HIGH COURT OF AUSTRALIA

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Details of Filing

File Number:	M92/2025
File Title:	Chaplin v. Secretary, Department of Social Services & Anor
Registry:	Melbourne
Document filed:	Form 27A - Appellant's submissions
Filing party:	Appellant
Date filed:	23 Dec 2025

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IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

BETWEEN: **MATTHEW CHAPLIN**
Appellant

and

SECRETARY, DEPARTMENT OF SOCIAL SERVICES
First Respondent

LEGAL AID NSW
Second Respondent

APPELLANT'S SUBMISSIONS

PART I: FORM OF SUBMISSIONS

1. These submissions are in a form suitable for publication on the internet.

PART II: ISSUES

2. **Issue 1:** To recover a "debt" in respect of a social security payment under s 1223(1) of the *Social Security Act 1991* (Cth) (**Act**), does the information available to the First Respondent (the **Secretary**) need to show that the recipient of the payment was not entitled to that payment (or a specific part of it), or is it sufficient that the Secretary fails "to be satisfied that the recipient was entitled to the amount received" (J [153])?

3. **Issue 2:** On the proper construction of s 1223(1) of the Act, is it open to the Secretary to conclude that the amount of a fortnightly social security payment (or part thereof) is a debt due to the Commonwealth if the available information shows only that: (a) it is unlikely that the recipient was entitled to the total amount of some aggregate of fortnightly payments; and (b) the relevant payment formed part of that aggregate?

4. **Issue 3:** When taking into account ordinary income that is earned and later received under Module H of the Youth Allowance Rate Calculator in s 1067G of the Act in order to determine whether to seek to recover a payment of youth allowance (or part thereof) as a debt under s 1223(1), particularly under step 1 of the method statement in point 1067G-H1 (**Step 1 of Point H1**) and point 1067G-H23 (**Point H23**), may the Secretary use a variable and mixed account of income both earned and received? Or, must the Secretary use only the singular method of accounting in Point H23, which prescribes that "ordinary income is to be taken into account in the fortnight in which it is <u>first</u> earned, derived or received"?

PART III: NOTICE OF CONSTITUTIONAL MATTER

5. No notices under s 78B of the *Judiciary Act 1903* (Cth) are required.

PART IV: CITATION OF DECISIONS BELOW

6. The decision of the Administrative Appeals Tribunal (Social Services & Child Support Division) is *Re Chaplin and Secretary, Department of Social Services* (Member Byers, unreported, 8 January 2024) (**AAT1**) (CAB Tab 1, pp 5-17).

7. The decision of the Administrative Appeals Tribunal (General Division) is *Re Secretary, Department of Social Services and FTXB* [2024] AATA 3021 (Justice Kyrou, President, Senior Member Kennedy, Senior Member Trotter) (**AAT2**) (CAB Tab 2, pp 18-91).

8. The decision of the **Full Court** of the Federal Court of Australia is *Chaplin v Secretary, Department of Social Services* (2025) 311 FCR 44; [2025] FCAFC 89 (Thawley and Hespe JJ; Kennett J dissenting) (**J**) (CAB Tab 5, pp 101-154).

PART V: FACTUAL BACKGROUND

9. The Appellant (**Mr Chaplin**) received fortnightly youth allowance payments between 10 July 2014 and 24 June 2015 (**relevant period**): J [3]. While receiving those payments, Mr Chaplin worked a casual job at a grocery store and was required to report any income he earned: J [70]-[74]. Mr Chaplin underreported his income by reporting his after-tax, rather than pre-tax, income: J [75]. It has never been suggested, and was expressly disavowed by Senior Counsel for the Secretary in submissions before the Full Court[1] and the Tribunal[2] and when cross-examining Mr Chaplin,[3] that he did so with any intention to receive payments to which he was not entitled: J [3], [75]. The Tribunal was "satisfied that there was never any such intention": AAT2 [46].[4]

10. Mr Chaplin worked variable hours: J [70]. He recorded his time manually in timesheets and left them at the store for the store manager.[5] He was paid weekly each Thursday for the hours he worked on Monday to Sunday of the previous week: J [70]. His fortnightly "instalment periods" for youth allowance commenced every second Thursday: J [57], [72]. Thus, the weekly period over which Mr Chaplin provided services in respect of which he was to be paid (Monday to Sunday) (**pay periods**) did not align with his instalment periods (Thursday to Wednesday fortnight).

11. Almost five years later, in 2019, after receiving information from the Australian Taxation Office about Mr Chaplin's income for the 2014/15 financial year, the Department sought past income information from Mr Chaplin, who provided his payslips to the delegate and attempted to obtain copies of his timesheets: J [4], [70], [77], [78]. However, the payslips did not record the dates on which he had worked and timesheets showing those dates were no longer available: J [70], [78]. Because Mr Chaplin's weekly pay periods did not align with his fortnightly instalment periods, and because evidence was no longer available of the dates on which he had worked, it was not possible to ascertain the instalment period in which some income amounts were "earned": J [81]-[82].

12. The delegate and an authorised review officer concluded that a debt had arisen under s 1223(1) upon the application of a methodology known as "apportionment", by which

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1 Transcript of hearing before the Full Court, 6 March 2025, pp 32.30-33.16: ABFM, Tab 4, pages 10-11.

2 Transcript of hearing before AAT2, 24 June 2024, p 59.30: ABFM, Tab 2, page 8.

3 Transcript of hearing before AAT2, 24 June 2024, p 50.1-50.2: ABFM, Tab 2, page 7.

4 Accordingly, the observations of the Full Court majority, regarding where the "evidential onus" might lie in the case of "wrongdoing" consisting of a person "knowingly" misreporting their earnings, are irrelevant: J [164]-[166]. Nor is this a case in which "adducing particular evidence is peculiarly within the power of the defendant", because the Secretary has broad powers to gather information regarding a person's income: cf J [164], referring to *Berry v CCL Secure Pty Ltd* (2020) 271 CLR 151 at [66] (Bell, Keane and Nettle JJ).

5 AAT2 [40]; Statement of the Appellant made 5 June 2024 at [18]: ABFM, Tab 1, page 5.

total earnings for a given period were apportioned across instalment fortnights (or parts thereof) to produce uniform assumed earnings on each day: J [92].[6]

13. By contrast, the Secretary contended before the Tribunal and the Full Court that, where the instalment period in which income was earned cannot be ascertained on the evidence before a decision-maker, the income may be taken into account when it was received for the purpose of raising a debt against the recipient under s 1223(1) of the Act. AAT1 and AAT2 each rejected the Secretary's submission: AAT1 [33]; AAT2 [160], [178]. However, departing from the submissions of both parties, AAT2 held that income is "earned" when a legally enforceable right to payment arises: AAT2 [136].

14. On appeal, the Full Court unanimously accepted submissions of both parties that AAT2's construction of "earned" was erroneous and that income consisting of wages is "earned" on the day on which hours are worked: J [171]-[183] (Thawley and Hespe JJ), [221], [241] (Kennett J). However, a majority of the Full Court (Thawley and Hespe JJ) accepted the Secretary's submission that, in the absence of evidence showing when certain income was "earned", that income may be taken into account when it was "received": J [14(d)], [197]. Kennett J dissented, holding that income that is "earned" may be taken into account only when it is "earned" and that, if this cannot be ascertained on the evidence before a decision-maker, it would be an error to conclude that a debt is owed under s 1223(1) of the Act: J [235]-[246].

PART VI: ARGUMENT

A. Key legislative provisions

15. During the relevant period, and at all times subsequently, Chapter 5 of the Act dealt with "Overpayments and debt recovery". Part 5.2 dealt with "Amounts recoverable under this Act". Section 1222A relevantly provided that an "*amount is a debt due to the Commonwealth if, and only if*" a provision of the Act "*expressly provided that it was or expressly provides that it is*".

16. Section 1223(1) addressed the circumstances in which a debt will be *due* in the context of a purported overpayment. Section 1223(1) provided:

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[6] AAT2 states at [7] that the "Original Alleged Debt", as determined by the delegate and the authorised review officer, was calculated using the "receipt" method for which the Secretary later argued before the Tribunal. That is incorrect. As AAT1 explains at [3]-[6], the "Original Alleged Debt" was calculated using "apportionment", not the receipt method: see J [92]. Apportionment was a methodology applied alongside the automated debt recovery system known as "Robodebt", but it predated Robodebt and that system's use of income averaging. The Secretary no longer contends that the income averaging used in Robodebt was lawful (*Amato v Commonwealth* (VID611/2019) (27 November 2019); *Prygodicz v Commonwealth* [2020] FCA 1454 at [4]-[10] (Murphy J)). The debt decisions in the present case were not products of the "Robodebt" system.

> Subject to this section, if:
> (a) a social security payment is made; and
> (b) a person who obtains the benefit of the payment was not entitled for any reason to obtain that benefit;
> the amount of the payment is a debt due to the Commonwealth by the person and the debt is taken to arise when the person obtains the benefit of the payment.

17. A reference to a "social security payment" included "a part of a social security payment": s 1223(9). A "social security payment" included a "social security benefit", including youth allowance: s 23(1). A debt arising under s 1223 was recoverable by deductions from the relevant person's social security payment (if any), legal proceedings in a court of competent jurisdiction, a garnishee notice, or repayment by instalments by agreement: ss 1222(2), 1230C, 1231, 1232, 1233, 1234, 1234A.

18. During the relevant period, Part 2.11 of the Act provided for youth allowance entitlements. Section 556 relevantly provided that "the rate of a person's youth allowance is to be worked out in accordance with the Youth Allowance Rate Calculator in section 1067G". In Part 3.5, s 1067G(1) provided that "[t]he rate of youth allowance of a person referred to in section 556 is to be calculated in accordance with the Rate Calculator in this section".

19. The "Youth Allowance Rate Calculator" consisted of a series of Modules, which were divided into "points" (s 39(3)-(5)). Module A was headed "Overall rate calculation process" and provided that: "The rate of allowance is a daily rate. That rate is worked out by dividing the fortnightly rate calculated according to this Rate Calculator by 14": point 1067G-A1. Module A also included a "method statement" that set out the steps to be taken under the Modules that followed, which ultimately produced the "rate of allowance": *ibid*.

20. Module H (points 1067G-H1 to 1067G-H33) was headed "Income test" and point 1067G-H1 relevantly described "how to work out the effect of a person's ordinary income … on the person's maximum payment rate". Point 1067G-H1 also included a "method statement", step 1 of which stated (**Step 1 of Point H1**):

> Work out the amount of the person's ordinary income on a fortnightly basis (where appropriate, taking into account the matters provided for in points 1067G-H2 to 1067G-H25).

21. Point 1067G-H23 (**Point H23**) provided:

> *Ordinary income generally taken into account when first earned, derived or received*
>
> Subject to points 1067G-H23A, 1067[G]-H23B, 1067G-H24 and 1067G-H25 and section 1073, ordinary income is to be taken into account in the fortnight in which it is first earned, derived or received.

22. It is common ground that none of the provisions in the first clause of Point H23 were applicable in the present case: J [36], [48].

23. From 7 December 2020, the Act was amended such that employment income was from then to be taken into account when *received* and attributed evenly across the number of days in the relevant pay period.[7] However, it is the provisions in force before that date that are applicable to Mr Chaplin in the present case.

24. At all relevant times, the *Social Security (Administration) Act 1999* (Cth) (**Administration Act**) conferred on the Secretary broad powers to obtain information about the income of a recipient of social security payments: ss 192, 195, 196. The Act and the Administration Act form part of the "social security law" (s 4),[8] for which the Secretary has "the general administration" (s 7) and a guiding principle of which is the "desirability of achieving … the delivery of services under the law in a fair, courteous, prompt and cost-efficient manner": s 8(a)(iii).[9]

B. The approach of the majority in the Full Court

25. The majority commenced with the proposition that "each decision-maker had to begin by asking itself whether it was satisfied that Mr Chaplin was entitled to the (whole of the) Youth Allowance payments he had received": J [14(b)]. The extent of his entitlement "had to be" ascertained, or the Secretary was "required" to do so when deciding whether a debt was owed under s 1223(1): J [14(d)], J [79].

26. Thus, according to their Honours, a decision to demand repayment of a debt was the last in a "series of decisions" and was "preceded by a decision about whether or not the decision-maker was satisfied that Mr Chaplin had an entitlement to Youth Allowance in the amounts received": J [109], also [114]. The conclusion as to the existence and amount of a debt "was premised on the decision-maker failing to be satisfied that the recipient was entitled to the amount received": J [153]. In their Honours' opinion: "To form a view about Mr Chaplin's entitlement to Youth Allowance in a fortnight by excluding income known to be received, on the basis that it could not be determined which day the income was earned, would necessarily result in a determination that Mr Chaplin was entitled to something to which it could not be known Mr Chaplin was entitled": J [158]. The legislature "should not be taken to have intended that Point H23" would produce "the determination of an entitlement known to be wrong": J [194], [198].

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7 *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020* (Cth), especially items 11, 12 and 37 of Schedule 1, amending point 1067G-H23 and inserting new ss 1073A–1073BA into Division 1AA of Part 3.10 of the Act.

8 See also s 23(17) of the Act.

9 Section 100 of the Administration Act provided for "automatic rate reductions" if a recipient failed to comply with a notice given under s 68(2). While the Full Court majority mention s 100 at J [62], [147] and [165], it should be noted that the Secretary did not submit below that s 100 had any application in this case, nor did the majority so hold.

27. Although the Secretary had not done so, their Honours placed emphasis on the words "where appropriate" in Step 1 of Point H1, stating that it "will invariably be appropriate to attempt to apply Point H23 in undertaking the task in Point H1" but that "[a] failure to be able to do so does not result in the income being excluded from the assessment Point H1 requires": J [195]-[196]. According to their Honours, the "better view" was that "income which was known to be earned before being received, but which is incapable of being allocated between the two weeks in which it was known to be earned, can be taken into account when it was received in undertaking the task required by Point H1 and in determining the extent of a recipient's entitlement to Youth Allowance": J [197]. The word "first" in Point H23 was intended only "to prevent double counting" and did not stand in the way of this "better view": J [192], [198]. Where "it is known that the income was first earned before it was received, but it is not known in which of the two weeks before receipt it was earned", "one must revert to Point H1 because, although it is 'appropriate' to take Point H23 into account, it is not possible to apply it": J [198], also [14(d)].

28. Their Honours accepted there was "an objective truth about a person's entitlement", but did not consider that their construction changed "the content of the test": J [202]. However, their Honours also accepted that a consequence of their construction was that "it is conceivable that information which was once available might have established an entitlement which was greater than that capable of being established at a later time": J [204].

29. Their Honours incorrectly stated that Mr Chaplin had contended that "the income in dispute should be ignored altogether in determining his entitlement": J [11(a)]. That is not so. Mr Chaplin's argument was,[10] and is, that if income is earned, but it cannot be established on the available material that the income was earned in a particular fortnight, then that income cannot be taken into account in the fortnight of receipt for the purpose of determining whether there had been an overpayment of youth allowance for that fortnight. That is not "ignoring" the income. One cannot "ignore" income whose quantum is unknown, and of which one is essentially ignorant. It is simply to acknowledge that, where, as here, the Secretary has not exercised the Secretary's powers to obtain relevant material until years later: (a) it might not be possible for the Secretary to ascertain, on the available material, the fortnight in which certain income was earned; and (b) if so, it cannot be established that a person was, by reason of that income, "not entitled" to the relevant benefit

[10] See, e.g., Mr Chaplin's Submissions in Reply dated 3 March 2025 at [10]-[11]: ABFM, Tab 3, page 9; AAT2 [93(a)].

so as to trigger s 1223(1) in respect of a youth allowance payment for that fortnight.

C. Kennett J's dissent

30. Kennett J commenced by observing that the issues in the proceeding "need[ed] to be approached with a proper understanding of the nature of the decision under review": J [210]. The Act does not confer an administrative power to "make any authoritative determination of the amount Mr Chaplin owed to the Commonwealth by operation of s 1223": J [217]-[219]. Rather, a debt under s 1223 "arises by operation of the Act and not pursuant to an administrative decision": J [226]. Thus, an officer of the Secretary may form "an opinion about how much Mr Chaplin owed to the Commonwealth pursuant to that section and decid[e] to seek payment of that amount": J [214]. But "[i]f there is a dispute about the amount of the debt, it must ultimately be resolved by a court", in a proceeding in which the Secretary "would bear an onus of proof": J [216], [249].

31. Kennett J observed that the Secretary's construction of the relevant provisions, which the majority accepted, had "significant difficulties": J [235]. It "requires a strained reading of the text", in particular the requirement in Point H23 that income is to be taken into account when it is "<u>first</u> earned, derived or received": J [236]. Further, it is an approach by which "the availability of evidence affects not only the outcome of a controversy concerning the application of the test <u>but the content of the test itself</u>", which is "inconsistent with recipients of payments under the Act having any certainty of income" and "inconsistent with the existence of the single correct answer that s 1223 demands": J [238], [232].

32. Point H23 "brings each amount of employment income to account … in the fortnight in which it is 'earned'": J [241]. Importantly, "the amount of youth allowance to which a recipient is entitled can only be conclusively established in respect of a particular fortnight by establishing the amount of income earned *in that fortnight*": J [242] (italics in original). That proposition can be tested by positing a proceeding to recover an overpayment under s 1232, in which the Secretary could not "succeed in recovering the overpayment without proving, in relation to particular fortnights, that more income was earned than was reported in those fortnights": J [243]. "To the extent that recovery is precluded by the passage of time and consequent loss of relevant documents, this is a consequence of the legislature having chosen to enact a regime in which overpayments arise by operation of the Act and consequently may require proof": J [246].

33. In Kennett J's view, there is an important difference between claiming an entitlement to a social security payment, so as to trigger payment pursuant to the Act, and a later decision to "raise an overpayment". His Honour stated at J [252]:

> The burden of persuasion, for want of a better term, depends on what is sought to be done. A person who claims a benefit needs to persuade the relevant decision-maker that they are entitled to receive it. However, if it is proposed that money already paid should be recovered as a debt, the decision-maker must feel a genuine persuasion (based on probative material) that what was paid exceeded the recipient's entitlement before taking any steps to demand repayment.

34. If the material before the decision-maker is insufficient to sustain the latter conclusion, "it is not proper for a demand to be made or recovery action to be taken": J [251]. This does not involve "ignoring" income, contrary to the view of the majority: J [253].

D. GROUND 1: Mischaracterising the decision under review and reversing the "onus"

35. The majority in the Full Court erred in holding that a decision under s 1223 to demand repayment of a debt could be made whenever the decision-maker failed to be "satisfied that the recipient was entitled to the amount received": J [153]. In doing so, their Honours wrongly placed the "onus of proof" on Mr Chaplin in respect of that decision.

36. A debt arises under s 1223(1) by operation of the Act. It has long been established that the Secretary must form an opinion that a debt in a particular amount exists before the Secretary decides to take any steps to seek to recover that debt, and that such a decision must be made in accordance with law and is reviewable: see J [115]-[139], [212]-[217].[11]

37. A debt arises pursuant to s 1223(1) in a particular fortnight only if a person receives a payment that exceeds the person's entitlement in that period. Thus, a decision-maker must have information that is capable of grounding the conclusion that a person was *not entitled* to part or the whole of the particular payment in the particular fortnight in order to conclude that a debt has arisen.

38. A debt does not arise pursuant to s 1223(1) merely because a decision-maker, upon a historical, approximate "re-assessment" of entitlement,[12] *failed to be satisfied* on the available material that the person was entitled to the whole of a payment that the person received in the past: cf J [153]. A person is either entitled to a payment or not under the Act. And a decision-maker has power to take steps to recover a debt only if the material before the decision-maker enables her to conclude that the person "was not entitled" to the benefit of the specific payment that gave rise to a debt being owed under s 1223.

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11 See *Director-General of Social Services v Hangan* (1982) 70 FLR 212 at 213-215 (Fox J), 220-221 (Toohey J), 233-234 (Fitzgerald J); *Director-General of Social Services v Hales* (1983) 78 FLR 373 at 399-400 (Lockhart J), 408-409 (Sheppard J); *Secretary, Department of Social Security v Alvaro* (1994) 50 FCR 213 at 218 (von Doussa J; Spender and French JJ agreeing); *Re Registrar, Social Security Appeals Tribunal; Ex parte Townsend* (1995) 69 ALJR 647 at 648 (Toohey J); *Lee v Secretary of Department of Social Security* (1996) 68 FCR 491 at 500-501 (Davies J; Cooper J agreeing at 508), 510 (Moore J).

12 See J [140].

The majority's error

39. The majority held that the decision-maker had to consider, afresh and based on the material available at that time (here, between four and nine years later),[13] whether Mr Chaplin was entitled to "the whole of" the youth allowance payments he had previously received: J [14(b)]. If not so satisfied, "then the decision-maker would be satisfied that a debt arose by operation of the Act": J [110]. For three reasons, that conclusion rested on a misconstruction of s 1223(1) of the Act and a misunderstanding of the decision-maker's task.

40. **First**, the majority's construction inverted the statutory test. The question posed by s 1223(1) is whether a person "was not entitled" to the benefit of a particular social security payment. The *absence of entitlement* to a specific benefit is the statutory precondition to the operation of s 1223(1). Therefore, to have the power to seek to recover a debt, an absence of entitlement must be capable of being affirmatively established. Section 1223 does not provide that a debt is taken to arise if a decision-maker is *not satisfied* that a person *was entitled* to a payment they received. The majority's holding to the contrary was central to their Honour's reasoning: J [14(b)], [79], [110], [153], [157]-[159], [166], [184], [186], [205].

41. In this case, records previously existed that would have established the amount of income Mr Chaplin earned in each fortnight.[14] By the time the Secretary demanded repayment of the first alleged amount, those records were no longer available. The consequence, as Kennett J held (J [246], [253]), was that the amount of the entitlement fixed by the Act in respect of particular fortnights could not be established on the available information. It was not capable of being known (and thus any income was not capable of being "ignored": J [11(a)]), so that the Secretary had no information to conclude that the relevant statutory integer in s 1223 had been established.

42. **Second**, the majority appeared to be concerned that, if the Act were applied according to its terms, this would lead to a "windfall" for Mr Chaplin, because he would retain the benefit of the youth allowance payments he received in 2014 and 2015 despite having under-reported his income: J [165], [185]. Three points may be made about that concern.

43. In the first place, under-reporting income does not necessarily mean the relevant person was paid more youth allowance than he or she was entitled to receive. This is because a

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13 Records were sought from Mr Chaplin's employer in June 2019 and February 2024: J [78], [95].

14 AAT2 at [40], [47], [57].

person's entitlement depends on whether the income earned in a particular instalment period exceeds the statutory threshold, in which case the entitlement reduces (potentially to nil) as the amount of income earned in the period increases.[15] Thus, the mere fact of earning income in a period does not necessarily reduce the entitlement — it is the amount of income earned in a *specific fortnight* that is critical. Additional income earned in any given fortnight will not change a person's entitlement if: (a) it does not cross the lower statutory threshold; or (b) the person had already exceeded the upper threshold in that fortnight, so that the person's entitlement was already zero.

44. Further, as Kennett J observed, it remained open to the Secretary to use the limited evidence he had available as to the income that Mr Chaplin earned in order to determine that Mr Chaplin "was not entitled" to specific benefits, or parts of benefits: J [246]. "For example, it may be possible to combine consecutive fortnights and prove that, wherever the earning of income fell as between those fortnights, Mr Chaplin's entitlement to youth allowance over the period could not have been more than a certain amount": J [246]. But the Secretary did not attempt to explore how the limited evidence could be applied to determine Mr Chaplin's maximum entitlement, instead submitting that the Act should be given a strained construction to prevent an unspecified, apprehended "windfall".

45. Most importantly, even if it might be thought that Mr Chaplin *likely* received a somewhat greater total amount of youth allowance in the relevant period than he was entitled to receive, it does not follow that the Act *must* be construed so as to allow recovery. It may be accepted that a purpose of the statutory scheme is to avoid social security recipients obtaining or retaining payments to which the credible evidence shows they are not entitled. However, that purpose is necessarily conditioned by the availability of such evidence. In any event, legislation "rarely pursues a single purpose at all costs" and questions of "the extent to which the legislation pursues a purpose" are resolved by "the text, construed according to such principles of interpretation as provide rational assistance in the circumstances of the particular case",[16] not by making "some a priori assumption" about "the desired or desirable reach or operation of the relevant provisions".[17]

46. Here, the text of s 1223(1) supplies the integers that must be satisfied before a debt can arise and, therefore, the integers about which a decision-maker must have information before deciding to pursue repayment of an alleged debt. In s 1223, Parliament chose to

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15 Act, points 1067G-A1 (Step 1 and Step 12), 1067G-H1, 1067G-H29–1067G-H33.

16 *Carr v Western Australia* (2007) 232 CLR 138 at [5]-[6] (Gleeson CJ), cited with approval in *Construction Forestry Mining and Energy Union v Mammoet Australia Pty Ltd* (2013) 248 CLR 619 at [40]-[41] (the Court).

17 *Certain Lloyd's Underwriters v Cross* (2012) 248 CLR 378 at [26] (French CJ and Hayne J).

make the existence of a debt contingent on the objective fact that the person "was not entitled" to a specific benefit, and thus contingent on "the amount of the [over]payment" being knowable (and not simply being estimatable). A policy concern about some vaguely conceived and undefined potential "windfall"[18] cannot contradict the clear statutory language of s 1223, particularly in the context of beneficial legislation such as the Act.[19] To the extent that any fortnightly overpayments were made but cannot ultimately be recovered, despite there being a possibility of overpayment, that would be "a consequence of the legislature having chosen to enact a regime in which overpayments arise by operation of the Act and consequently may require proof": J [246].[20]

47. **Third**, the majority's inversion of the statutory test is apt to cause anomalous and unjust outcomes. It has the practical effect of requiring recipients to re-establish (and to be continuously ready indefinitely to re-establish) their entitlement to a past payment at random moments in time of the Secretary's choosing (noting there is no limitation period), which recipients have no way of anticipating and planning for; and whenever the Secretary assesses that the remaining, naturally-dwindling corpus of evidence concerning that entitlement gives rise to uncertainty. As Kennett J observed, and the majority accepted, the majority's construction could result in a person, who received no more than their entitlement as calculated at the time of payment, later being deemed by the statute to have been overpaid simply because documents substantiating that entitlement were no longer available: see J [251], also J [204]. As Mr Chaplin's own circumstances show, there is a real risk that relevant documents will become unavailable — through no fault of the recipient — by the time the Secretary decides to make a demand. It would be inconsistent with s 1223 and the statutory scheme, and fundamentally unjust[21] and unfair,[22] for the burden of that circumstance to fall on the recipient.

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18 Which is "value-laden terminology" that requires analysis, not mere acceptance of the label: *Paciocco v Australia and New Zealand Banking Group Ltd* (2016) 258 CLR 525 at [183]-[184] (Gageler J).

19 See *Secretary, Department of Employment and Workplace Relations v Richards* (2008) 168 FCR 439 at [39] (French, Moore and Lindgren JJ); *Rose v Secretary, Department of Social Security* (1990) 21 FCR 241 at 244 (Lockhart, Gummow and Einfeld JJ). See also *Bull v A-G (NSW)* (1913) 17 CLR 370 at 384 (Isaac J); *R v Kearney; Ex parte Jurlama* (1984) 158 CLR 426 at 433 (Gibbs CJ; Brennan, Deane and Dawson JJ agreeing); *IW v City of Perth* (1997) 191 CLR 1 at 12 (Brennan CJ and McHugh J), 39 (Gummow J); *New South Wales Aboriginal Land Council v Minister Administering the Crown Lands Act* (2016) 260 CLR 232 at [32]-[33] (French CJ, Kiefel, Bell and Keane JJ), [91]-[94] (Gageler J), [174] (Nettle and Gordon JJ).

20 As to the potential for "windfall benefits" in the context of other entitlement legislation, see, e.g., *Downes v Amaca Pty Ltd* (2010) 78 NSWLR 451 at [118] (Campbell JA); *Lembcke v SAS Trustee Corporation* (2003) 56 NSWLR 736 at [6] (Meagher JA), [12], [27], [48] (Santow JA), [56] (Ipp JA).

21 Cf *Miller v Minister for Immigration, Citizenship and Multicultural Affairs* (2024) 278 CLR 628 at [37] (Gageler CJ, Gordon, Edelman, Jagot and Beech-Jones J), quoting several authorities.

22 Cf Administration Act, s 8(a)(iii).

The correct construction of s 1223(1) and the decision-maker's task

48. The correct construction of s 1223(1), and the proper function of a decision-maker in ascertaining and seeking repayment of a debt, is to be found in the reasons of Kennett J: J [225]-[253].

49. Determination of whether a debt is owed under s 1223, and its calculation, involves the comparison of two integers: how much benefit was paid to the person, and how much the person was "entitled" to be paid. The difference between them is the amount of the debt that arises automatically pursuant to s 1223: J [225]-[226], [231], [238], [248].

50. Mr Chaplin's youth allowance was calculated and paid fortnightly. Therefore, whether a debt arose pursuant to s 1223 depends on the difference (if any) between the amount he was paid and the amount he was entitled to be paid in respect of each fortnight.

51. As Kennett J observed, there is a "single correct answer" to the amount a person is entitled to be paid in any given fortnight, which is produced directly by the operation of the Act. That "single correct answer" is not the product of administrative assessment, and "cannot change later as new evidence becomes available or relevant documents are lost" (J [232]) or "wax and wane over time" (J [239]).[23] As the majority accepted (at J [200]-[201]), the amount of a person's entitlement is an objective question. Contrary to the majority's statement at J [202], their Honours' approach does change "the content of the test". That approach does not merely involve making a decision of the same character based on different material. It alters the fundamental integers upon which the decision is made: cf J [204].

52. Here, the amount of Mr Chaplin's entitlement crystallised fortnightly, by operation of law on matters including his ordinary income that was "first earned, derived or received" in that fortnight: J [232]-[235]. It follows that the relevant integer of entitlement was "fixed at the end of [each fortnight] by the operation of the Act upon the circumstances that exist and events that occur during the period": J [232]. The integer does not vary depending on: (a) what information was available at a particular time to a particular decision-maker, or (b) what construction of Points H1 and H23 was thought to be appropriate by reason of that fluctuating availability of evidence: J [215], [216], [238], [248]-[249].

53. A debt arises by operation of s 1223 only where "the payment" exceeded the recipient's entitlement (i.e., as a matter of fact ascertainable from available material). The definite

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[23] Which is not to deny that an assessment of the amount of a person's entitlement depends on the state of the evidence before the decision-maker: J [239].

article and singular language in s 1223 are important. To determine whether an overpayment has occurred in respect of a particular payment, both integers in respect of that payment must be known — the amount paid, and the person's objective entitlement during the particular fortnight. If they are not known, there is no basis to determine that any debt has arisen, and thus no basis on which to demand payment of an amount as if it were a debt. The debt recovery provisions in the Act[24] "[presuppose] that there is a debt to the Commonwealth that arises under the Act": J [215]-[216]. They do not presuppose that the Secretary has simply estimated the possibility that some debt might be owed, in some unquantifiable but approximate sum.

54. Here, the amount of each payment that had been paid to Mr Chaplin is not in dispute. But the amount of youth allowance to which Mr Chaplin was entitled — automatically fixed by the Act — "can only be conclusively established in respect of a particular fortnight by establishing the amount of income earned *in that fortnight*": J [242] (italics in original).

55. The result is that, as Kennett J put it, a decision-maker "should not resolve to seek repayment of any amount unless they are affirmatively satisfied that there has been an overpayment in that amount": J [251]. A decision-maker cannot be so satisfied unless both integers are known. Here, at least in respect of some fortnights, Mr Chaplin's entitlement could not be established on the information still available. It follows that the Secretary (and later the Tribunal) could not have been affirmatively satisfied (i.e., did not have any basis on which to find) that Mr Chaplin owed a debt to the Commonwealth in the sum of $806.16.[25]

56. The majority considered that, if a decision-maker could not ascertain that Mr Chaplin owed a debt in respect of any given fortnight, the result would be a "determination of an entitlement known to be wrong": J [194]. That conclusion is erroneous, because it fails to distinguish between a decision-maker *not being able to be satisfied* that a debt exists and *affirmatively deciding* that a person was entitled to the payments they received.

E. GROUND 2: Failure to focus on entitlement to particular fortnightly payments

57. The majority also erred by purporting to apply s 1223 by reference to the aggregate total amount of benefits paid across the relevant period, instead of focusing on the entitlement to particular fortnightly payments of benefit.

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24 Not utilised in this case: ss 1222(2), 1230C(1).

25 Being the Secretary's third revision of the amount claimed — that fact itself suggests a flexible administrative approach to calculating an integer that is objectively fixed by statute.

58. That the Secretary happened to know that an aggregate amount of ordinary income reported was incorrect does not establish an overpayment in any particular period. No part of any Module in the "Youth Allowance Rate Calculator" makes the aggregate amount of any fortnightly amounts of ordinary income relevant to s 1223. Nor does it permit retrofitting an administrative method of calculation that is not supported by the Act (as discussed under Ground 3) to recover some amount. Section 1223 operates on individual payments. A debt arises where "*a* social security payment is made" but the person was not entitled to the benefit of "*the* payment". The majority wrongly approached s 1223 by permitting the Secretary to compare the total aggregated amount of payments made over a period of almost a year with the total aggregated amount of income earned over the same period, rather than by requiring the two integers of s 1223 to be applied in respect of particular fortnightly payments: J [14(c)], [154], [157], [159]. From there, the majority reasoned that no decision-maker could have been satisfied that Mr Chaplin "was entitled to the whole of the payments he had received" and that an overpayment therefore must have arisen: *ibid*. That process of reasoning has no basis in the statutory text of s 1223, which is focused on objective facts as to individual payments and not on states of satisfaction as to aggregated income amounts.

59. Even where the Secretary has reason to believe that a person under-reported their income over a given period of more than a fortnight, it does not follow that the under-reporting necessarily would have affected the quantum of benefit to which the person was entitled (in any particular fortnight or at all).[26] An analysis would need to be done in respect of each fortnight to show whether the under-reporting of income would have had any effect on the quantum of entitlement in that fortnight. Here, the Secretary did not adduce to the Tribunal, nor did the Full Court have, any analysis to demonstrate that Mr Chaplin's under-reporting actually had any necessary impact on the quantum of any specific payment to which he was entitled under the Act.

F. GROUND 3: Failure to give effect to "first earned, derived or received"

60. Finally, the Full Court erred by accepting the Secretary's submission that earned income may be taken into account when it was "received", where the decision-maker cannot be satisfied on the material before them of the instalment period in which it was earned.

61. Having concluded that Mr Chaplin must have been overpaid in aggregate, by reason of his under-reporting of income, the majority held that the Secretary could demand payment of

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26 See above at [43].

an alleged debt calculated as the difference between the amount actually paid and a purported "entitlement" in each fortnight. That "entitlement" was calculated by taking ordinary income into account: (i) if there was evidence establishing when the income was earned, in the fortnight in which it was earned; and (ii) if there was insufficient evidence to establish when the income was earned, in the fortnight in which it was received: J [14(b)], [79], [110], [153], [197], [200]-[203].

The majority's construction was wrong

62. For the reasons Kennett J gave, the majority's construction of Module H of s 1067G was wrong: J [236]-[238]. By operation of law, Point H23 fixes a person's entitlement to youth allowance in a particular fortnight by reference to the earliest of when income was "first earned, derived or received".

63. That entitlement, and its method of calculation, is fixed by the Act and it cannot change retrospectively, and vary continuously, on the basis of the ever-evolving state of the evidence available to a decision-maker at any point in time. On the majority's approach, Mr Chaplin's entitlement in 2014 — when his timesheets were available[27] — would be an amount calculated by reference to when income in cross-over weeks was *earned*. But his entitlement in 2024 — when his timesheets were no longer available — would be an amount calculated by reference to when the same income was *received*.

64. That outcome is inconsistent with the plain text of Point H23. The word "first" expressly prescribes a singular method of accounting for income, and selects that method by reference to the fact of how a recipient first became entitled to the income.

65. That outcome is also incongruous with the statutory scheme, for at least three reasons. *First*, it is inconsistent with the "single correct answer" that is required by the Act and thus with the expectation that recipients have certainty of income: J [238]. *Second*, it could lead to the anomalous situation where a person who received no more than their entitlement at the time of payment (as then able to be assessed by reference to specific and comprehensive contemporaneous information) is later deemed by the statute to have been overpaid, because relevant documents are no longer available: J [251]. For example, a person who had received social security payments in the past, and was continuing to receive them in the present, could have their present social security payments reduced under s 1231, or their bank account or tax refund garnished under s 1233, simply because records no longer existed to demonstrate the precise dates on which the person earned ordinary income at the

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27 AAT2 at [40].

time of the past social security payments — which could be years in the past, given that there is no limitation period. *Third*, it is inconsistent with the legislatively mandated principles that the Act is to be administered in a way that is "fair", "courteous" and "prompt".[28]

66. There is nothing in the Act to suggest that such an anomalous and unjust outcome was intended by the legislature. The "attribution of a legislative intention to produce a consequence which appears to be 'absurd' or 'capricious' or 'irrational or unjust' is to be avoided where the statutory text is not intractable".[29] Here, the statutory text is not only "not intractable" but directly contradicts the majority's construction.

Point H23 cannot be ignored

67. The majority held that where it is known that income was earned before it was received, but not in which fortnight it was earned, it is "not possible to apply" Point H23 and so earned income may be taken into account when it was "received".[30] For the following reasons, Point H23 cannot be ignored merely because a subsequent decision-maker is unable to ascertain when income was "earned" on the material before them.

68. **First**, the Act provides that the rate of a person's youth allowance "is to be worked out", or "is to be calculated", in accordance with the Youth Allowance Rate Calculator in s 1067G: ss 556, 1067G(1). Nothing in those provisions suggests that a decision-maker may pick and choose between different parts of the Youth Allowance Rate Calculator, applying some but not others. Nor does step 12 of the method statement in point 1067G-A1 suggest that a decision-maker may apply only *part* of the "income test" in Module H in working out a person's "income reduction".

69. Instead, those provisions require that, by operation of law, a person's entitlement to youth allowance in a given instalment period is determined by the application of *all* the relevant provisions in the Youth Allowance Rate Calculator, including those in Module H. The application of those provisions does not depend on the material before a decision-maker.

70. **Second**, contrary to what was suggested by the majority, the words "where appropriate", in Step 1 of Point H1, cannot be read so that a decision-maker is required only to *attempt* to apply Point H23 to the information then surviving — so that the decision-maker is authorised to ignore Point H23 and apply a completely different mode of calculation in undertaking the task in Step 1 of Point H1 if the decision-maker cannot then ascertain when

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28 Administration Act, s 8(a)(iii).

29 *Miller v Minister for Immigration, Citizenship and Multicultural Affairs* (2024) 278 CLR 628 at [37].

30 See above at [27].

income was, on the material before them, "earned": J [195]-[196].

71. Each of points 1067G-H2 to 1067G-H25 operates on matters of objective fact, and sets out how those facts are to be treated as part of the income test prescribed by Module H. Step 1 of Point H1 mandates that they be taken into account "where appropriate". Having regard to the nature of those provisions, the words "where appropriate" in Step 1 of Point H1 mean "where applicable".[31] They do not confer any administrative discretion, nor a constructional choice, as to whether any or all of points 1067G-H2 to 1067G-H25 should be "taken into account" — meaning applied — where they are applicable on their terms to the facts of the particular case. For example, point 1067G-H4 operates where a person's employment is terminated and they are entitled to a lump sum payment from their employer. If a person is not entitled to a termination payment, point 1067G-H4 will have no application and it will not be "appropriate" to take it into account.

72. The requirement in Step 1 of Point H1 to take into account Point H23 "where appropriate" must be understood in that light. Here, Mr Chaplin "earned" ordinary income before he "received" it. Therefore, Point H23 operated to direct that the income was "to be taken into account in the fortnight in which it" was earned.

73. The majority suggested (at J [196]) that the words "where appropriate" should be read to mean where "effective" or where "fitting", by reference to this Court's decision in *Vella v Commissioner of Police (NSW)*.[32] In *Vella*, the provision in question conferred on a court a discretionary power to make a "serious crime prevention order" containing provisions that the court considered "appropriate" for a particular purpose, after balancing competing interests.[33] By contrast, Step 1 of Point H1 does not confer any discretion on a decision-maker. It is part of a method statement for the application of a "calculator", the elements of which are found in the provisions that follow. It follows that *Vella* does not assist in this context. Rather, Step 1 of Point H1 falls to be construed on its own terms and in its statutory context, as set out above.

74. Further, "the use of parentheses" in Step 1 of Point H1 does not somehow indicate that Point H23 is subordinate to Step 1 of Point H1, as suggested by the majority: J [195].

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31 The phrase "where appropriate" is used in that sense in other parts of the Act. See, e.g., ss 1061ZD(2)(c) and 1061ZE(2)(c), which use the phrase "having regard, where appropriate, to the operation of section 1073J". Sections 1061ZD and 1061ZE contain "extended qualification rules" for a pensioner concession card after a person ceases to be qualified for the disability support pension or wife pension in certain circumstances. Section 1073J contains rules for when loss of qualification for those pensions occurs in certain circumstances. Thus, "having regard, where appropriate" is simply a way of indicating that the cessation of qualification for the relevant pensions occurs in accordance with s 1073J where it applies.

32 (2019) 269 CLR 219 at [11] (Kiefel CJ), [50] (Bell, Keane, Nettle and Edelman JJ).

33 *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW), s 6(1).

Section 1062(2) provided that the "overall rate calculation process is usually described in an early Module of the relevant Rate Calculator". Points 1067G-A1 and 1067G-H1 are provisions of that character. Further, s 1062(1) provided that "the usual steps in the rate calculation process" include to "apply the income and assets tests". The "income test" in Module H of s 1067G is comprised of *all* the provisions that Module H contains, including Point H23. Thus, Step 1 of Point H1 is part of an "overall description" of, or a guide to, the provisions that follow. It is *those* provisions, including Point H23, that apply to determine a person's income reduction.

75. **Third**, the majority's apparent conclusion[34] that Point H23 could simply be ignored as "inapplicable" (J [195]-[198]) is not supported by the context or purpose of the relevant provisions. The beneficial purposes of the Act,[35] and the Secretary's powers to obtain information and documents,[36] point against the conclusion that Point H23 can be ignored in the manner suggested by the majority.

76. Nor do the extrinsic materials support the majority's approach. The phrase "first earned, derived or received" has been used numerous times in Commonwealth social security legislation. When it was first introduced in 1994, it was explained to have the effect "that, in general, ordinary income is income tested in the fortnight when the person becomes entitled to it, regardless of when he or she receives it (although for gifts, it will be the receipt of the payment that creates the entitlement)".[37] Further, when youth allowance was introduced in 1998, the explanatory materials for points 1067G-H1 and 1067G-H23 provided no indication that Parliament considered the latter might be disapplied. The Explanatory Memorandum does not mention the use of the words "where appropriate" in point 1067G-H1, and point 1067G-H23 is described in mandatory terms: "Point 1067G-H23 provides that ordinary income is taken into account in the fortnight in which it is first earned, derived or received, unless point 1067G-H24 or -H25 applies".[38]

77. Moreover, the majority's apparent acceptance of the converse proposition — that a person

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34 Tellingly, the highest the majority actually put this conclusion is that "[i]f Point H23 is not capable of being applied, then it might be thought that it is not applicable and not 'appropriate' to take the rule in Point H23 into account in working out the fortnightly income under Step 1 of the H1 Method statement": J [196] (emphasis added). At J [198] (last sentence), the majority appeared to accept it was "appropriate" to apply Point H23, but considered it was "not possible" to do so.

35 See above at footnote 19.

36 Administration Act, ss 192, 195, 196.

37 Student Assistance (Youth Training Allowance) Amendment Bill 1994 (Cth), Explanatory Memorandum, p 142. Youth allowance, including the Youth Allowance Rate Calculator with Step 1 of Point H1 and Point H23, was introduced by the *Social Security Legislation Amendment (Youth Allowance) Act 1998* (Cth).

38 Social Security Legislation Amendment (Youth Allowance) Bill 1997 (Cth), Explanatory Memorandum, pp 80-83. Nothing in the second reading speech for the 1997 Bill is directly on point: Australia, House of Representatives, *Parliamentary Debates*, 2 October 1997, pp 9121-9123 (Mr Ruddock).

who "earned" ordinary income might be *paid* youth allowance based on when they "received" that income, if the person did not know when that income was "earned" — is incorrect: J [187]. The Act fixes a person's entitlement by reference to the objective facts (including those objective facts capable of being inferred from available material), not what the person knows.

78. The majority's approach, which is not supported by the Act, would also introduce a further element of arbitrariness, because the Act supplies no standard by which it could be determined that the Secretary had made a sufficient "attempt" (J [196]) to apply Point H23 according to its terms, so as to authorise the use of the "receipt" method in circumstances that are contradicted by the text of Point H23.

79. **Fourth**, Point H23 cannot be ignored on the basis it is "not possible to apply" where, at some subsequent point in time, the fortnight in which income was earned cannot be ascertained on the surviving material: J [198]. It is true that legislation is ordinarily interpreted so as not to require the impossible,[39] such as giving notice to a company that has been dissolved,[40] furnishing a document on a person with joint custody of it,[41] or imposing a sentence to be served after a life sentence.[42] However, this is not a case in which the relevant decision-makers were required, on pain of some punishment or detriment, to do anything. Rather, Point H23 operated to fix Mr Chaplin's entitlement to youth allowance. The Secretary (who has the "general administration" of the Act) was empowered to seek recovery of a debt *if* the Secretary formed the view that Mr Chaplin had received a social security payment (or part thereof) to which he was not entitled.

80. There is no occasion to ignore, or disapply, Point H23 merely because the material available years after the Secretary concluded that the benefit was payable does not enable the Secretary to conclude that a particular benefit was not payable. It is not impossible to apply Point H23 in those circumstances. The result is simply that the decision-maker is unable to form an opinion, in accordance with law, that a debt is taken to arise under s 1223. In any event, the interpretive principle against requiring the impossible will not assist a

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39 See, e.g., *Comptroller-General of Customs v Zappia* (2018) 265 CLR 416 at [35] (Kiefel CJ, Bell, Gageler and Gordon JJ), quoting *Collector of Customs (NSW) v Southern Shipping Co Ltd* (1962) 107 CLR 279 at 291 (McTiernan J); *Uelese v Minister for Immigration and Border Protection* (2015) 256 CLR 203 at [100] (Nettle J); *Lockrey v Historic Houses Trust (NSW)* (2012) 84 NSWLR 114 at [80]-[83] (Barrett JA; Campbell and Meagher JJA agreeing); *R v Farlow* [1980] 2 NSWLR 166 at [12]-[13] (Nagle CJ at CL; Moffitt ACJ and Slattery J agreeing); *Re FLY365 Pty Ltd (in liq)* [2020] FCA 419 at [40]-[41] (Gleeson J); *Re Millrange Pty Ltd (in liq)* [2021] FCA 415 at [5]-[6] (Jagot J).

40 *Re Trim Perfect Australia Pty Ltd; National Australia Bank Ltd* (2005) 55 ACSR 237 at [22] (Palmer J).

41 *Lockrey v Historic Houses Trust (NSW)* (2012) 84 NSWLR 114 at [82] (Barrett JA; Campbell and Meagher JJA agreeing).

42 *R v Farlow* [1980] 2 NSWLR 166 at [12]-[13] (Nagle CJ at CL; Moffitt ACJ and Slattery J agreeing).

party who has not "used all practicable endeavours to surmount the difficulties".[43] Here, the Act should not be given a strained interpretation — indeed, a completely atextual interpretation, which produces anomalous and unjust results — in circumstances where the Secretary has always had powers to compel the provision of information and documents about a person's income but is now unable, years after the fact, to obtain evidence sufficient to conclude that there is an overpayment.

81. **Fifth**, the majority expressed a concern that, if the Secretary cannot take income into account at the point when it was received in the absence of evidence about when it was earned, "the result is that the Secretary would not be able to ascertain (the rate of) the actual entitlement to Youth Allowance" and "there is a risk that the Secretary could not be satisfied at all about Mr Chaplin's entitlement to Youth Allowance": J [186].

82. That is correct. As time goes on, the risk increases that the Secretary cannot be satisfied that a person was not entitled to a particular payment, and so cannot be satisfied as to whether a debt arose under s 1223. That is a risk borne by the Commonwealth, as "a consequence of the legislature having chosen to enact a regime in which overpayments arise by operation of the Act and consequently may require proof": J [246].

PART VII: ORDERS SOUGHT

83. The appeal be allowed.

84. Order 1 of the Full Court made on 15 July 2025 is set aside, and in its place, it be ordered that: (a) the appeal be allowed; and (b) the matter be remitted to the Administrative Review Tribunal for reconsideration in accordance with law.

85. The parties bear their own costs of the appeal.

PART VIII: ESTIMATED TIME

86. The Appellant estimates he will need 2 hours for oral submissions and 15 minutes in reply.

Dated: 23 December 2025

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[43] *Dowell Australia Ltd v Archdeacon* (1975) 132 CLR 417 at 426 (McTiernan J), quoting *Broom's Legal Maxims* (10th ed, 1939) pp 162-163.

IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

BETWEEN:

MATTHEW CHAPLIN
Appellant

and

SECRETARY, DEPARTMENT OF SOCIAL SERVICES
First Respondent

LEGAL AID NSW
Second Respondent

ANNEXURE TO THE APPELLANT'S SUBMISSIONS

No.	Description	Version	Provisions	Reason for providing this version	Applicable date or dates
1.	*Social Security Act 1991* (Cth)	Compilation No. 139	ss 8, 23, 39, 556, 1061ZD, 1061ZE, 1062, 1067G, 1067G-Al, 1067G-H1, 1067G-H23, 1073J, 1222, 1222A, 1223, 1230C, 1231, 1232, 1233, 1234, 1234A	As in force during the relevant period	24 June 2015

No.	Description	Version	Provisions	Reason for providing this version	Applicable date or dates
2.	*Social Security (Administration) Act 1999* (Cth)	Compilation No. 99	ss 3, 4, 7, 8, 68, 100, 192, 195, 196	As in force during the relevant period	24 June 2015
3.	*Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020* (Cth)	Compilation No. 1	Schedule 1, items 11, 12, 37	Amending provisions commencing 7 December 2020	7 December 2020