



Family Assistance Legislation Amendment (More Help for Families— One-off Payments) Act 2004

No. 60, 2004

**An Act to provide for one-off payments to families
and carers, and for related purposes**

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[Assented to 26 May 2004]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—One-off payments to families

Part 1—Main amendments

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)

Insert:

one-off payment to families means a payment to which an individual is entitled under section 86.

2 After Part 4

Insert:

Part 5—One-off payment to families

86 When is an individual entitled to a one-off payment to families?

- (1) An individual (the *entitled individual*) is entitled to a one-off payment to families if subsection (2), (3) or (4) applies to the individual.
- (2) This subsection applies to the individual if:
 - (a) on 11 May 2004, a determination under subsection 16(2) of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
 - (b) the daily rate (the *applicable section 16 rate*) of family tax benefit that was determined in the determination and applicable to 11 May 2004 consisted of or included a Part A rate greater than nil.
- (3) This subsection applies to the individual (the *recipient*) if the recipient has been paid one or more instalments of youth allowance in relation to which the following conditions are satisfied:
 - (a) the instalment was in respect of a period that included 11 May 2004;
 - (b) the instalment was of another individual who, on 11 May 2004, was under 18 years of age and was not independent

(within the meaning of Part 3.5 of the *Social Security Act 1991*);

- (c) the instalment was paid to the recipient:
 - (i) on behalf of the other individual in accordance with subsection 45(1) of the *Social Security (Administration) Act 1999*; or
 - (ii) as payment nominee in accordance with Part 3A of the *Social Security (Administration) Act 1999*.
- (4) This subsection applies to the individual if:
 - (a) neither of subsections (2) and (3) applies to the individual; and
 - (b) on 11 May 2004, a determination under section 17 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
 - (c) the determination determined a daily rate of family tax benefit for the whole, or part, of the 2002-03 income year that consisted of or included a Part A rate greater than nil.

The rate applicable to the last day in the 2002-03 income year in relation to which the determination determined a daily rate as mentioned in paragraph (c) is the ***applicable section 17 rate***.

87 In respect of what children is the payment payable?

Each of the following is an ***eligible child*** in relation to the entitled individual:

- (a) if subsection 86(2) applies to the entitled individual (whether or not subsection 86(3) also applies)—each FTB child taken into account in determining the applicable section 16 rate;
- (b) if subsection 86(3) applies to the entitled individual (whether or not subsection 86(2) also applies)—the other individual, or each other individual, referred to in paragraph 86(3)(b);
- (c) if subsection 86(4) applies to the entitled individual—each FTB child taken into account in determining the applicable section 17 rate.

88 What is the amount of the payment?

Add together the amounts applicable under this section for each eligible child

- (1) The amount of the one-off payment to the entitled individual is worked out by adding together the amounts applicable under this section for each eligible child.

Amount is \$600 unless another subsection applies

- (2) Subject to this section, the amount applicable for an eligible child is \$600.

Reduced amount if applicable section 16 or 17 rate took account of a subsection 59(1) percentage determination

- (3) If the applicable section 16 rate, or the applicable section 17 rate, took account of a determination under subsection 59(1) of a particular percentage in relation to an eligible child covered by paragraph 87(a) or (c), the amount applicable for the eligible child is that percentage of \$600.

Reduced amount if applicable section 16 or 17 rate took account of a section 28 percentage determination

- (4) If the applicable section 16 rate, or the applicable section 17 rate, took account of a determination under section 28 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children)—the amount applicable for the eligible child, or for each of those eligible children, is:
 - (a) unless paragraph (b) applies—that percentage of \$600; or
 - (b) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child.

Reduced amount if applicable section 17 rate took account of a section 29 percentage determination

- (5) If the applicable section 17 rate took account of a determination under section 29 of a particular percentage in relation to one or more FTB children (being an eligible child or eligible children)—

the amount applicable for the eligible child, or for each of those eligible children, is:

- (a) unless paragraph (b) applies—that percentage of \$600; or
- (b) if subsection (3) also applies in relation to the eligible child—that percentage of the amount worked out under subsection (3) for the eligible child.

A New Tax System (Family Assistance) (Administration) Act 1999

3 After Division 4 of Part 3

Insert:

Division 4A—One-off payment to families

65F Payment of one-off payment to families

If an individual is entitled to a one-off payment to families, the Secretary must pay the payment to the individual in a single lump sum:

- (a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
- (b) in such manner as the Secretary considers appropriate.

Note: The individual does not have to make a claim for the payment.

4 At the end of subsection 66(1)

Add:

; (g) one-off payment to families.

5 Section 70

After “family assistance”, insert “or one-off payment to families”.

6 After section 71H

Insert:

71I Debts arising in respect of one-off payment to families

- (1) This section applies in relation to an individual (the *recipient*) who has been paid a one-off payment to families (the *relevant payment*).

What determinations are relevant?

- (2) Each of the following is a *relevant determination* in relation to the recipient:
- (a) if the relevant payment was made because, at that time, subsection 86(2) of the Family Assistance Act applied to the recipient (whether or not it was also made because subsection 86(3) of that Act also applied)—the determination referred to in paragraph 86(2)(a) of the Family Assistance Act;
 - (b) if the relevant payment was made because, at that time, subsection 86(3) of the Family Assistance Act applied to the recipient (whether or not it was also made because subsection 86(2) also applied)—a determination made under Part 3 of the *Social Security (Administration) Act 1999* because of which the, or an, instalment that satisfied paragraphs 86(3)(a), (b) and (c) of the Family Assistance Act was paid;
 - (c) if the relevant payment was made because, at that time, subsection 86(4) of the Family Assistance Act applied to the recipient—the determination referred to in paragraph 86(4)(b) of the Family Assistance Act.

Situation in which whole amount is a debt

- (3) If:
- (a) after the relevant payment was made to the recipient, a relevant determination in relation to the recipient, at least so far as it relates to:
 - (i) 11 May 2004 (if the relevant determination is covered by paragraph (2)(a) or (b)); or
 - (ii) all or part of the 2002-03 income year (if the relevant determination is covered by paragraph (2)(c));is or was (however described) changed, revoked, set aside, or superseded by another determination; and
 - (b) the decision to change, revoke, set aside or supersede the relevant determination is or was made for the reason, or for

reasons including the reason, that the following person knowingly made a false or misleading statement, or knowingly provided false information:

- (i) unless subparagraph (ii) applies—the recipient; or
 - (ii) if the relevant determination is covered by paragraph (2)(b)—the other individual, or one of the other individuals, referred to in paragraph 86(3)(b) of the Family Assistance Act; and
- (c) had the change, revocation, setting aside or superseding occurred on or before 11 May 2004, the relevant payment would not have been made;

the amount of the relevant payment is a debt due to the Commonwealth by the recipient.

Situation in which part of amount is a debt

(4) If:

(a) after the relevant payment was made to the recipient, a relevant determination in relation to the recipient, at least so far as it relates to:

- (i) 11 May 2004 (if the relevant determination is covered by paragraph (2)(a) or (b)); or
- (ii) all or part of the 2002-03 income year (if the relevant determination was covered by paragraph (2)(c));

is or was (however described) changed, revoked, set aside, or superseded by another determination; and

(b) the decision to change, revoke, set aside or supersede the relevant determination is or was made for the reason, or for reasons including the reason, that the following person knowingly made a false or misleading statement, or knowingly provided false information:

- (i) unless subparagraph (ii) applies—the recipient; or
- (ii) if the relevant determination is covered by paragraph (2)(b)—the other individual, or one of the other individuals, referred to in paragraph 86(3)(b) of the Family Assistance Act; and

(c) had the change, revocation, setting aside or superseding occurred on or before 11 May 2004, the amount of the relevant payment would have been reduced;

the amount by which the relevant payment would have been reduced is a debt due to the Commonwealth by the recipient.

7 Paragraph 74(a)

After “family assistance”, insert “or one-off payment to families”.

8 Subsection 82(3) (paragraph (a) of the definition of *debt*)

After “71H,”, insert “71I,”.

9 Subsection 93A(6) (at the end of the definition of *family assistance payment*)

Add:

; or (c) a payment of one-off payment to families.

10 Paragraph 106(3)(c)

After “to family assistance”, insert “or one-off payment to families”.

11 Subsection 109D(4)

After “family assistance” (first occurring), insert “, or of one-off payment to families,”.

12 Paragraph 109D(5)(a)

After “family assistance”, insert “ or one-off payment to families”.

13 Section 219TA (at the end of the definition of *relevant benefit*)

Add:

; or (i) one-off payment to families.

Part 2—Related amendments

Income Tax Assessment Act 1936

14 Subsection 159J(6) (paragraph (ac) of the definition of *separate net income*)

Omit “or maternity immunisation allowance”, substitute “, maternity immunisation allowance or one-off payment to families”.

15 Subsection 159J(6) (after paragraph (ac) of the definition of *separate net income*)

Insert:

(aca) does not include payments to families under the scheme determined under Schedule 3 to the *Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004*; and

Income Tax Assessment Act 1997

16 Section 11-15 (at the end of the table item headed “family assistance”)

Add:

one-off payment to families	52-150
payments to families under the scheme determined under Schedule 3 to the <i>Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004</i>	52-150

17 Section 52-150

Omit “or maternity immunisation allowance”, substitute “, maternity immunisation allowance or one-off payment to families”.

18 At the end of section 52-150

Add:

(2) Payments to families under the scheme determined under
Schedule 3 to the *Family Assistance Legislation Amendment (More*

Help for Families—One-off Payments) Act 2004 are exempt from income tax.

Social Security Act 1991

19 After paragraph 8(8)(j)

Insert:

- (jaa) a payment of family assistance, or of one-off payment to families, under the Family Assistance Act;
- (jab) a payment under the scheme determined under Schedule 3 to the *Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004*;

Schedule 2—One-off payments to carers

Part 1—Main amendments

Social Security Act 1991

1 After Part 2.5

Insert:

Part 2.5A—One-off payment to people eligible for carer payment

247 One-off payment to carers (carer payment related)

A person (the *qualified person*) is qualified for a one-off payment to carers (carer payment related) if the person has been paid an instalment of carer payment in respect of a period that includes 11 May 2004.

Note: The person may also be qualified for a one-off payment to carers (carer allowance related) under Part 2.19A.

248 What is the amount of the payment?

The amount of the one-off payment to the qualified person is \$1000.

Note: The amount is \$1000, regardless of the number of people for whom the qualified person provides care.

2 After Part 2.19

Insert:

Part 2.19A—One-off payment to people eligible for carer allowance

992N One-off payment to carers (carer allowance related)

- (1) A person (the *qualified person*) is qualified for a one-off payment to carers (carer allowance related) if the following conditions are satisfied in relation to one or more instalments of carer allowance that have been paid to the person:
 - (a) the instalment was in respect of a period that included 11 May 2004;
 - (b) the reason why the instalment covered 11 May 2004 was not only because of clause 16 or 17 of Schedule 2 to the *Social Security (Administration) Act 1999*.
- (2) For the purposes of this Part, the instalment, or each instalment, in relation to which paragraphs (1)(a) and (b) are satisfied is a *qualifying instalment*.

Note: The person may also be qualified for a one-off payment to carers (carer payment related) under Part 2.5A.

992O In respect of what care receivers is the payment payable?

- (1) Subject to subsection (2), each person to whose care a qualifying instalment relates is an *eligible care receiver* in relation to the qualified person.
- (2) If subsection 953(2) applied in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single *eligible care receiver* in relation to the qualified person.

992P What is the amount of the payment?

Add together the amounts applicable under this section for each eligible care receiver

- (1) The amount of the one-off payment to the qualified person is worked out by adding together the amounts applicable under this section for each eligible care receiver.

Amount is \$600 unless subsection (3) applies

- (2) Subject to subsection (3), the amount applicable for an eligible care receiver is \$600.

Reduced amount if instalment rate took account of a subsection 981(1) determination

- (3) If the rate at which a qualifying instalment was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to an eligible care receiver, the amount applicable for the eligible care receiver is that share of \$600.

3 After section 1223AB

Insert:

1223ABA Debts arising in respect of one-off payments to carers

- (1) This section applies in relation to an individual (the *recipient*) who has been paid a payment (the *relevant payment*) of:
- (a) one-off payment to carers (carer payment related); or
 - (b) one-off payment to carers (carer allowance related).

What determinations are relevant?

- (2) If the relevant payment is a payment of one-off payment to carers (carer payment related), a *relevant determination* is a determination made under Part 3 of the *Social Security (Administration) Act 1999* because of which the instalment referred to in section 247 was paid.
- (3) If the relevant payment is a payment of one-off payment to carers (carer allowance related), a *relevant determination* is a determination made under Part 3 of the *Social Security (Administration) Act 1999* because of which the, or an, instalment that satisfied paragraphs 992N(1)(a) and (b) was paid.

Situation in which whole amount is a debt

- (4) If:
- (a) after the relevant payment was made to the recipient, a relevant determination in relation to the recipient, at least so
-

far as it relates to 11 May 2004 or a period that includes 11 May 2004, is or was (however described) changed, revoked, set aside, or superseded by another determination; and

- (b) the decision to change, revoke, set aside or supersede the relevant determination is or was made for the reason, or for reasons including the reason, that the recipient knowingly made a false or misleading statement, or knowingly provided false information; and
- (c) had the change, revocation, setting aside or superseding occurred on or before 11 May 2004, the relevant payment would not have been made;

the amount of the relevant payment is a debt due to the Commonwealth by the recipient.

Situation in which part of amount is a debt

(5) If:

- (a) after the relevant payment was made to the recipient, a relevant determination in relation to the recipient, at least so far as it relates to 11 May 2004 or a period that includes 11 May 2004, is or was (however described) changed, revoked, set aside, or superseded by another determination; and
- (b) the decision to change, revoke, set aside or supersede the relevant determination is or was made for the reason, or for reasons including the reason, that the recipient knowingly made a false or misleading statement, or knowingly provided false information; and
- (c) had the change, revocation, setting aside or superseding occurred on or before 11 May 2004, the amount of the relevant payment would have been reduced;

the amount by which the relevant payment would have been reduced is a debt due to the Commonwealth by the recipient.

Other provisions under which debts arise generally do not apply in relation to one-off payment to carers

- (6) Apart from section 1224AA, the other provisions of this Part under which debts arise do not apply in relation to payments of one-off

payment to carers (carer payment related) or one-off payment to carers (carer allowance related).

Social Security (Administration) Act 1999

4 After section 12A

Insert:

12AA One-off payment to carers

A claim is not required for one-off payment to carers (carer allowance related) or one-off payment to carers (carer payment related).

5 Subsection 47(1) (after paragraph (g) of the definition of *lump sum benefit*)

Insert:

- (h) one-off payment to carers (carer allowance related); or
- (ha) one-off payment to carers (carer payment related); or

6 After section 47A

Insert:

47B Payment of one-off payment to carers

If an individual is entitled to a one-off payment to carers (carer allowance related) or a one-off payment to carers (carer payment related), the Secretary must pay the payment to the individual in a single lump sum:

- (a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
- (b) in such manner as the Secretary considers appropriate.

Part 2—Related amendments

Income Tax Assessment Act 1936

7 Subsection 159J(6) (paragraph (ad) of the definition of *separate net income*)

After “carer allowance”, insert “, one-off payment to carers (carer allowance related) or one-off payment to carers (carer payment related)”.

8 Subsection 159J(6) (after paragraph (ad) of the definition of *separate net income*)

Insert:

(ada) does not include payments to carers under the scheme determined under Schedule 3 to the *Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004*; and

Income Tax Assessment Act 1997

9 Section 11-15 (table item headed “social security or like payments”)

Before:

pension bonus 52-10 and 52-65

insert:

one-off payment to carers (carer allowance related) or one-off payment to carers (carer payment related) 52-10

payments to carers under the scheme determined under Schedule 3 to the *Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004* 52-10

10 Subsection 52-10(1)

Omit “or one-off payment to the aged”, substitute “, one-off payment to the aged, one-off payment to carers (carer allowance related) or one-off payment to carers (carer payment related)”.

11 After subsection 52-10(1C)

Insert:

- (1D) One-off payment to carers (carer payment related) and one-off payment to carers (carer allowance related) under Parts 2.5A and 2.19A of the *Social Security Act 1991* are exempt from income tax.
- (1E) Payments to carers under the scheme determined under Schedule 3 to the *Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004* are exempt from income tax.

Schedule 3—Administrative scheme for one-off payments to families and carers

1 Administrative scheme for one-off payments to families and carers

- (1) Subject to this item, the Minister may, in writing, determine a scheme under which one-off payments may be made to families and carers in particular circumstances. The Minister may, in writing, vary or revoke the scheme.
- (2) The circumstances in which the scheme provides for payments must be circumstances:
 - (a) in which the Minister considers that Part 5 of the *A New Tax System (Family Assistance) Act 1999*, and Parts 2.5A and 2.19A of the *Social Security Act 1991*, do not produce appropriate results; and
 - (b) occurring in the financial year starting on 1 July 2003.
- (3) The scheme must not provide for payments to be made at a time that is after 30 June 2007.
- (4) Without limiting the generality of subitem (1), the scheme may deal with the following:
 - (a) the circumstances in which payments are to be made;
 - (b) the amount of the payments;
 - (c) what a person has to do to get a payment;
 - (d) administrative matters, such as determination of entitlement and how and when payments will be made.
- (5) An instrument determining, varying or revoking the scheme is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (6) Payments under the scheme are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

*[Minister's second reading speech made in—
House of Representatives on 11 May 2004
Senate on 13 May 2004]*

(70/04)

20 *Family Assistance Legislation Amendment (More Help for Families—One-off
Payments) Act 2004 No. 60, 2004*