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DEPARTMENT OF SOCIAL SECURITY

CENTRAL ADMINISTRATION

A968

Part No. **T**

Reference to Other Files

A 968 PART TWO.

SUBJECT

TORRES STRAIT ISLANDERS.
ELIGIBILITY FOR S.S. BENEFITS

EACH OFFICER TO ENTER INITIALS WHEN CLEARING FOLIO
SENDING OFFICER MUST NOT INITIAL HIS OUTWARD ENTRY

Folio for Attention (1)	Officer to Whom Referred (2)	Date File Passed (3)	Initials of Officer Completing Action (4)	Folio/s for Attention (1)	Officer to Whom Referred (2)	Date File Passed (3)	Initials of Officer Completing Action (4)
<p>FILE CLOSED LATER PAPERS ON FILE NO. _____</p> <p>ARCHIVED FILE RETURN TO REGISTER AS SOON AS POSSIBLE</p> <p>ARCHIVES FILE RETURN TO REGISTER AS SOON AS POSSIBLE</p> <p>FILE CLOSED LATER PAPERS ON FILE NO. _____</p>							

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- (3) All entries to be in ink.

U.S. ACTION SHEET (FILE COVER)
July 73



TELEGRAPHIC CODE
ADDRESS: HEALTHOME

COPY

Department of Health and Home Affairs,
William Street,
Brisbane.

95 (113)
In reply please refer to Record
No. _____

8th April, 1957.

Sir,

Employed in the pearling industry centred in Thursday Island are approximately 600 men who become unemployed during the lay up season of the pearling boats. The majority of these men reside on the Torres Strait Islands located between 40 and 120 miles from Thursday Island.

It is asked that arrangements be made whereby these men, legally eligible for unemployment benefit, be enabled to obtain such. The benefit has always been received by Islanders unemployed and for whom no work is available at Thursday Island, when the Islander was able to report to the Clerk of Petty Sessions, Thursday Island, weekly.

This requirement precludes unemployed Islanders living on their home Islands from receiving the benefit in that it is impossible for them to so report. It is submitted that the men could receive this benefit if your Department accepted that the Office of the Deputy Director of Native Affairs, Thursday Island, submit a weekly bulk return of income received. Such information could be readily obtained from each Island by radio every Monday morning and the benefit made available to the people by radio.

If at any time work was available for the men they could be called up to take such employment offering. However, experience has shown that less than 20 men would be required in the Thursday Island area during any lay up period and these are normally engaged when the men are being discharged.

This matter has already been discussed with the Registrar of Social Services, Cairns, by Mr. P.J. Killoran, Deputy Director of Native Affairs, Thursday Island. He was informed that the matter should be submitted to you for determination. It is asked, therefore, that favourable consideration to the foregoing be forthcoming.

Yours faithfully,

(Sgd.) K.J. McCormack.

Under Secretary.

The Director,
Department of Social Services,
BRISBANE.



96 (114) 2
PREMIER'S DEPARTMENT
BRISBANE. Q.7.
3 DEC 1957

My dear Prime Minister,

On 8th April, 1957, the Queensland Department of Health and Home Affairs approached the Director, Department of Social Services, Brisbane, regarding the position obtaining with respect to the payment of Unemployment Benefits to Torres Strait Islanders during the lay up season. I am enclosing a copy of the letter in question. No reply has been received from the Commonwealth Department of Social Services in the intervening period and the Director of Native Affairs now considers the matter one of urgency.

I should be pleased if you would discuss this question with your colleague, the Minister for Social Services, with a view to having a decision made as early as practicable and would appreciate your early advice.

Yours faithfully,

PREMIER.

The Right Honourable
the Prime Minister of
the Commonwealth,
CANBERRA,
A.C.T.

COPY.

99 (117)

Ex. 1/C.R. 156/JD.

14th. November, 1957.

The Under Secretary,
Dept. of Health and Home Affairs,
William Street,
BRISBANE.

Dear Sir,

Subject: Torres Strait Islanders - Unemployment
Benefits.

Reference: Your 57. 3017. N.A. Thurs. Is. of 12.11.57.

I wish to confirm my verbal advice to Mr. Killoran following our discussion yesterday, that the above Islanders are eligible to receive unemployment benefits subject to the same terms and conditions as any other unemployed persons. ✓

However, the arrangements proposed in your letter of 8th. April, 1957 and elaborated in later discussions with Mr. Killoran would not permit the regular 'Works Test', which requires the personal attendance of the unemployed person, to be satisfied. Neither is it considered that Islanders dispersed over their home islands at distances up to 150 miles from Thursday Island, could be regarded as 'available for work' in the accepted sense of the term.

In the circumstances I can only confirm the Department's established policy of rejecting unemployment benefit claims from all Islanders who are unable to report with their weekly income statements to the Clerk of Petty Sessions at Thursday Island.

Unemployment benefits are, of course, regularly paid to unemployed Islanders on the mainland who are able to satisfy the prescribed condition.

(A.W.COX).

Director of Social Services.

TEL. FA 0101
 ALL COMMUNICATIONS TO:
 THE DIRECTOR
 BOX 1088 N. G.P.O., BRISBANE
 IN YOUR REPLY, PLEASE QUOTE:
 Ex. 1/C.R. 156/JD.



DEPARTMENT OF SOCIAL SERVICES
 COMMONWEALTH OFFICES
 224-232 ADELAIDE STREET
 BRISBANE

DATE 13th December, 1957.

DIRECTOR-GENERAL:

TORRES STRAIT ISLANDERS - PAYMENT OF UNEMPLOYMENT BENEFIT

YOUR TELEGRAM A165 OF 11/12/57

"/"

I forward herewith a copy of the letter dated 8th April from the Under Secretary, Health and Home Affairs, regarding the above matter, together with a copy of my reply dated 14th November. It would appear from your telegram that this reply has not reached the State Department. An additional copy is therefore attached for use, if necessary.

Whilst an appreciable time elapsed between the initial letter and the ultimate reply, the matter had been discussed on several occasions with Department of Native Affairs Officers, firstly by the Senior Registrar (U.S.B.) and later by myself with Mr. Killoran, Deputy Director of Native Affairs, Thursday Island, whilst he was in Brisbane.

The conditions under which unemployment benefits are paid and the established policy of this Department in relation to Torres Strait Islanders are well known to the Department of Native Affairs, and it was made clear to Mr. Killoran that there was little possibility of any change in that policy along the lines proposed by him.

A final reply was delayed in the hope that an officer of the Department would be able to visit the area and ascertain the true circumstances regarding the availability for work of these Islanders. A newspaper article appeared some time ago in which it was alleged that Islanders would not accept labouring work available on Thursday Island and were of a lazy disposition. However, it was not possible to spare an officer to make this inspection.

The matter was then discussed with the Assistant Director, Employment Division, Labour and National Service, who also considered the proposed arrangements by the Department of Native Affairs to be unacceptable. He further stated that from his knowledge of the Islands, the claim that men could be made available for work on the mainland within forty-eight hours by means of patrol boat was over-optimistic, particularly during the cyclone period.

As the State Department was pressing for a reply, it was decided to reiterate the present Departmental policy in terms of the letter dated 14th November 1957.

Mr. Director (B),

Could you and Mr. Illa
 let me have urgently your
 views on the correctness of the
 Director's decision.

Alson
 DIRECTOR.

*No of potential
 beneficiaries on Thursday
 what is the Dept policy
 regarding the same?
 ? with Govt.*

M.C.T. 16/12

Torres Strait Islanders - Eligibility for
Unemployment Benefits.

The Minister.

The Hon. the Premier of Queensland has written to the Right Hon. the Prime Minister (copy of letter attached) seeking a decision on whether Torres Strait Islanders who return to their home Islands during the lay-up season for pearling boats, are entitled to receive unemployment benefit. The Prime Minister's Department has referred the letter here for advice.

2. The letter refers also to delay on the part of the Queensland State Headquarters of this Department in replying to a similar query from the Under Secretary, Department of Health and Home Affairs. It appears, however, that a reply had been despatched before the Premier wrote his letter and that the delay, which appeared excessive, had been caused by discussions on the matter between officers of this Department and State officials. In his reply the Director stated that the Islanders in question were not qualified.

3. Torres Strait Islanders are aboriginal natives of Australia and are disqualified from unemployment or sickness benefit "unless the Director-General is satisfied that, by reason of the character and of the standard of intelligence and social development of that native it is desirable that" the disqualification should not apply (Section 111). They are exempt from the Queensland law relating to the control of aboriginal natives unless they are residing on a reserve.

4. As a class, they are qualified for all benefits under the Social Services Act with the exception of unemployment and sickness benefits, their qualification for which is restricted as set out above. It may perhaps be reasonable to hold that since they are exempt from the Queensland law relating to the control of aboriginal natives and since they are qualified, as a class, for all other benefits, they have a "standard of intelligence and social development" that warrants the grant of unemployment or sickness benefit. I am loth to give such a general ruling without some satisfactory first hand evidence which is not presently available but for which I am making further inquiries. In any case, it is probably true to say that in fixing the rates and conditions for unemployment benefit the Government had primarily in mind the conditions in an industrialised society and not the comparatively primitive conditions that obtain in the Torres Strait Islands - with the exception of Thursday Island and perhaps some few other centres.

5. These considerations apart, to qualify for unemployment benefit the person seeking it must have "taken reasonable steps to obtain work". The natives who, at the close of the pearling season withdraw to their home islands located at distances 40-150 miles from Thursday Island effectively withdraw themselves from all but the most exceptional work opportunities; as the Director, Queensland, puts it, they could not "be regarded as available for work in the accepted sense of the term". The Under Secretary of the Queensland Department of Health and Home Affairs says -

"If at any time work was available for the men they could be called up to take such employment offering. However, experience has shown that less than 20 men would be required in the Thursday Island area during any lay up period and these are normally engaged when the men are being discharged."

6. From this it is plain that even if it were physically possible, by use of a patrol boat, to get the natives to any job that might offer, the number of such jobs would be negligible.

7. Up to 1,000 men engaged in trochus fishing are involved - together with an unknown number of others who might seek to register for employment at Thursday Island in the hope of obtaining benefit.

8. You will see from the Premier's letter that he has asked the Prime Minister to discuss the matter with you "with a view to having a decision made as early as practicable". As the Director has already given what I consider the proper decision, I suggest this is not now necessary.

9. Attached is a reply in response to the request of the Prime Minister's Department. If you approve of it I would be grateful if your Private Secretary would despatch it for me.

[Signature]
(F. A. ROWE)

20/12/57.

Mrs Soode advised
2/1/58 that ~~letter~~ ^{memo.} despatched - see folio 109

N.C.T.

24/8/58

Torres Strait Islanders - Unemployment Benefit.

The A/g. First Asst. Director-General (P. & B.):

It has been ascertained by 'phone from the Director, Brisbane, that the "established policy" referred to in paragraph 3 of his memorandum on folio 102 is, that benefit is refused if the unemployed persons disperse to their home islands instead of coming to the mainland or to Thursday Island where they can personally report to satisfy the work test.

2. I mentioned to Mr. Cox the rule for waiving of personal attendance where the applicant resides in a "remote area" and he said this was not applied. The greatest concession given was personal lodgment of income statement one week in every three.

3. Mr. Cox said references had been made in the newspapers to the fact that whites were employed on road work at Thursday Island and the impression gained was that the Islanders were averse to engaging in such work. The Islanders are under the control of the Director of Native Affairs and their wages are paid to the State Department for disbursement. Mr. Cox considered that the request for payment of benefit was another attempt by the State Government to have the Commonwealth take over their liabilities.

4. There are 1,000 males engaged in the trochus fishing and 250 males in other employment on islands other than Thursday Island. Other information sought is (a) the population of the respective islands, and (b) the number of married men unemployed. These details are expected to be supplied within a week by the State Department.

5. Mr. Cox said he had endeavoured to arrange a conference with the Department of Health and Home Affairs on the whole question but that Department had not seen fit to comply. Mr. Cox feels strongly that a departure should not be made from the present decision without an inspection by a departmental officer of at least some of the islands and the conditions obtaining thereon. He had in mind sending Mr. Moore, who he considered was the only officer suitable, but unfortunately, Mr. Moore has only recently returned to duty after suffering a coronary occlusion and is not available.

6. The position is that there is no bar to payment of unemployment benefit to Torres Strait Islanders as such - they are eligible for pensions and other benefits under the Social Services Act. If the claims are admitted the possible result will be a big number of long-term beneficiaries. It would be difficult to administer strictly. Married men with families who return to their home islands would seem to have a better case for acceptance for benefit than single men. The latter might well be expected to leave their homes to seek work on Thursday Island or the mainland.

Do
Director (Benefits)

17/12/1957.

A.968/107

20th December, 1957.

The Secretary,
Prime Minister's Department,
CANBERRA. A.C.T.

Unemployment Benefits to Torres Strait Islanders.
Letter dated 3rd December, 1957, from the
Premier of Queensland.

It is suggested that a reply be sent to the Premier incorporating the following :-

"Advice has been received from the Director-General of Social Services that the Director, Queensland, replied on 14th November, 1957, to the letter dated 8th April, 1957, received by him from the Under Secretary, Department of Health and Home Affairs. While the delay on the surface might appear inordinate it is understood that, following the receipt of the Under Secretary's letter, discussions took place on several occasions between officers of the Department of Social Services and State officials regarding the eligibility of Torres Strait Islanders for unemployment benefit. These discussions led up to the Director's reply of 14th November, 1957.

To qualify for unemployment benefit a person must satisfy the Director-General, inter alia, that he has taken "reasonable steps to obtain work". Torres Strait Islanders who become unemployed during the lay up of the pearling boats and return to their home Islands, cannot be held to satisfy this requirement. Doubtless they return to their home Islands for domestic or other good reasons; nevertheless the withdrawal to places of difficult access, remote from employment opportunities, is not consistent with taking reasonable steps to obtain work.

In the circumstances it is considered that the decision given by the Director, Queensland, was correct.

Your attention is also invited to Section 111 of the Social Services Act, which is as follows :-

"An aboriginal native of Australia shall not be qualified to receive an unemployment benefit or a sickness benefit unless the Director-General is satisfied that, by reason of the character and of the standard of intelligence and social development of that native, it is desirable that this section should not apply."

Were the natives in question to qualify for benefit in other respects it would be necessary to establish that they should not be disqualified by this section."

The decision not to grant unemployment benefit to Torres Strait Islanders who return to their home Islands, during the lay up season of the pearling boats, has been confirmed by the Minister.


(F. H. ROWE)
Director-General.



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[129]

PRIME MINISTER'S DEPARTMENT.

CANBERRA,

7 JAN 1958

In reply quote No. 57/6538

The Director-General,
Department of Social Services,
MELBOURNE. VIC.

I refer to your letter of 20th December A968/107 concerning unemployment benefits for Torres Strait Islanders. The Under Secretary of the Department of Health and Home Affairs in Queensland, in his letter of 8th April, 1957, mentioned that unemployment benefits have always been received by Torres Strait Islanders unemployed, and for whom no work is available at Thursday Island, when the Islander was able to report to the Clerk of Petty Sessions at Thursday Island weekly.

Would you please let me know whether this is the present position and what proportion of the total unemployment in the area is constituted by these Islanders living at Thursday Island receiving unemployment benefit. If there are natives obtaining unemployment benefit at Thursday Island during the layoff season of the pearling boats, would it be correct to assume that there would be little likelihood of those living in the outlying islands obtaining employment in the layoff season, whether or not they came to the Thursday Island area?

I would also appreciate your advice whether or not Torres Strait Islanders are entitled to full benefits under the Social Services Act.

E. J. Bunting
(E. J. Bunting) *Alb.*
Acting Secretary.

COPY.

Office of Director of Native Affairs

William St.
Brisbane

18th December 1957.

O'L/EG.

The Director,
Department of Social Services,
Commonwealth Building,
Adelaide Street,
BRISBANE.

Sir,

Re Social Service Unemployment Benefits, Torres Strait Islanders.

In reply to enquiry per telephone by your Mr. Moore, Senior Registrar, Department of Social Services, the following information is furnished by the Deputy Director of Native Affairs, Thursday Island.

The estimated number of workers normally residing in the Torres Strait Islands and who will be unemployed following the termination of the pearling season in December/January is 838 at present employed as shown -

Trochus workers employed on D.N.A. boats	83
Pearl shell workers employed on D.N.A. boats	161
Trochus and pearl shell workers employed on Master boats	<u>594</u>
Total	<u>838</u>

Of the 244 employed by the Director of Native Affairs it is estimated that 60% are married. A test check of the Master boats employees gives 26% as an average figure married.

Other workers employed permanently on home Islands total 226 of which 80% are married. These workers do not come within the category of potential unemployed. They comprise Police, clerks, storekeepers, boat workers, etc., in permanent occupations.

There is no type of work available on the home Islands during the lay up period of the pearling boats nor is there any on Thursday Island. There is no likelihood of employment for the 838 men in any industry on Cape York Peninsula during the lay up season.

The bauxite field ceases work prior to Christmas and its reopening is dependent on seasonal conditions.

There are no community enterprises on the home Islands which would give employment to the men.

Yours faithfully,

Renalbo - see fol 118

Sgd. E. O'Leary
Director of Native Affairs.

121 (139)

TEL. FA 0101
ADDRESS COMMUNICATIONS TO:
THE DIRECTOR
BOX 1088 N. G.P.O., BRISBANE
IN YOUR REPLY, PLEASE QUOTE:
Ex.1/156/BJT.

URGENT

DEPARTMENT OF SOCIAL SERVICES
COMMONWEALTH OFFICES
224-232 ADELAIDE STREET
BRISBANE

DATE 10th January 1958.

DIRECTOR-GENERAL
10 JAN 1958
OF SOCIAL SERVICES

The Actg. Director-General:

Subject: Torres Strait Islanders -
Unemployment Benefit.
Reference: Your A.968/112 of 9th January 1958.

Further to the Director (Benefits) request for certain information relating to the abovenamed, this has now been obtained and I attach copies of the relevant correspondence. It is thought that the information sought by the Acting Secretary, Prime Minister's Department, is contained in this correspondence.

It will be noted that there would appear to be no independent source of information outside the Office of the Director of Native Affairs, and it is therefore not possible to verify the information given. The same position would almost certainly continue if it were decided to grant unemployment benefit to these Islanders and administrative oversight by this Department would be extremely difficult.

Mr Caspary + said that only 1 T.S. Islander was in receipt of U.B. The maximum number has not in the past exceeded 10. The majority of T.S. who reside permanently on T. Is. are engaged in employment on that Island
Director.
W/131

A.968/123

15th January, 1958.

The Acting Secretary,
Prime Minister's Department,
CANBERRA. A.C.T.

Your Reference 57/6538.

Your letter of 7th January raises a number of queries regarding Torres Strait Islanders. It has been the practice to grant unemployment benefit to Islanders who are able to report weekly to the Clerk of Petty Sessions at Thursday Island.

Total unemployment in the area is not known but only one Islander is now in receipt of unemployment benefit and the maximum number receiving benefit at any one time has not exceeded twelve. A passage from the Under Secretary's, Department of Health and Home Affairs, letter of 8th April, 1957, to the Director, Queensland, is relevant to the employment position.

"If at any time work was available for the men they could be called up to take such employment offering. However, experience has shown that less than 20 men would be required in the Thursday Island area during any lay up period and these are normally engaged when the men are being discharged."

The matter is also dealt with in his letter of 18th December, 1957; a photostat copy of this is attached.

With regard to the eligibility of Torres Strait Islanders for "full benefits under the Social Services Act" the position is that Torres Strait Islanders are aboriginal natives of Australia and the provisions that apply to aboriginal natives apply to them. However, as a class they are exempt from the Queensland law relating to the control of aboriginal natives unless they are residing on reserves; therefore they are entitled to receive age, invalid and widows' pensions and maternity allowances.

Child endowment may be granted to an aboriginal native unless the native is nomadic or the child is wholly or mainly dependent on the Commonwealth or a State for his support.

An aboriginal native is not "qualified to receive an unemployment or a sickness benefit unless the Director-General is satisfied that, by reason of the character and of the standard of intelligence and social development of that native, it is desirable" that he should not be disqualified.

The relevant sections of the Act are -

Age and Invalid Pensions	S.19(2)
Widows' Pensions	S.62(2)
Maternity Allowances	S.86(3)
Child Endowment	S.97
Unemployment and Sickness Benefits	S.111

A.C.T.


(P. H. ROWE)
Director-General.



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57/6538

PRIME MINISTER,
CANBERRA.

Dear Mr. Nicklin,

On 3rd December last year, you wrote to me on the question of payment of unemployment benefits to Torres Strait Islanders during the lay-up season. Since then, we have been giving the matter careful and sympathetic consideration, without, unfortunately, reaching a conclusion favourable to your representations.

The facts are not in dispute. If the Islanders remain on Thursday Island, where they could in the lay-up season obtain occasional work, they are eligible for benefit. If they go home, where it is not conceivable that casual work will be available to them, the tests applied under the Social Services Act prevent them from obtaining benefit.

We can see the social disadvantage of the rule as it is applied to these men, but so far my advisers have been able to suggest no way of overcoming in these cases the quite specific provisions of the Act. I have asked them, however, to keep examining the problem, in case some solution can yet be found.

Yours sincerely,

Prime Minister.

The Honourable G.F.R. Nicklin, M.M., M.L.A.,
Premier of Queensland,
BRISBANE. Q'land.



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(144)

DIRECTOR-GENERAL
14 MAR 1958
OF SOCIAL SERVICES

PRIME MINISTER'S DEPARTMENT.

CANBERRA, 13 MAR 1958

In reply quote No. 57/6538

The Director-General,
Department of Social Services,
MELBOURNE. VIC.

I refer once more to the question of unemployment benefit to Torres Strait Islanders in the lay-up season (your file A.968.107) on which we have had advice both from yourself and the Secretary, Department of Labour and National Service.

...

We are enclosing a copy of the reply sent by the Prime Minister to the Premier of Queensland. We saw no alternative but to make some such reply, but we do confess to a good deal of uneasiness about this matter.

Perhaps the first question is whether these people in the lay-up season are really unemployed. They return to their home islands, and there they cultivate their gardens, repair their homes and so on. Garden cultivation is presumably food growing and may well be regarded as an economic occupation, and as the alternative occupation that they pursue in the lay-up season. But if they are judged to be genuinely unemployed, it is surely a harsh rule and one capable of producing social mischief - or indeed of denuding of population the outer Islands - to require them to wait uselessly around Thursday Island in the almost certainly vain hope of employment.

We did not receive from either Department a comment on the suggestion of the Queensland Department of Health and Home Affairs that the men could receive unemployment benefit if your Department accepted that the Office of the Deputy Director of Native Affairs, Thursday Island, submitted a weekly bulk return of income received. The Under Secretary said that such information could be readily obtained from each Island by radio every Monday morning and the benefit made available to the people by radio. It is not administratively feasible, of course, but if a branch office were established on each of the remote Islands, or if an officer were to visit each of the Islands weekly (and, of course, we are not suggesting either method) the work test could be applied. The matter might therefore be seen as a failure (however necessary) of the administrative machine.

What occurs to us is that this whole problem may be cast in the wrong terms. You will be aware that in the case of repatriation benefits the Commonwealth Government made no attempt to match for the Islanders benefits received by Australian ex-servicemen, on the ground that living conditions of these people were substantially lower than those of the white population, and to provide an identical scheme would be disruptive of local

-/2.

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2.

social conditions. We wonder whether some special scheme for the Torres Strait Islanders in this field of unemployment benefit might not also be desirable. If provision for a special scheme does not exist under the Social Services Act, perhaps at the next amendment of the Act opportunity could be taken to include a regulation-making power for such contingencies as this.



(A.S. BROWN)
Secretary.

Posted in Sydney 8/4/58 [149]

A.968/133

E 8 APR 1958

M.C.T. 8/4/58

The Secretary,
Prime Minister's Department,
CANBERRA. A.C.T.

Your reference 57/6538.

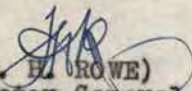
The final sentences of your memorandum of 13th March, 1958, read -

"We wonder whether some special scheme for the Torres Strait Islanders in this field of unemployment benefit might not also be desirable. If provision for a special scheme does not exist under the Social Services Act, perhaps at the next amendment of the Act opportunity could be taken to include a regulation-making power for such contingencies as this."

The formulation of a "special scheme for the Torres Strait Islanders" would require the collection of a good deal of material on social and economic conditions on the islands. This material may have been collected when repatriation benefits for the Islanders were being planned. If it was not, an approach to the Queensland Government for the information would doubtless be necessary. Since the care of aboriginal natives is a matter for the State Government I could not, without the approval of my Minister, set in train a course of inquiry that might lead the State Government to deduce, directly or by inference, that the Commonwealth was proposing to enter the field, as far as unemployment benefit was concerned, for a whole geographical group of aborigines.

The second proposal that "at the next amendment of the Act" provision should be made to permit such a "special scheme" is one that I could not support to my Minister unless it was proposed to proceed with the introduction of a special scheme forthwith. It appears to me that such an amendment would give rise to speculation and would be suspected as an attempt to open the door so that existing rights could be whittled down.

You might care to let me have your views on these matters before I discuss them with my Minister.


(F. H. ROWE)
Director-General.

8/4/58



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PRIME MINISTER'S DEPARTMENT,
CANBERRA,

22 APR 1958

57/6538

Dear Mr. Rowe,

Your memorandum A.968/133 concerning the Torres Strait islanders pays this Department, I think, an undue compliment. In our memorandum of 13th March, we ventured to suggest some lines of enquiry or action for your consideration. But the role of the Prime Minister's Department has never been conceived as that of directing other Departments.

The carriage of the function of social assistance to Torres Strait islanders, or any other group in the Australian community, is essentially for the Minister for Social Services and his Department. Whether, therefore, it is considered desirable to have a special scheme for Torres Strait islanders, or even to investigate the possibility of a special scheme, is entirely a matter for yourself as principal adviser to the Minister.

I would think it inappropriate to offer any advice on the questions you put to us in your last memorandum - inappropriate on two counts; first, we do not have the necessary facts, and second, the function is yours and we would not seek to intervene in any way in the manner in which you carry it out.

Kind regards,

Yours sincerely,

(A.S. BROWN)
for Secretary.

Mr. Brown
[Signature]
24 4
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The Director General,

F.H. Rowe, Esq., C.B.E.,
Director-General,
Department of Social Services,
Box 503H.,
MELBOURNE. VIC.

*Can this matter now
be regarded as closed?*

Yes - after our talk
this evening
M.C.T.
28/4/58
[Signature]
28 4
58



THE PARLIAMENT OF THE COMMONWEALTH.

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COMMONWEALTH PARLIAMENT OFFICES,
Adelaide Street,
BRISBANE.
29th May, 1958.

Hon. Hugh Robertson, M.P.,
Minister for Social Services,
Parliament House,
CANBERRA.

My dear Minister,

I had a discussion with Dr. Noble, M.L.A., Minister for Health and Home Affairs, in his office in Brisbane yesterday afternoon.

Dr. Noble has just returned from Thursday Island where he officially opened the Triennial Conference held by Councillors, being Torres Strait Islanders representative of the various Islands of the Torres Strait. These Islanders have home rule. They have set up their own local councils at each Island and once every three years they meet in Thursday Island in conference to discuss all the problems of the Islands concerned.

They brought before the Minister for Health and Home Affairs, a grievance to the effect that they pay taxation to the Commonwealth Treasury on their earnings but are not eligible for unemployment relief.

I would be glad if you could have a look at this matter and give me some advice for the benefit of Dr. Noble and indeed, myself.

With kind personal regards,

Yours sincerely,

(E.B. MAHER)
Senator.

A968
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[154]

DIRECTOR GENERAL
9 JUN 1958
OF SOCIAL SERVICES

XXXXXXXXXXXXX
Commonwealth Parliament Offices,
SYDNEY.

3rd June, 1958.

My dear Senator,

I wish to acknowledge receipt of your letter of 29th May concerning the eligibility of Torres Strait Islanders for unemployment benefit. The matter was raised with you by Dr. Noble, M.L.A., Minister for Health and Home Affairs.

In view of your interest in this matter, I am having enquiries made into it, and will be writing to you again as soon as possible.

Yours sincerely,

HUGH S. ROBERTON
(Hugh S. Robertson)
Minister for Social Services.

Senator E. B. Maher,
Commonwealth Parliament Offices,
BRISBANE.

A/DIRECTOR-GENERAL.

For preparation of reply for Minister's signature, please.

Robey

H. S. Roberton

Private Secretary. 3/6/58.



PREMIER'S DEPARTMENT
BRISBANE, B.7.

10 JUN 1958

138
[56]

My dear Prime Minister,

I refer to your letter of 18th March, 1958 (your reference 57/6538) and our previous correspondence regarding the question of the payment of Unemployment Benefits to Torres Strait Islanders.

As you are aware, Section 107 of the Social Services Consolidation Act sets out qualifications as follows:-

Subject to this Part, a person (not being a person in receipt of a pension or allowance under Part III. or IV. of this Act or a service pension under the Australian Soldiers' Repatriation Act 1920-1947) who -

- (a) has attained the age of sixteen years but, being a male, has not attained the age of sixty-five years or, being a female, has not attained the age of sixty years;
- (b) is residing in Australia on the date on which he lodges his claim for a benefit and -
 - (i) has been continuously so resident for a period of not less than twelve months immediately preceding that date; or
 - (ii) satisfied the Director-General that he is likely to remain permanently in Australia; and
- (c) satisfies the Director-General that he -
 - (i) is unemployed and that his unemployment is not due to his being a direct participant in a strike;
 - (ii) is capable of undertaking, and is willing to undertake, work which, in the opinion of the Director-General, is suitable to be undertaken by that person; and
 - (iii) has taken reasonable steps to obtain such work, shall be qualified to receive an unemployment benefit.

With this in mind, my Government contends that the only section upon which rejection could be based is sub-clause (c) (ii) and (iii) and in this regard it is submitted that the radio facilities available in the Torres Strait area would speedily effect the supply of

..2/

The Right Honourable the
Prime Minister of the Commonwealth,
CANBERRA. A.C.T.

sufficient men to meet any local demand in Thursday Island during the lay-up season. In addition, the Director of Native Affairs is prepared to supply Islanders to fill any casual vacancies that relevant Commonwealth Departments might know of within reasonable distance of Thursday Island.

I desire to point out that, during the lay-up season, there is a considerable number of locals unemployed among the half-caste and Malayan elements and generally speaking they obtain priority for employment.

If, as suggested, the Islanders were to remain on Thursday Island during the lay-up season for the purpose of obtaining the Unemployment Benefit, it can only be expected that intolerable slum conditions would develop, and this could not be tolerated. In practice, labour requirements have always been filled and there is still that surplus number of men, who, it is contended, are eligible for the benefit and should receive it.

Might I therefore suggest that, in view of the unusual circumstances existing in the Torres Strait area, arrangements be made for a first-hand investigation of the situation there by an officer of the Department of Social Services. I am sure the Department of Social Services must, at least morally speaking, recognise its responsibilities and must also recognise that the Islanders fulfil all the requirements for the qualifications laid down in Section 107.

In the circumstances, my colleagues and I would therefore be pleased if you would seriously consider this proposal with a view to an on-the-spot survey being made by the Commonwealth Department concerned. Information obtained and observations made would, I feel sure, be of material benefit to the Islanders' case, when such is receiving consideration by your advisers.

At your convenience, I should be pleased if you would let me have your views in the matter.

Yours sincerely,

(Sgd:) FRANK NICKLIN

PREMIER.

35/KF
A.968/140140,
[160]

Refers to folio 135/6.
20 JUN 1958

My dear Senator,

As promised in my letter of 3rd June I have had enquiries made into the eligibility of Torres Strait Islanders to receive unemployment benefit.

An essential qualification for the grant of unemployment benefit is that the claimant must, among other things, satisfy the Director-General of Social Services that he has taken reasonable steps to obtain work.

Torres Strait Islanders who live on Thursday Island are generally able to satisfy this requirement. But those who, at the close of the pearling season, return to their home islands, located at distances from 40 to 150 miles from the centre of employment at Thursday Island, effectively withdraw themselves from all but the most exceptional work opportunities.

Doubtless the natives return to their home islands for domestic or other good reasons but the view has been taken that the withdrawal to places of difficult access, remote from employment opportunities is not consistent with taking reasonable steps to obtain work. It is clear that the provisions governing the payment of unemployment benefit were never intended to cover such extreme cases.

This position was recently explained to the Premier of Queensland in reply to representations made by him to the Prime Minister. In his reply, the Prime Minister said -

"We can see the social disadvantage of the rule as it is applied to these men, but so far my advisers have been able to suggest no way of overcoming in these cases the quite specific provisions of the Act. I have asked them, however, to keep examining the problem in case some solution can yet be found."

Yours sincerely,

HUGH S. ROBERTON

(Hugh S. Robertson)



Senator E. B. Maher,
Commonwealth Parliament Offices,
Adelaide Street,
BRISBANE. Q'ld.

Torres Strait Islanders
Eligibility for Unemployment Benefit.

The A/g. First Assistant Director-General.

Please see the further representations on this matter by the Premier of Queensland on folios 137-138.

2. The gist of the further representations is that there is nothing in the Act to prevent payment because the radio facilities available in the area would speedily effect a supply of sufficient men to meet any local demand in Thursday Island during the lay-up season. The Premier suggests that a first-hand investigation of the general situation be made by an officer of the Department.

See folio 108

3. On the occasion of the previous representations made recently by the Queensland Government, the view was taken, and confirmed by the Minister, that Torres Strait Islanders who became unemployed during the lay-up of the pearling fleet and return to their home islands, cannot be said to have taken reasonable steps to obtain work. Their withdrawal to places of difficult access, remote from employment opportunities, was held to be not consistent with the taking of reasonable steps to obtain work.

4. To my mind the provisions of Section 103(c)(iii) are clear. If a person is taking reasonable steps to obtain work, he must in fact put himself in the position of a person looking for a job. If a person is not looking for a job he is not taking reasonable steps to obtain work. Manifestly, a person who withdraws to an isolated island from 40 to 150 miles away from the centre of employment and is content to remain there until the next pearling season commences is not a person looking for a job. I do not think it was the intention to cover such extreme cases.

5. The lay-up season is generally from two to three months duration. The estimated average annual income of the islanders engaged in pearling is £280 plus free board and lodging for 9 to 10 months. This raises the question of their need during the lay-up season. The return to the home islands would in some cases (perhaps all) be in the nature of an annual holiday. This suggests that even if work was available in Thursday Island they would prefer not to take it but to spend the lay-up season with their families.

6. That facilities may exist to bring the men to Thursday Island at short notice does not get away from the fact that they are not, in fact, taking reasonable steps to obtain work while they are on their home islands.

7. It is considered, therefore, that the present policy, recently confirmed by the Minister, should stand and the Prime Minister's Department informed to that effect.

8. If this is accepted there appears to be no point in sending an officer of the Department to the Islands for an on-the-spot investigation other than to satisfy the wishes of the Premier of Queensland. It is noted that when this matter was previously under consideration, the Director, Queensland, had in mind an on-the-spot investigation but as he had no suitable officer available the matter was not proceeded with.

Director (P.)
Please prepare draft,
incorporating the above, to be
sent to P. Mis Dept.
26/6

I. Prowse
(I. Prowse)
Director (Policy).
25/6/58.

Note Draft prepared as
directed but Mr Paul
advised that further
enquiries be made P-30/6

A.968/149

4 AUG 1958

The Secretary,
Prime Minister's Department,
CANBERRA. A.C.T.

Subject: Eligibility of Torres Strait Islanders for unemployment benefit. Representations by the Premier of Queensland.

Reference: Your minute 57/6538 of 13th June, 1958, and this office memorandum of 30th June.

The further representations made by the Premier of Queensland have been considered by the Minister for Social Services who has decided that the present policy as conveyed to you in this office memorandum of 20th December, 1957, should stand.

You will recall that the view was taken that Torres Strait Islanders who became unemployed during the lay up of the pearling fleet and return to their home islands cannot be said to have taken reasonable steps to obtain work. Their withdrawal to places of difficult access, remote from employment opportunities, was held to be not consistent with fulfilling the qualifications for unemployment benefit.

The provisions of Section 107(c)(iii) are clear. If a person is taking reasonable steps to obtain work, he must put himself in the position of a person looking for a job. A person who withdraws to an isolated island from 40 to 150 miles away from the centre of employment and is content to remain there until the next pearling season commences is not a person looking for a job. It was not the intention of the legislature to cover such extreme cases.

The lay-up season is generally of about two months duration. The estimated average annual income of the islanders engaged in pearling is £280 plus free board and lodging for nine to ten months of the year. The return to their home islands would in many cases (perhaps all) be in the nature of an annual holiday. This suggests that, even if work was available on Thursday Island, they would prefer to spend the lay-up season with their families.

That radio facilities exist to call the men to Thursday Island at short notice does not alter the fact that they cannot be said to be taking reasonable steps to obtain work while they are on their home islands.

Although a similar position exists at Broome and other pearling centres in Western Australia, no claims for unemployment benefit have been received in that State during the lay-up season from aboriginal natives normally engaged in the pearling industry. In Broome the lay-up season is from 1st January to the end of February each year and is usually regarded as a vacation period.

The further representations by the Premier of Queensland have not produced any facts not previously known and the Minister has decided that no useful purpose could be served by an on-the-spot investigation by an officer of the Department.

(Sgd.) H. J. GOODES
Per L.P.

(H. J. Goodes)
Director-General.



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154

September 1958

57/6538

PRIME MINISTER,
CANBERRA.

Dear Mr. Nicklin,

I refer to our correspondence on the payment of unemployment benefits to Torres Strait Islanders.

I have considered this question most carefully and discussed it with my colleague, the Minister for Social Services, but I am afraid that the Commonwealth cannot see its way to paying unemployment benefits to Torres Strait Islanders while they remain on their home islands.

The provision which proves fatal to your claim is Section 107 (c) (iii) of the Social Services Act. That radio facilities exist to call the men to Thursday Island at short notice does not alter the fact that they cannot be said to be taking reasonable steps to obtain work while they are on their home islands. To rule otherwise would be to transform the meaning of a provision under which thousands of mainland claimants are now settled.

You have suggested that an on-the-spot survey of islanders' conditions might help the Commonwealth to make its decision, but on reflection I feel that information of such a kind would not be pertinent to the question, which is one of legal entitlement.

It may be urged that, the Torres Strait Islanders' situation being unique, a hard case has been produced by a plain reading of the Act. I am advised, however, that although a similar position exists at Broome and other pearling centres in Western Australia, no claims for unemployment benefits have been received in that State during the lay-up season from aboriginal natives normally engaged in the pearling industry. In Broome the lay-up season is from 1st January to the end of February each year and is usually regarded as a vacation period.

Yours sincerely,

ROBERT G. MENZIES
Prime Minister.

The Honourable G.F.R. Nicklin, M.M., M.L.A.,
Premier of Queensland,
BRIISBANE.

COPY: Labour & Nat. Service - info.

*Mr. M. M. ...
For my own use
forward a copy to
Secretary M. M. ...
7/10/58*