Department of Social Services

ANSWER TO QUESTION ON NOTICE

Senate Community Affairs Legislation Committee

Inquiry into the Social Security and Other Legislation Amendment (Technical Changes No. 2) Bill 2025

Public Hearing – 3 October 2025

Topic: Alternative avenues for compensation **Question reference number:** IQ25-000024 **Question asked by:** Penny Allman-Payne

Type of Question: Written. Hansard Page/s: N/A

Date set by the Committee for the return of answer: 14 October 2025

Question:

During the hearings, the Department provided evidence that an individual would be able to pursue alternative avenues for compensation for debts arising from unlawful income apportionment. Can you please clarify:

- 1. If an individual receives a compensation payment, would they still be able to request a review?
- 2. If an individual receives a payment following a review of their debt, are they still able to receive a compensation payment?
- 3. Given that income apportionment will become retrospectively lawful, will it in fact be possible to achieve a successful review of a debt and what would be required of the individual?

Answer:

- 1. If an individual accepts a payment under the resolution scheme, the individual will still be able to seek internal and external merits review of an affected decision.
- 2. A person will be entitled to a resolution payment if the person meets the requirements and entitlement criteria set out in Schedule 3 to the Bill and the legislative instrument (Determination) that will be made by the Minister under Schedule 3.
- 3. The effect of the validation measure set out in Schedule 1 of the Bill on the possibility of a successful review differs between different types of challenges to affected debt decisions:
 - a. For merits review, it will remain possible for a person to seek internal or external merits review of an affected decision regardless of the validation. The merits reviewer will adopt the scope of the original decision-maker and make a fresh decision. In making their decision on the review, the merits reviewer will be required to assess employment income in accordance with Division 3 of the Bill.
 - b. For judicial review, the validation of income apportionment will limit the basis to challenge an affected debt decision. This is because the validation in Schedule 1 to the Bill once enacted will mean a Court will not be able to quash an affected debt decision purely on the basis that the decision involved the use of income apportionment. It will still be possible for a person to successfully challenge an affected debt decision through judicial review on the basis that the decision is affected by some error other than the use of income apportionment alone.