

Resolution Approach to Income Apportionment Impact Analysis

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Table of Contents

Glossary.....	3
Introduction.....	4
1. What is the policy problem you are trying to solve and what data is available?.....	6
1.1 What is Income Apportionment.....	6
1.2 Background.....	8
2. What are the objectives, why is government intervention needed to achieve them, and how will success be measured?	11
2.1 Why intervention is required.....	11
2.2 Measuring success- lawfulness.....	11
2.3 Measuring success – fairness	11
2.4 Measuring success – timeliness.....	12
3. What policy options are you considering?	13
3.1 Status quo (no Government action)	13
3.2 Waive all potentially affected debts	13
3.3 Identify and recalculate all affected debts	14
3.4 Retrospective validation of income apportionment.....	15
3.5 Retrospective validation and a partial waiver of paused debts	15
3.6 Retrospective validation and a resolution scheme	16
4. What is the likely net benefit and risks of each option?	17
4.1 Status quo (no Government Action).....	17
4.2 Waive all potentially affected debts	19
4.3 Identify and recalculate all affected debts	22
4.4 Retrospective validation of income apportionment.....	25
4.5 Retrospective validation and a partial waiver of paused debts	28
4.6 Retrospective validation and a resolution scheme	31
5. Who did you consult and how did you incorporate their feedback?	36
6. What is the best option from those you have considered and how will it be implemented?	43
7. How will you evaluate your chosen option against the success metrics?	51

Glossary

IA Income Apportionment	OB Operational Blueprints
DSS / The Department The Department of Social Services	The Agency Services Australia
SS Act <i>Social Security Act 1991</i>	The Guide The Social Security Guide
SS (Admin) Act <i>Social Security (Administration) Act 1999</i>	ACOSS Australian Council of Social Service
EJA Economic Justice of Australia	AAT2 General Division of the Administrative Appeals Tribunal
AAT1 Social Security and Child Support Division of the Administrative Appeals Tribunal	ART Administrative Reviews Tribunal (Successor of the AAT)
AAT Administrative Appeals Tribunal, encompassing both the Social Security and Child Support Division and the General Division	

Introduction

Income apportionment was a method used by Services Australia (and its previous incarnations) when determining social security debts for those income support recipients who received employment income. The practice involved allocating employment income across more than one social security payment instalment period (known as Centrelink instalment periods) in instances when the evidence for the employment income (usually a payslip provided by the individual) did not provide the necessary detail needed to determine how much the person earned each day.

The use of income apportionment dates back to at least the early 1990s. It was a practical solution to the difficulties of assessing income for an employment period that did not align with the Centrelink instalment period and where evidence such as payslips did not include daily earnings. It was used due to a genuine misunderstanding of how provisions in the SS Act required employment income to be assessed. Debts raised using income apportionment were based on evidence of actual payments of employment income but could result in some income being allocated to an instalment period before or after the instalment period in which it was earned.

Changes to simplify income reporting were introduced in the *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020*, which took effect from 7 December 2020. These changes, while unrelated, had the effect of ceasing the use of income apportionment for calculations of entitlements post-6 December 2020.

In mid-2021, Services Australia stopped raising debts for entitlements pre-7 December 2020, due to concerns raised about the use of income apportionment. The recovery of debts potentially affected by income apportionment was paused in October 2023, with further potentially affected debts identified and paused in April 2024.

Income apportionment was the subject of two own motion investigations by the Commonwealth Ombudsman in 2023 (focussed on delays in progressing appeals and reviews).

The issue of how to correctly calculate debts prior to 7 December 2020 was considered by the Full Federal Court in *Chaplin v. Secretary, Department of Social Services (Chaplin)*. A decision was handed down on 15 July 2025, which accepted the Department's preferred methodology for calculating debts prior to 7 December 2020.

Around 5.5 million social security debts, previously or currently held by around 3 million people and worth a total of \$4.4 billion, may be potentially affected by income apportionment.¹ 'Potentially' reflects debts which *may have* been calculated using income apportionment. However, it is not possible to determine which of these debts are *actually* affected without a manual review of each individual debt.

¹ This data is drawn from Services Australia's Debt Management Information System. Overturned debts have been excluded as no repayments were made towards these debts. Debts belonging to deceased people have been excluded given the practical and legal challenges of engaging estates that have been closed for years. Services Australia's Debt Management Information System only records debts going back to those on file in 1993. Debts relating to certain time-periods and payments are not included as income apportionment was likely lawful in those instances.

However, there are relatively few outstanding debts potentially affected by the practice (around 148,000 debts). Around 97% of potentially affected debts have been fully repaid, the average age of potentially affected debts is 19 years, and over half of the potentially affected debts are held by people who no longer receiving social security or family payments.

In line with Australian Government guidance, this Impact Analysis examines potential resolution approaches to income apportionment (including associated data, analysis, benefits, risks and expenditure).

1. What is the policy problem you are trying to solve and what data is available?

1.1 What is Income Apportionment

Australia's social security system is funded through general revenue, with support targeted to those most in need through means testing, including income and assets tests. Under the income test, the amount of income support a person is entitled to is reduced as their income from other sources, such as employment, increases.

The income test requires income to be allocated to a Centrelink instalment period (usually a fortnight) to calculate a person's entitlement for that period. Under the SS Act as it was in force prior to 7 December 2020, the income was required to be allocated to the fortnight in which the income was "first earned, derived or received".

Generally, where a person made updates to the employment income they earned and/or Services Australia became aware of employment income not accounted for in a person's social security payment, it was difficult for the person and/or Services Australia to determine on what day employment income was earned, and what instalment period it should be allocated to. This could be where:

- payslips did not show the hours or days worked, or the different hourly rates of pay
- the employment period did not align with the Centrelink instalment period.

In these cases, Services Australia adopted a practice of evenly spreading the employment income across the period in which it was earned (dividing the total employment income on the payslip by the payslip period to get a daily rate). This meant income could be apportioned across two or more Centrelink instalment periods (income apportionment).

It is now understood apportioning income across Centrelink instalment periods was generally not permitted under the SS Act as it was in force prior to 7 December 2020.

Impact of income apportionment

Around 5.5 million social security debts, previously or currently held by around 3 million people and worth a total of \$4.4 billion, may be potentially affected by income apportionment.²

'Potentially' reflects debts related to pre-December 2020 employment income, which may have been calculated using income apportionment. However, it is not possible to determine which of these debts are actually affected without a manual review of each individual debt.

² This data is drawn from Services Australia's Debt Management Information System. Overturned debts have been excluded as no repayments were made towards these debts. Debts belonging to deceased people have been excluded given the practical and legal challenges of engaging estates that have been closed for years. Services Australia's Debt Management Information System only records debts going back to those on file in 1993. Debts relating to certain time-periods and payments are not included as income apportionment was likely lawful in those instances.

The average age of potentially affected debts is 19 years; and over half of the potentially affected debts are held by people who no longer receive social security or family payments. The average potentially affected debt amount is \$810, and the median amount is \$330.

To understand the impacts of this issue, Services Australia conducted exploratory sampling of 970 pre-December 2020 employment income debts. This sampling indicated around 63% of potentially affected debts may actually be affected by income apportionment. Sampling also found the effect of income apportionment on an overall debt amount is small; the median change when a debt was recalculated using the methodology upheld in *Chaplin* was less than \$100. This recalculation also found around two thirds of debts decreased, while one third of debts increased.

There are relatively few active debts (that is, debts under recovery) affected by income apportionment. Around 148,000 of potentially affected debts are subject to the pauses on debt recovery. Around 97% of all potentially affected debts are fully repaid (these debts are not affected by the pauses).

In total, the 148,000 debts subject to the recovery pause are worth \$1.1 billion, with an average debt value of \$7880. This average debt value is much higher for this cohort compared to the broader historical population of debts affected by income apportionment. This is due to various factors, including that smaller debts are more numerous and usually repaid faster. It is not possible to determine the prevalence and impact of income apportionment on these potentially affected debts (beyond the estimates based on sampling) without a manual investigation of each individual debt.

In addition to the 148,000 debts subject to a recovery pause, 16,000 reviews and 6,000 explanations of decision have been paused due to being potentially affected by income apportionment. In total, an estimated 160,000 debt activities are paused due to income apportionment. This is an estimate as an unknown number of debts are subject to both recovery and review pauses.

Individuals with their debt activity on hold due to these pauses have been impacted by years of uncertainty around their debt. Some demographics are over-represented within the broader social security debtor population, including particular vulnerable cohorts. For example, around 63% of those with a social security debt are women, and First Nations people represent 9% of those with a social security debt, compared with around 4% of the total population. While it is not possible to determine who is actually affected by income apportionment without manual review, given this overall disproportionate representation these cohorts may also be over-represented within the affected population and specifically within the cohort of people affected by the pauses. Around 52% of debts potentially affected by income apportionment are held by people who are no longer receiving a payment from Centrelink. This may indicate they are no longer in need of immediate financial assistance.

Planning for the future can be difficult for people with unresolved debts. During the debt pauses, Services Australia has received correspondence from people with debts subject to income apportionment related pauses, outlining the negative effects ongoing delays in resolving this issue have on them. These pauses or delays in progressing a person's debt can exacerbate frustration and distress, particularly for those already vulnerable. In some instances, qualitative evidence suggests the ongoing pause of a person's affected debt has impacted their ability to take up employment and financial opportunities (such as applying for a loan).

This is particularly relevant for this cohort as they are already disproportionately likely to experience difficulties relating to financial security and employment. There are also associated psychological impacts debt pauses can have on individuals. Protracted pauses will not provide any closure, and this continues to have a negative impact on the overall quality of life for people with debts paused due to income apportionment.

While debt reviews and recovery of debts potentially affected by income apportionment have been paused, this does not address the problem. It does not provide a solution to individuals with income apportionment affected debts. It was a temporary measure while the Government resolved income apportionment.

1.2 Background

Emergence of income apportionment as a known issue

In October 2020 and March 2021, during Community Affairs Senate Committee hearings, the Committee raised concerns about how employment income was being considered when raising debts. In particular, it raised concerns about the use of payslips where the person's employment period did not align with their Centrelink instalment period, and where the payslip did not provide a daily rate of income.

Between February and April 2021, the AAT made several decisions which did not support the use of income apportionment and directed Services Australia to recalculate debts by obtaining further evidence to determine the precise amount of income earned by the person during each day in a Centrelink instalment period. The AAT also made several decisions that affirmed the approach to calculating and raising debts by relying on income apportionment.

Considering the concerns raised in the Community Affairs Senate Committee, and these differing findings in AAT cases, the Department of Social Services sought legal advice on this issue.

Income apportionment was the subject of 2 own motion investigations by the Commonwealth Ombudsman. *Lessons in Lawfulness* and *Accountability in Action* reports were released in August and December 2023 respectively. The Department and Services Australia have actioned all recommendations made in these reports.

In April 2024, the Presidential Bench of the AAT announced it would hear the matter of *Secretary, Department of Social Services vs FTXB* as a test case, to provide guidance on the assessment of employment income as the legislation applied prior to 7 December 2020.

On 28 August 2024, the Presidential Bench of the AAT handed down a decision in *Secretary, Department of Social Services vs FTXB*.

The appellant appealed the decision to the Full Federal Court in *Chaplin*. The Court heard the matter on 6 March 2025 with the decision handed down on 15 July 2025. The decision was consistent with the Department's interpretation of how the law should have been applied for the purposes of calculating debts prior to 7 December 2020.

The broader scope of income apportionment

In addition to social security and family payments, some people who receive payments relating to other agencies are also affected by income apportionment, as these agencies administered payments which are in some way affected or influenced by the *SS Act*. Specifically:

Department of Education

- Some forms of **Child Care Subsidy** are indirectly affected by income apportionment as it is contingent on social security payment rate and eligibility, which could in turn be affected by income apportionment.
 - The main payment affected is **Additional Child Care Subsidy for Grandparent Carers**, where eligibility is contingent on receiving an income support payment.

Department of Agriculture, Fisheries and Forestry

- **Farm Household Allowance** is affected as its supporting legislation, the *Farm Household Support Act 2014*, mirrors the *SS Act* for relevant assessment of employment income.
- Pre-*Farm Household Support Act 2014* payments are also affected. This includes the **Exceptional Circumstance Relief Payment** (and its precursor **Drought Relief Payment**), **Farm Help Income Support** (and its precursor **Restart Income Support**) and, likely, **Farm Household Support**.

Department of Veterans' Affairs (DVA)

- **DSS Age Pensions administered by the Department of Veterans Affairs** could be affected by income apportionment. This cohort would be relatively small given the limited number of DSS recipients who receive their payments through DVA and who earn employment income.
- There is no issue in the administration of DVA's own income support payments, due to the distinct provisions for assessing income in the *Veterans' Entitlements Act 1986*. An exception may be **Defence Force Income Support Allowance (DFISA)**, where the amount of employment income assessable under the *Social Security Act 1991* may have impacted the rate of DFISA paid under the *Veterans' Entitlements Act 1986*.

Home Affairs/ National Emergency Management Agency

- **The Disaster Recovery Allowance** rate is typically determined by the relevant Minister, but it may be affected by income apportionment as historical legislative instruments setting out the rate calculations make relevant references to the *SS Act*.
- **Status Resolution Support Services payment** debt recovery was paused by Services Australia due to close alignment between this payment and relevant employment income and debt processing approaches.

Debt activity pauses

In response to the emerging concerns about income apportionment, in 2021 Services Australia paused the raising and review of debts potentially affected by income apportionment. There are currently 16,000 formal reviews and 6,000 explanations of decisions paused as they are potentially affected by income apportionment. The investigation and raising of around 87,000 potential overpayments is also paused.

The recovery of debts potentially affected by income apportionment was paused on 30 October 2023, with further debts paused on 11 April 2024 because of an improved understanding of those affected. In total around 148,000 current debts potentially affected by income apportionment had recovery paused.

Following the *Chaplin* decision, the Secretary of DSS announced paused debts activities would recommence in line with the Federal Court's decision, and his obligations as Secretary.

2. What are the objectives, why is government intervention needed to achieve them, and how will success be measured?

2.1 Why intervention is required

The Government has acknowledged the need for intervention previously, stating in August 2023 that the issue needs to be settled as quickly as possible. The Court's decision in *Chaplin* has now given certainty to the legal position, and this must be acted upon, consistent with the DSS Secretary's obligations under the SS Act. The status quo, with 160,000 debts on pause, cannot persist. Aside from the legal obligations, given the negative impacts on people, it is not defensible that the Government continues to leave those affected with their debt activity paused in perpetuity.

In addition, while the outcome in the *Chaplin* case agreed with the Department's preferred methodology for recalculating income apportionment affected debts, there are still around 5.5 million historical debts that may be affected by income apportionment. Many of these historical debts are old (the average age is 19 years). Recalculation of these debts is not feasible.

There are no alternatives to Government action, as the issue relates to debts administered, raised and recovered by the Government.

Government action on this issue will still face the following limitations and challenges:

- This issue is widespread, potentially affecting 5.5 million debts over decades.
- Most debts have been repaid in full, with many of those individuals affected no longer in the social security system.
- Many debts potentially affected by this issue are old (the average age is 19 years).

2.2 Measuring success- lawfulness

Any solution must be lawful, that is, authorised by legislation.

2.3 Measuring success – fairness

Any solution must be fair. The resolution approach should be reasonably expected to be broadly accepted by stakeholders and the public as fair and reasonable.

In particular, the impacts on affected individuals and stakeholders should be considered, including:

- the potential for people to be worse off, for example debts increasing due to recalculation of their debt without using income apportionment.

- the ability of people to engage with (where applicable) any options, including recognition of any administrative impost, noting many affected people may be vulnerable.
- the potential for people to receive different treatment depending on timing, for example, when their debt was raised or paid off or when they requested a review of a potentially income apportioned debt
- the potential for people with income apportioned debts to be treated differently (for example, whether their debt is fully paid off or not) under the different options.
- the potential impost on community organisations, employers and financial institutions.

Post-implementation, success in this aspect will be measured by stakeholder opinion. While difficult to quantify, this would include feedback from people affected by income apportionment, and peak bodies in the social services space.

2.4 Measuring success – timeliness

Options must be considered with regard to the ability of Government to implement them in a timely manner. This is particularly relevant given the number of debts within the scope of income apportionment and the resource intensive nature of debt calculations.

People who hold the approximately 160,000 outstanding debts subject to income apportionment related pauses (including reviews and explanations of decision) have been subject to an extended period of ongoing delays and uncertainty. A timely resolution of this issue will bring these people closure.

Depending on the options chosen, success against this criterion could be measured by:

- Time from implementation of the option to outcomes for affected individuals.
- Time from engaging with the resolution approach to outcomes for affected individuals (e.g. time between contact from Services Australia and a finalisation of the person's engagement with any resolution approach).
- Any impost the options may have on community organisations, financial institutions and employers.

Included in timeliness is also an appreciation of the skills and resources required (and their availability) to implement the option in a timely manner.

3. What policy options are you considering?

3.1 Status quo (no Government action)

The status quo option is for the Government not to respond to income apportionment. This would mean the 160,000 debt activities paused due to income apportionment would continue to be paused, in perpetuity. Historical debt decisions using income apportionment would remain unchanged.

The Chaplin decision and the need to act

As outlined in Part 2, retaining the status quo in relation to income apportionment is not a defensible approach. The decision of *Chaplin* brings further urgency to resolving this issue, given its significant implications for debts affected by this issue. Doing nothing is not a feasible option. The *Chaplin* decision provides an interpretation of social security law, as it relates to calculating pre-December 2020 employment income debts, which is legally binding and incompatible with income apportionment. Doing nothing also means there are ongoing delays and uncertainty for affected people and continued potential long-term costs and administrative imposts.

In response to the *Chaplin* decision, the Secretary of DSS released a statement that, now there is certainty to the legal position, assessment activities will re-commence in line with the Court's decision and his obligations as Secretary.

To be consistent with the *Chaplin* decision, Services Australia would need to take action to investigate and recalculate the 160,000 debt activities that were paused.

To adequately consider options for resolving historical debts calculated using income apportionment this impact analysis considers the following options:

- Waiving all potentially affected debts
- Identifying and recalculating all affected debts
- Retrospectively validating income apportionment
- Retrospectively validating income apportionment, and a partial waiver of debts subject to the income apportionment-related pauses
- Retrospectively validating income apportionment, and a resolution scheme for those affected.

3.2 Waive all potentially affected debts

In this option the Government would waive all potentially affected debts. Waiving means the Government forfeiting its right to recover the debt.

All amounts paid toward a potentially affected debt would be refunded. Recovery of outstanding debts (which has been paused) would no longer be pursued.

There are around 5.5 million debts potentially affected by income apportionment and 97% of these have already been repaid. Waiving and refunding all potentially affected debts would entail waiving some debts which were actually lower due to income apportionment (sampling indicates around 31% of debts affected by income apportionment would be higher if recalculated), and other debts which are unaffected by the issue (sampling indicates around 37% of potentially affected debts are not actually affected).

It would have a very high cost. Waiving all potentially affected debts would necessarily include waiving and refunding a large proportion of people who would still have a social security debt if calculated using a different methodology. Sampling found that in over 90% of instances, even without income apportionment applied, a debt would still exist.

Australia's social security system is funded by taxpayers from general revenue, and if a social security recipient is overpaid, Government has a legislative obligation to recover those amounts. Allowing recipients to avoid this obligation through a debt waiver would create equity issues for those who have had debts unaffected by income apportionment, as well as other income support recipients who have complied with their obligations and have not received overpayments.

Waiving and refunding potentially affected debts would also have significant service delivery impacts, due to the necessary diversion of Services Australia expertise.

It requires legislative change.

3.3 Identify and recalculate all affected debts

In this option, the Government would identify and recalculate all debts affected by income apportionment. These debts would be recalculated consistent with the method endorsed by the *Chaplin* decision. This would ensure the comprehensive and correct application of the social security law as it should have applied prior to 7 December 2020.

Under this option the 5.5 million debts potentially impacted by income apportionment, would be manually investigated and recalculated (where income apportionment was found to have been used).

This option would be resource and time intensive, requiring:

- Manually reviewing each of the historical debts related to employment income to see if it was affected by income apportionment
- Seeking additional information from the individual and, if necessary, employers and banks
- Recalculating the debt based on the new information, and
- Making refunds to customers where debts have been over-recovered.

This option would have significant regulatory impacts on individuals and businesses to provide additional information for debt recalculation. The large-scale recalculation (and where applicable

refunding) would also have significant service delivery impacts, due to the necessary diversion of Services Australia expertise.

3.4 Retrospective validation of income apportionment

Under this option, the Parliament would pass legislation validating the use of income apportionment.

Evidence from sampling shows that in most instances, without income apportionment, a debt would still exist. The median difference between a debt calculated with income apportionment and calculated using the method confirmed by *Chaplin*, is around \$100.

By validating income apportionment as a historical debt calculation methodology, the Government would no longer have raised or recovered any debt amounts incorrectly. Debts calculated using income apportionment would stand and be enforceable.

The validating legislation would not validate:

- The full debt or entitlement amount (only the income apportioned component).
- The validity of the employment income amount itself (e.g. situations where the employment income was incorrectly coded).

The retrospective legislation would also clarify income apportionment could be used where a new debt is raised, or an old debt is reviewed, if it relates to entitlements pre-7 December 2020, involves the assessment of employment income, and data about the timing of earnings is unavailable. This would ensure that in the future, debts relating to periods pre-7 December 2020 are assessed on the same basis.

3.5 Retrospective validation and a partial waiver of paused debts

Together with retrospective legislation, the Government could choose to partially waive a subset of debts potentially affected by income apportionment, to provide reparation to those affected by the income apportionment-related pauses. Under this option, this waiver would apply to the approximately 160,000 debts with debt recovery, reviews and explanations of decision paused.

As opposed to a full waiver of these debts, this option applies a partial waiver as:

- Sampling indicates debts can be higher or lower due to income apportionment and, in over 90% of cases, affected debts would still exist when recalculated using the methodology upheld in *Chaplin*.
- There are also cases where only part of a debt is impacted by income apportionment, with the remainder of the debt unaffected.
- Income apportionment, while a misapplication of pre-December 2020 social security law, was nonetheless a defensible attempt at determining a person's need for support in a given Centrelink instalment period.

Based on sampling results on the actual impact of income apportionment on debts, and the above considerations, a partial waiver of up to \$200 (\$200 or the full debt amount, whichever is lower) is proposed under this option.

The waiver would provide relief to those who have been most affected by the issue since it was identified. It would recognise these people have faced ongoing delays and uncertainty around their debts, and that time and resources required to recalculate all of them would not be in the best interests of individuals or the taxpayer.

3.6 Retrospective validation and a resolution scheme

Together with retrospective legislation, under this option, Government could create a resolution scheme.

A resolution scheme would acknowledge income apportionment led to incorrect debt amounts and would offer individuals with an affected debt a simple way of seeking fair and reasonable compensation.

The scheme would cover debts occurring between 20 September 2003 to 6 December 2020. This timeframe aligns with legislative changes in 2003 that made income apportionment clearly unlawful for most payment types and unrelated legislative changes in 2020 that resulted in the practice ceasing.

To apply for the scheme, people would need to confirm some basic identification details, including to ensure Services Australia has their current contact and bank details.

The value of the compensation amount will be determined by reference to the determined debt value (that would have been retrospectively validated). No further information from employers or financial institutions would need to be sought and no recalculation would be required.

The retrospective validating legislation would also include a preservation clause to make it clear a person is entitled to go through the courts, should they not wish to access the scheme at all or choose not to accept an amount they are eligible to receive under it. Individuals who access the scheme will not be able to seek judicial review or external merits review under social security law in relation to a decision they are eligible for a resolution payment.

The resolution scheme would be open for applications for 1 year from its commencement, allowing a reasonable timeframe for people to seek reparation. Services Australia will process these applications by June 2029, depending on uptake. The scheme would be accompanied by effective communication and support measures, with particular focus on vulnerable and disengaged cohorts, to ensure people are aware of and able to engage with the scheme.

4. What is the likely net benefit and risks of each option?

This Impact Analysis uses a multi-criteria analysis as the method to compare impacts of options, focussing on lawfulness, fairness and timeliness. This is because available data does not enable a cost-benefit analysis or cost-effectiveness analysis as it is not possible to ascertain all individuals who have (or have had) debts affected by income apportionment, and the extent to which each individual debt has been affected. Rather, it is more appropriate to have a solution focused on outcomes that are fair across stakeholder groups, lawful and timely in implementation.

The limitations of this analysis are outlined below.

Limitations

In providing an assessment of the net benefits and risks of each option, it is important to acknowledge this analysis is affected by the following limitations:

- Income apportionment goes back several years. It is unclear exactly how many debts are affected by income apportionment. The best estimate is at least 5.5 million debts are potentially affected.
- The exploratory sampling undertaken by Services Australia provides an indication of the overall prevalence and effect of income apportionment. The sample was selected to ensure it was representative in terms of payments potentially affected, and the years in which income apportionment was likely used. It is also based on the calculation methodology upheld in *Chaplin*. However:
 - Services Australia did not contact employers or financial institutions for additional information when reviewing debts in the sample.
 - It only includes debts relating to payments after 2003.
- It is not possible to confidently predict how people will respond to certain options (for example, how many eligible people will choose to apply for a resolution scheme).

4.1 Status quo (no Government Action)

Lawfulness

Retaining the status quo would mean that the 5.5 million historical debts potentially affected by income apportionment would remain as is. The 160,000 paused debts would remain that way in perpetuity. This would not be consistent with the Government's public position that income apportionment needs to be resolved; nor with the decision in *Chaplin*, which has provided a methodology for recalculating income apportionment affected debts (and one which aligns with the approach contended by the Department).

Fairness

This approach is not fair, particularly for those people who have had their debt activity paused while the Government resolved income apportionment, but also for those with a historical debt they have paid off, but which may have been affected by income apportionment.

Those with recovery paused won't have to repay their debt but would have to live with the possibility of recovery recommencing at any point in the future. The difficulties reported by people with paused debts (including those under review), such as those relating to loan approvals, employment opportunities or the finalisation of estates hindered due to an outstanding social security debt, would continue. This impact must be considered in decision making. Using the value of a statistical life year of \$245,000 in 2024 dollars,³ if the inconvenience and uncertainty around each of the 160,000 perpetually paused debt activities was associated with even just a 0.5% reduction in quality of life (noting some people may have multiple affected debt activities), every year these debts remain paused would cost around \$196 million annually (in 2024 dollars) in statistical life year terms.

Those with historical debts potentially affected by income apportionment that are fully paid off will remain likely unaware they have a potentially affected debt.

Timeliness

While this option, being the status quo, won't take any time to deliver, it is not timely in the sense it does not provide any meaningful resolution to potentially affected people and perpetuates uncertainty for an indeterminate length of time.

Regulatory burden estimate

As this option is the status quo, there are no additional regulatory costs on individuals, businesses or community organisations. However, as outlined above, the impacts of maintaining the status quo will be ongoing.

³ Office of Impact Analysis, 'Value of Statistical Life', 2024, <https://oia.pmc.gov.au/sites/default/files/2024-11/value-statistical-life-guidance-note.pdf>

4.2 Waive all potentially affected debts

Lawfulness

This option would involve a legislative change specifying the eligibility for the waiver.

Fairness

For affected individuals

Given it is impossible to identify which of the historical cohort of debts potentially affected by income apportionment are actually affected by this issue without a manual investigation of each individual debt, this option would entail waiving and refunding all potentially affected debts.

Those eligible for the waiver would receive a refund of any amounts paid towards their debt and may consider this a fair outcome. The amount of the refund would be equivalent to the amount of debt paid. For those currently paying off their debt, they would no longer be required to do so.

This approach also means people with outstanding debts no longer need to engage with the administrative processes regarding their debt, including:

- Engaging with Services Australia around repayments
- Understanding and responding to notices from Services Australia
- Engaging with the review and appeal process for their debts.

However, for a substantial cohort of people, they will need to re-engage with Services Australia to update their details for the waiver to be applied.

Many people will have changed addresses, contact details or bank details; this will complicate refunds. Some people will never be able to be refunded, as Services Australia will be unable to contact them. Given income apportionment is a longstanding issue, there will be affected debts that belonged to people who have since passed away.

Given the above considerations, waiving all potentially affected debts will take many years to be completed by Services Australia though would be quicker than identification and recalculation of debts (refer option 3).

For the broader public

This option would avoid a time consuming and disruptive identification and recalculation of individual debts, however it would still require thousands of Services Australia staff over many years to complete. This would require the diversion of substantial expert resources from elsewhere in Services Australia. It cannot be addressed by simply increasing staffing, given the levels of expertise required.

While efficiencies are possible through automation, there would still need to be significant manual effort to ensure correct contact and financial details are in place to enable around 5.5 million refunds to be processed (noting not all affected people would be contactable).

This would affect other deliverables for Services Australia, including payment timeliness and claims processing, affecting those most vulnerable and in need of support today.

It would come at a very high cost. The total estimated value of debts potentially affected by income apportionment is around \$4.4 billion (not including overturned debts and debts belonging to deceased people), with \$4 billion having already been repaid. Sampling indicated 37% of potentially impacted debts were not actually affected by income apportionment. Of the 63% of debts that were affected, 31% went up when recalculated.

Waiving all potential affected debts would create inequities with people with social security debts unaffected by income apportionment and other Commonwealth debts who are required to repay their debts. In most cases, sampling has shown the use of income apportionment only has a slight impact on the debt amount, and if recalculated, a debt would still exist.

Implementation of this option would result in many legitimate overpayments being refunded – including some overpayments that were actually lower than they should have been and debts that were not actually affected by income apportionment at all.

This raises significant concerns regarding the fairness and appropriateness of such an extensive waiver. It is also not targeted to need given it would provide relief indiscriminately rather than addressing specific cases of hardship. Half of those with a potentially affected debt (either outstanding or fully repaid) are no longer recipients of any sort of income support.

In addition, the Government has a legislative obligation to recover overpayments of social security and other payments. This is part of the broader expectation of the Australian public that Government resources be used in a targeted and fiscally responsible manner. This option would amount to the Government choosing to waive billions in debt legitimately owed to the Commonwealth.

For businesses and organisations

This option would have no significant impact on business.

This option would reduce the number of debts referred to community legal organisations, as it would waive a substantial number of outstanding debts that otherwise may have required their assistance.

Timeliness

This option would take years to implement. The process of refunding debts would be time consuming, given the numbers of debts and people involved and the complexities of making refunds, particularly to those who are no longer in the system.

- Affected individuals would need to update their details with Services Australia. For those no longer in regular contact with Services Australia, this would be challenging. Services Australia may not have readily available contact information to let them know about the waiver, or bank details to allow the waiver to be administered.
 - Given over half of those with income apportionment affected debts are no longer receiving a payment from Services Australia, and the average age of income apportionment affected debts is 19 years, it is likely Services Australia would need to attempt to make multiple contacts with affected individuals through many different

communication channels. There would be some people for whom Services Australia would never be able to provide a waiver to.

- Once Services Australia has correct contact details and bank details on file the waiver process would be relatively quick. This approach eliminates the need for individual debt assessment and would result in more timely resolution of debts compared to recalculating each debt.

Regulatory burden estimate

A regulatory burden estimate has been calculated, assuming:

For individuals

- Those holding the 148,000 outstanding debts affected by income apportionment (based on debts subject to recovery pauses) would no longer need to engage with Services Australia. Based on Services Australia administrative data, we have assumed that the average debtor has 1.8 debts. Per person with debts, this is estimated to *save* around 1 hour per year of engagement with Services Australia across the 10-year regulatory burden estimate period. This would cost \$37.00 per hour based on PM&C Regulatory Burden Measurement Framework.

$$(148,000 \div 1.8) \times -1 \times 10 \times \$37.00 = -\$30.4 \text{ million}$$

- The 16,000 outstanding formal reviews and 6,000 outstanding explanations of decisions would be finalised, as no debt would be owed. This is estimated to save around 20 hours of engagement with Services Australia, reflecting the time required to apply for review, comply with any requests for additional information, engage with the reviewing officer, and where necessary, prepare for and attend an ART hearing, and then understand the revised decision.

$$22,000 \times -1 \times 20 \times \$37.00 = -\$16.3 \text{ million}$$

- An estimated 1.56 million people (52% of people potentially affected by income apportionment, which is the proportion of potentially affected people who are no longer social security recipients) would need to engage with Services Australia to update their payment details. We estimate this would take around half an hour to do.

$$1.56 \text{ million} \times 0.5 \times \$37.00 = \$28.9 \text{ million}$$

- Total regulatory impact
 - = \$28.9 million – (\$30.4 million + \$16.3 million)
 - = **-\$17.8 million**
 - Negative figure represents overall regulatory saving for individuals. A component of the regulatory burden estimate will occur over 10 years, while other components will be in the first year only.

For community organisations

- Some community organisations provide support to those undertaking reviews and appeals at Services Australia. If income apportionment-related debts are waived, this support is no longer needed. Previous feedback has indicated that most people do not get legal help for an appeal, so we have assumed that 5% of the appeals related to income apportionment

would involve community organisation support, and that the organisation would spend around 4 hours (in total) on that person’s case. This would cost \$85.17 per hour based on PM&C Regulatory Burden Measurement Framework.

$$22,000 \times 0.05 \times 4 \times \$85.17 = -\$374,748$$

This results in a total regulatory cost over 10 years of -\$18.2 million. The averaged annual regulatory costs over 10 years are displayed below. Brackets indicate a negative figure.

Average annual regulatory costs (over 10 years, discrepancy due to rounding)				
Change in costs (\$ million)	Individuals	Business	Community organisations	Total change in cost
Total, by sector	(\$1.78)	-	(\$0.04)	(\$1.82)

4.3 Identify and recalculate all affected debts

Lawfulness

This option would not involve legislation.

The *Chaplin* decision has confirmed the method to calculate debts prior to 7 December 2020 and therefor how to recalculate income apportionment affected debts.

Fairness

For affected individuals

It is fair people have their debts recalculated, as it would be applying the law as confirmed in the *Chaplin* decision.

However, recalculating all potentially affected debts could significantly disrupt the lives of millions of people. Debts, some many decades old and fully repaid, would be re-opened, which could cause distress to affected individuals. It is likely most people affected don’t know they have a debt where income apportionment was used. Engaging and refunding those no longer in the system, vulnerable customers or deceased customers will be particularly difficult, and would often be for very small amounts. Recalculation would require seeking additional information from people for overpayments potentially many years old. Many will have changed addresses, contact details or bank details; this will complicate recalculation and any refund efforts.

In addition, recalculation could lead to some people’s debts actually increasing (sampling shows that over a third of affected debts would be higher if income apportionment was not used).

For the broader public

The implementation of this option would involve significant administrative and operational cost and require the diversion of substantial expert resources from elsewhere in Services Australia. It cannot be addressed by simply increasing staffing, given the levels of expertise required.

This diversion of government resources would likely lead to significant delays and inefficiencies in providing income support (e.g. claims processing, telephony, face-to-face support) to those who currently need it most.

For businesses and organisations

This option could significantly amplify demand for the services of community organisations as potentially thousands of people seek assistance if their debt is to be recalculated.

Recalculation of all affected debts would likely involve reaching out to employers or financial institutions for further information about the debtor's debt. This would pose a large administrative impost for employers and financial institutions.

The recalculation of these affected debts would likely result in a greater number of individuals seeking assistance from community legal services which would not be met within current arrangements.

Timeliness

The process of manually reviewing and recalculating all affected debts will be highly resource intensive and complex. It would be extremely time consuming, and this process could not be implemented in a timely manner. It would occupy a significant amount of Services Australia's resources and take thousands of officials, years to complete. Recalculation would require:

- Manually reviewing each of the millions of historical debts related to employment income to see if it was affected by income apportionment.
- Seeking additional information from the individual:
 - Affected individuals would need to update their details with Services Australia
 - Given over half of those with income apportionment affected debts are no longer receiving a payment from Services Australia, and the average age of income apportionment affected debts is 19 years old, it is likely Services Australia would need to attempt to make multiple contacts with affected individuals through many different communication channels. There would be some people for whom Services Australia would never be able to get in contact with to progress a recalculation of their debt.
- If necessary, contacting employers and banks (some of which may no longer exist) for additional information for the recalculation process.
- Recalculating the debt.
- Making refunds to customers where debts have been over-recovered.

Services Australia advises the end-to-end recalculation process can take on average between 7.5 hours for each simple debt to 30 hours for each complex debt. Allowing time for each step (above), in total a recalculation can take around 2 months.

This will subject people with potentially affected debts to years of waiting and uncertainty before any resolution is provided. This includes those people with the 160,000 paused debts, who have already faced an extended period of uncertainty.

This could also affect Services Australia's other deliverables, including timeliness of payments processing to individuals who need support now.

Regulatory burden estimate

A regulatory burden estimate has been calculated, assuming:

For individuals

- Around 3 million individuals will need to engage with Services Australia, in some way, regarding the recalculation of their debt. This could range from only needing to review correspondence from Services Australia, to providing additional information for their debt to be recalculated or updating payment details to allow any refund to be processed. Once the debt has been recalculated, individuals will need to consider the decision and decide whether to seek a review of the decision. Overall, this is estimated to take around 4 hours on average. This would cost \$37.00 per hour based on PM&C Regulatory Burden Measurement Framework.

$$3 \text{ million} \times 4 \times \$37.00 = \$444 \text{ million}$$

- 3% of those who have their debts recalculated are expected to appeal the recalculation of their debt. This is estimated to require around 20 hours of engagement with Services Australia, reflecting the time required to apply for review, comply with any requests for additional information, engage with the reviewing officer, and where necessary, prepare for and attend an ART hearing, and then understand the revised decision.

$$3 \text{ million} \times 0.03 \times 20 \times \$37.00 = \$66.6 \text{ million}$$

- Total cost
 - = \$444 million + \$66.6 million
 - = **\$510.6 million**

For businesses

- Employers and financial institutions may need to be contacted for information. It is estimated around 2.6 million requests to employers and financial institutions will be required. This assumes:
 - 63% of the 5.5 million potentially affected debts would be actually affected by income apportionment (based on sampling)
 - For around a third of these cases, Services Australia would seek additional information.
 - Each debt involves 1.5 employers and in around half of these situations financial institutions would also need to be contacted.
- This gives an estimate of 2,615,335 requests (noting some discrepancy due to rounding).

$$5.5 \text{ million} \times 0.63 \times 0.33 \times 1.5 \times 1.5 = 2,615,335$$

- It is estimated employers and financial institutions would take around 4 hours to complete each request. This estimate is based on feedback from employers and financial institutions on recalculation requests to date (where they have occurred due to cases before the Administrative Review Tribunal). Organisations have regularly told Services Australia undertaking searches for historical information is onerous. This would cost \$85.17 per hour based on PM&C Regulatory Burden Measurement Framework.

$$2,615,335 \times 4 \times \$85.17 = \$891.0 \text{ million}$$

For community organisations

- Some community organisations provide support to those undertaking reviews and appeals at Services Australia. Due to the numbers of people involved, we have assumed 2% of those contacted by Services Australia about a recalculation would be able to access community organisation support – either to speak directly with a support person, or to access information that would need to be developed and maintained by community organisations. We have assumed organisations would spend around 4 hours (in total) on each person’s case.

- $3 \text{ million} \times 0.02 \times 4 \times \$85.17 = \$20.4 \text{ million}$

This results in a total regulatory cost over 10 years of \$1,422.0 million. Averaged annual costs over 10 years are provided in the table below.

Average annual regulatory costs (over 10 years)				
Change in costs (\$ million)	Individuals	Business	Community organisations	Total change in cost
Total, by sector	\$51.1	\$89.1	\$2.0	\$142.2

4.4 Retrospective validation of income apportionment

Lawfulness

By legislating to validate income apportionment as a historical debt calculation methodology, the Government will no longer have raised or recovered any incorrect debt amounts.

Fairness

For affected individuals

Given these debts have already been raised, and in most cases already repaid, the practical impact of the retrospective validation on individuals is minimal as it simply confirms the debt they already hold/have repaid.

There may be objection to debts being validated which are higher than they otherwise may have been due to income apportionment.

However, income apportionment was a reasonable means of assessing a person's need for support at a given time, based on evidence supplied by the individual such as payslips. This is evidenced by the fact income apportionment went largely unnoticed and unchallenged for decades.

Exploratory sampling undertaken by Services Australia showed that not all the 5.5 million debts would be affected by income apportionment. Exploratory sampling has found around 63% of employment income related debts relied on income apportionment. It is impossible to know if a debt is or is not affected without a manual review of each debt. The findings of the sampling activity are as follows (noting a 'determined debt' is a debt which has already been raised by Services Australia):

Table 2 – Income apportionment affected determined debts able to be recalculated

	Determined debt outcomes
Determined debts related to employment income	970
As above and impacted by income apportionment (% of employment income debts)	614 (63.3%)
As above and have sufficient information on employment income for recalculation (% of income apportionment debts)	409 (66.8%)

Table 3 – Outcomes of determined debt recalculations

	Determined debt outcomes
Total no. of debts decreased (% of recalculations, % decrease in total debt value)	272 (66%, 20%)
No. of debts decreased, but debt still owed (% of recalculations, % decrease in total debt value)	243 (59%, 18%)
No. of debts decreased to zero or below (% of recalculations, % decrease in total debt value)	29 (7%, 129%)
No. of debts increased (% of recalculations, % increase in total debt value)	126 (31%, 19%)
Nil change (% of recalculations)	11 (3%)

For the broader public

Retrospective validation recognises income apportionment was a reasonable approach to determine a person's entitlement to social security. It was a method which used probative evidence (usually a person's payslip) to assess their means to support themselves in a given Centrelink payment instalment period.

Income apportionment was a genuine misunderstanding of how the law worked and was standard practice that went largely unquestioned for a significant amount of time. The use of income

apportionment resulted in some debts being higher than they otherwise might have been and vice versa.

For most debts affected by income apportionment, there is clear probative evidence that the person was overpaid income support. Codifying the long-standing, reasonable method of income apportionment resolves the current uncertainty.

Retrospective validation of income apportionment removes the need to review and recalculate historic debts, avoiding the complexities associated with those options.

For businesses and organisations

Employers and financial institutions would not be impacted by retrospective validation of income apportionment.

Some community organisations provide support to those undertaking reviews and appeals at Services Australia. These organisations may be contacted by people looking to understand how the retrospective validation affects their debt. This impact is expected to be minimal, given retrospective legislation will not alter existing debt amounts.

Timeliness

Retrospective validation could be progressed quickly, subject to passage of legislation through the Parliament. It is the quickest option for providing a resolution to income apportionment.

Regulatory burden estimate

A regulatory burden estimate has been calculated, assuming:

For individuals

- People with debt activities paused due to income apportionment may take time to understand the implications of retrospective validation and potentially seek further explanation. Based on Services Australia administrative data, we have assumed that the average debtor has 1.8 debts. This is expected to take an average of a quarter of an hour. This reflects that some people in this cohort will choose to spend little or no time on this activity, while others may choose to seek further information from Services Australia.

$$89,000 \times 0.25 \times \$37.00 = \$823,250$$

For community organisations

- Consistent with the approach taken for other options, we have assumed 5% of the 160,000 debts subject to pauses will be referred to community organisations by individuals for further support, with organisations spending around 3 hours per request (on average). This would cost \$85.17 per hour based on PM&C Regulatory Burden Measurement Framework.

$$160,000 \times 0.05 \times 3 \times \$85.17 = \$2.0 \text{ million}$$

This results in total regulatory cost of \$2.8 million over 10 years (this cost occurs in the first year). Averaged annual costs over 10 years are provided below.

Average annual regulatory costs (over 10 years)				
Change in costs (\$ million)	Individuals	Business	Community organisations	Total change in cost
Total, by sector	\$0.08	\$-	\$0.2	\$0.28

4.5 Retrospective validation and a partial waiver of paused debts

These impacts are in addition to those identified under the retrospective validation only option.

Lawfulness

This option would involve legislation.

Fairness

For affected individuals

Partially waiving debts subject to income apportionment related pauses provides relief to those people holding the 160,000 debts that have been on pause and who have been most immediately affected by the issue. It recognises these people have faced ongoing delays and uncertainty around their debts. This prolonged uncertainty has also disadvantaged some people. For example, Services Australia is aware of people with debts under review who have had loan approvals, employment opportunities or the finalisation of estates hindered due to an outstanding social security debt.

The partial waiver would mean people with debts below \$200 (that is, equal to, or lower than the total waiver amount) may no longer have to engage with the administrative processes regarding their debt, including:

- Engaging with Services Australia around repayments
- Understanding and responding to notices from Services Australia
- Engaging with the review and appeal process for their debts.

For the broader public

Many individuals who would benefit from the partial waiver are not currently recipients of social security payments. The partial waiver would not effectively target those in genuine need of assistance and may not be seen as an equitable or efficient use of government resources, particularly if it diverts resources from critical frontline services designed to support vulnerable individuals.

Sampling indicates in over 90% of cases, debts affected by income apportionment would still exist when recalculated using the method confirmed by the *Chaplin* decision. The sampling also indicated that the median change to debts was \$100 or less when recalculated using this method.

There are also cases where only part of a debt is impacted by income apportionment, with the remainder of the debt unaffected.

The proposed partial waiver would therefore involve waiving debts that are legitimate overpayments of income support.

This option would require investment in Services Australia to process the partial waiver (and any associated refunds) of an estimated 160,000 debts, however this cannot be addressed by simply increasing staffing, given the levels of expertise required.

Issuing a \$200 waiver to some debts but not others may be seen as unfair by those with current or historical debts that are ineligible for the waiver, particularly if these debts were also potentially affected by income apportionment. Many debtors have also been subject to delays and incorrect calculations for reasons unrelated to income apportionment and would not be eligible for a partial waiver under this approach.

For businesses and organisations

This option would have no significant impact on business. It may reduce the number of debts referred to community legal organisations, as it would waive a number of smaller (less than \$200) outstanding debts that otherwise would have required their assistance.

Timeliness

This option limits the scope of eligibility for the partial waiver to those people affected by the pauses and could be delivered in a relatively timely manner, compared to options such as recalculating or waiving all potentially affected debts.

Regulatory burden estimate

A regulatory burden estimate has been calculated, assuming:

For individuals

- Those subject to income apportionment recovery pauses with debts lower than \$200 would no longer need to engage with Services Australia, as their debt would no longer exist. This is around 6496 people, or 7.9% of 82,222 people subject to recovery pauses (based on Services Australia administrative data we have assumed that the average debtor has ~1.8 debts). Per person with debts, this is estimated to *save* around 1 hour per year of engagement with Services Australia across the 10-year regulatory burden estimate period. This would cost \$37.00 per hour based on PM&C Regulatory Burden Measurement Framework.

$$6496 \times -1 \times 10 \times \$37.00 = -\$2.4 \text{ million}$$

- 7.9%, or 1,738, (representing debts under \$200) of the 16,000 outstanding formal reviews and 6,000 outstanding explanations of decisions would be finalised, as no debt would be

owed. This is estimated to save around 20 hours of engagement with Services Australia, reflecting the time required to apply for review, comply with any requests for additional information, engage with the reviewing officer, and where necessary, prepare for and attend an ART hearing, and then understand the revised decision.

$$1738 \times -1 \times 20 \times \$37.00 = -\$1.29 \text{ million}$$

- An estimated 8,222 people (10% of people affected by income apportionment pauses) would need to engage with Services Australia to update their payment details. We estimate this would take around half an hour to do.

$$8,222 \times 0.5 \times \$37.00 = \$152,107$$

- Total regulatory impact
 - = \$0.15 million – (\$2.4 million + \$1.29 million)
 - = **-\$3.54 million**
 - Negative figures represent overall regulatory savings for individuals. A component of the regulatory burden estimate will occur over 10 years, while other components will be in the first year only.

For community organisations

- Some community organisations provide support to those undertaking reviews and appeals at Services Australia. If income apportionment-related debts are waived, this support is no longer needed. This would be an estimated 1738 debts, based on 7.9% of the 22,000 paused reviews and explanations of decision being under \$200. Consistent with our approach for other options, we have assumed 5% of the appeals related to income apportionment would involve community organisation support, and that the organisation would spend around 4 hours (in total) on that person's case. This would cost \$85.17 per hour based on PM&C Regulatory Burden Measurement Framework.

$$1738 \times 0.05 \times 4 \times \$85.17 = -\$29,605$$

In total, this results in a total regulatory save of \$-3.57 million over 10 years. Averaged annual costs over 10 years are provided below.

Average annual regulatory costs (over 10 years)				
Change in costs (\$ million)	Individuals	Business	Community organisations	Total change in cost
Total, by sector	(\$0.35)	-	(>\$0.01)	(\$0.36)

4.6 Retrospective validation and a resolution scheme

These impacts are in addition to those identified under the retrospective validation only option.

Lawfulness

Along with retrospective validation, a resolution scheme would involve legislation.

Fairness

For individuals

A resolution scheme is an equitable approach that would offer many individuals affected by income apportionment a convenient method to seek fair and reasonable reparation from the Government.

Unlike a partial debt waiver, a resolution scheme would provide a pathway for individuals with debts affected by income apportionment (back to 2003), not just for those with paused debts.

Such a scheme would be public acknowledgement that although income apportionment was a genuine misunderstanding of the law as it applied and based on evidence supplied by the individual such as payslips, it was nonetheless an error.

Those eligible for the scheme would receive a resolution payment commensurate with their debt amount. This will be based on the results from the Services Australia sampling exercise.

Based on available data, the resolution payment scale reflects that very small debts (i.e. those less than \$200) are the most likely to significantly decrease due to income apportionment (in terms of % of total debt value). For larger debts, the more likely outcome is an increase in debt value or only a small reduction in debt. However, the resolution payment scale increases slightly as the debt value increases to reflect the slight trend that higher debt values have higher reductions in their debts, on average. The proposed resolution payment amounts will be skewed in favour of individuals.

Individuals who struggle to engage with Government may not participate in the resolution scheme, even though it may leave them better off. To mitigate this risk, the resolution scheme would need to include measures to communicate with and assist potentially eligible people to make an informed choice. This would involve updates to Services Australia's communication channels (e.g. website), and engagement with peak bodies and stakeholders to make them aware of the scheme.

Some people with income apportionment affected debts will be ineligible for the resolution scheme, for reasons including:

- they are unable to obtain sufficient evidence required to support an application to the scheme or the assessment of the debt (i.e. they do not have sufficient information to demonstrate they had a historical social security debt).
- they are unable to apply before the resolution scheme closes.

These people would not have access to reparation which may be criticised as unfair for this reason.

Engaging with the resolution scheme would place some regulatory impost on individuals, who would need to:

- Inform themselves of the resolution scheme and its eligibility criteria, including seeking advice or support where appropriate
- Apply for the resolution scheme through Services Australia
- Engage with requests from Services Australia regarding their debt.
- Understand the decision made under the resolution scheme, and decide whether to seek review, noting individuals will not be able to seek judicial review or external merits review under social security law in relation to a decision they are eligible/ineligible for a resolution payment.
- Engage with the review and appeal process, as required.

This may be criticised as placing additional regulatory burden on individuals.

For the broader public

A resolution scheme acknowledges income apportionment led to incorrect debt amounts. It also reflects income apportionment was a genuine misunderstanding about the appropriate calculation methodology to be used for employment income. It is highly likely individuals owe debts to the Commonwealth in approximately the same amount as the determined debt value that is affected by income apportionment.

A streamlined scheme of this nature ensures that one-off reparations are targeted to reflect the debt amount and average variances in sampling data.

A resolution scheme, accompanied by clear communication and support measures, will give people choice about whether to apply to the scheme, safe in the knowledge if they choose to do so, they will not be worse off.

A review scheme may come at a high cost, albeit less than full recalculation or waiver of all debts potentially affected by income apportionment. Services Australia would be required to investigate each application to the scheme to determine whether it was affected by income apportionment.

Administering of the scheme may be resource intensive depending on take-up, which may divert Services Australia expertise away from other people who need support.

As with the option to waive all potentially affected debts, the resolution scheme would leave many people better off than if their debt had not been calculated using income apportionment. Implementation of this option would result in part of many legitimate overpayments being refunded – including some overpayments that were actually lower than they should have been. In addition, as with the option to waive all potentially affected debts, half of those with a potentially affected debt (either outstanding or fully repaid) are no longer recipients of any sort of income support payment. Making payments to these individuals would not be providing support to those most in need.

However, unlike the option to waive potentially affected debts, this option would not involve providing amounts to those who are unaffected by income apportionment. This makes the approach arguably fairer than the waiver of all potentially affected debts.

For businesses and organisations

Community organisations such as legal aid organisations or welfare rights organisations would likely be called on to support those who require assistance accessing the resolution scheme. This may result in additional costs for community organisations.

Timeliness

The scheme would be time limited, with people required to apply within one year of its commencement. It should mean individuals get a resolution to their income apportionment affected debt in a relatively timely manner.

Services Australia will process all applications by June 2029, depending on uptake.

Regulatory burden estimate

The proposed option is estimated to result in the following regulatory burden on stakeholders:

For individuals

- There will be regulatory cost associated with people informing themselves about the scheme and deciding whether to apply. Take-up of the scheme is highly uncertain, but a best estimate is that around 1.35 million people inform themselves about the resolution scheme. These 1.35 million people would need to understand what the eligibility criteria for the scheme is and whether they may have had a potentially affected debt(s). This is estimated to take around half an hour on average. This would cost \$37.00 per hour based on PM&C Regulatory Burden Measurement Framework.

$$1.35 \text{ million} \times 0.5 \times \$37.00 = \$25 \text{ million}$$

- There will be regulatory cost in applying to the scheme. Of the 1.35 million people who inform themselves about the scheme, around 900,000 people with 1.6 million debts (noting some people have multiple debts) are expected to put in an application. It is estimated this would take each applicant around half an hour (this will likely be less for current customers already in contact with Services Australia but could take longer for those no longer in the system who need to reconnect/set up an online account).

$$900,000 \times 0.5 \times \$37.00 = \$16.7 \text{ million}$$

- There will be regulatory cost in understanding the scheme outcome and deciding whether to seek a review. Of the 900,000 applicants, it is estimated this would take each applicant around a quarter of an hour.

$$900,000 \times 0.25 \times \$37.00 = \$8.3 \text{ million}$$

- 3% of debts deemed as ineligible by the scheme (based on sampling, 595,325 of the 1.6 million debts are expected to be found ineligible due to being unaffected by income apportionment) are expected to be appealed internally. This is based on historical data on reviews and appeals. This is estimated to require around 2 hours of engagement with Services Australia, reflecting time to apply for review, comply with any requests for additional information, and engage with the reviewing officer.

$$17,860 \times 2 \times \$37.00 = 1.3 \text{ million}$$

- Total cost
 - \$25 million + \$16.7 million + \$8.3 million + \$1.3 million
 - = \$51.3 million

For community organisations

- Some community organisations provide support to those undertaking reviews and appeals at Services Australia. We have assumed 2% of the 1.35 million considering applying to the scheme (27,000) would reach out for community organisation support – either to speak directly with a support person, or to access information that would need to be developed and maintained by community organisations. We have assumed organisations would spend around 2 hours (in total) on each person’s case. These estimates are lower than for previous options, reflecting the relative simplicity of the resolution scheme over full recalculations.

$$27,000 \times 2 \times \$85.17 = 4.6 \text{ million}$$

The total regulatory cost over 10 years is \$55.9 million. Averaged annual costs over 10 years are provided below.

Average annual regulatory costs (over 10 years)				
Change in costs (\$ million)	Individuals	Business	Community organisations	Total change in cost
Total, by sector	\$5.13	-	\$0.46	\$5.59

Summary of resolution options

Approach	Regulatory cost (total over 10 years)	Impacts
Status quo	N/A	Evaluated in section 6 below, based on lawfulness, fairness and timeliness.
Waive all potentially affected debts	-\$18.2 million	
Identify and recalculate all potentially affected debts	\$1,422.0 million	
Retrospectively validate income apportionment	\$2.8 million	
Retrospectively validate income apportionment and partial waiver of debts subject to related pauses	\$-3.57 million <i>in addition to retrospective validation</i>	
Retrospectively validate income apportionment with a resolution scheme	\$55.9 million <i>in addition to retrospective validation</i>	

5. Who did you consult and how did you incorporate their feedback?

Addressing the issue of income apportionment is complex and challenging. Consultation has occurred across government to determine the solution. This has included engagement with Services Australia, the Department of the Prime Minister & Cabinet, the Treasury, the Department of Finance, the Commonwealth Director of Public Prosecutions, the Attorney-General's Portfolio, the Administrative Review Tribunal and others.

The intended purpose of consultation has been to:

- Understand the scope and effect of income apportionment, and the impacts of potential options. This has involved understanding the views of advocacy organisations and those affected by income apportionment.
- Clarify the correct interpretation of pre-December 2020 social security law and potential resolution options.
- Understand the practical and resourcing implications of administering potential resolution options, based on extensive engagement across agencies.

Understanding the impacts on affected persons

Advocacy organisations

The Department of Social Services has met with key welfare rights organisations and oversight groups on the issue, to gather their insights and suggestions.

The Department is aware of views held by advocacy groups which generally have advocated for income apportionment affected debts to be waived. EJA has publicly called for *current* affected debts to be waived⁴, whereas ACOSS has called for *all* affected debts to be waived⁵. Further, in its report *Accountability in Action* the Commonwealth Ombudsman suggested consideration of a 'large-scale waiver of debts'.

The views of advocacy organisations have focussed on:

- The scale of the issue, and the high cost of recalculations
- The potential for causing emotional and financial distress for those with potentially affected debts.

These views have been factored into the assessment of options for this impact analysis. While advocacy organisations have advocated for a waiver of potentially affected debts, these underlying

⁴ Economic Justice Australia, 'Media Release: Legality of decades-old Government system again being called into question in Federal Court test case', March 6 2025.

⁵ Australian Council of Social Service, *Budget Priorities Statement 2024-25*, 2023, p.17.

goals of avoiding emotional and financial distress for affected persons can also be achieved by other resolution approaches.

Affected individuals

Services Australia has:

- Engaged with affected individuals through the process of administering pauses on debt activity.
- Received contact from people affected by income apportionment related pauses on debts.
- Engaged with people appealing income apportionment affected debts through the Administrative Review Tribunal.

From this engagement, key lessons have been learnt on how the uncertainty and management of income apportionment has practically impacted the lives of people affected by this issue:

- The ongoing uncertainty surrounding income apportionment affected debts has impacted the ability of debtors to take up employment and financial opportunities (such as applying for a loan). While people with paused debt reviews can request their review continues using the Department's preferred recalculation methodology, provided informed consent has been given and the person is made aware their debt was subject to the then forthcoming decision of *Chaplin*, this is a temporary solution. Resolving income apportionment as quickly as possible, with a view to providing people certainty around (a) whether they have a debt and (b) how they can repay that debt to discharge any remaining responsibilities to Government is essential to avoid continued adverse impacts on people's lives.

Services Australia tested correspondence about income apportionment with customer reference groups. This customer testing has shown that explaining income apportionment is difficult, given the complexity of the issue. Any resolution approach that requires explaining complex recalculations to individuals risks these recalculations and the intent of any process being poorly understood.

Commonwealth Ombudsman engagement

The Commonwealth Ombudsman investigated and published two reports regarding income apportionment - *Lessons in lawfulness* in August 2023 and *Accountability in Action: identifying, owning and fixing errors* in December 2023. The Department accepted or accepted in principle the recommendations of these reports with the primary lessons revolving around acknowledging and acting on errors in a prompt manner while also being transparent and accountable in communication. These views of the Ombudsman have informed the Department's response to income apportionment, and consideration of available options to resolve this issue.

Summary of stakeholder views and option development

Feedback	Stakeholders	Action taken
Income apportionment debts should be waived	EJA ACOSS Legal Aid Commonwealth Ombudsman	Options were developed and considered to understand the impacts of waiving these debts. This includes all potentially affected debts (Option 2 - waive all debts) and for just those debts affected by the pauses (Option 5 - retrospective validation and partial waiver).
Recalculating debts is time consuming, and a large-scale undertaking	Advocacy groups Services Australia engagement	Option 3 was developed and considered to understand the impacts of identifying and recalculating debts.
Emotional and financial distress should be avoided. People require certainty.	Advocacy groups Services Australia engagement	Option 4, to retrospectively validate all affected debts will confirm historical and current debts amounts and provide certainty. Options 5 and 6 include this certainty through retrospective validation and consider additional approaches for those affected.

Summary of the Department and Service Australia's responses to Ombudsman recommendations and suggestion – Lesson in Lawfulness

Ombudsman recommendations and suggestion	Summary of the Department and Services Australia's joint response	Interaction with options development
<p>Recommendation 1 – Option A – SOLICITOR-GENERAL OPINION</p> <p>"We recommend DSS, in consultation with Services Australia, seeks Solicitor-General opinion, through an Attorney-General referral under the Law Officers Act 1964, on two issues."</p>	<p>In response to this recommendation, in 2023 DSS and Services Australia advised:</p> <p>"DSS and Services Australia approached the Solicitor-General. The Solicitor-General declined to provide advice, stating Services Australia and DSS should first share the different legal advices between the legal professionals involved to see whether the legal professionals can agree. The agencies have shared all legal advices with the legal professionals and are in discussions to see whether the different views can be bridged by discussion."</p>	<p>Legal advice has been appropriately sought and considered throughout the development of options for income apportionment resolution.</p>
<p>Recommendation 1 – Option B – REFER QUESTION OF LAW TO FEDERAL COURT</p> <p>"We recommend DSS and Services Australia seek Federal Court opinion, through referral by the Administrative Appeals Tribunal, under the Administrative Appeals Tribunal Act 1975."</p>	<p>Completed</p> <p>The Department and Services Australia initially expressed a strong preference to resolve the issue using recommendation 1 – Option A. However, Services Australia and DSS committed to monitoring the AAT caseload to identify a test case, making relevant inquiries to the Federal Court and AAT.</p> <p>The correct calculation methodology for income apportionment affected debts was referred to the Federal Court in <i>Chaplin</i>.</p>	<p>A case (<i>Chaplin</i>) was referred to the Presidential Bench of the AAT, and Subsequently appealed to the Full Federal Court.</p>
<p>Recommendation 2 – DEVELOP POLICY POSITION ON SECRETARY-INITIATED REVIEWS</p>	<p>Partially accepted and completed</p>	<p>N/A</p>

Recommendation 3 – DEVELOP PROSECTIONS STRATEGY IN CONSULTATION WITH CDP	Accepted and completed	Prosecutions strategy will inform approach to this cohort in resolution approach.
Recommendation 4 – PROVIDE DOCUMENTS TO THE CDP	Accepted and completed	N/A
Suggestion 1 – Decide responsibility for future significant legal issues reporting	Accepted and completed	N/A

Summary of the Department and Service Australia’s responses to Ombudsman recommendations– Accountability in Action

Ombudsman recommendations and suggestion	Summary of the Department and Services Australia’s joint response	Interaction with options development
Recommendation 1 – Develop a strategy for sampling potentially affected historic debts, underpayments, AAT decisions and CDP referred debts.	Accepted and completed	Exploratory sampling was used to inform deliberations about impacts of potential options on historical and current cohort with potentially affected debts
Recommendation 2 – Develop an overarching remediation strategy for income apportionment affected decisions.	Accepted and ongoing	This impact analysis is part of the broader Government consideration of overarching remediation for income apportionment affected matters.
Recommendation 3 – Develop strategy for managing income apportionment-affected reviews	Accepted and completed	Options for managing income apportionment affected reviews developed as set out in this Impact Analysis.

<p>Recommendation 4 – Update decision-making procedures</p> <p>“We recommend Services Australia updates its procedures for recalculating income apportionment affected decisions following a settled legal position on how to lawfully calculate its decisions...”</p>	<p>Accepted and completed</p>	<p>Updated decision-making measures will be incorporated, where applicable, to income apportionment resolution approach.</p>
<p>Recommendation 5 – Develop communication plan</p>	<p>Accepted and completed</p>	<p>Based on any option agreed by Government.</p>
<p>Recommendation 6 – Amend communications</p> <p>“We recommend Services Australia amends all relevant communications... to include:</p> <ul style="list-style-type: none"> • a clear and simple explanation of income apportionment, and how unlawful practices impacted historic decisions and review delays (including specific information to individuals who had their payments unlawfully calculated) • an apology for decision delays, and for historic unlawful calculations • information about what Services Australia is doing to address historic unlawful income apportionment decisions.” 	<p>Accepted and completed</p>	<p>Communications relating to income apportionment resolution to be informed by recommendation.</p>
<p>Recommendation 7 – Develop and implement a policy to capture all income apportionment complaints</p>	<p>Accepted and completed</p>	<p>Income apportionment approach will include complaints reporting services.</p>
<p>Recommendation 8 – Develop regular complaint reporting requirements</p>	<p>Accepted and completed</p>	<p>Income apportionment approach will include regular reporting on complaints between the Department and Services Australia.</p>

Gaining legal clarity on income apportionment

The Department has consulted with legal experts to gain clarity on the historical incidence of income apportionment, and how to approach recalculating historic decisions which were calculated incorrectly.

The administrative review process, including feedback from the AAT (now the ART) and the Federal Court, have also informed the resolution of income apportionment as they have played a crucial role in the formation of the views around income apportionment.

Understanding practical and resourcing implications

The Department has engaged with Services Australia and other affected agencies to understand the practical and resourcing implications of the various resolution approaches.

The Department has sought insights into the staffing and costs required for each resolution approach from Services Australia, informed by their actions to resolve income apportionment to date, their administrative processes, and the costs of staffing and systems improvements required.

The Department has consulted with a range of agencies potentially impacted by income apportionment, including:

- Services Australia
- The Department of Education
- The Department of Agriculture, Fisheries and Forestry
- The Department of Veterans' Affairs
- The Department of Home Affairs
- The Commonwealth Director of Public Prosecutions

6. What is the best option from those you have considered and how will it be implemented?

The structured analysis on the following pages evaluates alternative options for income apportionment resolution. The options are based upon the criteria outlined in Section 2 to measure success.

For all stakeholder impacts, it is reasonable to say the issue of Income Apportionment is well known. It is in the public domain and is subject to media interest, Freedom of Information requests and has been raised during Senate Estimates.

Those criteria are:

- **Lawfulness**
 - Any solution must be lawful, that is, authorised by legislation.
- **Fairness**
 - Any solution must be fair. The resolution approach should be reasonably expected to be broadly accepted by stakeholders and the public as fair and reasonable.
- **Timeliness**
 - Options must be considered with regard to the ability of Government to implement them in a timely manner. A timely resolution to the issue will provide closure for individuals, businesses and community organisations.

For the criteria of **lawfulness**, options 2-5 in the table are assumed to be lawful.

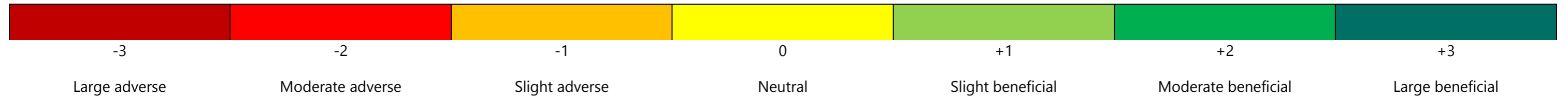
The overall score for each stakeholder for each option reflects an average of timeliness and fairness. The overall totals are the impacts of each option across all stakeholder groups. These scores may be affected by rounding.

The criteria were applied by senior Commonwealth officials with strong expertise in social security policy. This expertise is in addition to broader experience in public policy accrued over decades.

The following stakeholder groups were identified:

- People with debts that are actually affected by income apportionment.
- People with debts potentially, but not actually, affected by income apportionment.
- Impacts to current social security recipients (and future recipients) unaffected by income apportionment.
- Impacts on employers and financial institutions are limited to the impost of providing supporting information.
- Impacts on community organisations are limited to those who provide support to those undertaking reviews and appeals of debts.
- Impacts on the broader public.

Summary of approaches to address income apportionment



Stakeholder	Option no.						Explanation					
	1	2	3	4	5	6	Option 1: Maintain the status quo	Option 2: Waive all debts potentially affected by income apportionment	Option 3: Identify and recalculate debts affected by income apportionment	Option 4: Retrospectively validate income apportionment	Option 5: Retrospective validation and partial waiver for paused debts	Option 6: Retrospective validation and a Resolution scheme for debts affected by income apportionment
People with debts affected by income apportionment (likely around 63% of potentially affected debts)	-1	1	-2	0	0	2	<p>Fairness (- 2)</p> <p>The subset of this cohort with debt recovery paused due to income apportionment (around 148,000 debts) will not have to repay their debt for an indeterminate amount of time, however the status quo perpetuates the uncertainty these people are experiencing about their debt status and the impacts this uncertainty has on them.</p> <p>Under the status quo, paused debts would need to be voluntarily repaid to ensure no effect on an individual's financial position.</p> <p>For those with paused reviews (16,000) and explanations of decisions (6,000), the status quo means they will not receive the review or explanation about their debt they have requested.</p> <p>The broader cohort (those who have fully repaid their debt) will remain likely unaware they have an affected debt.</p> <p>Timeliness (0)</p> <p>This option is timely as it is the current state, however it also perpetuates uncertainty for an indeterminate length of time.</p> <p>Overall (-1)</p>	<p>Fairness (+3)</p> <p>This cohort would have debts waived and receive a full refund of any amount previously repaid. They would likely consider the waiving of their debt as fair treatment.</p> <p>This cohort would have to provide some information to support refund processing.</p> <p>Timeliness (-2)</p> <p>This option will take significant time to implement due to the increased administrative burden to process waivers and refunds for 5.5 million debts.</p> <p>Overall (+1)</p> <p>While this option may be considered fair by this cohort, implementation of this option will be subject to long delays due to the resourcing require to waive all debts.</p>	<p>Fairness (-1)</p> <p>It is fair that people have their debt recalculated, as it would be applying the law as it should have been. However, debts many years old would have to be reopened, and this could be detrimental for people, causing emotional and financial distress.</p> <p>Recalculating these debts will place a significant imposition on people to interact with government. They may have to provide additional information for recalculations and, where applicable, refund processing. There will be uncertainty for this cohort throughout the recalculation process, with people uncertain whether their debt will increase, decrease or stay the same. This could take years.</p> <p>Any refund is likely be small, and not all of this cohort would receive a refund (i.e. those whose debts are higher after recalculation).</p> <p>Timeliness (- 3)</p> <p>This option would take many years to implement, with recalculations being time consuming and complex.</p> <p>Overall (-2)</p>	<p>Fairness (-1)</p> <p>There will be a level of unfairness under this option within this cohort, as some people will have their debt validated higher than it should have been and some will have it validated lower than it should have been. It also does not provide any reparation for those affected by this issue.</p> <p>However, this option brings immediate certainty in outcome for people, with the benefit that debt amounts will remain unchanged. Note that many of these debts are small and old and around half the individuals are no longer connected to the social security system. 97% are fully repaid.</p> <p>Most people will not need to do anything, however those with debt activities paused will see it recommended.</p> <p>Timeliness (+1)</p> <p>This option would be timely and provide a way forward for individuals who have debts affected by income apportionment.</p> <p>Overall (0)</p> <p>This option balances fairness with timeliness.</p>	<p>Fairness (-1)</p> <p>Along with the impacts of retrospective validation (identified for option 4), under this option, those affected by the debt pauses would receive a waiver of up to \$200, which they may regard as fair recognition of the impacts of these prolonged pauses.</p> <p>However, this option does not provide the same benefit for the millions in this cohort who had already paid their debt off, as they would be ineligible for this waiver. This is the vast majority of people with debts affected by income apportionment and they may consider this approach unfair.</p> <p>Timeliness (+1)</p> <p>This option would be timely and provide a way forward for individuals who have debts affected by income apportionment, and a waiver for the subset of this cohort who has been affected by the debt pauses.</p> <p>Overall (0)</p> <p>While this option is beneficial to people affected by the debt pauses, it could be considered unfair by the majority of this</p>	<p>Fairness (+2)</p> <p>Along with the impacts of retrospective validation (identified for option 4), under this option, this cohort (with affected debts from 2003 onwards) will be able to apply for a resolution payment. They will likely see this as fair treatment.</p> <p>They will have to apply and provide information to support debt assessment and reparation processing, if they choose to apply. The process will be streamlined and simplified where possible, reducing the administrative burden for people.</p> <p>Timeliness (+1)</p> <p>This option would be timely and provide a way forward for individuals who have debts affected by income apportionment. The resolution scheme would commence promptly and be time-limited with Services Australia required to process claims within a contained period of time.</p> <p>Overall (+2)</p> <p>This rating is warranted given the cohort would be eligible for a</p>

Stakeholder	Option no.						Explanation					
	1	2	3	4	5	6	Option 1: Maintain the status quo	Option 2: Waive all debts potentially affected by income apportionment	Option 3: Identify and recalculate debts affected by income apportionment	Option 4: Retrospectively validate income apportionment	Option 5: Retrospective validation and partial waiver for paused debts	Option 6: Retrospective validation and a Resolution scheme for debts affected by income apportionment
							Any timeliness benefits are outweighed by the lack of certainty for this cohort.		This option will take many years to implement and could cause protracted uncertainty and possible distress.		cohort who would be ineligible for the waiver.	reparation payment and would have certainty around their debt.
People with debts potentially, but not actually, affected by income apportionment (likely around 37% of potentially affected debts)							<p>Fairness (- 2)</p> <p>Under the status quo, the impacts on this cohort are the same as those identified for those with actually affected debts (above). People will not know if their debt is or isn't actually affected by income apportionment.</p> <p>Timeliness (0)</p> <p>As above, this option is timely as it is the current state, however it also perpetuates uncertainty for an indeterminate length of time.</p> <p>Overall (-1)</p> <p>Any timeliness benefits are outweighed by the lack of certainty for this cohort.</p>	<p>Fairness (+3)</p> <p>The impacts of waiving all potentially affected debts on this cohort are the same as those identified for those with actually affected debts (above).</p> <p>Timeliness (-2)</p> <p>As above, this option will take significant time to implement due to the increased administrative burden to process waivers and refunds for 5.5 million debts.</p> <p>Overall (+1)</p> <p>While this option may be considered fair by this cohort, implementation of this option will be subject to long delays due to the resourcing required to waive all debts.</p>	<p>Fairness (- 1)</p> <p>This cohort would ultimately not receive a refund as their debts are unaffected by income apportionment, however this option brings uncertainty for people unsure if their debt is or isn't affected. Some people may have to engage with government to provide information to support debt assessment.</p> <p>Those affected by the debt pauses (but whose debt was subsequently found to be unaffected) may object to lack of any compensation</p> <p>Timeliness (- 3)</p> <p>This option would take many years to implement, with recalculations being time consuming and complex. It is an equally untimely option for people, whether their debt is or isn't found to be actually affected.</p> <p>Overall (-2)</p> <p>This option will take many years to implement and could cause protracted uncertainty and possible distress.</p>	<p>Fairness (0)</p> <p>For this cohort, income apportionment has not actually affected their debt however this option still provides them certainty.</p> <p>Most people will not need to do anything, however those with debt activities paused will see it recommenced.</p> <p>Timeliness (+1)</p> <p>This option would be timely and provide a way forward for individuals who have potential debts affected by income apportionment.</p> <p>Overall (+1)</p> <p>This rating is warranted given the cohort would have certainty around their debt and can be implemented in a timely way.</p>	<p>Fairness (0)</p> <p>Along with the impacts of retrospective validation (identified for option 4), under this option, those affected by the debt pauses would receive a waiver of up to \$200, which they may regard as fair, recognition of the impacts of these prolonged pauses.</p> <p>People in this broader cohort (with debts that are fully paid off) are not actually affected by income apportionment and would not have basis to expect a waiver. However, some in this cohort may feel as though they have been penalised for paying off a debt, particularly if they had done so shortly before the income apportionment recovery pause was implemented, as this has resulted in them being ineligible for the partial waiver.</p> <p>Timeliness (+1)</p> <p>This option would be timely and provide a resolution to this issue, and a waiver for the subset of this cohort who has been affected by the debt pauses.</p> <p>Overall (+1)</p> <p>This rating is warranted given those in this cohort would either receive a partial waiver or be unaffected by income apportionment (not subject to pauses and debt not actually affected).</p>	<p>Fairness (0)</p> <p>Along with the impacts of retrospective validation (identified for option 4), under this option, this cohort will not be eligible for a resolution payment. There may be objection to lack of any compensation for those who were affected by the debt pauses, but their debt was subsequently found to be unaffected by income apportionment.</p> <p>Timeliness (+1)</p> <p>This option would be timely and provide a resolution to this issue. This cohort will not ultimately be found eligible for reparation, but the timeliness of the design of the resolution scheme is positive for those who opt to test their eligibility and apply.</p> <p>Overall (+1)</p> <p>This rating is warranted given that, while this cohort will not receive a resolution payment, those with paused debts will be given certainty and closure around their debts.</p>
	-1	1	-2	1	1	1						

Stakeholder	Option no.						Explanation					
	1	2	3	4	5	6	Option 1: Maintain the status quo	Option 2: Waive all debts potentially affected by income apportionment	Option 3: Identify and recalculate debts affected by income apportionment	Option 4: Retrospectively validate income apportionment	Option 5: Retrospective validation and partial waiver for paused debts	Option 6: Retrospective validation and a Resolution scheme for debts affected by income apportionment
Current and future social security recipients unaffected by income apportionment	0	-1	-1	0	0	0	<p>Fairness (0)</p> <p>It is possible the status quo may be seen as unfair for this cohort, who would have to repay social security debts, while those affected by the pauses will not have to. This is balanced or neutralised by these recipients still being able to request and receive a review of their debt or explanation of decision compared to those with their debt paused.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by the timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>	<p>Fairness (- 2)</p> <p>A blanket waiver means people are refunded for debts they did owe (and for debts that are not actually affected by income apportionment or related pauses). This option is unfair to people with other social security debts they are required to pay.</p> <p>This cohort would also be affected by the major diversion of Services Australia's expert resourcing to process waivers, at the expense of other service delivery priorities (e.g. claims processing, telephony, face-to-face services).</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by timeliness of this option.</p> <p>Overall (-1)</p> <p>This rating is warranted given diversion of Services Australia expertise, and perceived unfairness.</p>	<p>Fairness (- 1)</p> <p>This cohort would also be affected by the major diversion of Services Australia's expert resourcing to identify and recalculate debts, at the expense of other service delivery priorities (e.g. claims processing, telephony, face-to-face services).</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by the timeliness of this option.</p> <p>Overall (-1)</p> <p>This rating is warranted given diversion of Services Australia expertise.</p>	<p>Fairness (0)</p> <p>This cohort would not be affected by the fairness of this option.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by the timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>	<p>Fairness (0)</p> <p>Those in this cohort with unrelated debts may see some unfairness in that they are not offered a partial waiver for their debts, but this would be limited given the waiver is partial and would only be offered to the cohort subject to ongoing pauses and delays.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>	<p>Fairness (0)</p> <p>Those in this cohort with unrelated debts may see some unfairness in that they are not offered a resolution payment, but this would be limited given the resolution payment is limited and would only be offered to the cohort with debts affected by income apportionment.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>
Employers and financial institutions	0	0	-2	0	0	0	<p>Fairness (0)</p> <p>This cohort would not be affected by the fairness of this option.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by the timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>	<p>Fairness (0)</p> <p>This cohort would not be affected by fairness of this option.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by the timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>	<p>Fairness (- 3)</p> <p>This option could place significant, negative impost on this cohort, who may be contacted and required to provided additional information. While organisations may not still hold the evidence required (the average age of affected debts is 19 years), Services Australia would need to undertake due diligence nonetheless.</p> <p>Timeliness (- 1)</p> <p>This will take up the time of businesses, and potentially for a very extended period of time, given how long it will take to implement this option in full.</p>	<p>Fairness (0)</p> <p>This cohort would not be affected by the fairness of this option.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by the timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>	<p>Fairness (0)</p> <p>This cohort would not be affected by the fairness of this option.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>	<p>Fairness (0)</p> <p>This cohort would not be affected by the fairness of this option.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by timeliness of this option.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>

Stakeholder	Option no.						Explanation					
	1	2	3	4	5	6	Option 1: Maintain the status quo	Option 2: Waive all debts potentially affected by income apportionment	Option 3: Identify and recalculate debts affected by income apportionment	Option 4: Retrospectively validate income apportionment	Option 5: Retrospective validation and partial waiver for paused debts	Option 6: Retrospective validation and a Resolution scheme for debts affected by income apportionment
									Overall (-2) This option would place an increased burden on employers and financial institutions.			
Community Organisations ⁶	-1	1	-1	0	1	-1	<p>Fairness (-1)</p> <p>Under the status quo, community organisations would likely be dealing with continuing concerns and requests for support from those who would have their debts paused for an indeterminate length of time</p> <p>Timeliness (0)</p> <p>The timeliness of the status quo does not have specific impacts for this cohort.</p> <p>Overall (-1)</p> <p>This option has adverse impacts for community organisations that face additional resourcing requirements to support people with concerns about their perpetually paused debts.</p>	<p>Fairness (+1)</p> <p>While there may be some impost related to assisting people in receiving refunds, waiving all debts will have a positive overall impact on community organisations, as it will reduce the number of debts they will be requested to assist affected people with.</p> <p>Timeliness (0)</p> <p>The timeliness of a decision to waive all debts will not affect community organisations.</p> <p>Overall (1)</p> <p>This option is beneficial to community organisations as it reduces the number of debts they may be required to provide assistance with.</p>	<p>Fairness (-1)</p> <p>This could significantly amplify demand for the services of community organisations, as potentially thousands of people seek assistance if their debt is to be recalculated.</p> <p>Timeliness (-1)</p> <p>This option could take up the time of these organisations, and potentially for a very extended period of time, given how long it will take to implement this option in full.</p> <p>Overall (-1)</p> <p>This cohort would be adversely impacted as this option would place resourcing demands on community organisations</p>	<p>Fairness (0)</p> <p>Some community organisations provide support to those undertaking reviews and appeals may need to provide additional support for those with a validated debt. Otherwise, there is a negligible impact on the delivery capacity of community organisations.</p> <p>Timeliness (0)</p> <p>The timeliness of a decision to retrospectively validate income apportionment will not affect community organisations.</p> <p>Overall (0)</p> <p>The impacts of this option are expected to be minimal for this cohort, compared to the status quo.</p>	<p>Fairness (+1)</p> <p>Along with the impacts of retrospective validation (identified for option 4), this option would have a beneficial impact on community organisations as it will reduce the number of active debts they may be required to provide assistance with.</p> <p>Timeliness (0)</p> <p>This cohort would not be affected by timeliness of this option.</p> <p>Overall (1)</p> <p>This option is beneficial to community organisations as it reduces the number of debts they may be required to provide assistance with.</p>	<p>Fairness (-1)</p> <p>Along with the impacts of retrospective validation (identified for option 4), this option would increase demand for their services as people may seek assistance with accessing the resolution scheme</p> <p>Timeliness (0)</p> <p>The resolution scheme is time-limited.</p> <p>Overall (-1)</p> <p>This rating is warranted given the additional resourcing requirements it will place on community organisations.</p>
Broader public	-1	-1	-1	0	0	0	<p>Fairness (-1)</p> <p>Maintaining the debt pauses does not affect the broader public, but a failure to take action to address income apportionment could lead to loss of public confidence. This includes in relation to service delivery, where the public has an expectation government does things correctly and makes amends where this doesn't happen.</p> <p>Timeliness (0)</p>	<p>Fairness (-2)</p> <p>Waiving millions of debts may cause a loss of public confidence in the Government's ability to administer social security, particularly if Services Australia's other deliverables were compromised.</p> <p>Social security debts being wholly waived when in all likelihood the individual owed a debt (including debts unaffected by income apportionment) would be generally considered unfair. It</p>	<p>Fairness (-1)</p> <p>The broader public would be affected by diversion of overall Government resources. The need to recalculate millions of debts over many years may also cause a further loss of public confidence in the Government's ability to administer social security, particularly if Services Australia's other deliverables were compromised.</p> <p>Timeliness (0)</p>	<p>Fairness (0)</p> <p>The broader public is not affected but may regard this option as reasonable, given the status quo is not defensible and options to waive or recalculate debts will have significant costs and impacts.</p> <p>Timeliness (0)</p> <p>The timeliness of this option will not have an impact on the broader public.</p> <p>Overall (0)</p>	<p>Fairness (0)</p> <p>The broader public is not affected but may regard this option as reasonable as the status quo cannot persist and it compensates those directly affected by the pauses. A partial debt waiver may contribute to the perception social security debts are generally illegitimate, but this impact would be small compared to waiving all potentially affected debts in full.</p> <p>Timeliness (0)</p>	<p>Fairness (0)</p> <p>The broader public is not affected but may regard this option as reasonable as the status quo cannot persist and it offers reparation for people with affected debts.</p> <p>Timeliness (0)</p> <p>The timeliness of this option will not have an impact on the broader public.</p> <p>Overall (0)</p>

⁶ The assessment of fairness reflects the likely impost an option will have on the services of community organisations not how it aligns with their advocacy position.

Stakeholder	Option no.						Explanation					
	1	2	3	4	5	6	Option 1: Maintain the status quo	Option 2: Waive all debts potentially affected by income apportionment	Option 3: Identify and recalculate debts affected by income apportionment	Option 4: Retrospectively validate income apportionment	Option 5: Retrospective validation and partial waiver for paused debts	Option 6: Retrospective validation and a Resolution scheme for debts affected by income apportionment
							<p>The timeliness of the status quo does not have specific impacts for this cohort.</p> <p>Overall (-1)</p> <p>Failure to take action to address income apportionment – the status quo – could lead to a loss of public confidence.</p>	<p>would also be specifically unfair to members of the broader public with other types of debts to the Commonwealth (e.g. a tax debt) that they are expected to repay.</p> <p>A large-scale debt waiver would contribute to the perception social security debts are generally error prone or illegitimate and may cause a loss of public confidence in the Government’s ability to administer social security.</p> <p>Timeliness (0)</p> <p>The timeliness of this option will not have an impact on the broader public.</p> <p>Overall (-1)</p> <p>This rating is warranted given likely loss of public confidence and perceived unfairness.</p>	<p>The timeliness of this option will not have an impact on the broader public.</p> <p>Overall (-1)</p> <p>This rating is warranted given likely loss of public confidence.</p>	<p>Impact on this cohort is minimal overall.</p>	<p>The timeliness of this option will not have an impact on the broader public.</p> <p>Overall (0)</p> <p>Impact on this cohort is minimal overall.</p>	<p>Impact on this cohort is minimal overall.</p>
Total* (all stakeholders)	-3	-1	-8	1	1	2	<p>Major benefits: There are no major benefits for this option. It is the case that debts would not need to be repaid by those with their debt on pause, but this is outweighed by the adverse impacts.</p> <p>Major adverse impacts: The status quo perpetuates the uncertainty and negative impacts experienced by those affected by the debt pauses and puts continued pressure on community organisations. It could cause loss of confidence in Government administration.</p>	<p>Major benefits: This option has a financial benefit for those who get the waiver.</p> <p>Major adverse impacts: This option is very high cost and requires a significant diversion of government resources. It will reduce the supports available for people who need to access assistance now. It would waive debts that people did actually owe (including debts not affected by income apportionment) and would likely be perceived as unfair by other social security recipients and the broader public, who are still required to repay Commonwealth debts. It could cause loss of confidence in Government administration in the social security system.</p>	<p>Major benefits: This approach would recalculate affected debts, consistent with the law as it applied.</p> <p>Major adverse impacts: This option is very high cost and requires a significant diversion of government resources. It will reduce the supports available for people who need to access assistance now. It has high administrative imposts on individuals, businesses and financial institutions, and may cause loss of confidence in Government administration in the social security system.</p>	<p>Major benefits: This option resolves the legal uncertainty of years of historical debts.</p> <p>Major adverse impacts: May be seen as unfair by affected recipients, some of whom will have their debt validated higher than it should have been.</p>	<p>Major benefits: Resolves legal uncertainty and compensates people affected by the debt pauses.</p> <p>Major adverse impacts: May be seen as unfair by affected recipients, some of whom will have their debt validated higher than it should have been. Does not provide any recognition or reparation for millions with historically affected debts that are fully paid off.</p>	<p>Major benefits: Resolves legal uncertainty and provides a pathway for people with debts affected by income apportionment to receive reparation.</p> <p>Major adverse impacts: May be seen as unfair by affected recipients, some of whom will have their debt validated higher than it should have been. Puts some onus on individuals to seek compensation. People with debts subject to pauses but not actually affected by income apportionment will be ineligible for a resolution payment.</p>

*The overall totals are the impacts of each option across all stakeholder groups. These scores may be affected by rounding.

What is the best option?

This analysis of available options to address income apportionment (above) supports an approach that includes legislation to retrospectively validate income apportionment and a resolution scheme for people affected by this issue.

As the analysis has found, waiving all potentially affected debts or recalculating debts, are not viable options. Reviewing and recalculating all potentially affected debts would likely cause upheaval in millions of people's lives and have impacts for community organisations, businesses and financial institutions. Implementing either of the options would require a significant diversion of government resources, requiring thousands of Services Australia staff over many years to complete. This risks compromising its ability to support people who currently need assistance. These options are not timely or fair.

Legislating to retrospectively validate income apportionment recognises it was a reasonable means of assessing a person's need for income support, based on any earnings from employment, and using evidence from the individual such as payslips. Its historical application was a genuine misunderstanding of how employment income should be assessed under the law. Sampling exercises have found that the effect of income apportionment on an overall debt amount is small. The median change in debt amount when the debt is recalculated using the methodology upheld in *Chaplin* is less than \$100.

Retrospective validation will provide certainty for people with affected debts and is a responsible use of resources. As income apportionment relates to historical debts, any future debts raised for those same historical periods can be treated consistently, as income apportionment will have been made a valid method of raising debts.

To provide reparation, this analysis has considered – in conjunction with retrospective validation – options for a partial waiver to those affected by the pauses and a resolution scheme with broader eligibility. A partial waiver would provide compensation to those most recently affected by income apportionment, who have been subject to delays and uncertainty. However, this approach could be considered unfair by people who have historical debts (which they have fully paid off) affected by income apportionment as they would be ineligible.

A resolution scheme, with broader eligibility for people with income apportioned debts, is a relatively timely, fair and efficient mechanism. At its simplest, such a scheme can offer people affected by this issue (not just those affected by the pauses) a convenient method of seeking fair and reasonable compensation from the Government. As an opt in scheme, it will require some additional effort for people to apply, but objectively this is a small additional burden and the scheme can be designed to minimise the effort required as much as possible. A resolution scheme is less impactful on the broader administration of the social security system, and has less overall regulatory burdens, compared with other options like waiving or recalculating all income apportionment affected debts

Implementation

Legislation to retrospectively validate income apportionment and support a resolution scheme will need to be passed by the Parliament.

The implementation of a resolution scheme will need to ensure:

- The scheme is communicated to the public
- The scheme meets reasonable expectations of processing timeliness, and Services Australia can complete all applications by June 2029, depending on uptake.
- Appropriate quality assurance mechanisms are in place to ensure the scheme is being implemented as intended.
- Staff are adequately trained to assist applicants with queries they may have about the scheme.

7. How will you evaluate your chosen option against the success metrics?

Evaluation of the preferred option

As outlined in this impact analysis, enacting retrospective validation and a resolution scheme represents a balance between resolving income apportionment, minimising the impacts on individuals and the resources required to manage the resolution. The criteria of fairness and timeliness will be evaluated using qualitative feedback from stakeholders.

The key metrics are outlined below:

Targets	Milestones and deliverables	Metrics and outcomes
There is certainty in historical debts calculated using income apportionment	Legislation is developed Communication material supporting the legislation is prepared and used to inform stakeholders about the change.	The legislation is passed by the Parliament.
The resolution scheme is established without delay or error.	Legislation is developed to allow the scheme to open for applications by January 2026.	The legislation is passed by the Parliament and the scheme opens for applications.
People can easily apply for the scheme within the 1-year timeframe and receive reparation.	Communication material supporting the legislation and scheme is prepared and used to inform people about the scheme and application process.	Data shows the resolution scheme is being used and reparation is being paid to individuals.
Services Australia can process all applications by June 2029, depending on uptake.		Regular reporting on application processing and inflow. Timeliness for reviews of scheme decisions and reparation are within parameters.

Lawfulness

The effectiveness of the retrospective legislation will be determined by how well it is able to validate and resolve the issue of income apportionment. The legislation needs to be drafted to ensure that the proper effect of validating the use of income apportionment is understood and can be applied both to known historical debts potentially affected by income apportionment, as well as possible future debts which may be raised. Success in this context would be avoiding further legislative change or challenge from review bodies who find the new legislation unsatisfactory.

The effectiveness of the resolution scheme will also be contingent on well-drafted legislative provisions.

Fairness

Stakeholder opinion will provide the greatest indicator of fairness and will fundamentally determine whether the approach involving retrospective legislation and a resolution scheme is ultimately successful.

The fairness of the resolution scheme will be based on assessment of:

- If Parliament passes the legislation.
- Whether people can easily apply for the scheme within the 1-year timeframe and receive reparation.
- If suitable communication material supporting the legislation and scheme is prepared and used to inform people about the scheme and application process.
- If data shows the resolution scheme is being used and reparation is being paid to individuals.

Timeliness

Ensuring the validation of income apportionment and the delivery of a resolution scheme occurs within a timely manner will be a key part of the approach's success. Legislation must receive passage without substantial delay. Resolving the income apportionment issue in a reasonable time frame will also remove the uncertainty that has been surrounding the issue for many years, affecting those with a potentially affected income apportionment debt.

Services Australia reporting will support analysis of how they are progressing with resolving the backlog of income apportionment affected matters.

The timeliness of the resolution scheme will be assessed against the ability of Services Australia to process applications by June 2029.