

Submission to the Senate Community  
Affairs Legislation Committee on the  
inquiry into the *Social Security  
(Administration) Amendment (Income  
Management to Cashless Debit Card  
Transition) Bill 2019*

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## About the Accountable Income Management Network

The Accountable Income Management Network (AIMN) is a nation-wide group of community members; representatives of national, state and local non-government organisations and community bodies; academics; social researchers and public policy experts. Our members have a strong commitment to social justice and human rights and are concerned about the provision of equitable and appropriate social security support to economically marginalised Australians. The AIMN is particularly concerned with issues raised by compulsory income management through such programs and trials as the BasicsCard and the Cashless Debit Card.

## Introduction

The AIMN welcomes the opportunity to respond to the Senate Community Affairs Legislation Committee's inquiry into the *Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019* (hereafter referred to as 'the Bill').

This Bill seeks to make multiple amendments to the *Social Security (Administration) Act 1999* in order to expand the Cashless Debit Card (CDC) trial to the entirety of the Northern Territory and the Cape York region, replacing current Income Management programs operating in these areas.

Our submission addresses issues including the proposed transformation of the Northern Territory and Cape York into CDC trial sites, the discretionary nature of exemption provisions from the CDC trial, the process for changing the proportion of restricted payments, issues with information and data sovereignty, the removal of a mechanism for internal review by the Australian Administrative Tribunal (AAT), the removal of provisions for independent evaluation, the expansion of the CDC without evidence of success, and the critiques from the Northern Territory community sector.

**The AIMN recommends that the Committee strongly oppose both the current Bill and the application of compulsory income management in Australia more broadly on the grounds that:**

- Compulsory income management does not achieve the results claimed.
- The distress, shame and hardship it causes to people (disproportionately Indigenous peoples in all current trial sites) is based on a false assumption that stripping people of autonomy and dignity will solve serious health and social issues.
- The application of compulsory income management is in violation of both human and consumer rights.
- The present Bill has been pushed through at an unacceptably fast pace, preventing adequate consultation or partnership with remote-living Aboriginal and Torres Strait Islander people who will be most affected.

## Overview of the Bill and Background Information

As described in the Explanatory Memorandum, this Bill:

- Extends the end date for existing CDC trial areas from 30 June 2020 to 30 June 2021 and establishes an end date for the CDC trial in the Cape York area of 31 December 2021;
- Removes the cap on the number of CDC trial participants;
- Removes the exclusion to allow people in the Bundaberg and Hervey Bay trial area to be able to voluntarily participate in the CDC trial;
- Establishes the Northern Territory (NT) and Cape York area as CDC trial areas and transitions IM participants in these sites onto the CDC trial in 2020;
- Enables the Secretary to advise a community body when a person has exited the CDC trial; and
- Improves the workability of the evaluation process.

The Explanatory Memorandum further notes that the financial impact of the Bill is calculated at \$17.8 million for 'support services to assist the transition in the NT and Cape York area.'<sup>1</sup>

### Persons affected by compulsory income management programs

As of 30 November 2018, 24,532 persons were subject to Income Management programs across Australia, with 21,718 of these participants residing in the Northern Territory.<sup>2</sup> The total proportion of Indigenous people subject to Income Management at this time was approximately 78 per cent, with Indigenous people making up 83 per cent of those subject to Income Management in the Northern Territory.<sup>3</sup>

As of 30 November, 149 persons were subject to Cape York Income Management,<sup>4</sup> a program which explicitly targets Indigenous peoples via the Family Responsibilities Commission. Cape York Income Management applies specifically to the Cape York communities of Aurukun, Coen, Hope Vale and Mossman Gorge, and is administered by the Department of Human Services with the guidance of the Family Responsibilities Commission.

As of early 2019 approximately 33 per cent of people subject to the CDC trial across all sites identified as Indigenous.<sup>5</sup> From the Explanatory Memorandum of the recently passed *Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019*:

'With the addition of the Goldfields areas, Western Australia, and the Bundaberg and Hervey Bay area [to the original trial sites in the Ceduna and East Kimberley regions], the proportion of Indigenous participants across the four sites is around 33 per cent.'<sup>6</sup>

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<sup>1</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 1.

<sup>2</sup> Department of Social Services 2018, Income Management Summary 30 November 2018.

<sup>3</sup> Department of Social Services 2018, Income Management Summary 30 November 2018.

<sup>4</sup> Department of Social Services 2018, Income Management Summary 30 November 2018.

<sup>5</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019, p. 9.

<sup>6</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 9.

However, we note with concern the infrequent public reporting of numbers of people subject to compulsory income management measures in Australia. The government's failure to provide timely periodic reporting on this, including a breakdown by type of income management program and Indigenous status, constitutes a clear lack of accountability to the Australian public about the operation of income management programs.

### Results from QCOSS' surveys on the cashless debit card

The Queensland Council of Social Service has run two surveys on the CDC trial in the Hinkler electorate, covering the December 2018 – January 2019 period,<sup>7</sup> and the September – October 2019 period.<sup>8</sup> Responses were primarily from individuals who were on the CDC themselves (55 per cent).<sup>9</sup> We have reproduced key responses from the second survey below for the Committee's consideration:

- **Awareness:** While there was high awareness of the CDC trial (91 per cent of respondents knew details about the trial), this awareness was primarily from non-government sources of information (media and social media). Despite the government saying they held over 180 meetings, most (71 per cent) of the respondents did not attend any government meetings. Many respondents said they had received no information about any government meetings.
- **Community issues:** A majority of respondents (65 per cent) did not see the targeted issues of drugs, alcohol or gambling as significant problems in Hinkler, with only youth unemployment seen by a majority (58 per cent) as a serious issue (down from 74 per cent in the first survey).
- **Community changes:** A majority of respondents said they did not observe that the issues targeted by the CDC trial had changed in the community since the trial began in January 2019. These included alcohol misuse (81 per cent), drug misuse (80 per cent) and gambling misuse (87 per cent), employment opportunities (65 per cent) and youth unemployment (71 per cent).
- **Harm reduction:** A majority of respondents observed that crime and violence (71 per cent), financial hardship (85 per cent) and stigmatisation (78 per cent) had *increased* in the community since January. A majority of respondents observed that access to second-hand goods (64 per cent) and people's wellbeing (68 per cent) had decreased in the community since January.
- **Position:** A significant majority of 81 per cent of respondents oppose the CDC trial outright (up from 65 per cent in the first survey). An overwhelming majority of 93 per cent of respondents oppose the CDC trial in its current compulsory form (up from 75 per cent), and this proportion increases to 98 per cent when filtering for those with direct experience of the CDC trial. 12 per cent saying they would support it if it was voluntary. A significant majority (89 per cent) have concerns about the CDC trial (up from 77 per cent), and a significant majority (82 per cent) say they experience no benefits from the CDCT (up from 65 per cent expecting no benefit).

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<sup>7</sup> Queensland Council of Social Service 2019, *Cashless Debit Card Trial Hinkler Survey Results, January 2019*.

<sup>8</sup> Queensland Council of Social Service 2019, forthcoming.

<sup>9</sup> Queensland Council of Social Service 2019, forthcoming.

- **Individual impacts:** The most common problems people said they experienced from the CDC trial were health or mental health needing support or treatment, rent problems and stigma and discrimination. 27 per cent of respondents said that they were not aware of the new trial exit process that rolled out in July 2019, 25 per cent were aware but had not applied and 25 per cent had applied to exit, with no respondents having been approved to exit.
- **Organisational impacts:** Survey respondents indicated that the highest need for additional service funding is mental health (74 per cent), employment (54 per cent) and drug and alcohol services (47 per cent). A majority (64 per cent) did not know if their service has enough resources to address the issues targeted by the CDC trial (alcohol, drugs and gambling).

## Key Concerns about the Bill

This submission raises multiple key concerns in relation to the current Bill, which proposes that the CDC should replace Income Management in the Northern Territory and Cape York.

In the past, the AIMN has provided extensive written critique of the harms of compulsory income management in Australia focusing on the CDC. We refer the committee to previous submissions including to the inquiry into the *Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018*<sup>10</sup> and the *Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019*<sup>11</sup>.

## Human rights concerns

The Parliamentary Joint Committee on Human Rights has previously raised concerns about the extent to which the measures included in compulsory income management programs are rationally connected to and proportionate to achieving the stated objectives of the legislation.<sup>12</sup> The Committee took issue with the government's suggestion that the extension of the CDC trials were a proportionate limitation on human rights, noting the importance of developing and maintaining 'adequate and effective safeguards, to ensure that limitations on human rights are the least rights restrictive way of achieving the legitimate objective of the measure'.<sup>13</sup> In particular reference to the compulsory nature of the trial, the Committee advised that:

'The application of the cashless debit card scheme on a voluntary basis, or with a clearly defined process for individuals to seek exemption from the trial, would appear to be a less rights restrictive way to achieve the trial's objectives.'<sup>14</sup>

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<sup>10</sup> Accountable Income Management Network 2018, *Submission to the Senate Community Affairs Legislation Committee on the Social Services (Legislation) Amendment (Cashless Debit Card Trial Expansion) Bill 2018*.

<sup>11</sup> Accountable Income Management Network 2019, *Submission to the Senate Community Affairs Legislation Committee on the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019*.

<sup>12</sup> Parliamentary Joint Committee on Human Rights, *Report 11 of 2017* (17 October 2017), pp. 126-137.

<sup>13</sup> Parliamentary Joint Committee on Human Rights, *Report 8 of 2018* (21 August 2018), p. 44.

<sup>14</sup> Parliamentary Joint Committee on Human Rights, *Report 8 of 2018* (21 August 2018), p. 45.

Ultimately, in relation to the extension of the trial to the Bundaberg and Hervey Bay area, the Committee determined both that ‘the expansion of the cashless welfare trial... may not be rationally connected to (that is, effective to achieve) the stated objectives of the measures’ and that ‘the measures may not be a reasonable and proportionate limitation on human rights’ including the right to social security, the rights to privacy and family, and the right to equality and non-discrimination.<sup>15</sup>

For a more comprehensive review of the way that the CDC trial infringes upon the rights of persons receiving income support payments in Australia, we refer the Committee to our recent submission to the United Nations Special Rapporteur on Extreme poverty and human rights.<sup>16</sup>

### Disproportionate impact of welfare quarantining on Indigenous peoples

The Explanatory Memorandum states that the CDC trial ‘does not affect people according to race, religion, ethnicity or any other factor’<sup>17</sup> and that ‘the rights to equality and non-discrimination are not directly limited by the Cashless Debit Card.’<sup>18</sup> However, as identified above, approximately 33 per cent of current CDC trial participants across all sites identify as Indigenous- over 10 times the percentage of Indigenous people in the Australian population. Even more concerning is the 78 per cent of Indigenous participants affected by Income Management programs across Australia.

Considering the targeting of Indigenous peoples by both Income Management and the CDC trials, it is clearly disingenuous to claim that compulsory income management in all forms do not affect people according to race. In addition to this, the Explanatory Memorandum fails to consider the fact that replacing one racialised welfare quarantining program with another still constitutes a disproportionate and racially targeted intervention.

The Productivity Commission has previously critiqued suggestions about the positive potential of the Northern Territory Emergency Response due to its top-down imposition, ignoring the importance of sustained consultation and co-design of social policy interventions with Indigenous communities.<sup>19</sup> The government’s continued push to expand and extend compulsory income management programs suggests a profound lack of will to engage with the importance of involving Indigenous communities in the development of any policies or programs that will affect them, as per the right to Indigenous self-determination.

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<sup>15</sup> Parliamentary Joint Committee on Human Rights, *Report 8 of 2018* (21 August 2018), p. 48.

<sup>16</sup> Accountable Income Management Network 2019, *Submission to the United Nations Special Rapporteur on extreme poverty and human rights, for the thematic report to the UN General Assembly on digital technology, social protection and human rights*.

<sup>17</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 20.

<sup>18</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 23.

<sup>19</sup> Steering Committee for the Review of Government Service Provision 2009, *Overcoming Indigenous Disadvantage: Key Indicators 2009*, Productivity Commission, Canberra, p. 11.23.

The AIMN is concerned with the consistent disproportionate targeting of Indigenous peoples with punitive social security legislation and administration amendments, which include compulsory income management programs, the Community Development Programme (and its past iterations) and various types of mutual obligation requirements.<sup>20</sup> We note the Australian government's long colonial legacy of implementing restrictive and disempowering welfare regimes in Indigenous communities, and consider compulsory income management to be a contemporary manifestation of this trend.

### Turning the Northern Territory into a Cashless Debit Card trial site

The present Bill seeks to roll out the CDC through a blanket approach to compulsory income management in the Northern Territory. Concerningly, this involves the removal of the present cap on total number of CDC trial participants, currently set at 15,000 in section 124PF of the *Social Security (Administration) Act 1999*.

If passed, this Bill will capture more people than are already subject to Income Management in the Northern Territory under the CDC. While the Explanatory Memorandum advises that 'the Bill does not introduce a new area to welfare quarantining arrangements',<sup>21</sup> this does not necessarily equate to the same number of participants being subject to welfare quarantining under the proposed CDC trial. Instead, the Bill includes the potential for every person living in the NT receiving Youth Allowance, Newstart Allowance, Parenting Payment or Special Payment (who are not studying full time) to be subject to the CDC, with a default base quarantining rate of 50 per cent of one's payments. We note that the Bill will move people who are currently child protection or vulnerable income management participants onto the CDC, with 70 and 50 per cent of payments restricted by default, respectively. Of significant concern, it appears that people currently receiving the Age Pension in the Northern Territory will become subject to the CDC as part of their inclusion in the vulnerable income management category.<sup>22</sup> The Bill also collapses the 'long term welfare recipient' and 'disengaged youth' Income Management categories and removes the limited safeguards that the current Income Management laws offer. Rather than a person's length of time on social security being a key trigger, it will simply be a question of which category of social security payment they are receiving.

The Explanatory Memorandum suggests that the CDC trial constitutes 'a more streamlined approach to welfare quarantining, the use of improved technology, and fewer restrictions on purchases that allow participants to shop from a wide variety of sellers, including online retailers, thereby increasing a participant's ability to spend their welfare payments to meet their essential needs.'<sup>23</sup> However, in practice, this has led to issues for participants including

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<sup>20</sup> Klein, E 2016, 'Neoliberal subjectivities and the behavioural focus on income management', *Australian Journal of Social Issues*, vol. 51, no. 4, pp. 503-523.

<sup>21</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 21.

<sup>22</sup> <https://guides.dss.gov.au/guide-social-security-law/11/1/1/50>

<sup>23</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 21.



a severely restricted ability to make cash purchases of essentials including fresh food and second-hand goods.<sup>24</sup>

The Explanatory Memorandum also suggests that current arrangements for providing customer service to CDC trial participants are user-friendly and workable. In practice, this is demonstrably false, with participants reporting issues including being bounced between the Department of Social Services, Indue customer service, and local partner service providers with no resolution.<sup>25</sup> It is reasonable to expect that this inefficiency will be complicated and compounded by factors including remoteness and language and literacy barriers for participants in the Northern Territory.

### Switching Cape York Income Management to the Cashless Debit Card

The Bill moves persons currently subject to Cape York Income Management onto the Cashless Debit Card, though this will still be under the management of the Family Responsibilities Commission. Once again, we note with concern that the age pension appears to be included in payments subject to the trial under this legislation. The end date for the Cape York trial is set for 31 December 2021, though no justification has been provided for this apart from that the 'extended trial for the Cape York area aligns with the Commonwealth's agreements in relation to the operation of the FRC and ensures certainty for all stakeholders involved.'<sup>26</sup>

We also note with concern the following changes included in the Bill that apply specifically to the CDC trial in the Cape York region:

- 124PHA(5): the Secretary cannot make a determination that a person is not a trial participant on the basis of serious risk to the person's mental, physical or emotional wellbeing if they are in the Cape York area.
- 124PHB(1): persons in the Cape York area cannot apply to the Secretary for an exemption on the basis of being able to responsibly manage their own affairs.
- 124PJ(1)(1A): the default percentage of payments to be quarantined is 50%, but the Queensland Commission can vary this percentage.

The Explanatory Memorandum does not provide sufficient clarity as to the alternative mechanisms for exemption and exit for persons subject to the CDC trial in the Cape York region.

### The discretionary nature of exemption provisions

The replacement of Income Management with the CDC will mean that participants in the Northern Territory and Cape York will now have to apply for exemptions through a different process. Currently, the law allows the Secretary of the Department of Human Services to exempt a person from the CDC trial if being a participant is determined to be a serious threat to their psychological, physical or emotional health. However, the Secretary does not have to

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<sup>24</sup> Australian Unemployed Workers' Union (SA Division) 2019, *Report into South Australian Regional Road Trip: August 2018*.

<sup>25</sup> Information obtained through AIMN and QCOSS consultations with CDC trial participants in the Hinkler electorate.

<sup>26</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 9.

make inquiries about a person's health before giving a person notice that they are being placed on the Cashless Debit Card. The Parliamentary Joint Committee on Human Rights has previously raised rights-based concerns about this process.<sup>27</sup>

In addition to this, the process of applying to the Secretary to exit the CDC trial appears to leave the Secretary with a significant amount of discretion when it comes to assessing whether a person can 'demonstrate reasonable or responsible management of their affairs (including their financial affairs).'<sup>28</sup>

The criteria for assessment for exemption from the CDC trial are:

- the interests of any children the person is responsible for;
- whether the person has been convicted of a criminal offence, or was serving a sentence for an offence, any time in the previous 12 months;
- risks of homelessness;
- the health and safety of the person and the community;
- the responsibilities and circumstances of the person;
- the person's engagement with the community, including employment and efforts to obtain work; and
- any other requirements that are set by the Minister via legislative instrument (the Minister must consult with communities and trial participants and have regard to their feedback before setting additional requirements).

However, it is unclear as to how these are being considered in practice, and how assessments of exemption applications may affect trial participants who experience multiple intersecting socioeconomic marginalisations. Worryingly, no guidance on this is provided in the Bill or Explanatory Memorandum.

### Changing the restricted percentage of payments

The Bill allows the Minister to change the quarantined proportion of CDC trial participants' payments by notifiable instrument, that is, without Parliamentary scrutiny.<sup>29</sup> The Explanatory Memorandum explains that this provision allows the Minister to reflect requests from communities, State and Territory authorities and child protection officers.

The Senate Standing Committee for the Scrutiny of Bills has noted its concern about this provision as follows:

'...the committee remains concerned that proposed subsections 124PJ(2A) and (2B) **would confer on the minister a broad power to determine, in relation to classes of trial participants, the portion of restrictable payments that are restricted, with little or no guidance on the face of the bill as to how this power is to be exercised.** It is also unclear how the secretary's power under subsection 124PJ(3) would be effective

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<sup>27</sup> Parliamentary Joint Committee on Human Rights, *Report 8 of 2018* (21 August 2018), p. 44.

<sup>28</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 15.

<sup>29</sup> Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2019* (18 September 2019), p. 18.

to ensure that the minister's powers are exercised appropriately, noting that the minister's powers apply to classes of participants while the secretary's powers apply to individuals.

The committee is also concerned that ministerial determinations would be made by notifiable instrument. In this respect, **the committee notes that notifiable instruments are not subject to the tabling, disallowance, and sunseting requirements that apply to legislative instruments under the Legislation Act 2003. Parliamentary scrutiny of the determinations would therefore be limited.**<sup>30</sup> (emphasis added)

We reiterate the Committee's concerns as raised above.

### Issues with information sharing and data sovereignty

The Bill includes broad information sharing powers, providing the Secretary the power to obtain information or documents that they consider may be relevant to the operation of the CDC trial. This means that the Secretary can effectively compel a person to provide a range of information or documents, including information about their personal circumstances as well as information about how the CDC is being used by trial participants.

The Explanatory Memorandum attempts to justify the necessity of conferring this power on the Secretary by stating that it is necessary for the Secretary to be able to obtain information relevant to 'whether a person should not participate in the CDC trial on the basis of their mental, physical or emotion [sic] wellbeing or where they can demonstrate reasonable or responsible management of their affairs (including their financial affairs).'<sup>31</sup> This is highly concerning for multiple reasons. First of all, neither the Bill nor the Explanatory Memorandum clarify what type of information can be shared. Secondly, this reinforces the already problematic and harmful premise under which the CDC operates- that the harms of the trial should only be addressed after a participant has been put under the trial, rather than pre-emptively identified in order to make sure that certain persons are not put on the trial at all.

The Senate Standing Committee for the Scrutiny of Bills has raised concerns about information sharing in the present Bill:

**'...the committee is concerned that allowing the sharing of information about trial participants, and extending the secretary's power to require information and documents, may trespass unduly on individuals' privacy.** In this respect, the committee notes that neither the explanatory memorandum nor the statement of compatibility provide detail as to the type of information that may be shared under proposed sections 124POB, 124POC and 124POD, or the type of information or documents that may be required under paragraph 192(db).'<sup>32</sup> (emphasis added)

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<sup>30</sup> Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2019* (18 September 2019), p. 19.

<sup>31</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 15.

<sup>32</sup> Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2019* (18 September 2019), p. 20.

In addition to this, the Committee noted that:

**'...the explanatory materials do not identify any relevant safeguards in relation to the collection of information under paragraph 192(db).** In relation to proposed sections 124POB, 124POC and 124POD, the statement of compatibility states that there are 'effective community safeguards' in place. However, it does not provide any further detail (for example, expressly identifying the safeguards or explaining how they will operate in practice). The statement of compatibility states that 'there are still safeguards in place to protect individual privacy', and that some information collected, used and disclosed for the purposes of the CDC will be protected under the Privacy Act 1988.<sup>44</sup> **However, it is unclear whether, and if so, how, these safeguards would apply to the disclosure of information under proposed sections 124POB, 124POC and 124POD, or to the collection of information under paragraph 192(db).**<sup>33</sup> (emphasis added)

While this power for information sharing also currently exists within the *Social Security (Administration) Act 1999* in relation to Income Management, there is still a question as to whether such a broad power is appropriate under the CDC, considering that the Indue Card contains more sophisticated technology and may capture a greater field of information, which might then be used against participants (such as when they attempt to exit the trial).

Further, while the Explanatory Memorandum contains an assertion that the Department is not able to see what products are being purchased, but only the merchants that transactions are conducted at, this still raises concerns about individuals right to privacy. It is unclear what other kinds of information may be collected and used by the Department, such as failed attempts to use the card. We also note that in November 2017, the Minderoo Foundation presented a report to the Government suggesting various technological upgrades to the CDC, including product-level blocking of restricted items.<sup>34</sup> Therefore, increasing the granularity of surveillance and control of CDC trial participants' spending has already been considered by Government in conjunction with private sector stakeholders, irrespective of what harms this inflicts on people forced on the CDC.

### Removal of internal review by the Australian Administrative Tribunal

This Bill removes the ability of the Secretary and the Administrative Appeals Tribunal (AAT) to review certain decisions relating to trial participation. These include the notice that a person is required to receive from the Secretary as one of the criteria for being included in the trial and the revocation of such a notice and apply specifically to trial participants in the Northern Territory. In effect, this means that an individual cannot seek a review from the Secretary or the AAT at the time that they are placed on the scheme (for example, because they think that they have been placed on it in error) and will instead need to apply for an exemption or exit to the scheme. This is highly concerning and appears to be in direct contradiction to procedural fairness afforded to other income support recipients not subject to welfare

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<sup>33</sup> Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2019* (18 September 2019), pp. 20-21.

<sup>34</sup> Minderoo Foundation (2017) *Cashless Debit Card Technology Report*.

quarantining. We note that the application of this measure in the Northern Territory will disproportionately target Indigenous peoples, who are well documented to have more trouble accessing exemptions than non-Indigenous participants.<sup>35</sup>

### Removal of independent evaluation provisions

The AIMN notes with serious concern the Bill's function to repeal subsections 124PS(2) and (3) of the *Social Security (Administration) Act 1999*, which refer to the evaluation of trial review. While retaining the requirement for any review of CDC trial arrangements to be evaluated, this amendment removes the requirement for such an evaluation to be completed within 6 months of the Minister receiving the review report and for it to be conducted by an independent evaluation expert with significant expertise in the social and economic aspects of welfare policy. Significantly, it also removes the requirement for the independent expert to consult trial participants, and to make recommendations about the effectiveness of CDC arrangements and their broader applicability.

The suggestion that ongoing evaluation triggered under section 124PS is 'circular' and therefore problematic is erroneous. The Explanatory Memorandum states that amendments in the Bill support 'a desktop evaluation to lessen the ethical implications associated with avoidable repeat contact with vulnerable individuals.'<sup>36</sup> This statement is perverse, considering that the government rarely contacts 'vulnerable' individuals to consult them about such punitive policy interventions in the first place, and then traumatises these groups through the implementation, flawed evaluation, and indefinite legislative extension of income management programs.<sup>37</sup> Framing the removal of face-to-face evaluation mechanisms carried out by independent experts as a mercy to trial participants is highly inappropriate.

Nonetheless, this approach to the integrity of program evaluation is consistent with the government's choice to continue to refer to ORIMA Research's evaluation of the first two trial sites, despite this evaluation process being roundly critiqued by both academia and the community sector.<sup>38</sup> The Explanatory Memorandum also refers to the dubious baseline data collection in the Goldfields, incorrectly stating that 'the report measured the socioeconomic conditions prior to the introduction of the card, and the community's initial perceptions of the Cashless Debit Card immediately following implementation', and citing positive results.<sup>39</sup>

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<sup>35</sup> Shelley Bielefeld, 'Income Management and Indigenous Women – A New Chapter of Patriarchal Colonial Governance?' (2016) *University of New South Wales Law Journal* 39(2): 843, pp. 865-866.

<sup>36</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 5.

<sup>37</sup> These points are made at length in Shelley Bielefeld, 'Cashless Welfare Transfers for "Vulnerable" Welfare Recipients – Law, Ethics and Vulnerability' (2018) 26(1) *Feminist Legal Studies* 1-23. <<https://doi.org/10.1007/s10691-018-9363-6>>.

<sup>38</sup> Hunt, J 2017, 'The Cashless Debit Card Trial Evaluation: A Short Review', *CAEPR Topical Issue 1/2017*, Centre for Aboriginal Economic Policy Research, ANU College of Arts & Social Sciences.

<sup>39</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 19.

This is highly disingenuous, considering that the baseline data collection occurred after the commencement of the trial in the Goldfields.<sup>40</sup>

The AIMN also notes that despite multiple evaluation reports and testimonies from participants that reveal the impact of compulsory income management as inconclusive at best and significantly harmful at worst, the government has chosen to extend the date for existing CDC trial areas from 30 June 2020 to 30 June 2021. This is despite strong recommendations provided by committees including the Parliamentary Joint Committee on Human Rights that no further expansion or extension of these trials be pursued prior to rigorous evaluation. This includes an implicit but significant requirement that government adhere to the recommendations raised in its own commissioned evaluation reports, an issue we have addressed in greater detail in our submission to the Productivity Commission's Indigenous Evaluation Strategy.<sup>41</sup>

### Continued expansion of the Cashless Debit Card without evidence

The Explanatory Memorandum states that the Bill 'will extend the end date to 20 June 2021 in most trial areas so that communities are able to build on the positive outcomes that the CDC trial is delivering and to develop a rigorous evidence base to inform policy decision through evaluation.'<sup>42</sup> However, this is no longer a trial, it is a full-blown program. It is disingenuous to refer to the CDC as a trial when it is effectively set to operate indefinitely- legislation is put forward to extend it every year.

We echo concerns raised by Professor Mathew Gray and Dr Rob Bray in their submission to the Committee that the Bill not be passed, and that the government 'wind back the currently ineffectual approaches of widespread application of Income Management and the Cashless Debit Card,' instead favouring a voluntary approach<sup>43</sup>. Professor Gray and Dr Bray have significant expertise in the analysis of income management programs in Australia and were members of the research group that undertook the government-commissioned evaluation of New Income Management in the Northern Territory.<sup>44</sup>

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<sup>40</sup> Mavromaras, K, Moskos, M, Isherwood, L & Mahuteau, S 2019, *Cashless Debit Card Baseline Data Collection in the Goldfields Region: Qualitative Findings*, Future of Employment and Skills Research Centre, The University of Adelaide.

<sup>41</sup> Accountable Income Management Network, *Submission to the Productivity Commission's Indigenous Evaluation Strategy*.

<sup>42</sup> Explanatory Memorandum for the Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, p. 3.

<sup>43</sup> Gray, M & Bray, R 2019, *Senate Standing Committee on Community Affairs Legislation Committee Inquiry into the Income Management to Cashless Debit Card Transition Bill Submission*, ANU Centre for Social Research and Methods, Australian National University, p. 4.

<sup>44</sup> <https://www.dss.gov.au/families-and-children/programs-services/welfare-conditionality/income-management/income-management-evaluations/evaluation-of-new-income-management-in-the-northern-territory>

## Conclusion and Recommendation

The AIMN reiterates the concerns stated above to assert that the CDC trials should be immediately abandoned in favour of comprehensive and strengths-based social security support for marginalised income support recipients.

**The AIMN recommends that the Committee strongly oppose both the current Bill and the application of compulsory income management in Australia more broadly on the grounds that:**

- Compulsory income management does not achieve the results claimed.
- The distress, shame and hardship it causes to people (disproportionately Indigenous peoples in all current trial sites) is based on a false assumption that stripping people of autonomy and dignity will solve serious health and social issues.
- The application of compulsory income management is in violation of both human and consumer rights.
- The present Bill has been pushed through at an unacceptably fast pace, preventing adequate consultation or partnership with remote-living Aboriginal and Torres Strait Islander people who will be most affected.