

# Aged Care (Accommodation Payment Security) Levy Amendment Bill 2025 and Aged Care and Other Legislation Amendment Bill 2025

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## Question on Notice from Senator Anne Ruston

### Older Persons Advocacy Network

**Senator RUSTON:** I wasn't asking about the argument behind their exclusion. I was interested to understand if you've got any oversight as to why the Territories Stolen Generations Redress payments are the ones that are included. Are you aware, in other asset assessments and means testing, of where this payment is exempt? Assessment for aged pension is an example, or the like. Are they excluded for the purposes of other payments? Is this an anomaly?

**CHAIR:** That may be a technical question for the department, Senator Ruston.

**Senator RUSTON:** Obviously, you deal with older Australians. Has this issue been raised in relation to means testing in other areas for the people that you represent, or is it an anomaly in this particular means-testing arrangement? I can ask the department this afternoon, but you raise it as a specific, as opposed to a general, issue, and I know most payments do actually exclude redress payments and compensation payments. I'm interested to understand this one.

**CHAIR:** If any of the witnesses online needed to take that on notice, that's okay.

**Mr Gear:** We might take that one on notice.

### Answer from the Older Persons Advocacy Network

According to the Guide to Social Security Law, compensation affects most social security payments <https://guides.dss.gov.au/social-security-guide/4/13/1/30>

The Aged Care Bill 2024 excludes several veteran compensation payments from determination of aged care fees based on income and assets assessment.

The exposure draft of the Aged Care Rules excludes any redress payment paid under section 48 of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* from assets determination under paragraph 330(2)(a) or (b) or (3)(a) or (b) or subsection 330(4) of the Act. It is unclear if this includes or excludes private civil payments achieved through court cases for institutional abuse.

The ACOLA bill makes some amendments to the *Social Security Act 1991* and the *Veterans Entitlements Act 1986* to ensure that any compensation payable to an older person for injury or illness due to an aged care provider contravening their duty of care does not affect the person's income assessment under the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986*.

While OPAN welcomes Item 258 – After paragraph 8(8)(zm) and Item 289 – after paragraph 5H(8)(nb) we are disappointed to see that payments made under the Territories Stolen Generations Redress Scheme (NT, ACT or Jervis Bay) continues to remain as an asset for the aged care means assessment. We would also welcome civil damages payments

achieved through court cases for institutional abuse are excluded from both income and asset tests.

OPAN also believes that that any payments made under the national redress scheme, Territories Stolen Generations Redress Scheme and civil payments for institutional abuse should be excluded from both income and assets tests. Including these payments as income appears to be punishing the person for making a claim e.g. here's a payment for experiencing abuse, however that may now result in you having to pay more for your care.

We recommend that the ACOLA amendments similarly exclude other redress and compensation schemes from income assessment and asset assessment where these are recognised state/territory schemes and/or where institutional harm, trauma and abuse has been accepted to have been caused.