

## **EXPLANATORY STATEMENT**

### ***Social Security (Exempt Lump Sum) (River Red Gum Structural Adjustment Package Payment) (FaHCSIA) Determination 2010***

#### **Summary**

Paragraph 8(11)(d) of the *Social Security Act 1991* (the Act) allows the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to determine that an amount received by a person is an exempt lump sum for the purposes of the social security law. The effect of this Determination is that, for the purpose of social security payments for which the Minister for Families, Housing, Community Services and Indigenous Affairs is responsible, a payment made under the River Red Gum Structural Adjustment Package (Adjustment Package) administered by the New South Wales Department of Industry and Investment is an 'exempt lump sum' under subsection 8(11) of the Act.

By determining that a payment made under the Adjustment Package is an exempt lump sum for the purposes of the social security law, the amount of the payment under the Adjustment package will not be considered as income when assessing a person's qualification for, and the payability of, a social security payment.

#### **Background**

On 2 March 2010 the NSW Government announced the establishment of more than 107,000 hectares of River Red Gum protection areas in the Riverina region. As part of the announcement of the protection areas, the NSW Government announced a package of assistance for workers in the timber industry who are, or will be, affected by the establishment of the River Red Gum protection areas.

The NSW Government has set aside \$16 million for payment to timber industry workers and contractors who will be, or have been, made redundant or have had their contracts terminated, as a result of the NSW Government's announcement of the River Red Gum protection areas.

There are three (3) payments that timber industry workers may qualify for:

- Special Redundancy Payment of up to \$81,360;
- Training Allowance of up to \$10,000;
- Relocation Allowance of up to \$20,000.

The criteria for payment to affected workers are determined and published by the New South Wales Department of Industry and Investment. The current criteria for qualification and payment can be found in the *River Red Gum Structural Adjustment Package Worker Assistance Guidelines*. The Director-General of the Department of Industry and Investment will make decisions on applications for assistance after receiving advice from the Forestry Projects and Industry Adjustment Unit in consultation with the River Red Gum Steering Committee. Workers have until 30 June 2011 to make an application for River Red Gum Structural Adjustment Payment.

Under the social security law, money earned, derived or received for a person's own use or benefit, is generally assessable as income. However, some amounts, that would otherwise be income, are specifically exempted from the social security income test. Paragraph 8(11)(d) of the Act allows the Secretary 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 excluded from the definition of 'ordinary income' under subsection 8(1) of the Act. As a result, any such amount is not to be taken into account under social security income tests.

The effect of this instrument is that a payment made to an eligible worker, under the Adjustment Package, will not be assessed as income under the social security law.

This Determination is a legislative instrument. The Secretary of the Department of Education, Employment and Workplace Relations (DEEWR) has made a complementary Determination in relation to social security payments that the Minister for Education, Employment and Workplace Relations has responsibility for under the Administrative Arrangements Order. This ensures that a payment made under the Adjustment Package received by a recipient of a DEEWR-administered social security payment will also be an exempt lump sum for the purposes of the Act.

## **Explanation of Provisions**

### **Part 1**

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

**Section 2** states that the Determination commences on the day after it is registered.

**Section 3** contains interpretation provisions.

The term *River Red Gum Structural Adjustment Package Payment* is defined as any of the following paid by the New South Wales Department of Industry and Investment:

- (a) Special Redundancy Payment of up to \$81,360;
- (b) Training Allowance of up to \$10,000;
- (c) Relocation Allowance of up to \$20,000.

## **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 receives a River Red Gum Structural Adjustment Package Payment as defined in section 3, then any amount of such a payment received by the person is an exempt lump sum.

**Section 5** specifies that from the date that this Determination commences, a River Red Gum Structural Adjustment Package Payment received by a person referred to in subsection 4(2) will be regarded as an exempt lump sum from the date that the amount was received by the person.

Although this provision has a retrospective application, the application is beneficial to the person involved. This section ensures that any payment received under the River Red Gum Structural Adjustment Package is not treated as income for social security purposes irrespective of when the payment was actually received. It also ensures that people who received a River Red Gum Structural Adjustment Package Payment before this Determination commenced are treated in the same way as people who receive a River Red Gum Structural Adjustment Package Payment after the commencement of this Determination.

## **Consultation**

The Department has consulted with DEEWR regarding this exemption.

## **Regulatory Impact Analysis**

This Determination does not require a Regulatory Impact Statement or Business Cost Calculator Figure. The Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.