



# **Social Services Legislation Amendment (Energy Assistance Payment and Pensioner Concession Card) Act 2017**

**No. 46, 2017**

**An Act to amend the law relating to social security  
and veterans' entitlements, and for related  
purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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**No. 46, 2017**

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**An Act to amend the law relating to social security  
and veterans' entitlements, and for related  
purposes**

*[Assented to 19 June 2017]*

The Parliament of Australia enacts:

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*No. 46, 2017      Social Services Legislation Amendment (Energy Assistance Payment  
and Pensioner Concession Card) Act 2017      1*

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## 1 Short title

This Act is the *Social Services Legislation Amendment (Energy Assistance Payment and Pensioner Concession Card) Act 2017*.

## 2 Commencement

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

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	19 June 2017
2. Schedule 1	The day this Act receives the Royal Assent.	19 June 2017
3. Schedule 2	9 October 2017.	9 October 2017

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Note: This table relates only to the provisions of this Act as originally enacted.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

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

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

### **Part 1—Social security amendments**

#### *Social Security Act 1991*

##### **1 Before paragraph 8(8)(z)**

Insert:

- (yk) a one-off energy assistance payment under Part IIIIF of the Veterans' Entitlements Act;

##### **2 Before Part 2.7**

Insert:

### **Part 2.6—One-off energy assistance payment**

#### **300 One-off energy assistance payment**

- (1) A person is qualified for a one-off energy assistance payment if:
  - (a) age pension, disability support pension or pension PP (single) is payable to the person on 20 June 2017; and
  - (b) that pension is so payable because of a claim the person made on or before 20 June 2017; and
  - (c) the person is residing in Australia on 20 June 2017.

*More than one entitlement under this section*

- (2) A person may receive one payment only under this section, regardless of how many times the person qualifies under this section.

*More than one entitlement under this section and the Veterans' Entitlements Act*

- (3) If a payment under Part IIIIF of the Veterans' Entitlements Act is paid to a person, no payment under this section can be paid to the person.

### 301 Amount of one-off energy assistance payment

The amount of a person's one-off energy assistance payment under section 300 is worked out using the following table, having regard to the person's situation on 20 June 2017:

Energy assistance payment		
Item	Person's situation on 20 June 2017	Amount of one-off energy assistance payment
1	Not a member of a couple	\$75
2	Partnered	\$62.50
3	Member of an illness separated couple	\$75
4	Member of a respite care couple	\$75
5	Partnered (partner in gaol)	\$75

Note: For *member of a couple*, *partnered*, *illness separated couple*, *respite care couple* and *partnered (partner in gaol)* see section 4.

### 3 Subsection 1222(2) (after table item 4E)

Insert:

4F	1223ABG	deductions	1231, 1234A
	(debts in respect of one-off energy assistance payments)	legal proceedings	1232
		garnishee notice	1233
		repayment by instalments	1234

### 4 After section 1223ABF

Insert:

#### 1223ABG Debts in respect of one-off energy assistance payments

(1) If:

- (a) after a one-off energy assistance payment under Part 2.6 is paid to a person, an underlying determination in relation to the person, at least so far as it relates to 20 June 2017 or to a period that includes that day, 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 underlying determination is or was made for the reason, or for reasons including the reason, that the person 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 20 June 2017, the one-off energy assistance payment would not have been paid;
- the amount of the one-off energy assistance payment is a debt due to the Commonwealth by the person.
- (2) For the purposes of this section, an *underlying determination* in relation to a person is a determination made under Part 3 of the Administration Act because of which age pension, disability support pension or pension PP (single) was payable to the person.
  - (3) Apart from section 1224AA, the other provisions of this Part under which debts arise do not apply in relation to one-off energy assistance payments under Part 2.6.

## ***Social Security (Administration) Act 1999***

### **5 Before section 12B**

Insert:

#### **12AC One-off energy assistance payment**

A claim is not required for a one-off energy assistance payment under Part 2.6 of the 1991 Act.

### **6 Subsection 47(1) (after paragraph (gd) of the definition of *lump sum benefit*)**

Insert:

(ge) one-off energy assistance payment under Part 2.6 of the 1991 Act; or

### **7 After section 47AB**

Insert:

**47AC Payment of one-off energy assistance payment**

If a person is qualified for a one-off energy assistance payment under Part 2.6 of the 1991 Act, the Secretary must pay the payment to the person 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—Veterans' entitlements amendments**

### *Veterans' Entitlements Act 1986*

#### **8 Before paragraph 5H(8)(zzb)**

Insert:

(zzaj) a one-off energy assistance payment under Part IIIF;

#### **9 After Part IIIE**

Insert:

## **Part IIIF—One-off energy assistance payment**

### **66 One-off energy assistance payment—this Act**

#### *Service pension or income support supplement*

- (1) A person is eligible for a one-off energy assistance payment if:
  - (a) service pension or income support supplement is payable to the person on 20 June 2017; and
  - (b) service pension or income support supplement is so payable because of a claim the person made on or before 20 June 2017; and
  - (c) the person is residing in Australia on 20 June 2017.
- (2) The amount of a person's one-off energy assistance payment under subsection (1) is worked out using the following table, having regard to the person's situation on 20 June 2017:

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<b>Energy assistance payment</b>		
<b>Item</b>	<b>Person's situation on 20 June 2017</b>	<b>Amount of one-off energy assistance payment</b>
1	Not a member of a couple	\$75
2	Partnered	\$62.50
3	Member of an illness separated	\$75

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**Schedule 1** Energy assistance payment  
**Part 2** Veterans' entitlements amendments

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<b>Energy assistance payment</b>		
<b>Item</b>	<b>Person's situation on 20 June 2017</b>	<b>Amount of one-off energy assistance payment</b>
	couple	
4	Member of a respite care couple	\$75

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Note: For *member of a couple, partnered, illness separated couple* and *respite care couple* see subsections 5E(1) and (5) and 5R(5) and (6).

*Pension under Part II or IV*

- (3) A person is eligible for a one-off energy assistance payment if:
- (a) the person receives for 20 June 2017 a pension under Part II or IV at a rate determined under or by reference to section 22, 23, 24 or 27; and
  - (b) the person's rate of the pension is greater than nil for 20 June 2017; and
  - (c) the person is residing in Australia on 20 June 2017.
- (4) A person is eligible for a one-off energy assistance payment if:
- (a) the person receives for 20 June 2017 a pension under Part II or IV at a rate determined under or by reference to subsection 30(1); and
  - (b) the person's rate of the pension is greater than nil for 20 June 2017; and
  - (c) the person is residing in Australia on 20 June 2017.
- (5) For the purposes of subsections (3) and (4), a person is taken to receive a pension under Part II or IV at a rate greater than nil even if the person's rate would be nil, or pension would not be payable, merely because the rate is reduced, or pension is not payable, under Division 4, 5 or 5A of Part II or section 74.
- (6) The amount of a person's one-off energy assistance payment under subsection (3) or (4) is \$75.

**67 One-off energy assistance payment—MRCA**

*Compensation for permanent impairment*

- (1) A person is eligible for a one-off energy assistance payment if:

- (a) the condition in subsection (2) is met; and
  - (b) the person is residing in Australia on 20 June 2017.
- (2) The condition is that either or both of the following apply:
- (a) weekly compensation under Part 2 of Chapter 4 of the MRCA:
    - (i) is payable to the person for 20 June 2017; or
    - (ii) would be payable to the person for 20 June 2017 apart from paragraph 398(3)(b) of the MRCA and offsetting described in subsection 13(4) of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*;
  - (b) before 20 June 2017 the person received lump sum compensation under Part 2 of Chapter 4 of the MRCA.

*Special Rate Disability Pension*

- (3) A person is eligible for a one-off energy assistance payment if:
- (a) Special Rate Disability Pension under the MRCA:
    - (i) is payable to the person for 20 June 2017; or
    - (ii) would be payable to the person for 20 June 2017 apart from section 204, and paragraph 398(3)(b), of the MRCA; and
  - (b) the person is residing in Australia on 20 June 2017.

*Compensation for wholly dependent partners*

- (4) A person is eligible for a one-off energy assistance payment if:
- (a) the condition in subsection (5) is met; and
  - (b) the person is residing in Australia on 20 June 2017.
- (5) The condition is that either or both of the following apply:
- (a) weekly compensation under Division 2 of Part 2 of Chapter 5 of the MRCA either:
    - (i) is payable to the person for 20 June 2017; or
    - (ii) would be payable to the person for 20 June 2017 apart from paragraph 398(3)(b) of the MRCA;
  - (b) before 20 June 2017 the person received lump sum compensation under Division 2 of Part 2 of Chapter 5 of the

MRCA and subsection 388(6) of the MRCA has not applied to the person before 20 June 2017.

*Amount of one-off energy assistance payment*

- (6) The amount of a person's one-off energy assistance payment under this section is \$75.

**67A One-off energy assistance payment—*Safety, Rehabilitation and Compensation Act 1988***

- (1) A person is eligible for a one-off energy assistance payment if:
- (a) at any time, the person has received a payment of compensation under section 24 of the *Safety, Rehabilitation and Compensation Act 1988*; and
  - (b) the payment was made because of a defence-related claim (within the meaning of Part XI of that Act) the person made on or before 20 June 2017; and
  - (c) the person is residing in Australia on 20 June 2017.

*Amount of one-off energy assistance payment*

- (2) The amount of a person's one-off energy assistance payment under this section is \$75.

**67B More than one entitlement**

*More than one entitlement under this Part*

- (1) A person may receive one payment only under this Part, regardless of how many times the person becomes eligible under this Part.

*More than one entitlement under this Part and the Social Security Act*

- (2) If a payment under Part 2.6 of the Social Security Act is paid to a person, no payment under this Part can be paid to the person.

**67C Claim not required for one-off energy assistance payment**

A claim is not required for a one-off energy assistance payment under this Part.

**67D Payment of one-off energy assistance payment**

If a person is eligible for a one-off energy assistance payment under this Part, the Commission must pay the payment to the person in a single lump sum:

- (a) on the date that the Commission 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 Commission considers appropriate.

## Part 3—Taxation amendments

### *Income Tax Assessment Act 1997*

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

Insert:

energy assistance payment, one-off payment under the <i>Social Security Act 1991</i> .....	52-10
energy assistance payment, one-off payment under the <i>Veterans’ Entitlements Act 1986</i> .....	52-65

#### **11 After paragraph 52-10(1)(ab)**

Insert:

(ac) one-off energy assistance payment under the *Social Security Act 1991*; or

#### **12 After subsection 52-10(1AB)**

Insert:

(1AC) One-off energy assistance payments under Part 2.6 of the *Social Security Act 1991* are exempt from income tax.

#### **13 Section 52-40 (after table item 19)**

Insert:

20	One-off energy assistance payment	Part 2.6	Not applicable	Not applicable
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#### **14 After paragraph 52-65(1)(ba)**

Insert:

(c) one-off energy assistance payments under the *Veterans’ Entitlements Act 1986*; or

#### **15 After subsection 52-65(1G)**

Insert:



(1GA) One-off energy assistance payments under Part IIIF of the  
*Veterans' Entitlements Act 1986* are exempt from income tax.

**16 Section 52-75 (after table item 8)**

Insert:

8A	One-off energy assistance payment	Part IIIF	Not applicable
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## Schedule 2—Pensioner concession card

### Part 1—Social security amendments

#### *Social Security Act 1991*

##### **1 After subsection 1061ZA(1A)**

Insert:

- (1B) Subject to subsection (3), a person is qualified for a pensioner concession card on a day if:
- (a) immediately before 1 January 2017, the person was receiving a social security pension; and
  - (b) the Secretary is satisfied that the rate of that pension was nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*; and
  - (c) the person is not otherwise qualified for a pensioner concession card on that day.

##### **2 Subsection 1061ZA(3)**

Omit “subsection (4)”, substitute “subsections (4) and (5)”.

##### **3 Subsection 1061ZA(3)**

After “subsections (1),”, insert “(1B),”.

##### **4 Paragraph 1061ZA(4)(b)**

Omit “scheduled international agreement”, substitute “scheduled international social security agreement”.

##### **5 At the end of section 1061ZA**

Add:

- (5) In spite of subsection (3), if:
- (a) paragraphs (1B)(a), (b) and (c) are satisfied in relation to a person; and

(b) the person was receiving the social security pension immediately before 1 January 2017 solely because of the operation of the scheduled international social security agreement between Australia and New Zealand;  
subsection (1B) applies to a person in relation to a day on which the person is in Australia.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

## **6 Subdivision A of Division 3 of Part 2A.1 (heading)**

Repeal the heading, substitute:

### **Subdivision A—Qualification for automatic issue health care card**

## **7 Subsections 1061ZO(2), (3) and (4)**

Omit “Subject to sections 1061ZRA and 1061ZRB, this section”, substitute “This section”.

## **8 Sections 1061ZRA and 1061ZRB**

Repeal the sections.

## ***Social Security (Administration) Act 1999***

## **9 Subsection 11(1)**

Omit “subsections (2) to (4)”, substitute “subsections (2) and (3)”.

## **10 Subsection 11(4)**

Repeal the subsection.

## **11 Subsection 37A(2A)**

Repeal the subsection.

## **12 Subsection 106B(4) (at the end of the definition of section 1061ZA pensioner concession card)**

Add “(except under subsection (1B) of that section)”.

**13 Subsection 240A(3)**

Omit “or 1061ZRA(3) or (4)”.

**14 Paragraphs 240C(1)(a) and (2)(a)**

Omit “or 1061ZRA(3) or (4)”.

**15 Subclauses 3(6) and (7) of Schedule 2**

Repeal the subclauses.

## **Part 2—Veterans' entitlements amendments**

### *Veterans' Entitlements Act 1986*

#### **16 After subsection 53A(1)**

Insert:

- (1A) A person is eligible for fringe benefits if:
- (a) immediately before 1 January 2017, the person was receiving a service pension or income support supplement; and
  - (b) the Commission is satisfied that the rate of that pension or supplement was nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*; and
  - (c) the person is not otherwise eligible under this section for fringe benefits.

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*[Minister's second reading speech made in—  
House of Representatives on 24 May 2017  
Senate on 13 June 2017]*

(94/17)

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and Pensioner Concession Card) Act 2017*      17