

From: s 22
To: s 22
Cc: s 22
Subject: FW: Urgent query re Incentive payments for ISP customers taking part in Lived Experience Reference Group [SEC=OFFICIAL]
Date: Friday, 13 February 2026 9:26:45 AM
Attachments: [image001.png](#)

Hi s 22

s 22

Could you please proceed with the 8(11)(d) income test exemption determination.

Please let me know if you need more information or detail.

Kind regards,

s 22 **A/g Assistant Director**
Income Support Means Test Team
Social Security Cross Programs Branch
Care and Support Division, Program Design Group



s 22

s 22

From: s 22
To: [Redacted]
Cc: [Redacted]
Subject: RE: New request for Section 8(11) determination for gift cards for income support customers taking part in Lived Experience Reference Group [SEC=OFFICIAL:Sensitive]
Date: Monday, 4 May 2026 4:29:58 PM
Attachments: [image001.png](#)

Fantastic news, thank you, s 22 and the team!

s 22 **A/g Director**
 Service Design and Innovation Branch
 SERVICE DESIGN AND FACE TO FACE TRANSFORMATION DIVISION



I acknowledge the Traditional Custodians of the lands on which we live and work. For me that is s 22 I pay my respects to all Elders, past and present, of all Aboriginal and Torres Strait Islander nations.
 My pronouns are s 22

From: s 22 @dss.gov.au>
Sent: Monday, 4 May 2026 4:27 PM
To: s 22 @servicesaustralia.gov.au>
Cc: s 22 @servicesaustralia.gov.au>; s 22 @servicesaustralia.gov.au>; s 22 @servicesaustralia.gov.au>; s 22 @servicesaustralia.gov.au>; s 22 @dss.gov.au>
Subject: FW: New request for Section 8(11) determination for gift cards for income support customers taking part in Lived Experience Reference Group [SEC=OFFICIAL:Sensitive]

You don't often get email from s 22 @dss.gov.au. [Learn why this is important](#)

OFFICIAL: Sensitive

CAUTION: Do not click any links or open any attachments unless you trust the sender and believe the content to be safe.

Hi s 22

I am writing to advise you that the Section 8(11) determination for Lived Experience Reference Group Incentive Payment has been made to ensure that incentive payments made by, or on behalf of, the Commonwealth, to attendees of meetings of the Lived Experience Reference Group (the Group) are exempt under paragraph 8(11)(d) of the *Social Security Act 1991* (the Act).

The determination is known as

- **Social Security (Exempt Lump Sum – Lived Experience)**

Reference Group Incentive Payment) Determination 2026

The determination is registered on the Federal Register of Legislation at [Social Security \(Exempt Lump Sum – Lived Experience Reference Group Incentive Payment\) Determination 2026 - Federal Register of Legislation: \(Reference number F2026L00503\)](#).

This determination took effect from 23 September 2025 and ensures that people receiving incentive payments made by, or on behalf of, the Commonwealth, to attendees of meetings of the Lived Experience Reference Group (the Group), will not have these payments assessed as income for social security purposes.

As you are aware, the exemption of these payments from the income test on receipt does not alter the fact that any ongoing income generated by the lump sum is counted under the income test, and any assessable asset produced from the lump sum is counted under the social security assets test.

The continuing assets and income test treatment will be determined by how a person makes use of the funds. Additionally, the determination has no impact on the requirement for people to meet the liquid assets waiting period requirements where applicable.

I am seeking your assistance with the dissemination of this information throughout Services Australia. The Guide to Social Security Law will be updated accordingly.

Thank you for your assistance. The contact officer on this matter is s 22 s 22 [@dss.gov.au](mailto: @dss.gov.au)).

Yours sincerely

s 22

Assistant Director

Means Test and Rent Assistance Policy

Payment Structures and Seniors Branch

System, Strategy and Seniors Group

Department of Social Services

E: s 22 [@dss.gov.au](mailto: @dss.gov.au)

Tel: s 22

The Department of Social Services acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures, and to Elders both past and present.

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Australian Government
Department of Social Services

Ref: EC26-000441

MINUTE**BRANCH MANAGER**

SUBJECT: Income test exemption for the Lived Experience Reference Group Incentive Payment

Critical Date: 24 April 2026

Reason: To confirm the income test treatment of the relevant payments.

Recommendations:

1. That you **sign** the Social Security (Exempt Lump Sum – Lived Experience Reference Group Incentive Payment) Determination 2026 (the Determination) at **Attachment A**.

SIGNED / ~~NOT SIGNED~~

2. That you **approve** the Explanatory Statement for the Determination at **Attachment B**.

APPROVED / ~~NOT APPROVED~~

s 22

Branch Manager:

29/04/2026

Issues:

1. Paragraph 8(11)(d) of the *Social Security Act 1991* (the Act) provides for the Secretary to make a legislative instrument determining certain lump sum payments to be ‘exempt lump sums’, meaning they are exempt from the social security income test.
2. The Determination would provide a social security income test exemption for Lived Experience Reference Group incentive payments made by, or on behalf of, the Commonwealth, to attendees for their attendance at meetings of the Lived Experience Reference Group (the Group).
3. The Group was established in response to the Royal Commission into the Robodebt Scheme’s recommendation that the Australian Government should consider establishing a customer experience reference group, which would provide streamlined insight regarding the experiences of people accessing income support.
4. Services Australia coordinate the Group, and attendees of meetings of the Group include current and former social security claimants and recipients.

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5. For the purpose of the Determination, the incentive payment is the value of the gift cards (\$300 per session) provided to attendees of meetings of the Group.
6. On balance, the gift cards are considered to meet the criteria for an income test exemption under subsection 8(11) of the Act because:
 - a. The gift cards are issued to attendees regardless of their level of engagement in the meeting, suggesting that they are akin to incentive payments rather than remuneration.
 - i. An income test exemption under subsection 8(11) of the Act has similarly been provided for incentive payments to participants of the Household, Income and Labour Dynamics in Australia (HILDA) survey.
 - b. The meetings of the Group are distinct, with potentially different attendees at each one. This means that payment for one session has no bearing on payments for other sessions, thereby suggesting the gift cards are non-periodic.
 - i. An income test exemption under subsection 8(11) of the Act has similarly been provided for payment under the MH17 Family Support Package, in which recipients had the option to claim multiple payments (across different years) to attend various related prosecutions.
7. If approved, the Determination will commence retrospectively from 23 September 2025 which was the date of the first meeting of the Group.
 - a. Services Australia exempted the incentive payment to attendees for this session on the basis they were a 'one-off gift'. It is long-standing policy practice that one-off gifts are not assessed as income.
 - b. While it may be possible to rely on this exemption method for subsequent incentive payments, it is recommended a determination under subsection 8(11) of the Act is instead created for transparency and to ensure the income test exemption is limited to the Group (and, for instance, not other consultation groups).
8. Services Australia originally sought an income test exemption for the incentive payments in October 2025, but later requested the Department hold off on progressing the request until it was confirmed the incentive payments would proceed. ^{s 42}
[REDACTED]
[REDACTED]
9. Subject to anything contrary in the enabling legislation, all legislative instruments are tabled in Parliament and subject to a disallowance period of 15 sitting days after the instrument is tabled in each House. Instruments are required to be tabled in each House within 6 sitting days of that House after the registration of the instrument. The disallowance period does not affect the commencement of the Determination. The Determination is considered to have a very low risk of disallowance as it is beneficial to income support recipients.

Background:

10. Most income support payments paid are subject to an income test when determining a person's rate of payment. The social security income test is very broad and assesses people's gross ordinary income from all sources, unless specifically exempted under social security law.

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11. The Branch Manager of Payment Structures and Seniors Branch holds authority delegated by the Secretary to determine whether a particular class of lump sum payments is exempt from the social security income test. The exemption for payments is provided by a determination under paragraph 8(11)(d) of the Act.
12. Subsection 8(11) of the Act allows a lump sum payment to be exempt from the income test if:
 - a) the amount is not a periodic amount; and
 - b) the amount is not a leave payment; and
 - c) the amount is not income from remunerative work undertaken by the person; and
 - d) the amount is an amount, or class of amounts, determined by the Secretary to be an exempt lump sum.
13. The incentive payments made by, or on behalf of, the Commonwealth, to attendees of meetings of the Group satisfy the first three criteria and can be considered for a subsection 8(11) exemption.

Financial Implications:

14. The Determination applies the income test exemption available under paragraph 8(11)(d) of the Act and does not represent a policy change. Any impact on income support payment expenditure will be treated as an estimates variation, noting this is likely to be marginal relative to total outlays.

Regulatory Implications:

15. The Office of Impact Analysis (OIA) has provided a standing exemption for subsection 8(11) determinations (OIA24-06426).

Consultation:

16. External consultation: Services Australia were consulted on the text of the Determination as it is responsible for the incentive payments made by, or on behalf of, the Commonwealth, to attendees of meetings of the Group; Department of Veterans' Affairs and the Department of Agriculture, Fisheries and Forestry were also consulted on the intention to make this Determination, and supported the Determination being made.
17. Internal consultation: the Determination and Explanatory Statement were drafted by Legal Services, Audit and Assurance Group. Chief Counsel has cleared the legal aspects of this minute and Attachments A and B.

Summary of Attachments:

- A – Social Security (Exempt Lump Sum – Lived Experience Reference Group Incentive Payment) Determination 2026
 B – Explanatory Statement for the Determination.

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Co-Director, Means Test and Rent Assistance Policy
 Payment Structures and Seniors Branch
 21 April 2026

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Social Security (Exempt Lump Sum – Lived Experience Reference Group Incentive Payment) Determination 2026

I, Kirsty Johnson, delegate of the Secretary of the Department of Social Services, make the following determination.

Dated 29/04/2026

s 22



Kirsty Johnson
Branch Manager, Payment Structures and Seniors Branch
Delegate of the Secretary of the Department of Social Services

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1 Name

This instrument is the *Social Security (Exempt Lump Sum – Lived Experience Reference Group Incentive Payment) Determination 2026*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	23 September 2025.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under paragraph 8(11)(d) of the *Social Security Act 1991*.

4 Definitions

In this instrument:

Act means the *Social Security Act 1991*.

Lived Experience Reference Group means the customer experience group coordinated by Services Australia to inform the Australian Government on the experiences of people accessing income support.

incentive payment means a payment made by, or on behalf of, the Commonwealth, to a person for their attendance at meetings of the Lived Experience Reference Group.

5 Exempt lump sum

For the purpose of paragraph 8(11)(d) of the Act, an incentive payment is an exempt lump sum.

EXPLANATORY STATEMENT

Issued by the authority of the Secretary of the Department of Social Services

Social Security Act 1991

Social Security (Exempt Lump Sum – Lived Experience Reference Group Incentive Payment) Determination 2026

Purpose

The *Social Security (Exempt Lump Sum – Lived Experience Reference Group Incentive Payment) Determination 2026* (the Determination) ensures that incentive payments made by, or on behalf of, the Commonwealth, to attendees of meetings of the Lived Experience Reference Group (the Group) are an exempt lump sum under paragraph 8(11)(d) of the *Social Security Act 1991* (the Act).

By determining an incentive payment is an exempt lump sum under the Act, the payments will not be assessed as ordinary income for the purposes of the recipient's social security payment.

Background

Exempt lump sums

An income amount earned, derived or received for a person's own use or benefit is generally assessed as income under the social security law. However, paragraph 8(11)(d) of the Act allows the Secretary of the Department of Social Services, or their delegate, to determine that an amount, or class of amounts, received by a person is an exempt lump sum for the purposes of the Act.

An exempt lump sum is excluded from the definition of "ordinary income" in subsection 8(1) of the Act. This means the amount is not taken into account under the social security income test and will not have any effect on the person's social security payment.

The exemption of a lump sum payment from the income test does not affect the assessment of any ongoing income generated by the lump sum, nor any assessable asset produced from the lump sum. These will be counted under the social security income and assets tests respectively. This is consistent with the treatment of other amounts as exempt lump sums under paragraph 8(11)(d) of the Act.

Lived Experience Reference Group

The Group was established in response to Recommendation 12.2 of the Royal Commission into the Robodebt Scheme, that the Australian Government should

consider establishing a customer experience reference group to provide streamlined insight regarding the experiences of people accessing income support.

The Group is coordinated by Services Australia and attendees of Group meetings include current and former income support claimants and recipients. The first meeting of the Group was held on 23 September 2025.

Attendees are provided with gift cards for attending meetings of the Group. The value of the gift card is the incentive payment for the purpose of the Determination. Since the meetings of the Group commenced, the value of the gift card provided as an incentive for participation has been \$300 per session.

Authority

The Determination is made under paragraph 8(11)(d) of the Act, which provides that the Secretary may determine an amount, or class of amounts, to be an exempt lump sum for the purposes of the Act.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003* and is subject to disallowance.

Retrospective Commencement

The Determination commences on 23 September 2025, when the first meeting of the Group was held.

The retrospective commencement is beneficial to income support recipients and ensures that a payment received for attendance of meetings of the Group is treated as an exempt lump sum under the Act, from the date those payments commenced.

The retrospective operation of the Determination does not infringe section 12 of the *Legislation Act 2003* because the retrospective operation does not disadvantage any person or impose a liability on a person other than the Commonwealth.

Consultation

The Department of Social Services consulted Services Australia on the text of the Determination, given the impact on income support recipients and because Services Australia coordinates the Group. Services Australia supported the Determination.

The Department of Social Services also consulted the following agencies on the intention to make the Determination:

- the Department of Veterans' Affairs because determinations under paragraph 8(11)(d) of the Act apply automatically under the *Veterans' Entitlements Act 1986*; and

- the Department of Agriculture, Fisheries and Forestry because paragraph 8(11)(d) determinations apply automatically under the *Farm Household Support Act 2014*.

The above agencies supported the Determination.

The Department of Social Services did not consult with income support recipients likely to be affected by the Determination, given it is beneficial in nature.

Availability of independent review

A decision made under the social security law, as informed by the Determination, is subject to internal and external review under Parts 4 and 4A of the *Social Security (Administration) Act 1999*.

Explanation of the provisions

Details of the *Social Security (Exempt Lump Sum – Lived Experience Reference Group Incentive Payment) Determination 2026*

Section 1 – Name

Section 1 states how the instrument is to be cited, that is, as the *Social Security (Exempt Lump Sum — Lived Experience Reference Group Incentive Payment) Determination 2026* (the Determination).

Section 2 - Commencement

Section 2 specifies that the Determination commences retrospectively on 23 September 2025.

Section 3 – Authority

Section 3 provides that the Determination is made under paragraph 8(11)(d) of the *Social Security Act 1991* (the Act).

Section 4 – Definitions

Section 4 contains definitions of certain terms used in the Determination. “Lived Experience Reference Group” and “incentive payment” are defined for the purpose of the Determination.

Section 5 – Exempt lump sum

Section 5 specifies amounts determined by the Secretary to be exempt lump sums, in accordance with paragraph 8(11)(d) of the Act.

In particular, section 5 provides that where a person has received an incentive payment, that amount is an exempt lump sum. The incentive payment is the value of a gift card provided as an incentive for participation at meetings of the Lived Experience Reference Group (Group). Since the meetings of the Group commenced, the value of the gift card has been \$300 per session.

By determining that an incentive payment is an exempt lump sum under the Act, the amount of such a payment will not be assessed as ordinary income for the purposes of the recipient’s social security payment.

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 – Lived Experience Reference Group Incentive Payment) Determination 2026

The *Social Security (Exempt Lump Sum – Lived Experience Reference Group Incentive Payment) Determination 2026* (the 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 legislative instrument

The Determination ensures that payments made by, or on behalf of, the Commonwealth, to attendees for their attendance at meetings of the Lived Experience Reference Group (the Group) are an exempt lump sum under paragraph 8(11)(d) of the *Social Security Act 1991* (the Act).

By determining an incentive payment is an exempt lump sum under the Act, the payment will not be assessed as income for the purposes of the recipient's social security payment.

Human rights implications

Right to social security and right to an adequate standard of living

The Determination engages the right to social security and the right to an adequate standard of living.

Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the right to social security and requires a social security scheme be established under domestic law that provides 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 Group has the aim of improving delivery of the social security system to customers. The Determination encourages people to participate in the Group by ensuring the incentive payment does not affect their social security payments.

Article 11 of the ICESCR recognises the right to an adequate standard of living, which provides that everyone is entitled to adequate food, clothing and housing and to the continuous improvement of living conditions.

Under the Act, social security payments are subject to a means test which assesses the person's income and assets to determine their eligibility for the payment, and their rate of payment. The Determination operates beneficially as an incentive payment will not be taken into account when assessing a person's eligibility or rate of social security entitlements under the social security income test. This exemption also flows through to means tested payments under the *Veterans' Entitlements Act 1986* and the *Farm Household Support Act 2014*.

If an incentive payment is not exempted, a person in receipt of such a payment may not be eligible for an income support payment or, if they are eligible, their rate of payment might be reduced. As a result, their standard of living may be adversely affected.

Right to freedom of expression

The Determination also engages the right to freedom of expression, the right to freedom of opinion and expression and ensuring that persons with disabilities can exercise the right to freedom of expression and opinion.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) recognises that everyone shall have the right to hold opinions without interference (subject to certain restrictions, but these are only such as provided by law and are necessary).

Article 5(d)(viii) of the International Convention on the Elimination of All Forms of Racial Discrimination recognises the right to freedom of opinion and expression.

Article 21 of the Convention on the Rights of Persons with Disabilities recognises that parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice.

The incentive payment under the Determination encourages attendance at meetings of the Group, which affords income support recipients with the opportunity to freely express their insights regarding their experiences of accessing income support. This includes advising attendees that everyone in the Group has the right to freely express their views and opinions. While the Group meetings are in progress, there are mechanisms in place to ensure this occurs, such as advising attendees that it is important to respect everyone's unique views and experiences.

Services Australia facilitates diversity in the Group, and ensures that attendees from all backgrounds are welcome to attend the Group meetings. Reasonable adjustments are available for attendees, including attendees with disabilities or cultural or linguistic needs, which facilitates participation in the Group and supports freedom of expression and opinion.

Conclusion

This Determination is compatible with human rights as it promotes and supports a person's right to social security, the right to an adequate standard of living and the right to freedom of expression.

Kirsty Johnson
Branch Manager of the Payment Structures and Seniors Branch
Delegate of the Secretary of the Department of Social Services