

**2010-2011-2012**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**THE HOUSE OF REPRESENTATIVES**

**SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME  
SUPPORT BONUS) BILL 2012**

**EXPLANATORY MEMORANDUM**

**(Circulated by authority of the Minister for Employment and Workplace  
Relations, the Honourable Bill Shorten MP)**

# **SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT BONUS) BILL 2012**

## **GENERAL OUTLINE**

The Bill amends the *Social Security Act 1991*, the *Social Security (Administration) Act 1999*, the *Farm Household Support Act 1992* and the *Income Tax Assessment Act 1997* to create a new Income Support Bonus to be paid to recipients of ABSTUDY Living Allowance, Austudy, Newstart Allowance, Parenting Payment, Sickness Allowance, Special Benefit, Youth Allowance, Transitional Farm Family Relief Payment, and Exceptional Circumstances Payment.

People on these payments who are receiving more than the basic amount of the Pension Supplement will not be eligible to also receive the Income Support Bonus.

The Income Support Bonus will provide additional support for eligible income support payment recipients to manage unanticipated expenses.

Eligible payment recipients will receive a tax-free, twice-yearly, non means tested Income Support Bonus of \$105.00 for single people (or \$210.00 per annum) or \$87.50 for most people who are an eligible member of a couple (that is, \$175.00 per annum per person). Eligible members of a couple separated by illness, or couple where a partner is in respite care, or couple where a partner is in gaol, will be paid at the single rate of \$105.00 (or \$210.00 per annum per person).

Payment of the Income Support Bonus will occur on or after 20 March and 20 September, commencing in 2013.

Qualification for the payment is based on whether a recipient receives an eligible income support payment on 20 March (for the March payment) or 20 September (for the September payment).

The Income Support Bonus will be indexed to the Consumer Price Index twice annually, in March and September, from September 2013.

The Income Support Bonus will be subject to income management as a category I and category Q payment. This is in line with income management of most other supplementary payments.

## FINANCIAL IMPACT STATEMENT

The Income Support Bonus will have the following budgetary implications:

<b>Year</b>	<b>Expense (\$ million)</b>
<b>2012-13</b>	<b>152.7</b>
<b>2013-14</b>	<b>298.8</b>
<b>2014-15</b>	<b>305.7</b>
<b>2015-16</b>	<b>313.0</b>
<b>TOTAL:</b>	<b>1070.4</b>

## **STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

The statement of compatibility with human rights appears at the end of this explanatory memorandum.

# **Social Security and Other Legislation Amendment (Income Support Bonus) Bill 2012**

## **Abbreviations used in this explanatory memorandum**

**SS Act** means the *Social Security Act 1991*

**Administration Act** means the *Social Security (Administration) Act 1999*

**Farm Support Act** means the *Farm Household Support Act 1992*

**Income Tax Assessment Act** means *Income Tax Assessment Act 1997*

### **Clause 1 – Short Title**

This clause sets out how the new Act is to be cited, that is, the *Social Security and Other Legislation Amendment (Income Support Bonus) Act 2012*.

### **Clause 2 – Commencement**

This clause provides that the Act commences on Royal Assent.

### **Clause 3 – Schedule(s)**

This clause provides that each Act that is specified in a Schedule is amended or repealed as set out in that Schedule.

---

# Schedule 1

## Income support bonus

---

### Summary

The purpose of Schedule 1 is to create a new social security payment called an 'income support bonus'.

An income support bonus would be paid to recipients of various social security payments, as well as to recipients of payments made under the ABSTUDY Scheme if those payments include living allowance. Recipients of exceptional circumstances relief payment or transitional farm family payment would also be qualified for income support bonus. Persons receiving parenting payment, austudy payment or special benefit will only be qualified for an income support bonus if they are under pension age. Similarly, if a payment is payable to a person under the ABSTUDY Scheme where the payment includes living allowance, a person will only be qualified for an income support bonus if they are under pension age.

Schedule 1 provides for an income support bonus to be paid in the form of indexed, tax-free, lump-sum payments in March and September each year beginning March 2013. The income support bonus is to be income managed under the income management regime in Part 3B of the Administration Act as a 'category I' and 'category Q' welfare payments payable to a person otherwise than by instalments.

It is proposed that an income support bonus would be paid under the Veterans' Children Education Scheme and the Military Rehabilitation and Compensation Act Education and Training Scheme (this does not require legislative amendment). Schedule 1 provides for any payment of an income support bonus made under those schemes to be tax-free.

### Explanation of the Changes

#### Part 1 – Main amendments

##### ***Social Security Act 1991***

##### **Items 1 and 2 – Subsection 23(1)**

**Items 1 and 2** would insert the following new definitions into subsection 23(1) of the SS Act:

***income support bonus***, which means the income support bonus under section 919

*income support bonus test day*, which has the meaning given by section 919.

### **Item 3 – After paragraph 23(4AA)(ab)**

Subsection 23(4A) of the SS Act provides that, in certain circumstances, if a person's rate of social security pension or social security benefit is 'nil', the person is taken to be receiving the pension or benefit for the purposes of the provisions listed in subsection 23(4AA).

Item 3 would insert a reference to paragraph 919(1)(a) into section 23(4AA). The effect of this insertion is that if a person's rate of social security pension or social security benefit in respect of an income support bonus test day is nil, the person will be taken to receive that pension or benefit for the purposes of qualification for an income support bonus (provided the other requirements of subsection 23(4A) are met).

### **Item 4 – After Part 2.18A**

Part 2 of the SS Act provides for a number of social security pensions, benefits and allowances.

**Item 4** would insert a new Part 2.18B into the SS Act setting out who is qualified to receive an income support bonus, the amount of the bonus, and a provision relating to the status of the bonus as a social security payment.

#### New section 919 - Qualification for an income support bonus

Under new paragraph 919(1)(a), a person would be qualified for an income support bonus if they receive any one of the following payments on an *income support bonus test day*:

- newstart allowance
- youth allowance
- parenting payment
- sickness allowance
- austudy payment
- special benefit.

However, new paragraph 919(1)(b) provides that if a person is receiving parenting payment, austudy payment or special benefit, they must also be under pension age on the income support bonus test day in order to qualify for an income support bonus.

Under new paragraph 919(2)(a), a person would be qualified for an income support bonus if they are qualified for any of the following payments on an *income support bonus test day*, and to whom such a payment is payable:

- a payment under the ABSTUDY scheme that includes an amount identified as a living allowance.
- exceptional circumstances relief payments under the *Farm Household Support Act 1992*
- transitional farm family payments under the Commonwealth's Transitional Farm Family Payment program.

However, new paragraph 919(2)(b) provides that if a payment under the ABSTUDY Scheme that includes an amount identified as living allowance is payable to the person, they must also be under pension age on the income support bonus test day in order to qualify for an income support bonus.

Because qualification for an income support bonus in relation to the three payments listed in paragraph 919(2)(b) is whether a person is qualified for a payment and whether the payment is payable, this means that a person does not have to *receive* such a payment in order for to be qualified for an income support bonus. That is, even if a person's payment rate of ABSTUDY (living allowance), exceptional circumstances relief payment and transition farm family payment is 'nil' on an income support bonus test day, the person may still be qualified for an income support bonus if they are eligible for such a base payment, and that payment is payable to them.

New subsection 919(3) would clarify that a person cannot receive more than one payment under section 919 in respect of an income support bonus test day.

New subsection 919(4) would define **income support bonus test day** to mean 20 March 2013 and 20 September 2013 and each subsequent 20 March and 20 September in later years.

#### New section 920 - Amount of income support bonus

The amount of a person's income support bonus under section 919 would be the amount specified in column 2 of an item in the table in section 920 that corresponds to that person's family situation, specified in column 1 of that item, on the income support bonus test day. Those amounts are as follows:

- persons who are not a member of a couple: \$105.00
- persons who are members of an illness separated couple: \$105.00
- persons who are members of a respite care couple: \$105.00
- persons who are partnered (partner in gaol): \$105.00
- persons who are a member of a couple not mentioned above: \$87.50

Note 1 draws the readers' attention to the definition of **member of a couple**, **illness separated couple**, **respite care couple** and **partnered (partner in gaol)** in section 4 of the SS Act.

Note 2 explains that these amounts are indexed twice per year in line with Consumer Price Index increases (see sections 1190 and 1194 of the SS Act).



## New section 921 – Non-receipt of social security payment

New section 921 would provide a special rule to restrict the unintended consequences of a person, who receives an income support bonus, becoming entitled to other benefits only because of this.

New section 921 would provide that, if a provision provides a benefit (whether the benefit is a pension, benefit, payment, supplement or any other sort of benefit) if a person meets specified criteria, and one of the specified criteria is that the person is receiving a social security payment, or is a recipient of a social security payment, then, for the purposes of that provision, the person is not taken to be receiving a social security payment or to be a recipient of a social security payment, merely because the person receives an income support bonus.

### **Item 5 – Section 1190 (at the end of the table)**

### **Item 6 – Subsection 1191(1) (at the end of the table)**

### **Item 7 – At the end of section 1192**

**Items 5 and 6** would insert new items into the indexation tables in sections 1190 and 1191 of the SS Act. These new items have the effect of applying indexation to the income support bonus twice on 20 March and 20 September each year. **Item 7** would insert a new subsection 1192(10) providing that the first indexation of the income support bonus is to occur on 20 September 2013.

## ***Social Security (Administration) Act 1991***

### **Item 8 – After section 12K**

**Item 8** would insert a new section 12L into the Administration Act to make it clear that a person is not required to make a claim for an income support bonus.

### **Item 9 – Subsection 47(1) (at the end of the definition of *lump sum benefit*)**

**Item 9** would include an income support bonus in the definition of *lump sum benefit* in subsection 47(1) of the Administration Act.

### **Item 10 – After section 47DAA**

**Item 10** would insert a new section 47DAB into the Administration Act. New section 47DAB would provide that if someone is qualified for an income support bonus on an income support bonus test day, the Secretary must pay the allowance to the person as a lump sum on a day that the Secretary

considers to be the earliest day on which it is reasonably practicable for the allowance to be paid, and in such manner as the Secretary considers appropriate.

## **Part 2 – Consequential amendments**

### ***Farm Household Support Act 1992***

**Item 11 – After subsection 24A(8)**

**Item 12 – After subsection 24AA(10)**

**Item 13 – At the end of section 24B**

**Item 11** would insert a new subsection 24(8A) into the Farm Support Act clarifying that when calculating the rate of exceptional circumstances relief payment for farmers under subsection 24A(1), any income support bonus under the SS Act is to be disregarded.

**Item 12** would insert a new subsection 24AA(10A) into the Farm Support Act clarifying that when calculating a rate of exceptional circumstances relief payment for small business operators under subsection 24AA(1), any income support bonus under the SS Act is to be disregarded.

**Item 13** would insert a new subsection 24B(6) into the Farm Support Act clarifying that when calculating a rate of farm help income support payment under section 24B, any income support bonus under the SS Act is to be disregarded.

### ***Income Tax Assessment Act 1997***

**Item 14 – Section 11-15 (table item headed “social security or like payments”)**

The table in section 11-15 of the Income Tax Assessment Act refers to provisions in the Income Tax Assessment Act that exempt certain payments from income tax derived from certain entities. **Item 14** would insert references to an income support bonus into the table.

**Item 15 – At the end of subsection 52-10(1) (before the note)**

**Item 16 – Before subsection 52-10(2)**

Section 52-10 of the Income tax Assessment Act sets out which social security payments are exempt from income tax.

**Item 15** would insert a new paragraph 52-10(1)(zc), clarifying that the table in section 52-10 does not apply to an income support bonus. **Item 16** would insert a new subsection 52-10(1M) exempting an income support bonus from income tax.

**Item 17 – After paragraph 52-65(1)(b)**

**Item 18 – Before subsection 52-65(2)**

Section 52-65 of the Income Tax Assessment Act sets out which veterans' affairs payments are exempt from income tax.

**Items 17 and 18** would insert new paragraphs 52-65(1)(c) and (1K) into the Income Tax Assessment Act exempting payments of an income support bonus that are made under the scheme prepared under Part VII of the *Veterans' Entitlements Act 1986* (about educating veterans' children) from income tax.

**Item 19 – Section 52-75 (after table item 5C)**

The table in section 52-75 of the Income Tax Assessment Act refers to veterans' affairs payments that are wholly or partly exempt from income tax. **Item 19** would insert a new item 5D into the table to refer to an income support bonus, reflecting the changes that would be made by items 17 and 18.

**Item 20 – Section 52-114 (before table item 17)**

The table in section 52-114 of the Income Tax Assessment Act sets out which payments under the *Military, Rehabilitation and Compensation Act 2004* are wholly or partly exempt from income tax. **Item 20** would insert a new item 16A into the table, exempting an income support bonus under the education scheme for certain eligible young adults (see section 258 of the *Military, Rehabilitation and Compensation Act 2004*) from income tax.

***Social Security Act 1991***

**Item 21 – paragraph 1231(1AA)(b)**

**Item 21** would replace the words "or farmers hardship bonus" in paragraph 1231(1AA)(b) of the SS Act with "farmers hardship bonus or income support bonus" to reflect the income support bonus.

## ***Social Security (Administration) Act 1991***

### **Item 22 – Section 123TC (after paragraph (e) of the definition of *category I welfare payment*)**

**Item 22** would insert a new paragraph (f) into the definition of ***category I welfare payment*** in section 123TC of the Administration Act to include an income support bonus.

Because an income support bonus would be paid to a person in a lump sum (see items 9 and 10), for the purposes of the income management regime in Part 3B of the Administration Act, an income support bonus would be a category I welfare payment payable to a person otherwise than by instalments. Currently, the deductible portion of such payments is 100 percent.

### **Item 23 – Section 123TC (after paragraph (a) of the definition of *category Q welfare payment*)**

**Item 23** would insert a new paragraph (aa) into the definition of ***category Q welfare payment*** in section 123TC of the Administration Act to include an income support bonus.

Because an income support bonus would be paid to a person in a lump sum (see items 9 and 10), for the purposes of the income management regime in Part 3B of the Administration Act, an income support bonus would be a category Q welfare payment payable to a person otherwise than by instalments. Currently, the deductible portion of such payments is 100 percent.

# Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

## **SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT BONUS) BILL 2012**

This Bill is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Bill**

The Bill amends the *Social Security Act 1991*, the *Social Security (Administration) Act 1999*, the *Farm Household Support Act 1992* and the *Income Tax Assessment Act 1997* to create a new Income Support Bonus commencing in 2013.

The Income Support Bonus will be paid twice yearly, in March and September, to recipients of the following qualifying payments: ABSTUDY Living Allowance, Austudy, Newstart Allowance, Parenting Payment, Sickness Allowance, Special Benefit, Youth Allowance, Transitional Farm Family Payment or the Exceptional Circumstances Payment. People who are receiving more than the basic amount of Pension Supplement will not be eligible to receive the Income Support Bonus.

Each Income Support Bonus payment will be \$105 for a single recipient and \$87.50 for most recipients who are a member of a couple. Members of a couple separated by illness, or couple where a partner is in respite care, or couple where a partner is in gaol, will be paid at the single rate of \$105. Income Support Bonus payments each year will total \$210 for single people, \$175 for most eligible members of a couple, and \$210 for eligible members of a couple separated by illness, couple where a partner is in respite care, or couple where a partner is in gaol. If both members of a couple are eligible, the combined payment will total \$350 or \$420 depending upon their circumstances.

The Income Support Bonus will be tax-free and indexed to CPI twice annually, in March and September, from September 2013. The payments are not means-tested.

More than one million Australians will receive the Income Support Bonus every year with funding of more than \$1.1 billion over four years.

## **Human rights implications**

The Bill engages the following human rights:

### *Right to social security*

Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the right of everyone to social security.

The introduction of the Income Support Bonus recognises that households relying on income support allowances as their main source of income may find it difficult to manage when unanticipated expenses, such as urgent repairs or unexpectedly large bills, arise. People in paid employment are more likely to be able to set aside some money for such circumstances, while allowance recipients may not be able to do so.

The Income Support Bonus will provide payments twice a year to eligible recipients to help them plan expenditure and build a buffer against unexpected costs.

The Income Support Bonus will be payable to allowance recipients who are not already receiving additional supplements to assist with household costs, such as the Utilities Allowance or more than the basic amount of Pension Supplement.

Payment will be made automatically to people receiving qualifying payments on 20 March and 20 September each year. They will not need to apply separately to access the Income Support Bonus.

A person's access to social security is enhanced by the proposed measure since the legislation provides for two additional payments every year which are indexed and tax-exempt.

## **Conclusion**

The Bill is compatible with human rights because it generally advances human rights.