



Family Responsibilities Commission Amendment Bill 2013

Report No. 30

Health and Community Services Committee

September 2013

Health and Community Services Committee

Chair	Mr Trevor Ruthenberg MP, Member for Kallangur
Deputy Chair	Mrs Jo-Ann Miller MP, Member for Bundamba
Members	Ms Ros Bates MP, Member for Mudgeeraba Dr Alex Douglas MP, Member for Gaven Mr John Hathaway MP, Member for Townsville Mr Jon Krause MP, Member for Beaudesert Mr Dale Shuttleworth MP, Member for Ferny Grove
Staff	Ms Sue Cawcutt, Research Director Ms Lee Archinal, Principal Research Officer (part-time) Ms Kathleen Dalladay, Principal Research Officer (part-time) Mr Karl Holden, Principal Research Officer (part-time) Ms Stephanie Cash, Executive Assistant
Technical Scrutiny Secretariat	Ms Renee Easten, Research Director Mr Karl Holden, Principal Research Officer (part-time) Ms Marisa Ker, Principal Research Officer (part-time) Ms Tamara Vitale, Executive Assistant
Contact details	Health and Community Services Committee Parliament House George Street Brisbane Qld 4000
Telephone	+61 7 3406 7688
Fax	+61 7 3406 7070
Email	hcsc@parliament.qld.gov.au
Web	www.parliament.qld.gov.au/hcsc

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Abbreviations

the Bill	Family Responsibilities Commission Amendment Bill 2013
the committee	Health and Community Services Committee
Cwth	Commonwealth
CYWR Trial	Cape York Welfare Reform Trial
FRC	Family Responsibilities Commission
the FRC Act	<i>Family Responsibilities Commission Act 2008</i>
the Institute	Cape York Institute for Policy and Leadership
the RD Act	<i>Racial Discrimination Act 1975 (Cwth)</i>

Chair's foreword

On behalf of the Health and Community Services Committee of the 54th Parliament, I present this report on the Family Responsibilities Commission Amendment Bill 2013.

The Bill was introduced into the Legislative Assembly by the Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs on 6 August 2013. The committee was required to report to the Legislative Assembly by 8 October 2013.

The committee's task was to consider the policy to be given effect by the legislation and whether the Bill has sufficient regard to the fundamental legislative principles, including the rights and liberties of individuals and the institution of Parliament.

The Bill amends the *Family Responsibilities Commission Act 2008* to extend the operations of the Family Responsibilities Commission (FRC) by 12 months, to 1 January 2015. The FRC is part of the Cape York Welfare Reform Trial, which operates as a partnership between the Queensland Government, the Australian Government and the Cape York Institute for Policy and Leadership.

On behalf of the committee, I thank the Family Responsibilities Commission, the committee secretariat and the Technical Scrutiny of Legislation secretariat.

I commend the report to the House.



Trevor Ruthenberg MP

Chair

Recommendation**Recommendation 1****3**

The committee recommends that the Family Responsibilities Amendment Bill 2013 be passed.

1 Introduction

1.1 Role of the committee

The Health and Community Services Committee (the committee) was established by resolution of the Legislative Assembly on 18 May 2012, and consists of government and non-government members.

Section 93 of the [Parliament of Queensland Act 2001](#) provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of fundamental legislative principles to the Bill.

1.2 Committee process

The Family Responsibilities Commission Amendment Bill 2013 (the Bill) was referred to the committee on 6 August 2013 and the committee was required to report to the Legislative Assembly by 8 October 2013.

The committee considered and was satisfied with the consultation described in the Explanatory Notes. The committee decided further consultation was not required given the support of all key stakeholders, including the four trial communities, to a twelve-month extension to the operations of the Family Responsibilities Commission (FRC). The committee did not hold a public hearing on the Bill.

The committee invited submissions on its website and directly from the FRC and the Cape York Institute for Policy and Leadership (the Institute). The FRC made a submission, which is published on the committee's website.¹

1.3 Policy objectives of the Family Responsibilities Commission Amendment Bill 2013

The objective of the Bill is to extend the operation of the FRC for a further 12 months, by amending the expiry date of the *Family Responsibilities Commission Act 2008* (the FRC Act). Section 152 of the FRC Act currently states that the Act expires on 1 January 2014, resulting in the cessation of the FRC on 31 December 2013.² Clause 3 of the Bill proposes to amend the expiry date to 1 January 2015, enabling the FRC to operate until 31 December 2014.³

The Bill also proposes two consequential amendments. Clause 4 aligns the date on which the office of commissioner or board member is taken to be vacant with the amended expiry date of 1 January 2015. Clause 5 aligns the date on which an FRC order or family agreement ceases with the amended expiry date of 1 January 2015.⁴

1.4 The Family Responsibilities Commission

The FRC is a statutory body established under the FRC Act to:

- support the restoration of socially responsible standards of behaviour and local authority in welfare reform community areas, and
- help people in welfare reform community areas to resume primary responsibility for the wellbeing of their community and the individuals and families of the community.⁵

1 <http://www.parliament.qld.gov.au/work-of-committees/committees/HCSG/inquiries/current-inquiries/FRC-AmendBill2013>

2 *Family Responsibilities Commission Act 2008* (FRC Act), s.152, available at <https://www.legislation.qld.gov.au/LEGISLTN/ACTS/2008/08AC009.pdf>

3 Family Responsibilities Commission Amendment Bill 2013, available at <https://www.legislation.qld.gov.au/Bills/54PDF/2013/FamRespCommAB13.pdf>

4 *ibid.*

5 FRC Act, s.4

The core objectives of the FRC include safeguarding and restoring child safety, school attendance, lawful behaviour and responsible tenancy.⁶ The FRC Act allows the FRC to conduct conferences where a welfare recipient in one of the four participating Cape York communities:

- has a child who is not enrolled in or meeting designated school attendance requirements
- has come to the attention of the Department of Communities, Child Safety and Disability Services for a child safety matter
- is convicted of an offence in the Magistrates Court, or
- is in breach of a social housing tenancy agreement.

The conferences provide a forum for the person and any other relevant party to discuss with the FRC why and how the situation occurred. At the conclusion of a hearing the FRC may give the person a reprimand, recommend or direct the person to attend community support services or give Centrelink a notice to manage all or some of the person's welfare payments, or pay all or some of the person's welfare payments to someone else e.g. someone who is looking after their child.

The FRC Act also allows the FRC to enter into an agreement with the person about attending community support services or income management arrangements, before making orders.⁷

1.5 Cape York Welfare Reform Trial

The FRC is part of the Cape York Welfare Reform (CYWR) Trial, which seeks to restore social norms and local indigenous authority in the Cape York communities of Aurukun, Coen, Hope Vale and Mossman Gorge.

The trial commenced in 2008 and operates as a partnership between the Queensland and Australian Governments and the Cape York Institute for Policy and leadership (the Institute).

The trial is based on the philosophy that people who are in receipt of welfare payments or participating in funded employment programs "have an obligation to their community not to behave in ways which are detrimental to their family or to the wellbeing of the general community".⁸

Indigenous and non-Indigenous people who are living in these communities and receiving welfare or funded employment program payments are within the jurisdiction of the FRC. This jurisdiction continues if the individual relocates from the community.⁹

6 Family Responsibilities Commission, *website*, available at <http://www.frcq.org.au/>

7 FRC Act, s.68

8 Family Responsibilities Commission, *Annual Report 2011–12*, p 12, available at <http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2012/5412T1438.pdf>

9 *ibid.*

2 Examination of the Bill

2.1 Should the Bill be passed?

Standing order 132 (1) requires the committee to recommend whether the Bill should be passed. The committee considered the policy intent of the Bill, which is to extend the operation of the FRC for a further 12 months to 1 January 2015, and noted the key role the FRC plays in the CYWR trial.

After examination of the Bill, the committee determined that the Bill should be passed.

Recommendation 1

The committee recommends that the Family Responsibilities Commission Amendment Bill 2013 be passed.

2.2 Extension of the Family Responsibilities Commission until the end of 2014

2.2.1 Cape York Welfare Reform Trial

On 28 March 2013 the Australian Government released an independent evaluation of the CYWR Trial. The evaluation found that the trial had

*made progress in restoring social norms and local authority, with FRC Local Commissioners playing a critical role; and led to subtle and fundamental behavioural changes in money management, responsibility for children, school attendance, educational attainment and attitudes to work.*¹⁰

Additional government funding has been committed to extend the CYWR Trial. The Australian Government has committed \$26.3 million to extend the CYWR Trial for two calendar years (2014 and 2015), while the Queensland Government has committed \$5.65 million to the 2014 extension. Approximately \$3.6 million of this has been allocated to support the FRC's operations from 1 January 2014 to 1 January 2015.¹¹

2.2.2 Support for extending the FRC

The consultations described in the Bill's Explanatory Notes show significant stakeholder support for the extension of the CYWR Trial and the ongoing operation of the FRC. The CYWR Trial and the FRC are described as having a positive impact on communities, with parents taking more responsibility for their families and communities being quieter than before the trial commenced. Improvements in school attendance and readiness are also highlighted.¹²

Extending the operations of the FRC will ensure continued support for the CYWR Trial, provide an opportunity to consolidate and build on the progress made to date in each of the trial communities and allow time for Queensland government to consider the direction of future welfare reform.¹³

2.2.3 Submissions

The committee received a submission from the Family Responsibilities Commissioner, David Glasgow, which supports the Bill. The Commissioner stated the proposed extension to the CYWR Trial will assist the FRC to build on the achievements made in the Aurukun, Coen, Hope Vale and Mossman Gorge communities since the CYWR Trial commenced in 2008.¹⁴

10 Explanatory Notes, Family Responsibilities Commission Amendment Bill 2013, p.2, available at <https://www.legislation.qld.gov.au/Bills/54PDF/2013/FamRespCommAB13E.pdf>

11 *ibid.*

12 *ibid.*, p.4

13 *ibid.*, p.2

14 Family Responsibilities Commission, Submission 1

3 Fundamental legislative principles

Section 4 of the [Legislative Standards Act 1992](#) states that ‘fundamental legislative principles’ are the “principles relating to legislation that underlie a parliamentary democracy based on the rule of law”. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee considered the application of fundamental legislative principles to the Bill.

3.1 Rights and liberties of individuals – potential inconsistency with the *Racial Discrimination Act 1975* (Cwth)

The Explanatory Notes raise the issue of whether the Bill has sufficient regard for the rights and liberties of individuals, as the income management schemes supported by the FRC may potentially breach the Commonwealth *Racial Discrimination Act 1975* (the RD Act).¹⁵ The committee has previously considered this matter and concluded that the Commonwealth has deemed income management schemes as ‘special measures’ under the RD Act.¹⁶

3.2 Explanatory notes

The Explanatory Notes generally conform to the requirements of section 23 of the *Legislative Standards Act 1992*.

¹⁵ Explanatory Notes, p.3

¹⁶ Special measures are measures that confer an advantage or benefit on people of a particular race or ethnicity in order to counteract the economic and social disadvantages suffered by that racial group as a result of historic discrimination. The concept of ‘special measures’ is expressed in the *International Convention on the Elimination of all forms of Racial Discrimination* (ICERD) article 1(4) which declares that:

“Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintaining of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.”

The Commonwealth directly incorporates the Convention definition of ‘special measures’ into its RD Act.