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16 AUG 2007

Senator Guy Barnett
Chairperson
Standing Committee on Legal
and Constitutional Affairs
Suite S1.61
Parliament House
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Dear Senator Barnett

I am pleased to provide you with the Australian Government's response to the Standing Committee on Legal and Constitutional Affairs' (the Committee) Inquiry into "*The Social Security and Other Legislation Amendment (Welfare Payment reform) Bill 2007 and four related bills concerning the Northern Territory Emergency Response*" conducted on Friday 10 August 2007.

Before I turn to our response to the recommendations in your report I was pleased to note in Chapter Three that the Committee expressed its deep concerns in relation to the abuse and neglect of Indigenous children as described in the Little Children are Sacred report.

The Committee also noted the need for immediate action and welcomed the policy changes contained in the suite of bills as a genuine and enduring commitment by the Australian Government to tackle the appalling conditions in which many Indigenous children find themselves.

I welcome these supportive comments.

The report provided seven recommendations. I am pleased to inform the Committee that I agree in full to five of the recommendations (Recommendations 3, 4, 5, 6 and 7). In relation to Recommendations 1 and 2, I agree in part.

Recommendation 1

I fully support transparency and accountability. The Northern Territory Emergency Response (NTER) is no exception. The bills should be continuously monitored. I also agree that we should report to the public annually on the process.

I have noted your comments in relation to the Overcoming Indigenous Disadvantage (OID) reporting framework. At this stage however, I am not certain as to whether this is the most appropriate reporting framework. I will consider this matter further and what form the reporting framework best take and provide you with advice as soon as possible.

Recommendation 2

I agree that the Northern Territory Emergency Taskforce will make their strategic and operational plans public within six months and long term plans within twelve months. I also agree that significant revisions to these plans will be reported publicly.

Again I have noted the Committee's comments in relation to the OID framework and my comments above stand.

There are two other issues I will take the opportunity to clarify for the Committee. There appeared to be a degree of confusion both from Committee members and from witnesses before the Committee in relation to 'reasonable compensation' and 'just terms'.

I have sought advice and had confirmed that the term 'reasonable compensation' is consistent with the Constitutional requirement for 'just terms' and is used in legislative drafting in a range of existing Commonwealth Acts. The drafting represents current best practice to reflect the Constitutional guarantee and no significance should be attached to this form of drafting. As you know, legislative provisions cannot validly provide for less than the Constitutional guarantee. I re-affirm the position stated by the Prime Minister and myself when NTER was announced on 21 June 2007, namely that should compensation be payable to traditional owners and others it will be paid in accordance with the Australian Constitution and as set out in this bill.

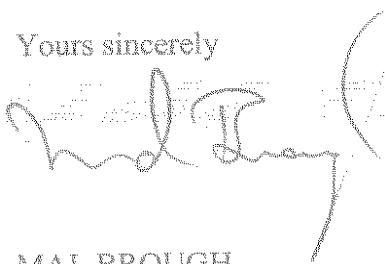
Further, I have indicated publicly, that should I receive advice that suggests the provision does not give effect to the Government's intentions, I am prepared at that time to amend the provisions. As it stands, there is no compelling case to alter the Bills.

Secondly, as I noted in my second reading speech the bills contain provisions that clarify the operation of the *Racial Discrimination Act 1975* and other anti discrimination legislation. The provisions of the bill for the NTER are drafted intentionally as 'special measures' for the sole purpose of securing the advancement of Indigenous Australians, particularly Indigenous children.

As I have always said the NTER is about protecting the children.

I thank the majority members of the Standing Committee on Legal and Constitutional Affairs for their support for this package of legislation.

Yours sincerely



MAL BROUGH

**Australian Government Response to the
Recommendations of the Standing Committee on Legal and Constitutional
Affairs
Social Security and Other Legislation Amendment (Welfare Payment Reform)
Bill 2007 and four related bills concerning the Northern Territory National
Emergency Response.**

Recommendation 1

That the Committee recommends that the operation of the measures implemented by the bills be continuously monitored and publicly reported on annually through the Overcoming Indigenous Disadvantage reporting framework

Response:

Agreed in part. The Australian Government is committed to ongoing monitoring and reporting on the Northern Territory Emergency Response.

In the initial stabilisation phase, monitoring will be directed towards assessing progress on the implementation of the measures and securing the safety of communities.

In the normalisation phase, there will be intermediate and longer term impacts, for indicators such as school attendance, reflecting the staged approach to both the stabilisation and normalisation phases and to particular components such as welfare reform.

The Australian Government agrees that the bills will be continuously monitored and to report to the public annually on the process.

The Australian Government has noted the Committee's recommendation in relation to the Overcoming Indigenous Disadvantage reporting framework, however at this stage are uncertain as to whether this is the most appropriate reporting framework. The Australian Government will consider the matter further and provide the Committee with further advice as soon as possible.

Recommendation 2

That the Committee recommends that the Northern Territory Emergency Taskforce make publicly available its strategic communication plan as well as other operational plans, within six months, and the long term plans being developed in relation to the intervention, within 12 months; and that information regarding significant revisions to these plans should be provided in the Overcoming Indigenous Disadvantage report.

Response

Agreed in part. The Australian Government agrees that the Northern Territory Emergency Taskforce will make strategic and operational plans public within six months and long term plans within twelve months.

The Australian Government also agrees that significant revisions to these plans will be reported publicly.

The Australian Government has noted the Committee's recommendation in relation to the Overcoming Indigenous Disadvantage reporting framework, however at this stage are uncertain as to whether this is the most appropriate reporting framework. The Australian Government will consider the matter further and provide the Committee with further advice as soon as possible.

Recommendation 3

The Committee recommends that the operation of the measures implemented by the bills be the subject of a review two years after their commencement, particularly to ascertain the impact of the measures on the welfare of Indigenous children in the Northern Territory. A report on this review should be tabled in Parliament.

Response

Agreed in full. The Australian Government agrees with the Committee's recommendation that the operation of the measures implemented by the bills will be subject to a review after two years.

The Australian Government further agrees that this report will be tabled in the Parliament.

Recommendation 4

The committee recommends that a culturally appropriate public information campaign be conducted as soon as possible, to allay any fears Indigenous communities in the Northern Territory may hold, and to ensure that Indigenous people understand how the measures in the bill will impact on them and what their new responsibilities are.

Response

Agreed in full. The Australian Government asks the Committee note that this is already underway. Existing resources are being used to support communication and education initiatives and activities for the emergency response. Advanced communication teams have visited all prescribed townships and most have been visited by Commonwealth Department survey teams, radio advertisements have been aired across the Northern Territory, information products have been distributed, the Department of Families, Community Services and Indigenous Affairs website is regularly updated, information has been provided at Northern Territory shows and regular radio updates are being broadcast on Indigenous radio networks.

In addition the current appropriation bills contain funding for communication and education activities and initiatives and, for some measures, signage.

The Australian Government notes that a number of submissions received by the Committee have suggested the need for an information campaign on various measures, which the Australian Government is open to considering.

Recommendation 5

The committee recommends that the Australian Government develop, as a matter of high priority, explanatory material to assist people to understand what is meant in practical terms by the phrases 'a quantity of alcohol greater than 1350millilitres' and 'unsatisfactory school attendance'.

Response

Agreed in full. The Australian Government supports this recommendation.

Alcohol Measures

The application of the greater than 1350millilitres threshold is designed to differentiate between a situation where someone is presumed to be using alcohol for their own purposes and where they are presumed to be supplying it to others.

The Australian Government is currently working with relevant stakeholders including peak industry bodies and the Northern Territory Government to develop communication materials to ensure community members understand what the new rules mean as well as materials to help licensees and their staff meet these requirements and minimise disruption to their businesses.

In conjunction with the Northern Territory Government, the Department of Health and Ageing is currently developing service responses to support the rollout of the alcohol measures.

School Attendance

The Australian Government is proposing a national benchmark for attendance of not more than five unacceptable absences each school term in jurisdictions where the school year is divided into four terms.

Before parents are subject to the income management regime due to exceeding the national benchmark, parents will be given a formal warning.

Parents will have time following the warning to try and address the school attendance issues relating to their child(ren). It is intended that this will involve the school and possibly Centrelink social workers as required.

Acceptable reasons for an absence from school will be assessed on the basis of the law, policy, guidelines or rules in force in the State or Territory in which the child is enrolled at school. Centrelink will act on information about unacceptable absences according these State/Territory rules governing school attendance. Centrelink will also be able to use further discretion to exempt individuals from specific instances of income management in circumstances where absences have occurred due to events beyond a parent's control (for example, where a foster carer has just taken custody of a child who has longstanding problems with school attendance.)

The Australian Government will develop communication material to ensure that community members understand the rules around implementation of the school attendance requirements related to their circumstances

Recommendation 6

The Committee recommends that the Australian Government should closely examine the need for additional drug and alcohol rehabilitation services in the Northern Territory and, if necessary, provide additional funding support to those services.

Response

Agreed in full. In conjunction with the Northern Territory Government, the Department of Health and Ageing will examine the need for additional rehabilitation capacity. The Australian Government would also ask that the Committee note that the Australian Government has already provided the Northern Territory Government with \$15.9million to support rehabilitation services flowing from the Australian Government's Summit on Violence and Child Abuse in Indigenous Communities held on 26 June 2006.

Recommendation 7

That committee recommends that the Senate pass the bills.

Response

Agreed in full. The Australian Government concurs with this recommendation and welcomes the Committee's support.