

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.