

# Welfare Rights & Advocacy Service

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31 October 2006

Ms Jackie Morris  
A/g Committee Secretary  
Standing Committee on Legal and Constitutional Affairs  
Parliament House  
Canberra ACT 2600

Via email: [LegCon.Sen@aph.gov.au](mailto:LegCon.Sen@aph.gov.au)

Dear Ms Morris

**Re: Inquiry into the Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget and Other Measures) Bill 2006 ("the Bill").**

Thank you for your recent invitation to our agency to provide a submission in relation to the Senate Inquiry into the Bill. Welfare Rights & Advocacy Service is a community legal centre situated in Perth, Western Australia which provides advice, information, referral and representation to people in relation to Social Security and Family Assistance matters.

Our agency is supportive of some of the measures within the Bill, including the inclusion of land adjacent to a dwelling house in the definition of a "principal home" and additional grounds for qualification for crisis payment, as these will likely have beneficial outcomes for clients who utilise our service including those adversely impacted by the Assets Test or the existing eligibility criteria for Crisis Payment. Whilst supporting some of the measures in the Bill we have major concerns with the provisions which would give search and seizure powers to Centrelink officers and private contractors.

Our agency recognises that Centrelink needs to be able to effectively investigate and prosecute offences in regard to the programs they administer. We submit that before consideration is given to providing these proposed new and extensive powers to Centrelink the agency should spell out the circumstances which it says would necessitate the use of these powers – over and above Centrelink’s existing powers and those exercised collaboratively with the Australian Federal Police. Centrelink currently have extensive powers to obtain and compel the provision of information in instances where social security payments may have been incorrectly paid. These powers are further augmented by the current arrangements whereby warrants are executed by the Australian Federal Police in instances of suspected fraud. We cannot see a demonstrated need for the proposed changes.

Our concerns about the proposed changes particularly relate to the impact that these new provisions will have on those who may be subject to these new search and seizure provisions. Whilst the thrust of these changes relates to increased compliance activity in the areas of cash economy and identity fraud it is likely these provisions will be utilised more routinely in the investigation of allegations of someone being in a marriage like relationship. We have concerns as to the evidence that will form the basis for an authorised officer seeking a warrant to undertake a search in these matters as regularly we see instances of Centrelink investigations being launched solely on the basis of a tip-off which may be as a result of malicious intent by another party. It is of further concern that seeking a warrant and using these search and seizure powers may become the usual method of investigating any allegation of a marriage like relationship.

Many of those who will be subject to the new provisions will be from vulnerable parts of our community, including those from culturally and linguistically diverse backgrounds, those with mental illnesses and also those from refugee backgrounds. Though we note there are some provisions which require the consent of the occupier of the premises before executing the warrant it is highly likely that vulnerable clients would not question the authority of the authorised person or understand that they were able to refuse to give that consent. Unless an interpreter is used they may not understand who the person is or what they are doing. We acknowledge that there are provisions which apply to punish any wrongdoing by an authorised person, however it is unlikely those subjected to these raids will have any awareness of what should be expected from authorised persons or their rights of redress.

We also have significant concerns over the adverse impacts such raids may have on young children and others who may be present in the premises at the time of such a Centrelink raid.

We note these provisions also permit the use of necessary and reasonable force against persons and things (subsection 103J (1) and 103J (2)). In such instances with Centrelink entering a premises we are concerned about the reactions of a person subject to such an intrusion and the potential for violence on both parts, particularly if the person suffers from a mental illness or the raid occurs early in the morning and the officer fails to identify themselves properly (or the person does not understand English). We recognise that the Australian Federal Police have specific training in relation to search and seizure and the conduct of raids. Australian Federal Police

officers are also trained to deal with upset and distressed people and those with a mental illness. Centrelink officers do not have the same training.

Centrelink regularly employs external contractors to conduct video surveillance of locations and persons as part of their compliance activities. We note the Bill allows Centrelink to use private contractors to execute the warrants (subsection 221A (2)). We are not aware of any other circumstance in which private contractors have been given such far-reaching powers to enter private homes and would argue there are serious jurisprudential implications of such a measure.

For the reasons detailed in this submission we strenuously oppose the introduction of the proposed search and seizure powers contained in the Bill and would entreat the Senate Standing Committee on Legal and Constitutional Affairs to ensure that Centrelink are not conferred with the additional powers proposed.

Yours sincerely

Kate Beaumont  
Executive Officer