

# EXPLANATORY STATEMENT

## *Social Security Act 1991*

### *Social Security (Exempt Lump Sum) (HILDA Survey Respondent Incentive Payment) Determination 2024*

#### **Purpose**

The *Social Security (Exempt Lump Sum) (HILDA Survey Respondent Incentive Payment) Determination 2024* (the Determination) determines that an incentive payment made to a person for their participation in the Household, Income and Labour Dynamics in Australia (HILDA) Survey is an exempt lump sum under paragraph 8(11)(d) of the *Social Security Act 1991* (the Act).

The effect of this Determination is that incentive payments made to participants in the HILDA Survey on behalf of the Department of Social Services (DSS), are not assessed as income under the social security law. This ensures that a HILDA Survey respondent incentive payment will not be taken into account when assessing a person's eligibility or rate of social security payments under the social security income test.

#### **Background**

##### *Income and Assets Tests*

When determining a person's eligibility for a social security payment, income and assets tests are both applied, with the test that results in the lower amount of the social security payment being applied to the person. Income is defined in subsection 8(1) of the Act, and includes any income amount earned, derived or received for a person's own use or benefit, a periodical payment by way of gift or allowance or a periodical benefit by way of gift or allowance. However, the Act specifically exempts some amounts that would otherwise be income for the purposes of the income test.

Paragraph 8(11)(d) of the Act allows the DSS 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, meaning the lump sum amount is not to be taken into account under the social security income test.

The exemption of a HILDA Survey respondent incentive payment from the assessment of a person's income could beneficially impact that person's eligibility for a social security payment and, if they are eligible, the rate of payment they are entitled to receive.

The exemption of a HILDA Survey respondent incentive payment from the income test does not mean that any ongoing income generated by the lump sum is exempt from the income test, nor does it mean that any asset produced from the lump sum is

exempt from the social security assets test. This is consistent with the treatment of other lump sum payments exempted under paragraph 8(11)(d) of the Act.

### *Household, Income and Labour Dynamics in Australia (HILDA) Survey*

The HILDA Survey was initiated, and is funded, by the Australian Government through DSS. The management of the HILDA Survey rests with the Melbourne Institute of Applied Economics and Social Research (the Melbourne Institute) who designed the survey. The Melbourne Institute is a department within the Faculty of Business and Economics at the University of Melbourne.

The HILDA Survey is a household-based panel study that collects valuable information about economic and personal wellbeing, labour market dynamics and family life from the same group of Australians over the course of their lives. Interviews are conducted annually with adult members of each household and participation is voluntary.

DSS relies on accurate research data, including data made available through the HILDA Survey, to inform its business decisions. Academics and other researchers can apply to use the HILDA general release datasets for their research. Information on the HILDA Survey is available on the internet at: [HILDA Survey \(unimelb.edu.au\)](https://unimelb.edu.au/hilda)

### *HILDA Survey respondent incentive payment*

The HILDA Survey is administered by the Melbourne Institute with the data collection subcontracted to Roy Morgan Research (the subcontractor) since 2008.

Each year, participants in the HILDA Survey are provided with a one-off payment by the subcontractor on behalf of DSS as an incentive to participate in the survey. Participants also receive an additional amount on the completion of a separate personal questionnaire. Both of these payments are regarded as HILDA Survey respondent incentive payments for the purposes of the Determination.

The incentive payments are determined by the Melbourne Institute and DSS. An increase in the amount of incentive payments is generally agreed on every 3 or 4 years.

These payments have been exempt from the social security income test in accordance with the current determination, the *Social Security (Exempt Lump Sum) (HILDA Survey Lump Sum Participant Payment) Determination 2014*. This instrument is due to sunset on 1 April 2024. The Determination continues to ensure that incentive payments are exempt for income test purposes, but has been revised to simplify the terms and better reflect the current participant payment arrangements used for the HILDA Survey.

## **Consultation**

Internal consultation on the text of the Determination has been undertaken with the Longitudinal Studies, Research and Methods Section, Data Strategy Branch in DSS.

DSS has also consulted with the Department of Veterans' Affairs and the Department of Agriculture, Fisheries and Forestry on the intention to make the Determination, given the effect of this instrument on income support recipients.

### **Impact Analysis**

DSS consulted with the Office of Impact Analysis who confirmed an Impact Analysis is not required (OIA24-06426). The Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

### **Explanation of Provisions**

**Section 1** provides that the name of the Determination is the *Social Security (Exempt Lump Sum) (HILDA Survey Respondent Incentive Payment) Determination 2024*.

**Section 2** provides that the Determination commences on the day after it is registered on the Federal Register of Legislation.

**Section 3** provides that the authority for making the Determination is paragraph 8(11)(d) of the Act.

**Section 4** provides the definitions of key terms used in the Determination.

**Section 5** provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

**Section 6** provides that for the purposes of the Act, a respondent incentive payment is an exempt lump sum under paragraph 8(11)(d) of the Act.

### **Schedule 1 - Repeals**

**Item 1** repeals the *Social Security (Exempt Lump Sum) (HILDA Survey Lump Sum Participant Payment) Determination 2014*.

## Statement of Compatibility with Human Rights

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

### *Social Security Act 1991*

#### ***Social Security (Exempt Lump Sum) (HILDA Survey Respondent Incentive Payment) Determination 2024***

The *Social Security (Exempt Lump Sum) (HILDA Survey Respondent Incentive Payment) Determination 2024* (Determination) is compatible with the 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 Determination*

The effect of the Determination is that a person who receives an incentive payment for their participation in the Household, Income and Labour Dynamics in Australia (HILDA) Survey on behalf of the Department of Social Services (HILDA Survey respondent incentive payment) will not have that payment assessed as income under the social security law.

#### *Human rights implications*

The Determination engages the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to social security requires that a system be established under domestic law, and that public authorities must take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The changes made by the Determination will operate beneficially as a HILDA Survey respondent incentive payment will not be taken into account when assessing a person's eligibility or rate of social security payments under the social security income test. If HILDA Survey respondent incentive payments are not exempted, a person in receipt of a payment may not be eligible for a social security payment or if they are eligible, their rate of payment might be reduced.

#### *Conclusion*

This Determination is compatible with human rights as it supports a person's right to social security.

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Delegate of the Secretary of the Department of Social Services**