

## **EXPLANATORY STATEMENT**

### ***Employment and Workplace Relations Exempt Lump Sum (South Australian Energy Concession Bonus) Determination 2005***

#### **Summary**

Paragraph 8(11)(d) of the *Social Security Act 1991* (the Act) allows the Secretaries of the Department of Employment and Workplace Relations (DEWR), the Department of Family and Community Services and the Department of Education, Science and Training to determine that an amount, or class of amounts, is an exempt lump sum for the purposes of the Act. This instrument determines that for the purposes of social security payments for which the Minister for Employment and Workplace Relations is responsible, a one-off payment made by the South Australian Department for Families and Communities to persons who receive assistance with their electricity bills, is an exempt lump sum under paragraph 8(11)(d). This payment is being administered under the South Australian electricity concession scheme and is known as the South Australian Energy Concession.

The effect of this instrument is that such a one-off payment will not be regarded as income under the Act, so that if a recipient of a DEWR administered social security payment receives an Energy Concession Bonus, it will be exempt from the income test under the social security law.

#### **Background**

Under the social security law all income earned, derived or received for a person's own use or benefit, is counted as income. The only exceptions are items specifically exempted under the social security law. Paragraph 8(11)(d) of the Act allows Secretaries to determine that an amount, or class of amounts, is an "exempt lump sum" for the purposes of the Act. An exempt lump sum is not included in the definition of "ordinary income" under subsection 8(1) of the Act, so any such amount would not be taken into account under the social security income test.

This instrument determines that a one-off payment made by the South Australian Department for Families and Communities, to persons who are eligible for assistance with their electricity bills under the South Australian Energy Concession, is an exempt lump sum for the purposes of paragraph 8(11)(d).

The South Australian Government announced a one-off lump sum Energy Concession Bonus to be paid to Energy Concession recipients. Some Energy Concession recipients may also be in receipt of a DEWR administered social security payment. The effect of this instrument is that customers receiving the Energy Concession Bonus will not be subject to a reduction in the amount of their DEWR administered social security payment, as the Energy Concession Bonus will not be assessed as income under the social security law.

## **Explanation of the provisions**

### *Part 1*

**Section 1** of the instrument states the name of the instrument.

**Section 2** states that the instrument commences on 15 June 2005.

**Section 3** contains interpretation provisions. In particular, the term “Energy Concession Bonus” is defined as a one-off lump sum payment, known as the Energy Concession made by the South Australian Department for Families and Communities to persons who are eligible for assistance with their electricity bills under the South Australian electricity concession scheme.

### *Part 2*

**Subsection 4(1)** states that paragraph 8(11)(d) of the Act allows the Secretary to determine that an amount, or class of amounts, received by a person is an exempt lump sum.

**Subsection 4(2)** provides that if a person has received an “Energy Concession Bonus” and they are also in receipt of a social security payment, then a one-off payment received by the person as an energy concession is an exempt lump sum.

**Section 5** specifies that an amount received by a person referred to in **subsection 4(2)** is an exempt lump sum for the purposes of paragraph 8(11)(d) of the Act. Such an amount will be regarded as an exempt lump sum from the date that the amount was received by the person, provided that this date is after the commencement of this instrument (ie. after 15 June 2005).

## **Consultation**

This instrument was made at the request of the Chief Executive of the South Australian Government’s Department for Families and Communities.

The Department of Family and Community Services and the Department of Education, Science and Training were also consulted to ensure a co-ordinated and consistent approach to the income test treatment of this South Australian one-off payment for all social security payments under the Act.

This instrument is beneficial to customers because it exempts this South Australian one-off payment from the social security income test. Public consultation was therefore seen as unnecessary.

## **Retrospectivity**

This instrument has effect from 15 June 2005, as the Energy Concession Bonus is paid to people who are eligible for the Energy Concession at this date. The retrospective commencement of this instrument is beneficial and does not disadvantage social security recipients.