIES—That presents a problem because there are two different committees there. I can see us asking a question in one committee and being told, ‘No, go and ask the question in the other committee.’

CHAIR—It has been an ongoing issue with CDEP for everyone for the last few years.

Senator HUMPHRIES—Okay. I am happy, thank you.

Senator SIEWERT—I want to go back to an issue, and if I am confused please correct me; I probably am confused.

CHAIR—That is self-admitted.

Senator SIEWERT—Yes. We have got CDEPs continuing in remote areas—and we have established how many people that is going to affect—CDEPs not continuing in non-remote areas and, as I understand it, we have got 5,000 people coming out.

Ms Board—In the non-remote areas?

Senator SIEWERT—In the non-remote areas. So those 5,000 people are not being grandfathered?

Mr Doman—Technically they will be grandfathered but CDEP will not be available in the locations where they are. But if within two weeks from 30 June they move to an area where CDEP is available they would keep their grandfathered status. But we do not expect that to happen to a large degree.

Senator SIEWERT—So you have got a group of 5,000 people who are not being grandfathered for CDEP, so they will come out of this system and they will go on income support.

Ms Board—Some will go on income support.

Senator SIEWERT—How many?

Ms Board—At this stage we do not have any data on how many we expect. That will depend on whether or not they were able to move into employment. Many CDEP participants are currently on host employment and, as part of the change management process, our FaHCSIA people are working with providers to see how many of those jobs can be converted into real jobs as well as apprenticeships.

Senator SIEWERT—This goes back to Senator Humphries’ question. So 1 July is when they will find out whether they have got real jobs?

Ms Board—The jobs conversion is mainly happening in remote areas, not in non-remote areas.

Senator SIEWERT—That is what I thought.

Ms Board—But we are hoping that through the change management process those jobs that are identified can be moved into other jobs so that will happen. That is not through the jobs package. It happens because there happens to be a job available for that person.

Senator SIEWERT—When will we know how many of those 5,000 have gone on other forms of income support?

Mr Doman—It would be a gradual process. Of course, the locations where CDEP will no longer exist are already aware of that and they know the program is not continuing, so there would be people moving into employment and other programs now. I mentioned the exit reasons—again, that is the sort of information we would collect, so it would be possible at any given time to pull the data and say what has happened to the people who have moved from CDEP in those areas.

Senator SIEWERT—Basically, there are up to 5,000 who, as of 1 July this year, will in fact be moving out of CDEP onto income support. So, not in two years time but in two months time, they will be running smack-bang into the new compliance regime.

Mr Doman—No, because they may move into employment before that time.

Senator SIEWERT—I said up to 5,000; we do not know how many.

Ms Board—No, we will not know until—

Senator SIEWERT—So the question I asked before is entirely relevant. You cannot tell me how many, but there is a cohort of people who, as of 1 July, will be moving onto income support. I think that in our wildest expectations, as much as I would like to think otherwise, those 5,000 people are not going to move into employment—not in the current economic circumstances. So you do have a cohort of up to 5,000 people that will be going onto income support and running into the new compliance regime.

Ms Board—Where CDEP is ceasing, yes. But we are hopeful that some will move into employment or into apprenticeships.

Senator SIEWERT—I understand that, and I am hopeful too, but I am also a realist. These people, who are some of our most vulnerable job seekers, are going to find it exceedingly hard to get a job in the current economic climate, so they are likely to need extra support to deal with the new compliance regime and employment services.

Ms Board—The new job services providers have been invited along to the information sessions that are being held at the moment with Centrelink and DEWR to ensure that the providers make very early contact with people who may become clients of Job Services Australia. So we are very mindful that we prepare people for that eventuality.

Senator SIEWERT—Again I do not know if this is your area, so I may have to ask Centrelink directly—we are putting some questions to Centrelink, aren't we?

CHAIR—Yes, we are.

Senator SIEWERT—Along with the information you are already providing us, would you tell us the number of Aboriginal people who have a recent history of being breached for noncompliance in those regions that were talking about where CDEP will longer exist. I would like to cross-reference Indigenous experience with the system in those areas where we are seeing CDEP being taken away.

Ms Board—That is a question for Centrelink.

Senator SIEWERT—We will ask Centrelink.

CHAIR—Regarding the questions from NAAJA, I know we gave the first couple; I am not sure if we got the last few—about how approved leave will be defined and those things. Would you mind looking at those and answering them on notice? I think it would be easiest to have them in written form.

Ms Board—Yes.

CHAIR—That would be good. I thank the officers of the department very much. We do appreciate your time. That brings us to the end of our hearing on the Family Assistance and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2009. A number of questions have been put on notice. We will clarify those with the secretariat today and tomorrow and get them to you as quickly as possible. Thank you very much.

Committee adjourned at 3.14 pm