





# **Clean Energy (Household Assistance Amendments) Act 2011**

**No. 141, 2011**

**An Act to amend the law relating to social security, family assistance, veterans' entitlements, military rehabilitation and compensation, farm household support and aged care, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# **Clean Energy (Household Assistance Amendments) Act 2011**

**No. 141, 2011**

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**An Act to amend the law relating to social security, family assistance, veterans' entitlements, military rehabilitation and compensation, farm household support and aged care, and for related purposes**

[Assented to 29 November 2011]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Clean Energy (Household Assistance Amendments) Act 2011*.

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## 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.

| Commencement information                                                        |                                                                                                                                                             |                  |
|---------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Column 1                                                                        | Column 2                                                                                                                                                    | Column 3         |
| Provision(s)                                                                    | Commencement                                                                                                                                                | Date/Details     |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent.                                                                                                                 | 29 November 2011 |
| 2. Schedule 1, Part 1                                                           | 14 May 2012.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.    |                  |
| 3. Schedule 1, Part 2, Division 1                                               | 20 March 2013.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.  |                  |
| 4. Schedule 1, Part 2, Division 2                                               | 1 January 2014.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all. |                  |
| 5. Schedule 1, Parts 3, 4 and 5                                                 | 20 March 2013.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.  |                  |
| 6. Schedule 2                                                                   | 14 May 2012.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.    |                  |

| <b>Commencement information</b>    |                                                                                                                                                            |                     |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| <b>Column 1</b>                    | <b>Column 2</b>                                                                                                                                            | <b>Column 3</b>     |
| <b>Provision(s)</b>                | <b>Commencement</b>                                                                                                                                        | <b>Date/Details</b> |
| 7. Schedule 3, Part 1              | 14 May 2012.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.   |                     |
| 8. Schedule 3, Parts 2 and 3       | 20 March 2013.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all. |                     |
| 9. Schedule 4, Part 1              | 14 May 2012.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.   |                     |
| 10. Schedule 4, Part 2, Division 1 | 20 March 2013.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all. |                     |
| 11. Schedule 4, Part 2, Division 2 | 1 July 2013.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.   |                     |
| 12. Schedule 4, Part 3             | 1 July 2013.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.   |                     |
| 13. Schedule 5                     | 14 May 2012.<br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.   |                     |

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| <b>Commencement information</b> |                                                                                                                                                              |                     |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| <b>Column 1</b>                 | <b>Column 2</b>                                                                                                                                              | <b>Column 3</b>     |
| <b>Provision(s)</b>             | <b>Commencement</b>                                                                                                                                          | <b>Date/Details</b> |
| 14. Schedule 6                  | Immediately after the commencement of the provision(s) covered by table item 2.                                                                              |                     |
| 15. Schedule 7                  | Immediately after the commencement of the provision(s) covered by table item 14.                                                                             |                     |
| 16. Schedule 8                  | Immediately after the commencement of the provision(s) covered by table item 6.                                                                              |                     |
| 17. Schedule 9                  | 1 July 2012.<br><br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all. |                     |
| 18. Schedule 10                 | 14 May 2012.<br><br>However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all. |                     |

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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 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—Clean energy payments under the social security law**

### **Part 1—Clean energy advances**

#### **Division 1—Main amendment**

##### ***Social Security Act 1991***

##### **1 After Part 2.18**

Insert:

### **Part 2.18A—Clean energy payments**

#### **Division 1—Clean energy advances**

##### **Subdivision A—Qualifying for clean energy advances**

##### **914 Recipients of certain social security payments**

*Qualification for days 14 May 2012 to 30 June 2012*

- (1) The Secretary may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine that a person is qualified for a clean energy advance if, on that day:
  - (a) the person receives one of the social security payments set out in subsection (4); and
  - (b) the person's rate of payment is greater than nil; and
  - (ba) the person is residing in Australia; and
  - (c) the person is in Australia.

*Qualification for days 1 July 2012 to 19 March 2013*

- (2) The Secretary may determine that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2012 and ending on 19 March 2013:
  - (a) the person receives one of the social security payments set out in subsection (4); and

- (b) the person's rate of payment is greater than nil; and
  - (ba) the person is residing in Australia; and
  - (c) the person is in Australia.
- (3) A determination under subsection (2) must specify the first day during the period set out in that subsection for which the person:
- (a) satisfies paragraphs (2)(a), (b) and (ba); and
  - (b) is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

*Clean energy qualifying payments*

- (4) The social security payments (the ***clean energy qualifying payments***) are as follows:
- (a) age pension;
  - (b) benefit PP (partnered);
  - (c) bereavement allowance;
  - (d) carer payment;
  - (e) disability support pension (other than for a person who is under 21 with no dependent children);
  - (f) newstart allowance;
  - (g) pension PP (single);
  - (h) partner allowance;
  - (i) seniors supplement;
  - (j) sickness allowance;
  - (k) special benefit, whose rate is worked out as if the person were qualified for newstart allowance;
  - (l) widow allowance;
  - (m) widow B pension;
  - (n) wife pension.

**914A Recipients of austudy, youth allowance, some disability support pensions and some special benefits**

*Qualification for days 14 May 2012 to 30 June 2012*

- (1) The Secretary may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine that a person is qualified for a clean energy advance if, on that day:

- (a) the person receives one of the social security payments set out in subsection (5); and
- (b) the person's rate of payment is greater than nil; and
- (ba) the person is residing in Australia; and
- (c) the person is in Australia.

*Qualification for days 1 July 2012 to 30 June 2013*

- (2) The Secretary may determine that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2012 and ending on 30 June 2013:
  - (a) the person receives one of the social security payments set out in subsection (5); and
  - (b) the person's rate of payment is greater than nil; and
  - (ba) the person is residing in Australia; and
  - (c) the person is in Australia.

*Qualification for days 1 July 2013 to 31 December 2013*

- (3) The Secretary may determine that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2013 and ending on 31 December 2013:
  - (a) the person receives one of the social security payments set out in subsection (5); and
  - (b) the person's rate of payment is greater than nil; and
  - (ba) the person is residing in Australia; and
  - (c) the person is in Australia.

*First day of qualification under subsection (2) or (3)*

- (4) A determination under subsection (2) or (3) must specify the first day during the period set out in that subsection for which the person:
  - (a) satisfies paragraphs (a), (b) and (ba) of that subsection; and
  - (b) is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

*Clean energy qualifying payments*

- (5) The social security payments (the ***clean energy qualifying payments***) are as follows:

- (a) austudy payment;
- (b) disability support pension for a person who is under 21 with no dependent children;
- (c) special benefit, whose rate is worked out as if the person were qualified for austudy payment or youth allowance;
- (d) youth allowance.

#### **914B Disregard nil rate in certain circumstances**

- (1) For the purposes of section 914 or 914A, a person is taken to receive a social security payment at a rate greater than nil even if the person's rate would be nil merely because:
  - (a) an election by the person under subsection 1061VA(1) is in force; or
  - (b) the person has been paid an advance pharmaceutical allowance under the social security law.
- (2) For the purposes of section 914 or 914A, if a social security payment is payable to a person because of subsection 23(1D), the person is taken to receive that payment at a rate greater than nil.

#### **914C Limits on qualifying for multiple advances**

- (1) A person cannot qualify for more than one clean energy advance under section 914.
  - (2) A person can qualify for at most 2 clean energy advances under section 914A:
    - (a) one under either subsection 914A(1) or (2); and
    - (b) one under subsection 914A(3).
  - (3) A person who has qualified for a clean energy advance under subsection 914(1) or 914A(1) cannot qualify for a clean energy advance under the other of those subsections.
- Note 1: Further limits may be determined under section 918.
- Note 2: Top-up payments of clean energy advance may be payable under Subdivision C if the person's circumstances change during the person's clean energy advance period.

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## Subdivision B—Amount of a clean energy advance

### 914D Amount of a clean energy advance

- (1) On the day (the **decision day**) that the Secretary determines that a person (the **recipient**) is qualified for a clean energy advance, the Secretary must work out the amount of the advance.

Note: The advance will be paid in a lump sum as soon as is reasonably practicable (see section 47D of the Administration Act).

- (2) The amount of the advance is the result of the following formula rounded up to the nearest multiple of \$10:

Clean energy advance daily rate × Number of advance days

### 914E Clean energy advance daily rate

- (1) The recipient's **clean energy advance daily rate** is worked out as follows:

| Working out the recipient's <b>clean energy advance daily rate</b> |                                                                                                                                                                                                                                                                                                                                                            |                     |
|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
|                                                                    | If the recipient's clean energy qualifying payment is:                                                                                                                                                                                                                                                                                                     | Use this provision: |
| 1                                                                  | (a) age pension; or<br>(b) bereavement allowance; or<br>(c) disability support pension to which neither subsection 1066A(1) nor 1066B(1) applies; or<br>(d) wife pension; or<br>(e) carer payment; or<br>(f) seniors supplement; or<br>(g) widow B pension; or<br>(h) another payment, and the recipient reached pension age on or before the decision day | subsection (2)      |
| 2                                                                  | one of the following payments, and the recipient is under pension age on the decision day:<br>(a) newstart allowance, if the recipient's maximum basic rate is worked out under point 1068-B5;<br>(b) pension PP (single);<br>(c) youth allowance, if the recipient's maximum basic rate is worked out under point 1067G-B3A                               | subsection (3)      |

**Schedule 1** Clean energy payments under the social security law  
**Part 1** Clean energy advances

| <b>Working out the recipient's <i>clean energy advance daily rate</i></b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                            |
|---------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                                                           | <b>If the recipient's clean energy qualifying payment is:</b>                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Use this provision:</b> |
| 3                                                                         | one of the following payments, and the recipient is under pension age on the decision day:<br>(a) newstart allowance, if the recipient's maximum basic rate is not worked out under point 1068-B5;<br>(b) sickness allowance;<br>(c) partner allowance;<br>(d) widow allowance;<br>(e) benefit PP (partnered);<br>(f) special benefit, whose rate is worked out as if the recipient were qualified for newstart allowance                                                   | subsection (4)             |
| 4                                                                         | disability support pension to which subsection 1066A(1) or 1066B(1) applies                                                                                                                                                                                                                                                                                                                                                                                                 | subsection (5)             |
| 5                                                                         | one of the following payments, and the recipient is under pension age on the decision day:<br>(a) austudy payment;<br>(b) youth allowance, if:<br>(i) the recipient's maximum basic rate is not worked out under point 1067G-B3A; and<br>(ii) the recipient's rate of youth allowance is not worked out by adding a youth disability supplement;<br>(c) special benefit, whose rate is worked out as if the recipient were qualified for austudy payment or youth allowance | subsection (6)             |
| 6                                                                         | youth allowance, whose rate is worked out by adding a youth disability supplement                                                                                                                                                                                                                                                                                                                                                                                           | subsection (7)             |

Note: For **recipient** and **decision day**, see subsection 914D(1).

*Rate for payments set out in item 1 of the table*

- (2) The recipient's ***clean energy advance daily rate*** is worked out by:
- (a) working out 1.7% of the total of:
    - (i) double the maximum basic rate under Pension Rate Calculator A, worked out for 1 July 2012 for a person who is partnered; and

- (ii) the combined couple rate of pension supplement for 1 July 2012; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$5.20 (rounding up if that result is not a multiple of \$5.20 but is a multiple of \$2.60); and
- (c) adding \$5.20 to the result of paragraph (b); and
- (d) applying the applicable percentage in the following table to the result of paragraph (c); and
- (e) rounding the result of paragraph (d) up or down to the nearest multiple of \$2.60 (rounding up if that rate is not a multiple of \$2.60 but is a multiple of \$1.30); and
- (f) dividing the result of paragraph (e) by 364.

| <b>Percentage to be applied</b> |                                                                      |                   |
|---------------------------------|----------------------------------------------------------------------|-------------------|
| <b>Item</b>                     | <b>Recipient's family situation on the advance qualification day</b> | <b>Use this %</b> |
| 1                               | Not a member of a couple                                             | 66.33%            |
| 2                               | Partnered                                                            | 50%               |
| 3                               | Member of an illness separated couple                                | 66.33%            |
| 4                               | Member of a respite care couple                                      | 66.33%            |
| 5                               | Partnered (partner in gaol)                                          | 66.33%            |

Note: This subsection covers payments covered by Pension Rate Calculator A, B or C, seniors supplement, recipients of other payments who have reached pension age and recipients of pensions covered by clause 146 of Schedule 1A.

*Rate for payments set out in item 2 of the table*

- (3) The recipient's **clean energy advance daily rate** is worked out by:
  - (a) working out 1.7% of the total of the maximum basic rate, and the pension supplement basic amount, for the clean energy qualifying payment, worked out:
    - (i) for 1 July 2012; and
    - (ii) for a person in circumstances the same as the recipient's on the advance qualification day; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30); and
  - (c) adding \$5.20 to the result of paragraph (b); and

(d) dividing the result of paragraph (c) by 364.

*Rate for payments set out in item 3 of the table*

- (4) The recipient's **clean energy advance daily rate** is worked out by:
- (a) working out 1.7% of the maximum basic rate for the clean energy qualifying payment, worked out:
    - (i) for 1 July 2012; and
    - (ii) for a person in circumstances the same as the recipient's on the advance qualification day; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
  - (c) adding 20 cents to the result of paragraph (b); and
  - (d) dividing the result of paragraph (c) by 14.

*Rate for payments set out in item 4 of the table*

- (5) The recipient's **clean energy advance daily rate** is worked out by:
- (a) working out 1.7% of the total of the maximum basic rate, and the youth disability supplement, for the clean energy qualifying payment, worked out:
    - (i) for the first day of the recipient's clean energy advance period; and
    - (ii) for a person in circumstances the same as the recipient's on the advance qualification day; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30); and
  - (c) adding \$5.20 to the result of paragraph (b); and
  - (d) dividing the result of paragraph (c) by 364.

*Rate for payments set out in item 5 of the table*

- (6) The recipient's **clean energy advance daily rate** is worked out by:
- (a) working out 1.7% of the maximum basic rate for the clean energy qualifying payment, worked out:
    - (i) for the first day of the recipient's clean energy advance period; and
    - (ii) for a person in circumstances the same as the recipient's on the advance qualification day; and

- (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
- (c) adding 20 cents to the result of paragraph (b); and
- (d) dividing the result of paragraph (c) by 14.

*Rate for payments set out in item 6 of the table*

- (7) The recipient's **clean energy advance daily rate** is worked out by:
  - (a) working out 1.7% of the total of the maximum basic rate, and the youth disability supplement, for the clean energy qualifying payment, worked out:
    - (i) for the first day of the recipient's clean energy advance period; and
    - (ii) for a person in circumstances the same as the recipient's on the advance qualification day; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
  - (c) adding 20 cents to the result of paragraph (b); and
  - (d) dividing the result of paragraph (c) by 14.

#### **914F Number of advance days**

The recipient's **number of advance days** is the number of days in the recipient's clean energy advance period that are on or after:

- (a) if the recipient qualifies for the clean energy advance before 1 July 2012—1 July 2012; or
- (b) otherwise—the advance qualification day.

### **Subdivision C—Top-up payments of clean energy advance**

#### **914G Top-up payments of clean energy advance**

- (1) The Minister may by legislative instrument determine that persons:
  - (a) who have been paid the amount (the **original payment**) of a specified clean energy advance worked out under Subdivision B in relation to a clean energy qualifying payment (the **original qualifying payment**); and

- (b) whose circumstances change, within a period specified in the instrument, in a way that is specified in the instrument and is covered by subsection (2) or (3);qualify for a further payment, of the amount worked out in accordance with the instrument, of clean energy advance.
- (2) This subsection covers a person's circumstances changing in a way such that:
  - (a) on the day (the **change day**) the change happens, the person was still receiving the original qualifying payment; and
  - (b) had the amount of the original payment been worked out by reference to the person's circumstances on the change day (rather than those on the advance qualification day), a greater clean energy advance daily rate would have been used for working out that amount than the rate actually used for working out that amount.
- (3) This subsection covers a change in a person's circumstances that, apart from a multiple qualification exclusion, would (if any necessary administrative decisions were made) qualify the person for a clean energy bonus, under an Act or a scheme, relating to a payment other than the original qualifying payment.
- (4) For the purposes of subsection (3), a **multiple qualification exclusion** is an instrument that:
  - (a) provides a person is not qualified for a clean energy bonus under an Act or a scheme because of the person's qualification for or receipt of the original payment or the original qualifying payment; and
  - (b) is made under:
    - (i) section 918; or
    - (ii) section 424L of the MRCA; or
    - (iii) section 65A of the Veterans' Entitlements Act;or is an instrument establishing qualifications for a clean energy bonus under a scheme.
- (5) An instrument under subsection (1) may provide for:
  - (a) different periods for changes in circumstances depending on different changes in circumstances; and
  - (b) different ways of working out further amounts of the original payment depending on different changes in circumstances.

## **Division 5—Multiple qualification exclusions**

### **918 Multiple qualification exclusions**

- (1) The Minister may by legislative instrument determine that persons in circumstances specified in the instrument cannot qualify for a clean energy bonus under this Act that is specified in the instrument.
- (2) Those circumstances must relate to persons' qualification for or receipt of one or more of the following:
  - (a) a clean energy bonus under this Act;
  - (b) a clean energy bonus under the MRCA;
  - (c) a clean energy bonus under the Veterans' Entitlements Act;
  - (d) a clean energy bonus under a scheme (however described), whether or not the scheme is provided for, by or under an Act.
- (3) An instrument under subsection (1) has effect according to its terms, despite any other provision of this Act.

## **Division 2—Other amendments**

### ***Social Security Act 1991***

#### **2 Subsection 23(1)**

Insert:

***advance qualification day*** means:

- (a) for a person qualifying for a clean energy advance because of a determination made under subsection 914(1) or 914A(1)—the day that determination is made; or
- (b) for a person qualifying for a clean energy advance because of a determination made under subsection 914(2)—the day specified in that determination because of subsection 914(3); or
- (c) for a person qualifying for a clean energy advance because of a determination made under subsection 914A(2) or (3)—the day specified in that determination because of subsection 914A(4).

Note: The day specified in the determination because of subsection 914(3) or 914A(4) is the first day during the clean energy advance period for which the person satisfies the qualification requirements, disregarding any short temporary absence from Australia.

### **3 Subsection 23(1)**

Insert:

*clean energy advance* means an advance described in Subdivision A or C of Division 1 of Part 2.18A.

### **4 Subsection 23(1)**

Insert:

*clean energy advance daily rate* has the meaning given by section 914E.

### **5 Subsection 23(1)**

Insert:

*clean energy advance period* means:

- (a) for a person qualifying under section 914 for a clean energy advance—the period starting on 1 July 2012 and ending on 19 March 2013; or
- (b) for a person qualifying under subsection 914A(1) or (2) for a clean energy advance—the period starting on 1 July 2012 and ending on 30 June 2013; or
- (c) for a person qualifying under subsection 914A(3) for a clean energy advance—the period starting on 1 July 2013 and ending on 31 December 2013.

### **6 Subsection 23(1)**

Insert:

*clean energy bonus* under an Act or scheme means any of the following that is provided for by the Act or scheme:

- (a) a payment known as a clean energy advance;
- (c) an increase that is described using the phrase “clean energy” and affects the rate of another payment that is provided for by the Act or scheme.

### **7 Subsection 23(1)**

Insert:

***clean energy payment*** means:

- (a) clean energy advance; or

## **8 Subsection 23(1)**

Insert:

***clean energy qualifying payment***, for a person, means:

- (a) for a person qualifying under section 914 for a clean energy advance—the social security payment set out in subsection 914(4) that the person is receiving on the advance qualification day; or
- (b) for a person qualifying under section 914A for a clean energy advance—the social security payment set out in subsection 914A(5) that the person is receiving on the advance qualification day.

## **9 Subsection 23(1)**

Insert:

***number of advance days*** has the meaning given by section 914F.

## **10 After section 1223ABE**

Insert:

### **1224 Debts relating to clean energy advances**

(1) This section applies if:

- (a) an individual is paid a clean energy advance; and
- (b) after the advance is paid, one of the following events happens to a determination that directly or indirectly affects the payability or amount of the advance paid to the individual:
  - (i) the determination is changed, revoked or set aside;
  - (ii) the determination is superseded by another determination; and
- (c) the event happens wholly or partly because the individual knowingly made a false or misleading statement or knowingly provided false information; and
- (d) had the event happened on or before the day the advance was paid:

- (i) the advance would not have been paid; or
- (ii) the advance would have been reduced.

Note 1: Examples of determinations directly affecting the payability or amount of the clean energy advance are as follows:

- (a) a determination relating to the person's qualification for the clean energy qualifying payment to which the advance related;
- (b) the determination of the person's qualification for the clean energy advance.

Note 2: An example of a determination indirectly affecting the amount of the advance is a determination relating to a change in circumstances that results in the person qualifying for a further payment of the advance under an instrument made under section 914G.

*Creation and amount of debt*

- (2) The advance is a debt due to the Commonwealth by the individual if subparagraph (1)(d)(i) applies.
- (3) The amount by which the advance would have been reduced is a debt due to the Commonwealth by the individual if subparagraph (1)(d)(ii) applies.

*Relationship with other sections*

- (4) Apart from section 1224AA, the other provisions of this Part under which debts arise do not apply in relation to clean energy advances.

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

**11 After section 12J**

Insert:

**12K Clean energy advance**

A claim is not required for a clean energy advance.

## **Part 2—Clean energy supplement**

### **Division 1—Supplement payable from 20 March 2013**

#### ***Social Security Act 1991***

#### **12 After section 20A**

Insert:

#### **20B *Clean energy pension rate***

The ***clean energy pension rate*** is the rate worked out by:

- (a) working out 1.7% of the total of:
  - (i) double the maximum basic rate under Pension Rate Calculator A, worked out for 20 March 2013 for a person who is partnered; and
  - (ii) the combined couple rate of pension supplement for 20 March 2013; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$5.20 (rounding up if that result is not a multiple of \$5.20 but is a multiple of \$2.60).

Note 1: This rate is indexed 6 monthly in line with CPI increases (see sections 1191 to 1194).

Note 2: This is an annual rate.

#### **13 Subsection 23(1)**

Insert:

***clean energy pension rate*** has the meaning given by section 20B.

#### **14 Subsection 23(1)**

Insert:

***clean energy supplement***, for a person, means the addition under the clean energy supplement Module (if any) of the relevant Rate Calculator when working out the rate of the person's social security payment.

## **15 Subsection 23(1)**

Insert:

*clean energy (under pension age) rate*, for a person, means the person's clean energy (under pension age) rate worked out under the clean energy supplement Module (if any) of the Rate Calculator for the person's social security payment.

## **16 Subsection 23(1)**

Insert:

*clean energy (youth disability) rate* has the meaning given by point 1067G-BA6.

## **17 Section 1061UB**

Repeal the section, substitute:

### **1061UB Rate of seniors supplement**

The person's daily rate of seniors supplement, for a particular day, is  $\frac{1}{364}$  of the amount worked out by:

- (a) applying the applicable percentage in the following table to the combined couple rate of minimum pension supplement; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30); and
- (c) applying the applicable percentage in the following table to the clean energy pension rate if, on that day, the person is residing in Australia and:
  - (i) is in Australia; or
  - (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks; and
- (d) rounding the result of paragraph (c), if any, up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30); and
- (e) totalling the results of paragraphs (b) and (d).

| Percentage to be applied |                                       |            |
|--------------------------|---------------------------------------|------------|
| Item                     | Person's family situation             | Use this % |
| 1                        | Not a member of a couple              | 66.33%     |
| 2                        | Partnered                             | 50%        |
| 3                        | Member of an illness separated couple | 66.33%     |
| 4                        | Member of a respite care couple       | 66.33%     |
| 5                        | Partnered (partner in gaol)           | 66.33%     |

Note 1: For **combined couple rate of minimum pension supplement**, see subsection 20A(2).

Note 2: For **clean energy pension rate**, see section 20B.

Note 3: Section 918 may affect the person's qualification for the increase in rate of seniors supplement as a result of paragraphs (c) and (d).

## 18 Point 1064-A1 (method statement, after step 1A)

Insert:

Step 1B. Work out the clean energy supplement (if any) using Module C below.

## 19 Point 1064-A1 (method statement, step 4)

After "1A", insert "1B".

## 20 Section 1064 (after Module BA)

Insert:

### Module C—Clean energy supplement

1064-C1 A clean energy supplement is to be added to the person's maximum basic rate if the person is residing in Australia and:

- (a) is in Australia; or
- (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

Note: Section 918 may affect the addition of the clean energy supplement.

1064-C2 However, this Module does not apply if quarterly clean energy supplement is payable to the person.

- 1064-C3 The person's clean energy supplement is the amount worked out by:
- (a) applying the applicable percentage in the following table to the clean energy pension rate; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that rate is not a multiple of \$2.60 but is a multiple of \$1.30).

| Percentage to be applied |                                       |            |
|--------------------------|---------------------------------------|------------|
| Item                     | Person's family situation             | Use this % |
| 1                        | Not a member of a couple              | 66.33%     |
| 2                        | Partnered                             | 50%        |
| 3                        | Member of an illness separated couple | 66.33%     |
| 4                        | Member of a respite care couple       | 66.33%     |
| 5                        | Partnered (partner in gaol)           | 66.33%     |

Note: For *clean energy pension rate*, see section 20B.

## **21 Point 1065-A1 (method statement, after step 2A)**

Insert:

Step 3. Work out the clean energy supplement (if any) using Module C below.

## **22 Point 1065-A1 (method statement, step 4)**

Omit "and 2A", substitute ", 2A and 3".

## **23 Section 1065 (after Module BA)**

Insert:

### **Module C—Clean energy supplement**

- 1065-C1 A clean energy supplement is to be added to the person's maximum basic rate if the person is residing in Australia and:
- (a) is in Australia; or
  - (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

Note: Section 918 may affect the addition of the clean energy supplement.

1065-C2 However, this Module does not apply if quarterly clean energy supplement is payable to the person.

- 1065-C3 The person's clean energy supplement is the amount worked out by:
- (a) applying the applicable percentage in the following table to the clean energy pension rate; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that rate is not a multiple of \$2.60 but is a multiple of \$1.30).

| Percentage to be applied |                                       |            |
|--------------------------|---------------------------------------|------------|
| Item                     | Person's family situation             | Use this % |
| 1                        | Not a member of a couple              | 66.33%     |
| 2                        | Partnered                             | 50%        |
| 3                        | Member of an illness separated couple | 66.33%     |
| 4                        | Member of a respite care couple       | 66.33%     |
| 5                        | Partnered (partner in gaol)           | 66.33%     |

Note: For *clean energy pension rate*, see section 20B.

## 24 Point 1066-A1 (method statement, after step 1A)

Insert:

Step 2. Work out the clean energy supplement (if any) using Module C below.

## 25 Point 1066-A1 (method statement, step 4)

After "1A", insert "2".

## 26 Section 1066 (after Module BA)

Insert:

## Module C—Clean energy supplement

- 1066-C1 A clean energy supplement is to be added to the person's maximum basic rate if the person is residing in Australia and:
- (a) is in Australia; or

(b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

However, this Module does not apply if quarterly clean energy supplement is payable to the person.

Note: Section 918 may affect the addition of the clean energy supplement.

1066-C2 The person's clean energy supplement is the amount worked out by:

- (a) applying the applicable percentage in the following table to the clean energy pension rate; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that rate is not a multiple of \$2.60 but is a multiple of \$1.30).

| Percentage to be applied |                                       |            |
|--------------------------|---------------------------------------|------------|
| Item                     | Person's family situation             | Use this % |
| 1                        | Not a member of a couple              | 66.33%     |
| 2                        | Partnered                             | 50%        |
| 3                        | Member of an illness separated couple | 66.33%     |
| 4                        | Member of a respite care couple       | 66.33%     |
| 5                        | Partnered (partner in gaol)           | 66.33%     |

Note: For *clean energy pension rate*, see section 20B.

## 27 Point 1068-A1 (method statement, after step 1A)

Insert:

Step 1B. Work out the clean energy supplement (if any) using Module C below.

## 28 Section 1068 (after Module BA)

Insert:

### Module C—Clean energy supplement

1068-C1 A clean energy supplement is to be added to the person's (the **recipient's**) maximum basic rate if the recipient is residing in Australia and:

- (a) is in Australia; or

(b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

However, this Module does not apply if quarterly clean energy supplement is payable to the recipient.

Note: Section 918 may affect the addition of the clean energy supplement.

*Recipient has reached pension age*

1068-C2 If the recipient has reached pension age and is not covered by point 1068-B5, the recipient's clean energy supplement is  $\frac{1}{26}$  of the amount worked out by:

- (a) applying the applicable percentage in the following table to the clean energy pension rate; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that rate is not a multiple of \$2.60 but is a multiple of \$1.30).

| Percentage to be applied |                                       |            |
|--------------------------|---------------------------------------|------------|
| Item                     | Recipient's family situation          | Use this % |
| 1                        | Not a member of a couple              | 66.33%     |
| 2                        | Partnered                             | 50%        |
| 3                        | Member of an illness separated couple | 66.33%     |
| 4                        | Member of a respite care couple       | 66.33%     |
| 5                        | Partnered (partner in gaol)           | 66.33%     |

Note: For **clean energy pension rate**, see section 20B.

*Recipient has not reached pension age*

1068-C3 If the recipient has not reached pension age and is not covered by point 1068-B5, the recipient's clean energy supplement is the recipient's clean energy (under pension age) rate.

1068-C4 The recipient's **clean energy (under pension age) rate** is worked out by:

- (a) working out 1.7% of the maximum basic rate, worked out:
  - (i) for 20 March 2013; and
  - (ii) for a person whose circumstances on that day were the same as the recipient's current circumstances; and

- (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: This rate for those circumstances, and the rates for persons with different circumstances, are indexed 6 monthly in line with CPI increases (see sections 1191 to 1194).

*Recipient covered by point 1068-B5*

1068-C5 If the recipient is covered by point 1068-B5, the recipient's clean energy supplement is the rate worked out under Module BB of the Pension PP (Single) Rate Calculator as if the recipient were receiving parenting payment.

**29 Point 1068A-A1 (method statement, after step 1A)**

Insert:

|                                                                               |
|-------------------------------------------------------------------------------|
| Step 1B. Work out the clean energy supplement (if any) using Module BB below. |
|-------------------------------------------------------------------------------|

**30 Point 1068A-A1 (method statement, step 4)**

After "1A," insert "1B,".

**31 Section 1068A (after Module BA)**

Insert:

**Module BB—Clean energy supplement**

1068A-BB1 A clean energy supplement is to be added to the person's (the **recipient's**) maximum basic rate if the recipient is residing in Australia and:

- (a) is in Australia; or
- (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

However, this Module does not apply if quarterly clean energy supplement is payable to the recipient.

Note: Section 918 may affect the addition of the clean energy supplement.

*Recipient has reached pension age*

1068A-BB2 If the recipient has reached pension age, the recipient's clean energy supplement is the amount worked out by:

- (a) applying the applicable percentage in the following table to the clean energy pension rate; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that rate is not a multiple of \$2.60 but is a multiple of \$1.30).

| Percentage to be applied |                                       |            |
|--------------------------|---------------------------------------|------------|
| Item                     | Recipient's family situation          | Use this % |
| 1                        | Not a member of a couple              | 66.33%     |
| 2                        | Partnered                             | 50%        |
| 3                        | Member of an illness separated couple | 66.33%     |
| 4                        | Member of a respite care couple       | 66.33%     |
| 5                        | Partnered (partner in gaol)           | 66.33%     |

Note: For *clean energy pension rate*, see section 20B.

*Recipient has not reached pension age*

1068A-BB3 If the recipient has not reached pension age, the recipient's clean energy supplement is the recipient's clean energy (under pension age) rate.

1068A-BB4 The recipient's *clean energy (under pension age) rate* is worked out by:

- (a) working out 1.7% of the total of the maximum basic rate, and the pension supplement basic amount, worked out:
  - (i) for 20 March 2013; and
  - (ii) for a person whose circumstances on that day were the same as the recipient's current circumstances; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30).

Note: This rate for those circumstances, and the rates for persons with different circumstances, are indexed 6 monthly in line with CPI increases (see sections 1191 to 1194).

**32 Point 1068B-A2 (method statement, after step 2A)**

---

Insert:

Step 2B. Work out the clean energy supplement (if any) using Module DB below.

### **33 Point 1068B-A3 (method statement, after step 2A)**

Insert:

Step 2B. Work out the clean energy supplement (if any) using Module DB below.

### **34 Section 1068B (after Module DA)**

Insert:

#### **Module DB—Clean energy supplement**

1068B-DB1 A clean energy supplement is to be added to the person's (the **recipient's**) maximum basic rate if the recipient is residing in Australia and:

- (a) is in Australia; or
- (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

However, this Module does not apply if quarterly clean energy supplement is payable to the recipient.

Note: Section 918 may affect the addition of the clean energy supplement.

*Recipient has reached pension age*

1068B-DB2 If the recipient has reached pension age, the recipient's clean energy supplement is  $\frac{1}{26}$  of the amount worked out by:

- (a) applying the applicable percentage in the following table to the clean energy pension rate; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that rate is not a multiple of \$2.60 but is a multiple of \$1.30).

---

| <b>Percentage to be applied</b> |                                       |                   |
|---------------------------------|---------------------------------------|-------------------|
| <b>Item</b>                     | <b>Recipient's family situation</b>   | <b>Use this %</b> |
| 1                               | Not a member of a couple              | 66.33%            |
| 2                               | Partnered                             | 50%               |
| 3                               | Member of an illness separated couple | 66.33%            |
| 4                               | Member of a respite care couple       | 66.33%            |
| 5                               | Partnered (partner in gaol)           | 66.33%            |

---

Note: For *clean energy pension rate*, see section 20B.

*Recipient has not reached pension age*

1068B-DB3 If the recipient has not reached pension age, the recipient's clean energy supplement is the recipient's clean energy (under pension age) rate.

1068B-DB4 The recipient's *clean energy (under pension age) rate* is worked out by:

- (a) working out 1.7% of the maximum basic rate, worked out:
  - (i) for 20 March 2013; and
  - (ii) for a person whose circumstances on that day were the same as the recipient's current circumstances; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: This rate for those circumstances, and the rates for persons with different circumstances, are indexed 6 monthly in line with CPI increases (see sections 1191 to 1194).

### **35 After subparagraph 146(4)(a)(i) of Schedule 1A**

Insert:

- (ia) the person's clean energy supplement (if any) (see subclause 149(5)); and

### **36 At the end of clause 149 of Schedule 1A**

Add:

*Clean energy supplement*

- (5) If subclause 147(1) or (2) is relevant to the person, the social security law applies in relation to the person's pension as if:

- (a) the clean energy supplement Module of the relevant Pension Rate Calculator were the same as Module C of Pension Rate Calculator A; and
- (b) the person's clean energy supplement (if any) resulting from that Module were used to work out the rate of the person's pension.

Note 1: This clean energy supplement is included in the total worked out under paragraph 146(4)(a) (see subparagraph 146(4)(a)(ia)).

Note 2: This subclause causes Division 2 of Part 2.18A (Quarterly clean energy supplement) of this Act to apply. If quarterly clean energy supplement is payable, then no clean energy supplement will be available to be included in the total worked out under paragraph 146(4)(a) (see point 1064-C1 of this Act).

Note 3: Other effects of this subclause include:

- (a) the possibility of the minimum amount of fortnightly instalments of the pension being affected under section 43 of the Administration Act; and
- (b) that section 1210 will affect the operation of reductions of the maximum payment rate because of the income test and assets test.

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

### **37 Subsection 48B(3)**

Repeal the subsection, substitute:

- (3) The amount of the instalment is worked out by:
  - (a) working out the amount of the person's seniors supplement for each day during the test period on which the person was qualified for seniors supplement; and
  - (b) adding up the amounts resulting from paragraph (a).

## **Division 2—Supplement payable from 1 January 2014**

## ***Social Security Act 1991***

### **38 Point 1066A-A1 (method statement, after step 1)**

Insert:

Step 1A. Work out the clean energy supplement (if any) using Module BA below.

### **39 Point 1066A-A1 (method statement, step 5)**

After “1, ”, insert “1A,”.

### **40 Section 1066A (after Module B)**

Insert:

#### **Module BA—Clean energy supplement**

1066A-BA1 A clean energy supplement is to be added to the person’s maximum basic rate if the person is residing in Australia and:

- (a) is in Australia; or
- (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

However, this Module does not apply if quarterly clean energy supplement is payable to the person.

Note: Section 918 may affect the addition of the clean energy supplement.

1066A-BA2 The person’s (the **recipient’s**) clean energy supplement is the recipient’s clean energy (under pension age) rate.

1066A-BA3 For the purposes of point 1066A-BA2, the recipient’s **clean energy (under pension age) rate** is worked out by:

- (a) working out 1.7% of the total of the maximum basic rate, and the youth disability supplement, worked out:
  - (i) for 1 January 2014; and
  - (ii) for a person whose circumstances on that day were the same as the recipient’s current circumstances; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30).

Note: This rate for those circumstances, and the rates for persons with different circumstances, are indexed 12 monthly in line with CPI increases (see sections 1191 to 1194).

### **41 Point 1066B-A1 (method statement, after step 2)**

Insert:

Step 2A. Work out the clean energy supplement (if any) using Module BA below.

#### 42 Point 1066B-A1 (method statement, step 5)

After “2,” insert “2A,”.

#### 43 Section 1066B (after Module B)

Insert:

##### **Module BA—Clean energy supplement**

1066B-BA1 A clean energy supplement is to be added to the person’s maximum basic rate if the person is residing in Australia and:

- (a) is in Australia; or
- (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

However, this Module does not apply if quarterly clean energy supplement is payable to the person.

Note: Section 918 may affect the addition of the clean energy supplement.

1066B-BA2 The person’s (the **recipient’s**) clean energy supplement is the recipient’s clean energy (under pension age) rate.

1066B-BA3 For the purposes of point 1066B-BA2, the recipient’s **clean energy (under pension age) rate** is worked out by:

- (a) working out 1.7% of the total of the maximum basic rate, and the youth disability supplement, worked out:
  - (i) for 1 January 2014; and
  - (ii) for a person whose circumstances on that day were the same as the recipient’s current circumstances; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30).

Note: This rate for those circumstances, and the rates for persons with different circumstances, are indexed 12 monthly in line with CPI increases (see sections 1191 to 1194).

#### 44 Point 1067G-A1 (method statement, after step 1)

Insert:

Step 1A. Work out the clean energy supplement (if any) using Module BA below.

## 45 Section 1067G (after Module B)

Insert:

### Module BA—Clean energy supplement

1067G-BA1 A clean energy supplement is to be added to the person's (the **recipient's**) maximum basic rate if the recipient is residing in Australia and:

- (a) is in Australia; or
- (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

However, this Module does not apply if quarterly clean energy supplement is payable to the recipient.

Note: Section 918 may affect the addition of the clean energy supplement.

*General case—recipient not covered by point 1067G-B3A and youth disability supplement not added*

1067G-BA2 The recipient's clean energy supplement is the recipient's clean energy (under pension age) rate if:

- (a) the recipient is not covered by point 1067G-B3A; and
- (b) an amount of youth disability supplement is not added under Module D to the recipient's rate.

1067G-BA3 For the purposes of point 1067G-BA2, the recipient's **clean energy (under pension age) rate** is worked out by:

- (a) working out 1.7% of the maximum basic rate, worked out:
  - (i) for 1 January 2014; and
  - (ii) for a person whose circumstances on that day were the same as the recipient's current circumstances; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: This rate for those circumstances, and the rates for persons with different circumstances, are indexed 12 monthly in line with CPI increases (see sections 1191 to 1194).

*Recipient covered by point 1067G-B3A*

1067G-BA4 If the recipient is covered by point 1067G-B3A, the recipient's clean energy supplement is the rate worked out under Module BB

of the Pension PP (Single) Rate Calculator as if the recipient were receiving parenting payment.

*Youth disability supplement added to the recipient's rate*

1067G-BA5 If an amount of youth disability supplement is added under Module D to the recipient's rate, the recipient's clean energy supplement is the recipient's clean energy (youth disability) rate.

1067G-BA6 The recipient's ***clean energy (youth disability) rate*** is worked out by:

- (a) working out 1.7% of the total of the maximum basic rate, and the youth disability supplement, worked out:
  - (i) for 1 January 2014; and
  - (ii) for a person whose circumstances on that day were the same as the recipient's current circumstances; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: This rate for those circumstances, and the rates for persons with different circumstances, are indexed 12 monthly in line with CPI increases (see sections 1191 to 1194).

#### **46 Point 1067L-A1 (method statement, after step 1A)**

Insert:

Step 1B. Work out the clean energy supplement (if any) using Module BB below.

#### **47 Point 1067L-A1 (method statement, step 3)**

After "1A," insert "1B,".

#### **48 Section 1067L (after Module BA)**

Insert:

### **Module BB—Clean energy supplement**

1067L-BB1 A clean energy supplement is to be added to the person's (the ***recipient's***) maximum basic rate if the recipient is residing in Australia and:

- (a) is in Australia; or
- (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

However, this Module does not apply if quarterly clean energy supplement is payable to the recipient.

Note: Section 918 may affect the addition of the clean energy supplement.

*Recipient has reached pension age*

- 1067L-BB2 If the recipient has reached pension age, the recipient's clean energy supplement is  $\frac{1}{26}$  of the amount worked out by:
- (a) applying the applicable percentage in the following table to the clean energy pension rate; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that rate is not a multiple of \$2.60 but is a multiple of \$1.30).

| Percentage to be applied |                                       |            |
|--------------------------|---------------------------------------|------------|
| Item                     | Recipient's family situation          | Use this % |
| 1                        | Not a member of a couple              | 66.33%     |
| 2                        | Partnered                             | 50%        |
| 3                        | Member of an illness separated couple | 66.33%     |
| 4                        | Member of a respite care couple       | 66.33%     |
| 5                        | Partnered (partner in gaol)           | 66.33%     |

Note: For **clean energy pension rate**, see section 20B.

*Recipient has not reached pension age*

- 1067L-BB3 If the recipient has not reached pension age, the recipient's clean energy supplement is the recipient's clean energy (under pension age) rate.

- 1067L-BB4 The recipient's **clean energy (under pension age) rate** is worked out by:

- (a) working out 1.7% of the maximum basic rate, worked out:
  - (i) for 1 January 2014; and
  - (ii) for a person whose circumstances on that day were the same as the recipient's current circumstances; and

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- (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: This rate for those circumstances, and the rates for persons with different circumstances, are indexed 12 monthly in line with CPI increases (see sections 1191 to 1194).

## **Part 3—Quarterly clean energy supplement**

### **Division 1—Main amendments**

#### ***Social Security Act 1991***

#### **49 After Division 1 of Part 2.18A**

Insert:

### **Division 2—Quarterly clean energy supplement**

#### **915 When quarterly clean energy supplement is payable**

Quarterly clean energy supplement is payable to a person for each day for which an election by the person under subsection 915A(1) or 1061VA(1) is in force in relation to a social security payment the person is receiving.

Note: Section 918 may affect the person's qualification for quarterly clean energy supplement.

#### **915A Electing to receive quarterly clean energy supplement**

(1) If:

- (a) Part 2.25C (about quarterly pension supplement) does not apply to a person in relation to a social security payment the person is receiving; and
- (b) clean energy supplement is used to work out the rate of that social security payment;

the person may, in a manner or way approved by the Secretary, make an election to receive the person's clean energy supplement under this Division as a separate social security payment.

Note: The person could make an election under subsection 1061VA(1) if Part 2.25C applies to the person in relation to the social security payment. That election would cause quarterly clean energy supplement to be payable (see section 915).

(2) An election comes into force as soon as practicable after it is made.

- (3) An election ceases to be in force if the person ceases to receive a social security payment (a **main payment**) calculated using a Rate Calculator that has a clean energy supplement Module.
- (4) The person may, in a manner or way approved by the Secretary, revoke an election. A revocation takes effect as soon as practicable after it happens.

### **915B Rate of quarterly clean energy supplement**

- (1) The person's daily rate of quarterly clean energy supplement, for a particular day, is:
  - (a) if the Rate Calculator for the main payment received on that day produces an annual rate— $\frac{1}{364}$  of the amount that, apart from this Division, would be the person's clean energy supplement for that day; or
  - (b) if the Rate Calculator for the main payment received on that day produces a fortnightly rate— $\frac{1}{14}$  of the amount that, apart from this Division, would be the person's clean energy supplement for that day.
- (2) This section has effect subject to subsection 1210(3A).

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

### **50 After section 48C**

Insert:

### **48D Payment of quarterly clean energy supplement**

- (1) Quarterly clean energy supplement is to be paid by instalments.
- (2) An instalment of quarterly clean energy supplement is to be paid to a person as soon as is reasonably practicable on or after the first supplement test day (the **current test day**) that follows a day for which quarterly clean energy supplement is payable to the person.

Note: For when quarterly clean energy supplement is payable to the person, see section 915 of the 1991 Act.
- (3) The amount of the instalment is worked out by:
  - (a) working out the amount of the person's quarterly clean energy supplement for each day during the test period for

which quarterly clean energy supplement is payable to the person; and

(b) adding up the amounts resulting from paragraph (a).

(4) In this section:

***supplement test day*** means:

- (a) 20 March; or
- (b) 20 June; or
- (c) 20 September; or
- (d) 20 December.

***test period*** means the period:

- (a) starting on the most recent supplement test day before the current test day; and
- (b) ending on the day immediately before the current test day.

## **Division 2—Other amendments**

### ***Social Security Act 1991***

#### **51 Subsection 23(1) (after paragraph (a) of the definition of *clean energy bonus*)**

Insert:

- (b) a payment known as a clean energy supplement or a quarterly clean energy supplement;

#### **52 Subsection 23(1) (after paragraph (a) of the definition of *clean energy payment*)**

Insert:

- (b) quarterly clean energy supplement; or

#### **53 Subsection 23(1)**

Insert:

***quarterly clean energy supplement*** means the separate social security payment described in Division 2 of Part 2.18A.

#### **54 Subsections 44(2), 98(2), 148(2), 199(2), 316(2) and 364(2)**

Omit “subsection 1061VA(1)”, substitute “subsection 915A(1) (about quarterly clean energy supplement) or 1061VA(1) (about quarterly pension supplement)”.

**55 Paragraphs 408CA(2)(a) and 500I(2)(a)**

Omit “subsection 1061VA(1)”, substitute “subsection 915A(1) (about quarterly clean energy supplement) or 1061VA(1) (about quarterly pension supplement)”.

**56 Subsection 547(2)**

Repeal the subsection, substitute:

- (2) Subsection (1) does not apply to a person if the person’s rate would be nil merely because:
- (a) an election by the person under subsection 915A(1) (about quarterly clean energy supplement) is in force; or
  - (b) an advance pharmaceutical allowance has been paid to the person under the social security law.

**57 Paragraphs 572(2)(a), 608(2)(a), 677(2)(a), 732(2)(a) and 771HC(2)(a)**

Omit “subsection 1061VA(1)”, substitute “subsection 915A(1) (about quarterly clean energy supplement) or 1061VA(1) (about quarterly pension supplement)”.

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

**58 After section 12DA**

Insert:

**12DB Quarterly clean energy supplement**

A claim is not required for quarterly clean energy supplement.

**59 Subsection 55(1)**

After “48C”, insert “, 48D”.

## Part 4—Indexation

### *Social Security Act 1991*

#### **60 Section 1190 (after table item 1AC)**

Insert:

|     |                                         |             |                                                         |
|-----|-----------------------------------------|-------------|---------------------------------------------------------|
| 1AD | Clean energy pension rate               | CEP rate    | Section 20B                                             |
| 1AE | Clean energy (under pension age) rate 1 | CEUPA rate1 | Each rate worked out under point 1068-C4 or 1068B-DB4   |
| 1AF | Clean energy (under pension age) rate 2 | CEUPA rate2 | Each rate worked out under point 1068A-BB4              |
| 1AG | Clean energy (under pension age) rate 3 | CEUPA rate3 | Each rate worked out under point 1067G-BA3 or 1067L-BB4 |
| 1AH | Clean energy (under pension age) rate 4 | CEUPA rate4 | Each rate worked out under point 1066A-BA3 or 1066B-BA3 |
| 1AI | Clean energy (youth disability) rate    | CEYD rate   | Each rate worked out under point 1067G-BA6              |

#### **61 Section 1190 (note)**

Omit “Note”, substitute “Note 1”.

#### **62 At the end of section 1190**

Add:

Note 2: Indexing the CEP rate, CEUPA rate1, CEUPA rate2, CEUPA rate3, CEUPA rate4 and CEYD rate will result in the indexation of the rate of quarterly clean energy supplement (see Division 2 of Part 2.18A). Indexing the CEP rate will result in the indexation of the rate of seniors supplement (see section 1061UB).

#### **63 Subsection 1191(1) (after table item 1C)**

Insert:

|    |          |              |              |              |        |
|----|----------|--------------|--------------|--------------|--------|
| 1D | CEP rate | (a) 20 March | (a) December | highest June | \$5.20 |
|----|----------|--------------|--------------|--------------|--------|

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|    |             | (b) 20 September                 | (b) June                 | or<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than June<br>quarter<br>2011)                 |        |
|----|-------------|----------------------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------|--------|
| 1E | CEUPA rate1 | (a) 20 March<br>(b) 20 September | (a) December<br>(b) June | highest June<br>or<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than June<br>quarter<br>2011) | \$0.10 |
| 1F | CEUPA rate2 | (a) 20 March<br>(b) 20 September | (a) December<br>(b) June | highest June<br>or<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than June<br>quarter<br>2011) | \$2.60 |
| 1G | CEUPA rate3 | 1 January                        | June                     | highest June<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than June<br>quarter<br>2011)                   | \$0.10 |
| 1H | CEUPA rate4 | 1 January                        | June                     | highest June<br>quarter                                                                                                          | \$2.60 |

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|    |           |           |      |                                                                                                                |        |
|----|-----------|-----------|------|----------------------------------------------------------------------------------------------------------------|--------|
|    |           |           |      | before<br>reference<br>quarter (but<br>not earlier<br>than June<br>quarter<br>2011)                            |        |
| 1J | CEYD rate | 1 January | June | highest June<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than June<br>quarter<br>2011) | \$0.10 |

#### **64 At the end of subsection 1192(2)**

Add:

Note 3: On and after 20 March 2013, the indexation of certain amounts may be affected by Division 8.

#### **65 After subsection 1192(3C)**

Insert:

(3D) The first indexation of amounts under item 1D, 1E or 1F of the CPI Indexation Table in subsection 1191(1) is to take place on 20 September 2013.

(3E) The first indexation of amounts under item 1G, 1H or 1J of the CPI Indexation Table in subsection 1191(1) is to take place on 1 January 2015.

#### **66 Subsection 1196(2) (note)**

Omit “Note”, substitute “Note 1”.

#### **67 At the end of subsection 1196(2)**

Add:

Note 2: On and after 20 March 2013, the indexation of certain amounts may be affected by Division 8.

#### **68 At the end of Part 3.16**

Add:

## **Division 8—Adjustments relating to clean energy household assistance**

### **1206GF Special rules for indexation of certain rates on or after 20 March 2013**

- (1) The indexation factor for an amount set out in subsection (2) on an indexation day on or after 20 March 2013 is to be reduced by the brought forward CPI indexation amount, but not below 1.

**Note:** Once the brought forward CPI indexation amount becomes 0, there will be no further reduction of the factor.

**Example:** Assume that the indexation factor worked out under section 1193 on 20 March 2013 is 1.003. The brought forward CPI indexation amount in relation to 20 March 2013 is 0.007 (as there has been no previous reduction). That indexation factor is reduced to 1 on 20 March 2013.

Further assume that on 20 September 2013 the indexation factor is 1.010. The brought forward CPI indexation amount in relation to 20 September 2013 is 0.004. That indexation factor is reduced to 1.006 on 20 September 2013.

The brought forward CPI indexation amount in relation to later indexation days is now 0 so there is no further reduction of the indexation factor.

- (2) For the purposes of subsection (1), the amounts are as follows:
- (a) pension MBR;
  - (b) PS rate;
  - (c) PS minimum rate;
  - (d) PS basic rate;
  - (e) benefit MBR (ordinary);
  - (f) pension supplement component for pension bonus;
  - (g) maximum transitional pension rates.
- (3) The living cost indexation factor worked out under section 1197:
- (a) for pension MBR, except to the extent that pension MBR covers the maximum basic rate for pension PP (single); and
  - (b) for each indexation day on or after 20 March 2013;
- is to be reduced by the brought forward PBLCI indexation amount, but not below 1.

Note: Once the brought forward PBLCI indexation amount becomes 0, there will be no further reduction of the factor.

Example: Assume that the living cost indexation factor worked out under section 1197 on 20 March 2013 is 1.003. The brought forward PBLCI indexation amount in relation to 20 March 2013 is 0.007 (as there has been no previous reduction). That indexation factor is reduced to 1 on 20 March 2013.

Further assume that on 20 September 2013 the living cost indexation factor is 1.010. The brought forward PBLCI indexation amount in relation to 20 September 2013 is 0.004. That indexation factor is reduced to 1.006 on 20 September 2013.

The brought forward PBLCI indexation amount in relation to later indexation days is now 0 so there is no further reduction of the living cost indexation factor.

- (4) Neither paragraph (2)(a), nor subsection (3), affect:
- (a) the rate of a payment worked out under clause 146 of Schedule 1A; or
  - (b) an amount worked out in relation to a pension because of clause 149 of that Schedule.

- (5) In this section:

**brought forward CPI indexation amount**, in relation to a day, means:

- (a) if subsection (3) applies for the amount, and the brought forward PBLCI indexation amount in relation to the day is 0—0; and
- (b) otherwise—0.007 less any reduction made under subsection (1) for a previous day.

**brought forward PBLCI indexation amount**, in relation to a day, means:

- (a) if the brought forward CPI indexation amount in relation to the day is 0—0; and
- (b) otherwise—0.007 less any reduction made under subsection (3) for a previous day.

## **1206GG Special rules for indexation of certain rates on or after 1 January 2014**

- (1) The indexation factor for AP MBR or YA MBR on an indexation day on or after 1 January 2014 is to be reduced by the brought forward indexation amount, but not below 1.

(2) In this section:

***brought forward indexation amount***, in relation to a day, means 0.007 less any reduction made under this section for a previous day.

Note: Once the brought forward indexation amount becomes 0, there will be no further reduction of the factor.

Example: Assume that the indexation factor worked out under section 1193 on 1 January 2014 is 1.003. The brought forward indexation amount in relation to 1 January 2014 is 0.007 (as there has been no previous reduction). That indexation factor is reduced to 1 on 1 January 2014.

Further assume that on 1 January 2015 the indexation factor is 1.010. The brought forward indexation amount in relation to 1 January 2015 is 0.004. That indexation factor is reduced to 1.006 on 1 January 2015.

The brought forward indexation amount in relation to later indexation days is now 0 so there is no further reduction of the indexation factor.

## Part 5—Other amendments

### *Social Security Act 1991*

#### 69 Subsection 17(8)

Repeal the subsection, substitute:

- (8) For the purposes of the definition of **income cut-out amount** in subsection (1), the formula is as follows:

$$2 \times \left( \begin{array}{c} \text{Maximum} \\ \text{basic rate} \end{array} + \begin{array}{c} \text{Pension} \\ \text{supplement} \\ \text{component} \end{array} + \begin{array}{c} \text{Clean energy} \\ \text{supplement} \\ \text{component} \end{array} \right) + \begin{array}{c} \text{Ordinary} \\ \text{free area} \\ \text{limit} \end{array}$$

52

where:

**clean energy supplement component** means the clean energy supplement worked out under point 1064-C3 for a person who is not a member of a couple:

- (a) whether or not the person for whom the income cut-out amount is being worked out is a member of a couple; and
- (b) whether or not that Module applies to the person for whom the income cut-out amount is being worked out.

**maximum basic rate** means the amount specified in column 3 of item 1 of the table in point 1064-B1.

**ordinary free area limit** means the amount specified in column 3 of item 1 in Table E-1 in point 1064-E4.

**pension supplement component** means the pension supplement amount worked out under point 1064-BA3 for a person who is not a member of a couple:

- (a) whether or not the person for whom the income cut-out amount is being worked out is a member of a couple; and
- (b) whether or not that point applies to the person for whom the income cut-out amount is being worked out.

**70 Subsection 1061ECA(2) (method statement, at the end of step 2)**

Add:

|                                                          |
|----------------------------------------------------------|
| ; and (c) the person's clean energy supplement (if any). |
|----------------------------------------------------------|

**71 Point 1067L-A1 (method statement, step 5) (note)**

Omit "(maximum basic rate first, then pharmaceutical allowance)".

**72 Point 1068-A1 (note 1)**

Omit "(maximum basic rate first, then rent assistance)".

**73 Point 1068A-A1 (note 1)**

Omit "(maximum basic rate first, then rent assistance, then pharmaceutical allowance)".

**74 Section 1190 (table item 49C)**

Omit "[Pension Rate Calculator A—point 1064-C8—Table—column 3—item 6] [Pension Rate Calculator B—point 1065-C8—Table—column 3—item 6]".

Note: This item omits references to table items that have been repealed.

**75 Paragraph 1210(1)(a)**

Omit "either", substitute "one or more".

**76 After subparagraph 1210(1)(a)(i)**

Insert:

(ia) the clean energy supplement Module (the *CE Module*);

**77 Subsection 1210(1) (after table item 4)**

Insert:

4A the amount of any increase under the CE Module

**78 Subsection 1210(1) (note)**

Repeal the note, substitute:

Note 1: For table item 4A, the amount will be nil if quarterly clean energy supplement is payable to the person (for example, see point 1064-C2).

Note 2: Table item 5 will not apply if an election by the person under subsection 1061VA(1) is in force, as the rate would have already been reduced to nil.

## 79 After subsection 1210(3)

Insert:

(3A) If:

- (a) quarterly clean energy supplement is payable to a person; and
- (b) if quarterly clean energy supplement were not payable to the person:
  - (i) the rate (the **main rate**) of the person's social security payment would be increased under the CE Module of the Rate Calculator; and
  - (ii) the main rate would be reduced as described in paragraph (1)(b);

the person's quarterly clean energy supplement is reduced to the same extent (if any) that the component of the main rate that would correspond to the person's clean energy supplement would be reduced under subsection (1) were quarterly clean energy supplement not payable to the person.

Note: The reduction may be disregarded unless the person's quarterly clean energy supplement is reduced to nil (see subsection 43(5B) of the Administration Act).

## 80 Subsection 1210(4)

Repeal the subsection, substitute:

- (4) The following table sets out details of the Modules relevant to subsection (1):

| <b>Relevant Modules</b> |                                         |                  |                  |                  |                           |                           |
|-------------------------|-----------------------------------------|------------------|------------------|------------------|---------------------------|---------------------------|
|                         | <b>Pension Rate Calculator</b>          | <b>PS Module</b> | <b>PA Module</b> | <b>CE Module</b> | <b>Income test Module</b> | <b>Assets test Module</b> |
| 1                       | Pension Rate Calculator A, section 1064 | BA               | none             | C                | E                         | G                         |
| 2                       | Pension Rate Calculator C, section 1066 | BA               | none             | C                | E                         | G                         |

**Schedule 1** Clean energy payments under the social security law  
**Part 5** Other amendments

| <b>Relevant Modules</b> |                                                       |                  |                  |                  |                           |                           |
|-------------------------|-------------------------------------------------------|------------------|------------------|------------------|---------------------------|---------------------------|
|                         | <b>Pension Rate Calculator</b>                        | <b>PS Module</b> | <b>PA Module</b> | <b>CE Module</b> | <b>Income test Module</b> | <b>Assets test Module</b> |
| 3                       | Pension Rate Calculator D, section 1066A              | none             | D                | BA               | F                         | H                         |
| 4                       | Youth Allowance Rate Calculator, section 1067G        | none             | C                | BA               | H                         | none                      |
| 5                       | Austudy Payment Rate Calculator, section 1067L        | BA               | C                | BB               | D                         | none                      |
| 6                       | Benefit Rate Calculator B, section 1068               | BA               | D                | C                | G                         | none                      |
| 7                       | Pension PP (Single) Rate Calculator, section 1068A    | BA               | C                | BB               | E                         | none                      |
| 8                       | Benefit PP (partnered) Rate Calculator, section 1068B | DA               | E                | DB               | D                         | none                      |

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

**81 Paragraph 43(4)(a)**

After “social security payment”, insert “(other than a social security pension)”.

**82 Subsection 43(5)**

Omit “In this section”, substitute “In subsection (4)”.

**83 After subsection 43(5)**

Insert:

(5AA) If:

- (a) either or both of the following amounts (the **added amounts**) are added to a person's maximum basic rate for a particular day in working out the amount of an instalment of a social security pension:
    - (i) a pension supplement amount;
    - (ii) clean energy supplement; and
  - (b) if one of the added amounts is a pension supplement amount used by the Rate Calculator to produce an annual rate—the pension supplement amount is more than the person's pension supplement basic amount; and
  - (c) there is no election by the person under subsection 915A(1) or 1061VA(1) of the 1991 Act in force on that day; and
  - (d) apart from this subsection, the portion of the instalment corresponding to that day would be less than the person's minimum daily rate, but more than a nil amount;
- the amount of that portion of the instalment is to be increased to the person's minimum daily rate.
- (5AB) For the purposes of subsection (5AA), a person's **minimum daily rate** is  $\frac{1}{364}$  of the total of:
- (a) the person's minimum pension supplement amount, if a pension supplement amount is an added amount; and
  - (b) the person's clean energy supplement, if clean energy supplement is an added amount.

#### **84 After subsection 43(5A)**

Insert:

*No reduction of portion of quarterly clean energy supplement relating to a day*

- (5B) If:
- (a) quarterly clean energy supplement is payable to a person for a particular day; and
  - (b) the social security payment to which the quarterly clean energy supplement relates is a social security pension; and
  - (c) apart from this subsection, the portion of the instalment of the person's quarterly clean energy supplement that corresponds to that day would be reduced under subsection 1210(3A) of the 1991 Act, but not reduced to a nil amount;

the amount of that portion of the instalment is not to be reduced under subsection 1210(3A) of the 1991 Act.

## **Schedule 2—Clean energy payments under the family assistance law**

### **Part 1—Clean energy advances for individuals**

#### ***A New Tax System (Family Assistance) Act 1999***

##### **1 Subsection 3(1)**

Insert:

***absent overseas FTB child*** has the meaning given by section 63.

##### **2 Subsection 3(1)**

Insert:

***clean energy advance*** means an advance to which an individual is entitled under Division 1 or 3 of Part 8.

##### **3 After Part 7**

Insert:

## **Part 8—Clean energy advances**

### **Division 1—Entitlement to clean energy advances**

#### **103 Entitlement in normal circumstances**

*Entitlement for days 14 May 2012 to 30 June 2012*

- (1) The Secretary may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine that an individual is entitled to a clean energy advance if:
  - (a) in relation to that day:
    - (i) a determination under section 16 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; or
    - (ii) a determination under section 18 of the Family Assistance Administration Act is in force in respect of

the individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 32 of this Act; and

- (b) the individual is in Australia on that day; and
- (c) the individual's rate of family tax benefit on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1, is greater than nil; and
- (d) that rate was worked out taking into account at least one FTB child of the individual who is in Australia on that day; and
- (e) on that day, neither section 32AA nor 32AD of the Family Assistance Administration Act prevents the Secretary from making a payment of family tax benefit to the individual, or the individual's partner, worked out on the basis referred to in subsection 20(1), (2A) or (3) of that Act.

Note: The amount of the advance is worked out under sections 105 and 106.

*Entitlement for days 1 July 2012 to 30 June 2013*

- (2) The Secretary may determine that an individual is entitled to a clean energy advance if:
  - (a) in relation to any day during the period starting on 1 July 2012 and ending on 30 June 2013:
    - (i) a determination under section 16 or 17 of the Family Assistance Administration Act is in force in respect of the individual as a claimant; or
    - (ii) a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 32 of this Act; and
  - (b) the individual is not an absent overseas recipient on that day (disregarding section 63A); and
  - (c) the individual's rate of family tax benefit on that day, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1, is greater than nil; and
  - (d) that rate was worked out taking into account at least one FTB child of the individual who is not an absent overseas FTB child on that day (disregarding section 63A).

Note: The amount of the advance is worked out under sections 105 and 106.

- (3) However, the Secretary must not make a determination under subsection (2) on a day before 1 July 2013 if:
- (a) on that day:
    - (i) the individual is outside Australia and the individual left Australia before 1 April 2013; and
    - (ii) the individual is not an absent overseas recipient (disregarding section 63A); or
  - (b) on that day:
    - (i) each FTB child of the individual is outside Australia and each FTB child of the individual left Australia before 1 April 2013; and
    - (ii) each FTB child of the individual is not an absent overseas FTB child (disregarding section 63A).

*Operation of section 32*

- (4) For the purposes of paragraphs (1)(c) and (d) and (2)(c) and (d), disregard section 32.

*One clean energy advance only*

- (5) An individual is not entitled to more than one clean energy advance under this section.

#### **104 Entitlement where death occurs**

- (1) The Secretary may determine that an individual is entitled to a clean energy advance if:
- (a) in relation to any day during the period starting on 1 July 2012 and ending on 30 June 2013, a determination under section 18 of the Family Assistance Administration Act is in force in respect of the individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 33 of this Act because of the death of another individual; and
  - (b) either:
    - (i) the Secretary has determined that the other individual was entitled to an amount of a clean energy advance, but the other individual died before the amount was paid; or

- (ii) the Secretary is satisfied that the other individual would have become entitled to an amount of a clean energy advance if the other individual had not died.

Note: The amount of the advance is worked out under section 107.

- (2) If the Secretary makes a determination under subsection (1), no-one else is, or can become, entitled to a clean energy advance because of the death of the other individual.

## **Division 2—Amount of clean energy advance**

### **105 Amount of advance where entitlement under section 103**

- (1) On the day (the **decision day**) that the Secretary determines that an individual is entitled to a clean energy advance under section 103, the Secretary must work out the amount of the advance.

*Secretary determines entitlement before 1 July 2012*

- (2) If the decision day is before 1 July 2012, the amount of the individual's clean energy advance is, subject to subsections (5) and (6), worked out as follows:

*Method statement*

- Step 1. Work out the individual's clean energy daily rate (see section 106) on the decision day (assuming that any rate or amount that is to be indexed on 1 July 2012 had already been indexed on the decision day).
- Step 2. Multiply the amount at step 1 by 365: the result is the amount of the individual's clean energy advance.

*Secretary determines entitlement in the 2012-13 income year*

- (3) If the decision day is on or after 1 July 2012 and before 1 July 2013, the amount of the individual's clean energy advance is, subject to subsections (5) and (6), worked out as follows:

*Method statement*

- Step 1. Work out the sum of the individual's clean energy daily rates (see section 106) for each day in the period beginning on 1 July 2012 and ending on the decision day.
- Step 2. Multiply the individual's clean energy daily rate on the decision day by the number of days in the 2012-13 income year that are after the decision day.
- Step 3. Work out the sum of the amounts at steps 1 and 2: the result is the amount of the individual's clean energy advance.

*Secretary determines entitlement on or after 1 July 2013*

- (4) If the decision day is on or after 1 July 2013, the amount of the individual's clean energy advance is, subject to subsections (5) and (6), the sum of the individual's clean energy daily rates (see section 106) for each day in the 2012-13 income year.

*Reduced amount if rate took account of a section 28 or 29 percentage determination*

- (5) If, in relation to any of the following days:
- (a) if the decision day is before 1 July 2012—the decision day;
  - (b) if the decision day is on or after 1 July 2012 and before 1 July 2013—a day in the period beginning on 1 July 2012 and ending on the decision day;
  - (c) if the decision day is on or after 1 July 2013—a day in the 2012-13 income year;
- a determination under section 28 or 29 of a particular percentage in relation to one or more FTB children of the individual is in effect, the clean energy daily rate for that day is that percentage of the clean energy daily rate that would otherwise apply.

*Legislative instrument*

- (6) If:
- (a) an individual is entitled to a clean energy advance under section 103 in relation to an FTB child; and
  - (b) before the decision day in relation to the individual, a former partner of the individual was entitled to a clean energy

advance under section 103 or 108 in relation to that FTB child; and

- (c) at the time the former partner became so entitled, the individual and the former partner were members of the same couple;

then:

- (d) subsections (2) to (5) do not apply in relation to working out the amount of the individual's clean energy advance; and

- (e) the amount of the individual's clean energy advance is worked out in accordance with an instrument made under subsection (7) (which may be nil).

- (7) The Minister may, by legislative instrument, specify a method for working out the amount of clean energy advances for the purposes of subsection (6).

## **106 Clean energy daily rate**

- (1) An individual's **clean energy daily rate** for a day is worked out as follows:

### *Method statement*

Step 1. If the individual's rate of family tax benefit on that day (disregarding reductions (if any) under clause 5 or 25A of Schedule 1) consisted of or included a Part A rate greater than nil:

- (a) if the Part A rate is worked out under clause 3 of Schedule 1 and the individual's income and maintenance tested rate exceeds the individual's base rate—work out the sum of the amounts at paragraphs (a) and (ca) of step 1 of the method statement in that clause; or
- (b) if the Part A rate is worked out under clause 3 of Schedule 1 and the individual's income and maintenance tested rate is less than or equal to the individual's base rate—work out the sum of the amounts at paragraphs (a) and (d) of step 1 of the method statement in clause 25 of that Schedule; or

- (c) if the Part A rate is worked out under clause 25 of Schedule 1 and the individual's Method 2 income and maintenance tested rate is less than or equal to the individual's provisional Part A rate—work out the sum of the amounts at paragraphs (a) and (d) of step 1 of the method statement in that clause; or
- (d) if the Part A rate is worked out under clause 25 of Schedule 1 and the individual's Method 2 income and maintenance tested rate exceeds the individual's provisional Part A rate—work out the sum of the amounts at paragraphs (a) and (ca) of step 1 of the method statement in clause 3 of that Schedule.

Step 2. If the individual's rate of family tax benefit on that day consisted of or included a Part B rate greater than nil, work out whichever of the following amounts is appropriate:

- (a) the sum of the amounts under paragraphs 29(1)(a) and (b) of Schedule 1;
- (b) the sum of the amounts at paragraphs (a) and (b) of step 1 of the method statement in subclause 29(2) of Schedule 1;
- (c) the sum of the amounts under paragraphs 29A(2)(a) and (b) of Schedule 1.

Step 3. Work out the sum of the amounts at steps 1 and 2.

Step 4. Multiply the amount at step 3 by 0.017.

Step 5. Divide the amount at step 4 by 365 (rounded to the nearest cent (rounding 0.5 cents upwards)); the result is the individual's **clean energy daily rate** for that day.

- (2) If steps 1 and 2 of the method statement in subsection (1) do not apply in relation to an individual on a day, the individual's **clean energy daily rate** for that day is nil.

- (3) An individual's **clean energy daily rate** for a day is nil if the individual is an absent overseas recipient on that day (disregarding section 63A).
- (4) The calculation under subsection (1) for a day is to be done disregarding any FTB child of the individual who is an absent overseas FTB child (disregarding section 63A) on that day.
- (5) The calculation under subsection (1) is to be done disregarding section 32.
- (6) If:
  - (a) the decision day (see subsection 105(1)) is before 1 July 2013; and
  - (b) on the decision day:
    - (i) an FTB child of the individual is outside Australia and the FTB child left Australia before 1 April 2013; and
    - (ii) that FTB child is not an absent overseas FTB child (disregarding section 63A);then the calculation under subsection (1) of this section on the decision day is to be done disregarding that FTB child.
- (7) If the child referred to in subsection (6) returns to Australia before 1 July 2013, then, for the purposes of section 108, there is taken to be a change in the individual's circumstances on the day of the child's return.
- (8) If the child referred to in subsection (6) does not return to Australia before 1 July 2013, then, for the purposes of section 108, there is taken to be a trigger day of 30 June 2013 in relation to the individual.

### **107 Amount of advance where entitlement under section 104**

If the Secretary makes a determination under subsection 104(1) that an individual is entitled to a clean energy advance, the amount of the advance is the amount referred to in subparagraph 104(1)(b)(i) or (ii) (as the case requires).

## **Division 3—Top-up payments of clean energy advance**

### **108 Top-up payments of clean energy advance**

#### *General case*

- (1) If:
- (a) the Secretary pays a clean energy advance (the **original payment**) to an individual in circumstances where the Secretary determined the individual is entitled to the advance under section 103 and where the amount of the advance is not worked out under subsection 105(6); and
  - (b) the decision day (see subsection 105(1)) is before 1 July 2013; and
  - (c) on a day (the **trigger day**) after the decision day and before 1 July 2013, the individual's circumstances change so that:
    - (i) if the individual has not previously become entitled to a payment under this section—the amount of the original payment is less than the amount of the clean energy advance that would have been paid to the individual if the decision day had been the trigger day; or
    - (ii) if the individual has previously become entitled to one or more payments under this section—the sum of those payments and the original payment is less than the amount of the clean energy advance that would have been paid to the individual if the decision day had been the trigger day;
- then the individual is entitled to a further payment of clean energy advance equal to the amount of the shortfall.

#### *Case involving former partner*

- (2) If:
- (a) the Secretary pays a clean energy advance (the **original payment**) to an individual in circumstances where the Secretary determined the individual is entitled to the advance under section 103 and where the amount of the advance is worked out under subsection 105(6); and
  - (b) the decision day (see subsection 105(1)) is before 1 July 2013; and

- (c) on a day after the decision day and before 1 July 2013, the individual's circumstances change; and
  - (d) the individual is entitled to a further payment of clean energy advance in accordance with an instrument made under subsection (3);
- then the amount of the individual's further clean energy advance is worked out in accordance with an instrument made under subsection (3) (which may be nil).
- (3) The Minister may, by legislative instrument:
- (a) specify the circumstances in which individuals are entitled to further payments of clean energy advances for the purposes of subsection (2); and
  - (b) specify a method for working out the amount of further clean energy advances for the purposes of subsection (2).

*Interpretation*

- (4) For the purposes of this section, there is taken not to be a change in the individual's circumstances merely because a determination under section 28 in relation to the individual is varied or ceases to be in force.

## **Division 4—General rules**

### **109 General rules**

If:

- (a) an individual is entitled to a clean energy advance under section 103 or 108 in relation to an FTB child; and
- (b) the amount of the advance was not worked out by applying subsection 105(5);

then, while the individual is a member of a couple, the other member of the couple is not entitled to a clean energy advance under section 103 or 108 in relation to that child.

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

### **4 After Division 4C of Part 3**

Insert:

## **Division 4D—Clean energy advance**

### **65J Payment of clean energy advance**

- (1) Subject to this section, if an individual is entitled to a clean energy advance, the Secretary must pay the advance to the individual in a single lump sum:
- (a) on the day that the Secretary considers to be the earliest day on which it is reasonably practicable for the advance to be paid; and
  - (b) in such manner as the Secretary considers appropriate.

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

- (2) If:
- (a) the decision day (see subsection 105(1) of the Family Assistance Act) or the trigger day (see subsection 108(1) or (2) of that Act), as the case may be, is on or after 1 July 2012 and before 1 July 2013; and
  - (b) on that day, section 32AA or 32AD of this Act prevents the Secretary from making a payment of family tax benefit to the individual, or the individual's partner, worked out on the basis referred to in subsection 20(1), (2A) or (3) of this Act;
- then the Secretary must not pay the clean energy advance to the individual at a time that is earlier than the time family tax benefit is paid to the individual, or the individual's partner, in relation to that day.
- (3) If:
- (a) the decision day (see subsection 105(1) of the Family Assistance Act) is on or after 1 July 2013; and
  - (b) in relation to one or more days in the 2012-13 income year, section 32AA or 32AD of this Act prevents the Secretary from making a payment of family tax benefit to the individual, or the individual's partner, worked out on the basis referred to in subsection 20(1), (2A) or (3) of this Act;
- then the Secretary must not pay the clean energy advance to the individual at a time that is earlier than the time family tax benefit is paid to the individual, or the individual's partner, in relation to those days.

## 5 At the end of subsection 66(1)

Add:  
; (j) clean energy advance.

## 6 Section 70

Omit “or single income family bonus”, substitute “, single income family bonus or a clean energy advance”.

## 7 After section 71K

Insert:

### 71L Debts arising in respect of clean energy advance

- (1) This section applies in relation to an individual who has been paid a clean energy advance.
- (2) For the purposes of this section, the **relevant determination** in relation to the individual is the determination referred to in paragraph 103(1)(a) or (2)(a) or 104(1)(a) of the Family Assistance Act.

*Situation in which whole amount is a debt*

- (3) If:
  - (a) after the advance was paid to the individual, the relevant determination in relation to the individual, at least so far as it relates to a day in the period starting on 1 July 2012 and ending on 30 June 2013, 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 individual 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 the day the advance was paid, the advance would not have been paid;the amount of the advance is a debt due to the Commonwealth by the individual.

*Situation in which part of amount is a debt*

(4) If:

- (a) after the advance was paid to the individual, the relevant determination in relation to the individual, at least so far as it relates to a day in the period starting on 1 July 2012 and ending on 30 June 2013, 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 individual 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 the day the advance was paid, the amount of the advance would have been reduced;

the amount by which the advance would have been reduced is a debt due to the Commonwealth by the individual.

**8 Paragraph 74(a)**

Omit “or single income family bonus”, substitute “, single income family bonus or clean energy advance”.

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

After “71K,”, insert “71L,”.

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

Add:

; or (f) a payment of clean energy advance.

**11 Subsection 106(3)**

Omit “or single income family bonus”, substitute “, single income family bonus or clean energy advance”.

**12 Subsection 109D(4)**

Omit “or single income family bonus”, substitute “, single income family bonus or clean energy advance”.

**13 Paragraph 109D(5)(a)**

Omit “or single income family bonus”, substitute “, single income family bonus or clean energy advance”.

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

Add:

; or (l) clean energy advance.

## **Part 2—Clean energy supplement for individuals**

### ***A New Tax System (Family Assistance) Act 1999***

#### **15 After section 58**

Insert:

#### **58A Election to receive clean energy supplements quarterly**

- (1) If a determination under section 16 of the Family Assistance Administration Act is in force in a quarter under which an individual is entitled to be paid family tax benefit by instalment, the individual may, in a manner or way approved by the Secretary, make an election to have Division 2B of Part 4 of Schedule 1 to this Act and Division 2AA of Part 5 of that Schedule disregarded.

Note 1: Those Divisions deal with clean energy supplement (Part A) and clean energy supplement (Part B).

Note 2: If those Divisions are disregarded, they will be taken into account when the determination is reviewed under section 105 of the Family Assistance Administration Act after the end of a quarter—see section 105B of that Act.

- (2) An election comes into force as soon as practicable after it is made.
- (3) An election ceases to be in force if the individual ceases to be entitled to be paid family tax benefit under the determination.

#### *Revoking an election*

- (4) The individual may, in a manner or way approved by the Secretary, revoke an election. A revocation takes effect as soon as practicable after it is made.

#### *Definition*

- (5) In this section:

**quarter** means a period of 3 months beginning on 1 July, 1 October, 1 January or 1 April.

Note: This section applies in relation to the quarter beginning on 1 July 2013 and all later quarters: see item 34 of Schedule 2 to the *Clean Energy (Household Assistance Amendments) Act 2011*.

### **15A At the end of section 62**

Add:

- (5) For the purposes of working out an individual's rate of family tax benefit, if the individual is an absent overseas recipient on a day (disregarding section 63A), then the following provisions do not apply in relation to that day:
  - (a) paragraph (cb) of step 1 of the method statement in clause 3 of Schedule 1;
  - (b) paragraph (e) of step 1 of the method statement in clause 25 of Schedule 1;
  - (c) paragraph 29(1)(c) of Schedule 1;
  - (d) paragraph (c) of step 1 of the method statement in subclause 29(2) of Schedule 1;
  - (e) paragraph 29A(2)(c) of Schedule 1.

### **15B At the end of section 63**

Add:

- (5) For the purposes of working out an individual's rate of family tax benefit, if an FTB child of the individual is an absent overseas FTB child on a day (disregarding section 63A), then disregard that child in working out the amount applicable in relation to that day under the following provisions:
  - (a) paragraph (cb) of step 1 of the method statement in clause 3 of Schedule 1;
  - (b) paragraph (e) of step 1 of the method statement in clause 25 of Schedule 1;
  - (c) paragraph 29(1)(c) of Schedule 1;
  - (d) paragraph (c) of step 1 of the method statement in subclause 29(2) of Schedule 1;
  - (e) paragraph 29A(2)(c) of Schedule 1.

### **16 Clause 3 of Schedule 1 (after paragraph (ca) of step 1 of the method statement)**

Insert:

- |                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------|
| (cb) the individual's clean energy supplement (Part A) under Subdivision A of Division 2AA of Part 5 (clause 38AA); |
|---------------------------------------------------------------------------------------------------------------------|

**17 At the end of Division 1 of Part 2 of Schedule 1**

Add:

**6 Components of Part A rates under this Part**

The Minister may, by legislative instrument, determine a method for working out the extent to which Part A rates under this Part are attributable to the amounts referred to in step 1 of the method statement in clause 3.

**18 Clause 25 of Schedule 1 (paragraph (d) of step 1 of the method statement)**

Omit "(clause 38A).", substitute "(clause 38A);".

**19 Clause 25 of Schedule 1 (after paragraph (d) of step 1 of the method statement)**

Insert:

- |                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------|
| (e) the individual's clean energy supplement (Part A) under Subdivision B of Division 2AA of Part 5 (clause 38AF). |
|--------------------------------------------------------------------------------------------------------------------|

**20 At the end of Division 1 of Part 3 of Schedule 1**

Add:

**25B Components of Part A rates under this Part**

The Minister may, by legislative instrument, determine a method for working out the extent to which Part A rates under this Part are attributable to the amounts referred to in step 1 of the method statement in clause 25.

**21 At the end of subclause 29(1) of Schedule 1**

Add:

; (c) the individual's clean energy supplement (Part B) under Division 2B (clause 31B).

**22 Subclause 29(2) of Schedule 1 (paragraph (b) of step 1 of the method statement)**

Omit "(clause 31A).", substitute "(clause 31A);".

**23 Subclause 29(2) of Schedule 1 (after paragraph (b) of step 1 of the method statement)**

Insert:

|                                                                                       |
|---------------------------------------------------------------------------------------|
| (c) the individual's clean energy supplement (Part B) under Division 2B (clause 31B). |
|---------------------------------------------------------------------------------------|

**24 Subclause 29(2) of Schedule 1 (method statement, step 3)**

Omit "(taking away so much of the individual's standard rate, and then so much (if any) of the individual's FTB Part B supplement, as equals the reduction)".

**25 After subclause 29(2) of Schedule 1**

Insert:

(2A) The Minister may, by legislative instrument, determine a method for working out the extent to which Part B rates under subclause (2) are attributable to the amounts referred to in step 1 of the method statement in subclause (2).

**26 At the end of subclause 29A(2) of Schedule 1**

Add:

; (c) the individual's clean energy supplement (Part B) under Division 2B in respect of the day (clause 31B).

**27 After Division 2A of Part 4 of Schedule 1**

Insert:

## **Division 2B—Clean energy supplement (Part B)**

### **31B Clean energy supplement (Part B)**

- (1) The amount of the clean energy supplement (Part B) to be added in working out an individual's Part B rate under clause 29 or 29A is worked out using the following table. Work out which family situation applies to the individual. Subject to clause 31C, the clean energy supplement (Part B) is the amount worked out under subclause (2).

| <b>Clean energy supplement (Part B)</b> |                                              |
|-----------------------------------------|----------------------------------------------|
| <b>Item</b>                             | <b>Family situation</b>                      |
| 1                                       | Youngest FTB child is under 5 years of age   |
| 2                                       | Youngest FTB child is 5 years of age or over |

- (2) For the purposes of subclause (1), the ***clean energy supplement (Part B)***, in relation to an item in the table in subclause (1), is worked out as follows:

*Method statement*

- Step 1. Work out the amount applicable on 1 July 2013 under the corresponding item of the table in clause 30.
- Step 2. Work out the FTB (B) gross supplement amount on 1 July 2013 under subclause 31A(2).
- Step 3. Work out the sum of the amounts at steps 1 and 2.
- Step 4. Multiply the amount at step 3 by 0.017.
- Step 5. Round the amount at step 4 to the nearest multiple of \$3.65 (rounding up if necessary): the result is the ***clean energy supplement (Part B)***.

- (3) This clause does not apply in relation to a day if an election made by the individual under subsection 58A(1) is in force on that day.

Note: If that election is in force on one or more days in a quarter, then after the end of the quarter the Secretary must review the instalment

determination taking into account this Division: see section 105B of the Family Assistance Administration Act.

**31C Sharing family tax benefit (shared care percentages)**

(1) If:

- (a) an individual has a shared care percentage for an FTB child of the individual; and
  - (b) the child is the individual's only FTB child;
- the individual's clean energy supplement (Part B) is the individual's shared care percentage of the clean energy supplement (Part B) that would otherwise apply.

(2) If:

- (a) an individual has a shared care percentage for an FTB child of the individual; and
  - (b) the child is not the individual's only FTB child;
- the individual's clean energy supplement (Part B) is to be worked out as follows:
- (c) for each of the individual's FTB children for whom the individual does not have a shared care percentage, work out the amount that would be the individual's clean energy supplement (Part B) under clause 31B if that child were the individual's only FTB child;
  - (d) for each of the individual's FTB children for whom the individual has a shared care percentage, work out the amount that would be the individual's clean energy supplement (Part B) under clause 31B if:
    - (i) that child were the individual's only FTB child; and
    - (ii) subclause (1) of this clause applied to the child;
  - (e) the individual's clean energy supplement (Part B) is the highest of the amounts obtained under paragraphs (c) and (d).

**28 After Division 2A of Part 5 of Schedule 1**

Insert:

## **Division 2AA—Clean energy supplement (Part A)**

### **Subdivision A—Clean energy supplement (Part A—Method 1)**

#### **38AA Clean energy supplement (Part A—Method 1)**

- (1) The amount of the clean energy supplement (Part A) to be added in working out an individual's maximum rate under clause 3 is worked out using the following table. Work out which category applies to each FTB child of the individual. Subject to clauses 38AB to 38AE, the FTB clean energy child amount is worked out under subclause (2). The clean energy supplement (Part A) is the sum of the FTB clean energy child amounts.

| <b>Clean energy supplement (Part A—Method 1)</b> |                                                                                                            |
|--------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| <b>Item</b>                                      | <b>Category of FTB child</b>                                                                               |
| 1                                                | FTB child who is under 13 years of age                                                                     |
| 2                                                | FTB child who has reached 13, but is under 16, years of age                                                |
| 3                                                | FTB child who has reached 16 years of age and who is a senior secondary school child                       |
| 4                                                | FTB child who has reached 16, but is under 18, years of age and who is not a senior secondary school child |
| 5                                                | FTB child who has reached 18, but is under 22, years of age and who is not a senior secondary school child |

- (2) For the purposes of subclause (1), the ***FTB clean energy child amount***, in relation to an item in the table in subclause (1), is worked out as follows:

*Method statement*

- Step 1. Work out the amount applicable on 1 July 2013 under the corresponding item of the table in clause 7.
- Step 2. Work out the FTB gross supplement amount on 1 July 2013 under subclause 38A(3).

- Step 3. Work out the sum of the amounts at steps 1 and 2.
- Step 4. Multiply the amount at step 3 by 0.017.
- Step 5. Round the amount at step 4 to the nearest multiple of \$3.65 (rounding up if necessary): the result is the ***FTB clean energy child amount***.

- (3) This clause does not apply in relation to a day if an election made by the individual under subsection 58A(1) is in force on that day.

Note: If that election is in force on one or more days in a quarter, then after the end of the quarter the Secretary must review the instalment determination taking into account this Subdivision: see section 105B of the Family Assistance Administration Act.

### **38AB Base FTB clean energy child amount**

For the purposes of this Division, the ***base FTB clean energy child amount*** for an FTB child of an individual is the amount that would be the FTB clean energy child amount under subclause 38AF(2) if the individual's clean energy supplement (Part A) were being worked out under Subdivision B and clause 38AG did not apply.

### **38AC FTB clean energy child amount—recipient of other periodic payments**

The FTB clean energy child amount for an FTB child of an individual is the base FTB clean energy child amount (see clause 38AB) if:

- (a) the individual or the individual's partner is receiving a periodic payment under a law of the Commonwealth and the law provides for an increase in the rate of payment by reference to an FTB child of the individual; or
- (b) the individual or the individual's partner is receiving a periodic payment under a scheme administered by the Commonwealth and the scheme provides for an increase in the rate of payment by reference to an FTB child of the individual.

### **38AD Effect of maintenance rights**

The FTB clean energy child amount for an FTB child of an individual is the base FTB clean energy child amount (see clause 38AB) if:

- (a) the individual or the individual's partner is entitled to claim or apply for maintenance for the child; and
- (b) the Secretary considers that it is reasonable for the individual or partner to take action to obtain maintenance; and
- (c) the individual or partner does not take action that the Secretary considers reasonable to obtain maintenance.

### **38AE Sharing family tax benefit (shared care percentages)**

If an individual has a shared care percentage for an FTB child of the individual, the FTB clean energy child amount for the child, in working out the individual's clean energy supplement (Part A), is the individual's shared care percentage of the FTB clean energy child amount that would otherwise apply to the child.

## **Subdivision B—Clean energy supplement (Part A—Method 2)**

### **38AF Clean energy supplement (Part A—Method 2)**

- (1) The amount of the clean energy supplement (Part A) to be added in working out an individual's Method 2 base rate under clause 25 is worked out using the following table. Work out which category applies to each FTB child of the individual. Subject to clause 38AG, the FTB clean energy child amount is the amount worked out under subclause (2). The clean energy supplement (Part A) is the sum of the FTB clean energy child amounts.

| <b>Clean energy supplement (Part A—Method 2)</b> |                                                                                                  |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------|
| <b>Item</b>                                      | <b>Category of FTB child</b>                                                                     |
| 1                                                | FTB child who has not turned 18, or who has turned 18 and who is a senior secondary school child |
| 2                                                | FTB child who has turned 18 and who is not a senior secondary school child                       |

- (2) For the purposes of subclause (1), the **FTB clean energy child amount**, in relation to an item in the table in subclause (1), is worked out as follows:

*Method statement*

Step 1. Work out the amount applicable on 1 July 2013 under:

- (a) for item 1 of that table—paragraph 26(2)(a); or
- (b) for item 2 of that table—paragraph 26(2)(b).

Step 2. Work out the FTB gross supplement amount on 1 July 2013 under subclause 38A(3).

Step 3. Work out the sum of the amounts at steps 1 and 2.

Step 4. Multiply the amount at step 3 by 0.017.

Step 5. Round the amount at step 4 to the nearest multiple of \$3.65 (rounding up if necessary): the result is the **FTB clean energy child amount**.

- (3) This clause does not apply in relation to a day if an election made by the individual under subsection 58A(1) is in force on that day.

Note: If that election is in force on one or more days in a quarter, then after the end of the quarter the Secretary must review the instalment determination taking into account this Subdivision: see section 105B of the Family Assistance Administration Act.

**38AG Sharing family tax benefit (shared care percentages)**

If an individual has a shared care percentage for an FTB child of the individual, the FTB clean energy child amount for the child, in working out the individual's clean energy supplement (Part A), is the individual's shared care percentage of the FTB clean energy child amount that would otherwise apply to the child.

**29 Clause 2 of Schedule 4 (after table item 8A)**

Insert:

---

|    |                                                               |                               |                                                                                                                                                            |
|----|---------------------------------------------------------------|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8B | FTB clean energy child amount for family tax benefit (Part A) | FTB clean energy child amount | [Schedule 1—<br>subclause 38AA(2)—<br>all FTB clean energy child amounts]<br><br>[Schedule 1—<br>subclause 38AF(2)—<br>all FTB clean energy child amounts] |
|----|---------------------------------------------------------------|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|

### 30 Clause 2 of Schedule 4 (after table item 9A)

Insert:

|    |                                                                  |                                  |                                                                                         |
|----|------------------------------------------------------------------|----------------------------------|-----------------------------------------------------------------------------------------|
| 9B | Clean energy supplement (Part B) for family tax benefit (Part B) | Clean energy supplement (Part B) | [Schedule 1—<br>subclause 31B(2)—all<br>clean energy<br>supplement (Part B)<br>amounts] |
|----|------------------------------------------------------------------|----------------------------------|-----------------------------------------------------------------------------------------|

### 31 Subclause 3(1) of Schedule 4 (after table item 8A)

Insert:

|    |                               |        |          |                                                                                                                              |        |
|----|-------------------------------|--------|----------|------------------------------------------------------------------------------------------------------------------------------|--------|
| 8B | FTB clean energy child amount | 1 July | December | highest<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than<br>December<br>quarter<br>2012) | \$3.65 |
|----|-------------------------------|--------|----------|------------------------------------------------------------------------------------------------------------------------------|--------|

### 32 Subclause 3(1) of Schedule 4 (after table item 9A)

Insert:

|    |                                  |        |          |                                                                                                |        |
|----|----------------------------------|--------|----------|------------------------------------------------------------------------------------------------|--------|
| 9B | Clean energy supplement (Part B) | 1 July | December | highest December quarter before reference quarter (but not earlier than December quarter 2012) | \$3.65 |
|----|----------------------------------|--------|----------|------------------------------------------------------------------------------------------------|--------|

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

**33 After section 105A**

Insert:

**105B Review of instalment determination—taking account of clean energy supplements**

- (1) This section applies if:
  - (a) a determination under section 16 is in force in a quarter under which an individual is entitled to be paid family tax benefit by instalment; and
  - (b) disregarding subsection (2) of this section, an election made by the individual under subsection 58A(1) of the Family Assistance Act is in force on one or more days in that quarter.
- (2) After the end of that quarter:
  - (a) for the purposes of subsection 105(1), the Secretary is taken to be satisfied that there is sufficient reason to review the determination; and
  - (b) the Secretary must exercise the power conferred by subsection 105(1) to review the determination; and
  - (c) the review must be done by assuming that:
    - (i) Division 2B of Part 4 of Schedule 1 to the Family Assistance Act and Division 2AA of Part 5 of that Schedule applied in relation to those days; and
    - (ii) the election was not in force on those days.

Note: Those Divisions deal with clean energy supplement (Part A) and clean energy supplement (Part B).

*Definition*

(3) In this section:

**quarter** means a period of 3 months beginning on 1 July, 1 October, 1 January or 1 April.

Note: This section applies in relation to the quarter beginning on 1 July 2013 and all later quarters: see item 34 of Schedule 2 to the *Clean Energy (Household Assistance Amendments) Act 2011*.

### 34 Application of amendments

- (1) The amendments made by items 15 and 33 apply in relation to the quarter beginning on 1 July 2013 and all later quarters.
- (2) The amendments made by items 15A to 28 apply in relation to the 2013-14 income year and later income years.
- (3) The amendments made by items 29 to 32 apply in relation to the indexation day that is 1 July 2014 and all later indexation days.

### 35 Saving

- (1) This item applies if:
  - (a) under subitem 6(2) of Schedule 1 to the *Family Assistance and Other Legislation Amendment Act 2011*, the amendments made by that Schedule do not affect the payability to an individual (the **adult**) of family tax benefit for another individual (the **child**) for a day in the period (the **transitional period**) described in subitem 6(4) of that Schedule; and
  - (b) immediately before 1 July 2013, that period had not ended.
- (2) For the purposes of working out if item 5 of the table in subclause 38AA(1) of Schedule 1 to the *A New Tax System (Family Assistance) Act 1999* applies in relation to the adult and the child on or after 1 July 2013 and before the end of the transitional period, the reference in that item to 22 is taken to be a reference to 25.

## **Part 3—Clean energy advances for approved care organisations**

### **36 Administrative scheme for paying clean energy advances to approved care organisations**

- (1) A Minister administering the *A New Tax System (Family Assistance) Act 1999* may, by legislative instrument, determine a scheme under which payments of clean energy advances may be made to approved care organisations (within the meaning of that Act) in particular circumstances. The Minister may, by legislative instrument, vary or revoke the scheme.
- (2) The circumstances in which the scheme provides for payments must be circumstances occurring in relation to the period starting on 14 May 2012 and ending on 30 June 2013.
- (3) Without limiting 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 an approved care organisation has to do to get a payment;
  - (d) debt recovery;
  - (e) administrative matters, such as determination of entitlement and how and when payments will be made;
  - (f) the review of decisions made under the scheme (including internal review, review by the Social Security Appeals Tribunal or review by the Administrative Appeals Tribunal).
- (4) For the purposes of subsection 12(1) of the *Legislative Instruments Act 2003*, an instrument made under subitem (1) (except an instrument of revocation) does not take effect until the end of the period in which it could be disallowed in either House of the Parliament.
- (5) Payments under the scheme are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

## **Part 4—Clean energy supplement for approved care organisations**

### ***A New Tax System (Family Assistance) Act 1999***

#### **37 Subsection 58(2)**

Repeal the subsection, substitute:

*Annual rate of family tax benefit to approved care organisation*

- (2) An approved care organisation's annual rate of family tax benefit for an individual is the sum of:
- (a) the organisation's standard rate under subsection (2A); and
  - (b) the organisation's clean energy supplement under subsection (2B).
- (2A) An approved care organisation's standard rate for an individual is \$1,372.40.
- (2B) An approved care organisation's clean energy supplement for an individual is worked out as follows:

*Method statement*

- Step 1. Work out the amount applicable under subsection (2A) on 1 July 2013.
- Step 2. Multiply the amount at step 1 by 0.017.
- Step 3. Round the amount at step 2 to the nearest multiple of \$3.65 (rounding up if necessary): the result is the ***clean energy supplement***.

#### **38 Clause 2 of Schedule 4 (table item 10)**

Repeal the item, substitute:

**Schedule 2** Clean energy payments under the family assistance law  
**Part 4** Clean energy supplement for approved care organisations

---

|    |                                                                              |                       |                     |
|----|------------------------------------------------------------------------------|-----------------------|---------------------|
| 10 | Standard rate of family tax benefit payable to an approved care organisation | FTB standard ACO rate | [subsection 58(2A)] |
|----|------------------------------------------------------------------------------|-----------------------|---------------------|

**39 Clause 2 of Schedule 4 (before table item 11)**

Insert:

|     |                                                                  |                             |                     |
|-----|------------------------------------------------------------------|-----------------------------|---------------------|
| 10A | Clean energy supplement payable to an approved care organisation | ACO clean energy supplement | [subsection 58(2B)] |
|-----|------------------------------------------------------------------|-----------------------------|---------------------|

**40 Subclause 3(1) of Schedule 4 (table item 10)**

Omit “FTB ACO rate”, substitute “FTB standard ACO rate”.

**41 Subclause 3(1) of Schedule 4 (before table item 11)**

Insert:

|     |                             |        |          |                                                                                                |        |
|-----|-----------------------------|--------|----------|------------------------------------------------------------------------------------------------|--------|
| 10A | ACO clean energy supplement | 1 July | December | highest December quarter before reference quarter (but not earlier than December quarter 2012) | \$3.65 |
|-----|-----------------------------|--------|----------|------------------------------------------------------------------------------------------------|--------|

**42 Application**

- (1) Paragraph 58(2)(b) and subsection 58(2B) of the *A New Tax System (Family Assistance) Act 1999*, as inserted by this Act, apply in relation to the 2013-14 income year and later income years.
- (2) The amendments made by items 39 and 41 apply in relation to the indexation day that is 1 July 2014 and all later indexation days.

## **Part 5—Other amendments**

### ***A New Tax System (Family Assistance) Act 1999***

#### **43 Paragraph 21(1)(c)**

After “Schedule 1”, insert “and disregarding section 58A and subclauses 31B(3), 38AA(3) and 38AF(3) of Schedule 1”.

#### **44 Subclause 5(1) of Schedule 4**

After “subclauses (2) and (3)”, insert “and clauses 10 and 11”.

#### **45 Part 4 of Schedule 4 (heading)**

Repeal the heading, substitute:

## **Part 4—Transitional indexation provisions**

#### **46 At the end of Part 4 of Schedule 4**

Add:

#### **10 Adjustment of indexation factor for certain amounts on and after 1 July 2013**

- (1) This clause applies to the following amounts:
  - (a) FTB child rate (A1);
  - (b) FTB child rate (A2);
  - (c) FTB standard rate (B);
  - (d) FTB standard ACO rate.
- (2) For each amount to which this clause applies, the indexation factor, worked out under clause 5 for each indexation day that is on or after 1 July 2013, is to be reduced by the brought forward indexation amount, but not below 1.
- (3) In this clause:

***brought forward indexation amount***, in relation to an indexation day, means 0.007 less any reduction made under this clause for a previous indexation day.

**Note:** Once the brought forward indexation amount becomes zero, there will be no further reduction of the indexation factor.

**Example:** Assume that the indexation factor worked out under clause 5 on 1 July 2013 is 1.004. The brought forward indexation amount in relation to 1 July 2013 is 0.007 (as there has been no previous reduction). That indexation factor is reduced to 1 on 1 July 2013.

Further assume that on 1 July 2014 the indexation factor is 1.010. The brought forward indexation amount in relation to 1 July 2014 is 0.003. That indexation factor is reduced to 1.007 on 1 July 2014.

The brought forward indexation amount in relation to later indexation days is now zero so there is no further reduction of the indexation factor.

## **11 Adjustment of indexation factor for certain amounts on and after 1 July 2014**

- (1) This clause applies to the following amounts:
  - (a) FTB gross supplement amount (A);
  - (b) FTB gross supplement amount (B).
- (2) For each amount to which this clause applies, the indexation factor, worked out under clause 5 for each indexation day (a **reduction day**) that is on or after 1 July 2014, is to be reduced by the brought forward indexation amount, but not below 1.

- (3) In this clause:

**brought forward indexation amount**, in relation to a reduction day, means 0.007 less:

- (a) any reduction made under subclause 10(2) on 1 July 2013; and
- (b) any reduction made under this clause for a previous reduction day.

**Note:** Once the brought forward indexation amount becomes zero, there will be no further reduction of the indexation factor.

**Example:** Assume that the indexation factor worked out under clause 5 on 1 July 2014 is 1.010 and that there was a reduction of 0.004 under subclause 10(2) on 1 July 2013.

The brought forward indexation amount in relation to 1 July 2014 is 0.003. The indexation factor worked out under clause 5 on 1 July 2014 is reduced to 1.007.

The brought forward indexation amount in relation to later reduction days is now zero so there is no further reduction of the indexation factor.

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

**47 At the end of section 32A**

Add:

- (3) Subsection (2) does not apply for the purposes of working out the following:
  - (a) the amount of a clean energy advance;
  - (b) the amount of the clean energy supplement (Part A) under Subdivision A or B of Division 2AA of Part 5 of Schedule 1 to the Family Assistance Act;
  - (c) the amount of the clean energy supplement (Part B) under Division 2B of Part 4 of that Schedule.

## Schedule 3—Clean energy payments under the Veterans' Entitlements Act

### Part 1—Clean energy advances

#### *Veterans' Entitlements Act 1986*

##### 1 Section 5 (index of definitions)

Insert:

|                                 |       |
|---------------------------------|-------|
| clean energy advance            | 5Q(1) |
| clean energy bonus              | 5Q(1) |
| clean energy payment            | 5Q(1) |
| clean energy underlying payment | 5Q(1) |

##### 2 Subsection 5Q(1)

Insert:

***clean energy advance*** means an advance described in Subdivision A or C of Division 1 of Part IIIE.

##### 3 Subsection 5Q(1)

Insert:

***clean energy bonus*** under an Act or scheme means any of the following that is provided for by the Act or scheme:

- (a) a payment known as a clean energy advance;
- (c) an increase that is described using the phrase “clean energy” and affects the rate of another payment that is provided for by the Act or scheme.

##### 4 Subsection 5Q(1)

Insert:

***clean energy payment*** means:

- (a) clean energy advance; or

##### 5 Subsection 5Q(1)

Insert:

---

***clean energy underlying payment*** means:

- (a) a pension under Part II or IV at a rate determined under or by reference to Division 4 of Part II; or
- (b) a pension under Part II or IV at a rate determined under or by reference to subsection 30(1); or
- (c) service pension; or
- (d) seniors supplement.

## **6 After Part IIID**

Insert:

# **Part IIIE—Clean energy payments**

## **Division 1—Clean energy advances**

### **Subdivision A—Eligibility for clean energy advances**

#### **61A Persons receiving clean energy underlying payments**

*Eligibility for days before 1 July 2012*

- (1) The Commission may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine that a person is eligible for a clean energy advance for a clean energy underlying payment if, on that day:
  - (a) the person receives the payment; and
  - (b) the person's rate of the payment is greater than nil; and
  - (ba) the person is residing in Australia; and
  - (c) the person is in Australia.

Note: For ***clean energy underlying payment*** see subsection 5Q(1).

*Eligibility for days in period 1 July 2012-19 March 2013*

- (2) The Commission may determine that a person is eligible for a clean energy advance for a clean energy underlying payment if, on a day in the period starting on 1 July 2012 and ending on 19 March 2013:
  - (a) the person receives the payment; and
  - (b) the person's rate of the payment is greater than nil; and

- (ba) the person is residing in Australia; and
- (c) the person is in Australia.

Note: For *clean energy underlying payment* see subsection 5Q(1).

- (3) A determination under subsection (2) must specify the first day during the period set out in that subsection for which the person:
  - (a) satisfies paragraphs (2)(a), (b) and (ba); and
  - (b) is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

*Disregard nil rate in certain circumstances*

- (4) For the purposes of subsections (1) and (2), a person is taken to receive a clean energy underlying payment at a rate greater than nil even if the person's rate would be nil, or pension would not be payable, merely because:
  - (a) the rate is reduced, or pension is not payable, under Division 4, 5 or 5A of Part II or section 74; or
  - (b) an election by the person under subsection 60A(1) (Quarterly pension supplement) is in force.

*Only one determination for a particular person and clean energy underlying payment*

- (5) The Commission must not make a determination under subsection (2) relating to a person and a clean energy underlying payment if the Commission has made a determination under subsection (1) or (2) relating to the same person and clean energy underlying payment.

**61B One advance for each clean energy underlying payment**

A separate clean energy advance is payable to a person for each clean energy underlying payment for which the Commission has determined that the person is eligible for a clean energy advance.

Note: This section is subject to section 65A (multiple entitlement exclusions).

## **Subdivision B—Amount of a clean energy advance**

### **61C Amount of a clean energy advance**

- (1) On the day (the **decision day**) that the Commission determines that a person is eligible for a clean energy advance for a clean energy underlying payment, the Commission must work out the amount of the advance.

Note: The advance will be paid in a lump sum as soon as is reasonably practicable: see section 61G.

- (2) The amount of the advance is the result of the following formula rounded up to the nearest multiple of \$10:

Clean energy advance daily rate × Number of advance days

where:

**clean energy advance daily rate** is worked out under section 61D.

**number of advance days** is worked out under section 61E.

### **61D Clean energy advance daily rate**

*For pension at rate affected by Division 4 of Part II*

- (1) The **clean energy advance daily rate** for a person's pension under Part II or IV at a rate determined under or by reference to subsection 22(3), 22(4), 23(4) or 24(4), but not under or by reference to section 27, is worked out by:
  - (a) working out 1.7% of the rate for 1 July 2012 specified in whichever one of those subsections is relevant; and
  - (b) adding 20 cents to the result of paragraph (a); and
  - (c) rounding the result of paragraph (b) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
  - (d) dividing the result of paragraph (c) by 14.
- (2) The **clean energy advance daily rate** for a person's pension under Part II or IV at a rate determined under or by reference to section 27, is worked out by:

**Schedule 3** Clean energy payments under the Veterans' Entitlements Act  
**Part 1** Clean energy advances

- (a) working out 1.7% of the rate for 1 July 2012 specified in the subsection mentioned in column 2 of whichever item of the following table is relevant; and
- (b) adding 20 cents to the result of paragraph (a); and
- (c) rounding the result of paragraph (b) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
- (d) dividing the result of paragraph (c) by 14.

| <b>Relevant subsection for working out clean energy advance daily rate</b> |                                                                                                                                                   |                                      |
|----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
|                                                                            | <b>Column 1</b><br><b>Rate of the person's pension under section 27 on 1 July 2012</b><br><b>(assuming the person received the pension then):</b> | <b>Column 2</b><br><b>Subsection</b> |
| 1                                                                          | Not more than the rate then specified in subsection 22(3)                                                                                         | 22(3)                                |
| 2                                                                          | Both:<br>(a) more than the rate then specified in subsection 22(3); and<br>(b) not more than the rate then specified in subsection 22(4)          | 22(4)                                |
| 3                                                                          | Both:<br>(a) more than the rate then specified in subsection 22(4); and<br>(b) not more than the rate then specified in subsection 23(4)          | 23(4)                                |
| 4                                                                          | More than the rate then specified in subsection 23(4)                                                                                             | 24(4)                                |

- (3) Ignore subsections 23(5) and (6), sections 25A and 26, Division 5A of Part II and section 74 for the purposes of working out the rate of the person's pension under section 27 for use in the table in subsection (2) of this section.

*For pension at rate affected by subsection 30(1)*

- (4) The **clean energy advance daily rate** for a person's pension under Part II or IV at a rate determined under or by reference to subsection 30(1) is worked out by:
  - (a) working out 1.7% of the rate for 1 July 2012 specified in that subsection; and
  - (b) adding 20 cents to the result of paragraph (a); and
  - (c) rounding the result of paragraph (b) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
  - (d) dividing the result of paragraph (c) by 14.

*For service pension and seniors supplement*

- (5) The **clean energy advance daily rate** for a person's service pension or seniors supplement is worked out by:
- (a) working out 1.7% of the total of:
    - (i) double the maximum basic rate under point SCH6-B1 of the Rate Calculator, worked out for 1 July 2012 for a person who is partnered; and
    - (ii) the combined couple rate of pension supplement for 1 July 2012; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$5.20 (rounding up if that result is not a multiple of \$5.20 but is a multiple of \$2.60); and
  - (c) adding \$5.20 to the result of paragraph (b); and
  - (d) applying the applicable percentage in the following table to the result of paragraph (c); and
  - (e) rounding the result of paragraph (d) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30); and
  - (f) dividing the result of paragraph (e) by 364.

| <b>Percentage to be applied</b> |                                       |                   |
|---------------------------------|---------------------------------------|-------------------|
| <b>Item</b>                     | <b>Person's family situation</b>      | <b>Use this %</b> |
| 1                               | Not a member of a couple              | 66.33%            |
| 2                               | Partnered                             | 50%               |
| 3                               | Member of an illness separated couple | 66.33%            |
| 4                               | Member of a respite care couple       | 66.33%            |

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) respectively.

- (6) For the purposes of the table in subsection (5) (and of paragraph (5)(d)), a person's family situation is to be determined as at whichever of the following days is relevant:
- (a) the day the Commission determines under subsection 61A(1) that the person is eligible for the clean energy advance for service pension or seniors supplement;
  - (b) the day specified under subsection 61A(3) in a determination under subsection 61A(2) that the person is eligible for the

clean energy advance for service pension or seniors supplement.

**61E Number of advance days**

The person's **number of advance days** is the number of days in the period:

- (a) starting on 1 July 2012 or, if the person is eligible for the clean energy advance because of a determination under subsection 61A(2), the day specified under subsection 61A(3) in the determination; and
- (b) ending on 19 March 2013.

**Subdivision C—Top-up payments of clean energy advance**

**61F Top-up payments of clean energy advance**

- (1) The Commission may by legislative instrument determine that persons:
  - (a) who have been paid the amount (the **original payment**) of a specified clean energy advance for a clean energy underlying payment (the **original underlying payment**) worked out under Subdivision B; and
  - (b) whose circumstances change, within a period specified in the instrument, in a way that is specified in the instrument and is covered by subsection (2) or (3);are eligible for a further payment, of the amount worked out in accordance with the instrument, of the clean energy advance.
- (2) This subsection covers a person's circumstances changing in a way such that:
  - (a) immediately after the change the Commission could still have determined that the person would have been eligible for a clean energy advance for the original underlying payment, had the Commission not already made such a determination; and
  - (b) had the amount of the original payment been worked out by reference to the person's circumstances immediately after the change, the clean energy advance daily rate that would have been used for working out that amount would have been

greater than the rate actually used for working out that amount.

- (3) This subsection covers a change in a person's circumstances that, apart from a multiple entitlement exclusion, would (if any necessary administrative decisions were made) entitle the person to a clean energy bonus, under an Act or a scheme, relating to a payment other than the original underlying payment.
- (4) For the purposes of subsection (3), a **multiple entitlement exclusion** is an instrument that:
  - (a) provides a person is not entitled to a clean energy bonus under an Act or a scheme because of the person's entitlement to or receipt of the original payment or the original underlying payment; and
  - (b) is made under:
    - (i) section 65A; or
    - (ii) section 424L of the MRCA; or
    - (iii) section 918 of the Social Security Act;or is an instrument establishing entitlements to a clean energy bonus under a scheme.
- (5) An instrument under subsection (1) may provide for:
  - (a) different periods for changes in circumstances depending on different changes in circumstances; and
  - (b) different ways of working out further amounts of the original payment depending on different changes in circumstances.

## **Subdivision D—Payment of clean energy advance**

### **61G Payment of clean energy advance**

- (1) An amount of clean energy advance for which a person is eligible is payable in a single lump sum on the day that the Commission considers to be the earliest day on which it is reasonably practicable for the amount to be paid.
- (2) However, the clean energy advance is not payable if the Commission is aware that the person has died.

## **Subdivision E—Debts**

### **61H Debts relating to clean energy advances**

- (1) This section applies if:
- (a) a person has been paid a clean energy advance for a clean energy underlying payment; and
  - (b) after the advance was paid, one of the following events happens to a determination that directly or indirectly affected the payability or amount of the clean energy advance paid to the person:
    - (i) the determination is changed, revoked or set aside;
    - (ii) the determination is superseded by another determination; and
  - (c) the event happened wholly or partly because the person knowingly made a false or misleading statement or knowingly provided false information; and
  - (d) had the event happened on or before the day the advance was paid:
    - (i) the advance would not have been paid; or
    - (ii) the advance would have been reduced.

Note 1: Examples of determinations directly affecting the payability or amount of the clean energy advance include:

- (a) a determination relating to the person's eligibility for the clean energy underlying payment to which the advance related; and
- (b) the determination of the person's eligibility for the clean energy advance.

Note 2: An example of a determination indirectly affecting the amount of the advance is a determination relating to a change in circumstances that results in the person becoming eligible for a further payment of the advance under an instrument made under section 61F.

#### *Creation and amount of debt*

- (2) The advance is a debt due to the Commonwealth by the person if subparagraph (1)(d)(i) applies.
- (3) The amount by which the advance would have been reduced is a debt due to the Commonwealth by the person if subparagraph (1)(d)(ii) applies.

*Relationship with other sections*

- (4) The other provisions of this Act under which debts arise do not apply in relation to clean energy advances to which this section applies.
- (5) A debt that arises under this section is a recoverable amount within the meaning of subsection 205(8).

## **Division 5—Multiple entitlement exclusions**

### **65A Multiple entitlement exclusions**

- (1) The Commission may by legislative instrument determine that persons in circumstances specified in the instrument are not entitled to a clean energy bonus under this Act that is specified in the instrument.

Note: For **clean energy bonus** see subsection 5Q(1).

- (2) Those circumstances must relate to persons' entitlement to or receipt of one or more of the following:
  - (a) another clean energy bonus under this Act;
  - (b) a clean energy bonus under the MRCA;
  - (c) a clean energy bonus under the Social Security Act;
  - (d) a clean energy bonus under a scheme (however described), whether or not the scheme is provided for by or under an Act.
- (3) An instrument under subsection (1) has effect according to its terms, despite any other provision of this Act.

## **Part 2—Clean energy supplements and quarterly clean energy supplement**

### ***Veterans' Entitlements Act 1986***

#### **7 Section 5 (index of definitions)**

Insert:

|                |        |
|----------------|--------|
| CES 22(3) rate | 5GB(1) |
| CES 22(4) rate | 5GB(2) |
| CES 23(4) rate | 5GB(3) |
| CES 24(4) rate | 5GB(4) |
| CES 30(1) rate | 5GB(5) |

#### **8 Section 5 (index of definitions)**

Insert:

|                           |        |
|---------------------------|--------|
| clean energy pension rate | 5GB(6) |
| clean energy supplement   | 5Q(1)  |

#### **9 Section 5 (index of definitions)**

Insert:

|                                   |       |
|-----------------------------------|-------|
| quarterly clean energy supplement | 5Q(1) |
|-----------------------------------|-------|

#### **10 After section 5GA**

Insert:

#### **5GB Clean energy supplement rate definitions**

- (1) The ***CES 22(3) rate*** is, subject to section 198, the rate worked out by:
- (a) working out 1.7% of the rate specified in subsection 22(3) on 20 March 2013 (taking account of any indexation on that day); and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: Section 198 provides for indexation.

- (2) The **CES 22(4) rate** is, subject to section 198, the rate worked out by:
- (a) working out 1.7% of the rate specified in subsection 22(4) on 20 March 2013 (taking account of any indexation on that day); and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: Section 198 provides for indexation.

- (3) The **CES 23(4) rate** is, subject to section 198, the rate worked out by:
- (a) working out 1.7% of the rate specified in subsection 23(4) on 20 March 2013 (taking account of any indexation on that day); and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: Section 198 provides for indexation.

- (4) The **CES 24(4) rate** is, subject to section 198, the rate worked out by:
- (a) working out 1.7% of the rate specified in subsection 24(4) on 20 March 2013 (taking account of any indexation on that day); and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: Section 198 provides for indexation.

- (5) The **CES 30(1) rate** is, subject to section 198, the rate worked out by:
- (a) working out 1.7% of the rate specified in subsection 30(1) on 20 March 2013 (taking account of any indexation on that day); and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents).

Note: Section 198 provides for indexation.

- (6) The ***clean energy pension rate*** for a person is, subject to sections 59B, 59C, 59D and 59E, the rate worked out by:
- (a) working out 1.7% of the total of:
    - (i) double the maximum basic rate under the Rate Calculator, worked out for 20 March 2013 (taking account of any indexation on that day) for a person who is partnered; and
    - (ii) the combined couple rate of pension supplement for 20 March 2013 (taking account of any indexation on that day); and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$5.20 (rounding up if that result is not a multiple of \$5.20 but is a multiple of \$2.60).

Note: Sections 59B, 59C, 59D and 59E provide for indexation.

**11 Subsection 5Q(1) (after paragraph (a) of the definition of *clean energy bonus*)**

Insert:

- (b) a payment known as a clean energy supplement or a quarterly clean energy supplement;

**12 Subsection 5Q(1) (after paragraph (a) of the definition of *clean energy payment*)**

Insert:

- (b) any of the following:
  - (i) clean energy supplement under section 62A (for pension under Part II or IV at a rate determined under or by reference to Division 4 of Part II);
  - (ii) clean energy supplement under section 62B (for pension under Part II or IV at a rate determined under or by reference to subsection 30(1));
  - (iii) quarterly clean energy supplement for service pension;  
or

**13 Subsection 5Q(1)**

Insert:

***clean energy supplement*** means:

- (a) clean energy supplement payable under section 62A (for pension under Part II or IV at a rate determined under or by reference to Division 4 of Part II); or
- (b) clean energy supplement payable under section 62B (for pension under Part II or IV at a rate determined under or by reference to subsection 30(1)); or
- (c) clean energy supplement added to a person's maximum basic rate of service pension under the Rate Calculator.

#### **14 Subsection 5Q(1)**

Insert:

***quarterly clean energy supplement*** for service pension means the separate payment described in section 62E.

#### **15 After subsection 58A(5)**

Insert:

(6) If:

- (a) either or both of the following amounts are added to a person's maximum basic rate for a particular day in working out the amount of an instalment of a service pension:
  - (i) a pension supplement amount more than the person's pension supplement basic amount;
  - (ii) clean energy supplement; and
- (b) there is no election by the person under subsection 60A(1) in force on that day; and
- (c) apart from this subsection, the portion of the instalment corresponding to that day would be less than  $\frac{1}{364}$  of the total of the amounts added to the person's maximum basic rate for the day as described in paragraph (a), but more than a nil amount;

the amount of that portion of the instalment is to be increased to  $\frac{1}{364}$  of that total.

#### **16 Paragraph 58A(7)(a)**

Omit "service pension or".

#### **17 Subsection 58A(7)**

Omit "the person's minimum daily rate" (wherever occurring),  
substitute "<sup>1</sup>/<sub>364</sub> of the person's minimum pension supplement amount".

## **18 Subsection 58A(8)**

Repeal the subsection.

## **19 Paragraph 59Q(7)(b) (formula)**

Repeal the formula, substitute:

$$\frac{52 \times \text{Compensation part of lump sum}}{2 \times \left( \begin{array}{c} \text{Maximum} \\ \text{basic rate} \end{array} + \begin{array}{c} \text{Point} \\ \text{SCH6-BA3} \\ \text{amount} \end{array} + \begin{array}{c} \text{Point} \\ \text{SCH6-BB3} \\ \text{amount} \end{array} \right) + \begin{array}{c} \text{Ordinary} \\ \text{free area} \\ \text{limit} \end{array}}$$

## **20 Paragraph 59Q(7)(b)**

Insert:

*point SCH6-BB3 amount* means the clean energy supplement worked out under point SCH6-BB3 of Schedule 6 for a person who is not a member of a couple (whether or not the person for whom the lump sum preclusion period is being worked out is a member of a couple and whether or not that point applies to the person for whom the lump sum preclusion period is being worked out).

## **21 After Division 1 of Part IIIE**

Insert:

### **Division 2—Clean energy supplements**

#### **Subdivision A—Clean energy supplements for pensions under Parts II and IV**

#### **62A Clean energy supplement for disability pension**

- (1) This section applies to a person for a day if:
- (a) the person receives for the day 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; and
  - (c) the person is residing in Australia on the day; and

(d) on the day the person either:

- (i) is in Australia; or
- (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

Note: Section 62C may affect whether a person meets the conditions in paragraphs (1)(a) and (b) of this section.

*Clean energy supplement payable*

- (2) The Commonwealth is liable to pay the person for the day clean energy supplement for the person's pension.

Note 1: The supplement is a payment separate from the pension.

Note 2: Section 65A may affect the person's entitlement to the clean energy supplement.

*Rate of clean energy supplement*

- (3) The fortnightly rate of clean energy supplement for the pension is the rate worked out using the table. For this purpose, ignore subsections 23(5) and (6), sections 25A and 26, Division 5A of Part II and section 74 in working out the rate of the person's pension under section 27 if that section is relevant.

| <b>Fortnightly rate of clean energy supplement</b> |                                                                                                                                                                                    |                                                         |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
|                                                    | <b>Column 1<br/>If the rate of the person's pension:</b>                                                                                                                           | <b>Column 2<br/>Rate of clean<br/>energy supplement</b> |
| 1                                                  | Is worked out under or by reference to subsection 22(3) but not section 27                                                                                                         | CES 22(3) rate                                          |
| 2                                                  | Is worked out under or by reference to subsection 22(4) but not section 27                                                                                                         | CES 22(4) rate                                          |
| 3                                                  | Is worked out under or by reference to subsection 23(4) but not section 27                                                                                                         | CES 23(4) rate                                          |
| 4                                                  | Is worked out under or by reference to subsection 24(4) but not section 27                                                                                                         | CES 24(4) rate                                          |
| 5                                                  | Is worked out under or by reference to section 27 and is not more than the rate specified in subsection 22(3)                                                                      | CES 22(3) rate                                          |
| 6                                                  | Is worked out under or by reference to section 27 and is:<br>(a) more than the rate specified in subsection 22(3); and<br>(b) not more than the rate specified in subsection 22(4) | CES 22(4) rate                                          |

**Schedule 3** Clean energy payments under the Veterans' Entitlements Act  
**Part 2** Clean energy supplements and quarterly clean energy supplement

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**Fortnightly rate of clean energy supplement**

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|   | <b>Column 1</b><br><b>If the rate of the person's pension:</b>                                                                                                                     | <b>Column 2</b><br><b>Rate of clean energy supplement</b> |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 7 | Is worked out under or by reference to section 27 and is:<br>(a) more than the rate specified in subsection 22(4); and<br>(b) not more than the rate specified in subsection 23(4) | CES 23(4) rate                                            |
| 8 | Is worked out under or by reference to section 27 and is more than the rate specified in subsection 23(4)                                                                          | CES 24(4) rate                                            |

Note: For *CES 22(3) rate*, *CES 22(4) rate*, *CES 23(4) rate* and *CES 24(4) rate* see section 5GB.

**62B Clean energy supplement for war widow/war widower pension**

- (1) This section applies to a person for a day if:
- (a) the person receives for the day 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; and
  - (c) the person is residing in Australia on the day; and
  - (d) on the day the person either:
    - (i) is in Australia; or
    - (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

Note: Section 62C may affect whether a person meets the conditions in paragraphs (1)(a) and (b) of this section.

*Clean energy supplement payable*

- (2) The Commonwealth is liable to pay the person for the day clean energy supplement for the person's pension.

Note 1: The supplement is a payment separate from the pension.

Note 2: Section 65A may affect the person's entitlement to the clean energy supplement.

*Rate of clean energy supplement*

- (3) The fortnightly rate of clean energy supplement for the pension is the CES 30(1) rate.

## **62C Disregard nil rate in certain circumstances**

For the purposes of sections 62A and 62B, 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.

## **62D Electing for quarterly payment of clean energy supplement for pension under Part II or IV**

### *Election*

- (1) A person may, in a manner or way approved by the Commission, make an election to be paid quarterly instalments of:
  - (a) the person's clean energy supplement under section 62A; or
  - (b) the person's clean energy supplement under section 62B.

Note 1: If the person is receiving both kinds of pension under Part II or IV, he or she may make an election relating to one kind but not the other or make separate elections for each kind.

Note 2: If a person does not make an election to be paid quarterly instalments of the clean energy supplement for one of those kinds of pensions, the supplement for that kind of pension will be paid in instalments under section 121.

- (2) The election:
  - (a) comes into force as soon as practicable after it is made; and
  - (b) ceases to be in force if the pension ceases to be payable to the person; and
  - (c) may be revoked by the person, in a manner or way approved by the Commission, with effect as soon as practicable after the revocation is made.

### *Quarterly payment*

- (3) If the election is in force on a day in the 3 months starting on 20 March, 20 June, 20 September or 20 December, an instalment of the clean energy supplement is to be paid to the person on, or as soon as reasonably practicable after, the day after the end of that period.
- (4) The amount of the instalment is the total amount of the clean energy supplement payable to the person for the days in that period

on which the election was in force. For this purpose, the rate of the clean energy supplement payable for a day is  $\frac{1}{14}$  of the fortnightly rate of the supplement that applied on that day.

### **Subdivision B—Quarterly clean energy supplement for service pension**

#### **62E Quarterly clean energy supplement for service pension**

- (1) Quarterly clean energy supplement for service pension that a person is receiving is payable, as a separate payment, to the person for each day for which an election by the person is in force under subsection 60A(1).

Note 1: There is no provision for quarterly clean energy supplement for seniors supplement, because seniors supplement is always paid quarterly (see section 118PC).

Note 2: Section 65A may affect the person's entitlement to quarterly clean energy supplement.

- (2) If the election is in force on a day in the 3 months starting on 20 March, 20 June, 20 September or 20 December, an instalment of quarterly clean energy supplement is to be paid to the person on, or as soon as reasonably practicable after, the day after the end of that period.
- (3) The amount of the instalment is the total amount of the quarterly clean energy supplement payable to the person for the days in that period on which the election was in force.
- (4) For the purposes of subsection (3), the rate of quarterly clean energy supplement payable for a day is  $\frac{1}{364}$  of what would be the person's clean energy supplement under the Rate Calculator for the day apart from this section.

#### *Reductions*

- (5) This section is subject to subclause 4(5) of Schedule 6.
- (6) If:
- (a) an election by the person under subsection 60A(1) is in force on a particular day; and
  - (b) apart from this subsection, the portion of the instalment of the person's quarterly clean energy supplement that corresponds

to that day would be reduced under subclause 4(5) of Schedule 6, but not reduced to a nil amount;  
the amount of that portion of the instalment is not to be reduced under subclause 4(5) of Schedule 6.

## **22 Section 64A**

After “clean energy payment”, insert “, except quarterly clean energy supplement,”.

## **23 Subsections 64C(3) and 64D(1) and (2)**

After “clean energy payment”, insert “(except quarterly clean energy supplement)”.

## **24 Section 118PB**

Repeal the section, substitute:

### **118PB Rate of seniors supplement**

- (1) The person's daily rate of seniors supplement, for a particular day, is  $\frac{1}{364}$  of the total of:
- (a) the amount worked out by:
    - (i) applying the applicable percentage in the following table to the combined couple rate of minimum pension supplement; and
    - (ii) rounding the result of subparagraph (i) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30); and
  - (b) if subsection (2) applies to the person on the day—the amount worked out by:
    - (i) applying the applicable percentage in the following table to the clean energy pension rate; and
    - (ii) rounding the result of subparagraph (i) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30).

---

| <b>Percentage to be applied</b> |                                  |                   |
|---------------------------------|----------------------------------|-------------------|
| <b>Item</b>                     | <b>Person's family situation</b> | <b>Use this %</b> |
| 1                               | Not a member of a couple         | 66.33%            |
| 2                               | Partnered                        | 50%               |

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**Schedule 3** Clean energy payments under the Veterans' Entitlements Act  
**Part 2** Clean energy supplements and quarterly clean energy supplement

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| Percentage to be applied |                                       |            |
|--------------------------|---------------------------------------|------------|
| Item                     | Person's family situation             | Use this % |
| 3                        | Member of an illness separated couple | 66.33%     |
| 4                        | Member of a respite care couple       | 66.33%     |

Note 1: For **combined couple rate of minimum pension supplement** see subsection 5GA(2).

Note 2: For **clean energy pension rate** see subsection 5GB(6).

Note 3: For **member of a couple, partnered, illness separated couple** and **respite care couple** see subsections 5E(1) and (5) and 5R(5) and (6) respectively.

Note 4: Section 65A may affect the person's entitlement to the increase in rate of seniors supplement as a result of paragraph (1)(b).

*When clean energy pension rate affects seniors supplement rate*

- (2) This subsection applies to a person on a day if on that day the person is residing in Australia and either:
- (a) is in Australia; or
  - (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks; and

## **25 Subsection 118PC(3)**

Repeal the subsection, substitute:

- (3) The amount of the instalment is worked out by:
- (a) working out the person's amount of seniors supplement for each day during the test period on which the person was qualified for seniors supplement (using the daily rate of the supplement for that day); and
  - (b) adding up the amounts resulting from paragraph (a).

## **26 After subsection 121(6A)**

Insert:

*Special rules for clean energy supplement payable under section 62A or 62B*

- (6B) For clean energy supplement payable under section 62A or 62B:
- (a) this section has effect subject to section 62D (which is about quarterly payment of clean energy supplement); and

- (b) subsection (2) of this section has effect as if clean energy supplement covered by an election in force under section 62D by a person on a day were not payable to the person for the day.

**27 Subsection 121(7) (definition of *pension*)**

After “includes”, insert “clean energy supplement payable under section 62A or 62B,”.

**28 After subparagraph 30(4)(a)(i) of Schedule 5**

Insert:

- (ia) the person’s clean energy supplement (if any) worked out using Module BB of the Rate Calculator; and

**29 At the end of subclause 30(4) of Schedule 5**

Add:

Note 7: Section 65A may affect the inclusion of the clean energy supplement described in subparagraph (4)(a)(ia).

**30 At the end of clause 34 of Schedule 5**

Add:

*Clean energy supplement*

- (5) If subclause 31(1) or (2) is relevant to the person, this Act applies in relation to the person’s service pension as if the person’s clean energy supplement (if any) resulting from Module BB of the Rate Calculator were used to work out the rate of the person’s service pension.

Note 1: This clean energy supplement is included in the total worked out under paragraph 30(4)(a) (see subparagraph 30(4)(a)(ia)).

Note 2: Subclause (5) causes section 62E to apply. If quarterly clean energy supplement is payable, then no clean energy supplement will be available to be included in the total worked out under paragraph 30(4)(a) (see point SCH6-BB2 of the Rate Calculator).

Note 3: Other effects of subclause (5) include:

- (a) the possibility of the minimum amount of fortnightly instalments of the pension being affected under section 58A; and  
(b) clause 4 of Schedule 6 affecting the operation of reductions of the maximum payment rate because of the ordinary/adjusted income test and assets test.

**31 Subclause 1(1) of Schedule 6 (note 1)**

After "pension supplement", insert ", clean energy supplement".

**32 Subclause 4(1) of Schedule 6 (after table item 4)**

Insert:

4A the amount of any increase under Module BB

**33 Subclause 4(1) of Schedule 6 (note)**

Repeal the note, substitute:

Note 1: Table item 4A will not apply if an election by the person under subsection 60A(1) is in force, as there will not be any increase under Module BB (see point SCH6-BB2 of the Rate Calculator).

Note 2: Table item 5 will not apply if an election by the person under subsection 60A(1) is in force, as the rate would have already been reduced to nil.

**34 At the end of clause 4 of Schedule 6**

Add:

*Quarterly clean energy supplement for service pension*

(5) If:

(a) the rate (the **main rate**) of a person's service pension is to be reduced as described in subclause (1) (applying of its own force or as affected by subclause (2)); and

(b) an election by the person under subsection 60A(1) is in force; the person's quarterly clean energy supplement is reduced to the same extent (if any) that the component of the main rate that would correspond to the person's clean energy supplement would be reduced under subclause (1) were the election not in force.

Note: The reduction will be disregarded unless the person's quarterly clean energy supplement is reduced to nil (see subsection 62E(6)).

**35 Subpoint SCH6-A1(2) of Schedule 6 (method statement, after step 1A)**

Insert:

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| Step 1B. Work out the amount of clean energy supplement (if any) using Module BB below. |
|-----------------------------------------------------------------------------------------|

**36 Subpoint SCH6-A1(2) of Schedule 6 (method statement, step 4)**

After “1A”, insert “, 1B”.

**37 Subpoint SCH6-A1(2) of Schedule 6 (method statement, at the end of step 4)**

Add:

|       |                                                                         |
|-------|-------------------------------------------------------------------------|
| Note: | Section 65A may affect whether the amount obtained in step 1B is added. |
|-------|-------------------------------------------------------------------------|

**38 Subpoint SCH6-A1(3) of Schedule 6 (method statement, after step 2A)**

Insert:

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| Step 2B. Work out the amount of clean energy supplement (if any) using Module BB below. |
|-----------------------------------------------------------------------------------------|

**39 Subpoint SCH6-A1(3) of Schedule 6 (method statement, step 4)**

Omit “and 2A”, substitute “, 2A and 2B”.

**40 Subpoint SCH6-A1(3) of Schedule 6 (method statement, at the end of step 4)**

Add:

|       |                                                                         |
|-------|-------------------------------------------------------------------------|
| Note: | Section 65A may affect whether the amount obtained in step 2B is added. |
|-------|-------------------------------------------------------------------------|

**41 Subpoint SCH6-A1(4) of Schedule 6 (method statement, step 1)**

After “Method statement 1”, insert “, except step 1B of that method statement,”.

**42 Schedule 6 (after Module BA)**

Insert:

## **Module BB—Clean energy supplement**

### *When clean energy supplement is to be added*

SCH6-BB1 A clean energy supplement is to be added to the person's maximum basic rate (of service pension) if the person is residing in Australia and:

- (a) is in Australia; or
- (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

Note: Section 65A may affect the addition of the clean energy supplement.

SCH6-BB2 However, this Module does not apply if quarterly clean energy supplement for service pension is payable to the person.

### *Amount of clean energy supplement*

SCH6-BB3 The person's clean energy supplement is worked out by:

- (a) applying the applicable percentage in the following table to the clean energy pension rate; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$2.60 (rounding up if that result is not a multiple of \$2.60 but is a multiple of \$1.30).

| <b>Percentage to be applied</b> |                                       |                   |
|---------------------------------|---------------------------------------|-------------------|
| <b>Item</b>                     | <b>Person's family situation</b>      | <b>Use this %</b> |
| 1                               | Not a member of a couple              | 66.33%            |
| 2                               | Partnered                             | 50%               |
| 3                               | Member of an illness separated couple | 66.33%            |
| 4                               | Member of a respite care couple       | 66.33%            |

Note 1: For ***clean energy pension rate*** see subsection 5GB(6).

Note 2: For ***member of a couple, partnered, illness separated couple*** and ***respite care couple*** see subsections 5E(1) and (5) and 5R(5) and (6) respectively.

## Part 3—Indexation

### *Veterans' Entitlements Act 1986*

#### **43 Section 59A (after table item 2B)**

Insert:

|     |                                      |                              |                   |
|-----|--------------------------------------|------------------------------|-------------------|
|     | <b>Clean energy<br/>pension rate</b> |                              |                   |
| 2C. | clean energy<br>pension rate         | clean energy<br>pension rate | subsection 5GB(6) |

#### **44 Section 59A (note)**

After “Note”, insert “1”.

#### **45 At the end of section 59A**

Add:

Note 2: Indexing clean energy pension rate will also result in the indexation of seniors supplement (see section 118PB).

#### **46 Subsection 59B(1) (after table item 1C)**

Insert:

|    |                                      |                                  |                          |                                                                                                                                  |        |
|----|--------------------------------------|----------------------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------|--------|
|    | <b>Clean energy<br/>pension rate</b> |                                  |                          |                                                                                                                                  |        |
| 2. | clean energy<br>pension rate         | (a) 20 March<br>(b) 20 September | (a) December<br>(b) June | highest June<br>or<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than June<br>quarter<br>2011) | \$5.20 |

#### **47 After subsection 59C(2AB)**

Insert:

(2AC) The first indexation of the rate under item 2 of the CPI Indexation Table in subsection 59B(1) is to take place on 20 September 2013.

**48 Subsection 59D(1)**

After “(3)”, insert “and section 198MA”.

**49 Subsection 59EAB(1)**

After “(6)”, insert “and section 198MB”.

**50 Section 198 (heading)**

Repeal the heading, substitute:

**198 Variation of rates of certain pensions and clean energy supplements**

**51 Subsection 198(1)**

Insert:

*brought-forward CPI indexation amount* for a relevant period means 0.007 less any reduction made under paragraph (5)(c) in relation to an earlier relevant period.

**52 At the end of subsection 198(5)**

Add:

; or (c) if the relevant period starts on or after 20 March 2013 and the brought-forward CPI indexation amount for the period is more than 0—is the number worked out under paragraph (a) or (b) of this subsection reduced by that amount, but not below 1.

**53 After subsection 198(8A)**

Insert:

*Indexation of rates relating to clean energy supplements*

- (9) This Act has effect as if, on each adjustment day on or after 20 September 2013, there were substituted, for each of the following rates:
- (a) CES 22(3) rate;
  - (b) CES 22(4) rate;

(c) CES 23(4) rate;

(d) CES 24(4) rate;

(e) CES 30(1) rate;

the rate worked out by multiplying the appropriate rate immediately before that day by the factor (the **CES indexation factor**) worked out under subsection (9A) and rounding the product to the nearest \$0.10 a fortnight (rounding up if the product is not a multiple of \$0.10 but is a multiple of \$0.05).

(9A) The CES indexation factor is:

(a) the result of the following formula, rounded to 3 decimal places (rounding up if the number in the fourth decimal place is greater than 4); or

(b) 1 if the result of paragraph (a) is less than 1.

$$\frac{\text{Index number for most recent reference quarter before adjustment day}}{\text{Index number for base quarter}}$$

where:

**base quarter** means the June quarter or December quarter that:

(a) occurs before the most recent reference quarter before the adjustment day but not before the June quarter of 2011; and

(b) has the highest index number of all the June quarters and December quarters covered by paragraph (a).

**reference quarter** means June quarter or December quarter.

## 54 At the end of section 198

Add:

(11) If this Act has effect as if another rate were substituted on an adjustment day for a rate mentioned in paragraph (9)(a), (b), (c), (d) or (e), the substitution affects each instalment of clean energy supplement due on or after that day, except an instalment that:

(a) is payable because of the grant of a pension after that day with effect before that day; and

(b) is for a period starting before that day.

## 55 Subsection 198D(1)

Insert:

---

***brought-forward CPI indexation amount*** for a year commencing on or after 20 September 2013 means 0.007 less any reduction made under paragraph (5)(d) for an earlier year.

## **56 At the end of subsection 198D(5)**

Add:

; or (d) if:

- (i) the year commences on or after 20 September 2013; and
  - (ii) the factor is for multiplying a rate specified in item 7, 8, 9, 10, 11, 12, 13, 14 or 15 in the table in subsection 27(1); and
  - (iii) the brought-forward CPI indexation amount for the year is more than 0;
- the number worked out under paragraph (b) or (c) of this subsection reduced by that amount, but not below 1.

## **57 After section 198M**

Insert:

### **198MA Adjustment of indexation factor under section 59D for limited time on and after 20 March 2013 for certain purposes**

#### *Application*

- (1) This section applies for purposes connected with the following payments on or after 20 March 2013:
- (a) a service pension;
  - (b) seniors supplement;
  - (c) a pension under Part II or IV at a rate determined under or by reference to Division 4 of Part II or subsection 30(1);
  - (d) Special Rate Disability Pension under the MRCA;
  - (e) compensation under Division 2 (Compensation for member's death for wholly dependent partners) of Part 2 of Chapter 5 of the MRCA.

Note 1: Section 198 of the MRCA sets Special Rate Disability Pension by reference to the rate of pension under section 24 of this Act (so indexation of amounts affecting that rate also affects that pension).

Note 2: Division 2 of Part 2 of Chapter 5 of the MRCA sets compensation under that Division by reference to the rate of pension under

subsection 30(1) of this Act (so indexation of amounts affecting that rate also affects the compensation).

*Adjustment of indexation factor*

(2) An indexation factor that:

- (a) is worked out under section 59D on a day that is on or after 20 March 2013; and
- (b) is directly or indirectly relevant to the indexation of an amount provided for by:
  - (i) subsection 5GA(1) (which provides for the PS rate mentioned in table item 2 of section 59A); or
  - (ii) subsection 5GA(2) (which provides for the PS minimum rate mentioned in table item 2A of section 59A); or
  - (iii) subsection 5GA(4) (which provides for the PS basic rate mentioned in table item 2B of section 59A); or
  - (iv) subsection 22(3) or (4), 23(4) or 24(4); or
  - (v) paragraph 30(1)(a) or (b); or
  - (vi) table item 2 of point SCH6-B1 of the Rate Calculator (which provides for the pension MBR mentioned in table item 1 of section 59A);

is, for the purposes of the indexation of such an amount on that day, to be reduced by the brought-forward CPI indexation amount, but not below 1.

Note 1: An indexation factor worked out under section 59D is indirectly relevant to the indexation of an amount provided for by subsection 22(3) or (4), 23(4) or 24(4) or paragraph 30(1)(b). This is because:

- (a) section 198 provides for indexation of such an amount by reference to the pension MBR factor worked out under section 59LA; and
- (b) the pension MBR factor depends on the increase in the single pension rate MBR amount, which in turn depends (under section 59G) on indexation of the pension MBR amount under section 59C, which involves the indexation factor worked out under section 59D.

Note 2: An indexation factor worked out under section 59D is indirectly relevant to the indexation of an amount provided for by paragraph 30(1)(a). This is because that amount is affected by indexation under section 59G, which in turn depends on indexation under section 59C.

Note 3: Once the brought-forward CPI indexation amount becomes 0, there will be no further reduction of the indexation factor.

Example: Assume that the indexation factor worked out under section 59D on 20 March 2013 is 1.005. The brought-forward CPI indexation amount in relation to 20 March 2013 is 0.007 (as there has been no previous reduction). That indexation factor is reduced to 1 on 20 March 2013.

Further assume that on 20 September 2013 the indexation factor is 1.010. The brought-forward CPI indexation amount in relation to 20 September 2013 is 0.002. That indexation factor is reduced to 1.008 on 20 September 2013.

The brought-forward CPI indexation amount in relation to later indexation days is now 0 so there is no further reduction of the indexation factor.

*Definition of **brought-forward CPI indexation amount***

(3) In this section:

**brought-forward CPI indexation amount** for a day means:

- (a) 0.007 less any reduction made under subsection (2) for an earlier day; or
- (b) 0 if the brought-forward PBLCI indexation amount for the day under section 198MB is 0.

**198MB Adjustment of living cost indexation factor for limited time on and after 20 March 2013 for certain purposes**

*Application*

- (1) This section applies for purposes connected with the following payments on or after 20 March 2013:
- (a) a service pension;
  - (b) a pension under Part II or IV at a rate determined under or by reference to section 22, 23 or 24 or subsection 30(1);
  - (c) Special Rate Disability Pension under the MRCA;
  - (d) compensation under Division 2 (Compensation for member's death for wholly dependent partners) of Part 2 of Chapter 5 of the MRCA.

Note 1: Section 198 of the MRCA sets Special Rate Disability Pension by reference to the rate of pension under section 24 of this Act (so indexation of amounts affecting that rate also affects that pension).

Note 2: Division 2 of Part 2 of Chapter 5 of the MRCA sets compensation under that Division by reference to the rate of pension under subsection 30(1) of this Act (so indexation of amounts affecting that rate also affects the compensation).

*Adjustment of living cost indexation factor*

- (2) A living cost indexation factor that:
- (a) is worked out under section 59EAB on a day that is on or after 20 March 2013; and
  - (b) is directly or indirectly relevant to the indexation of an amount provided for by:
    - (i) subsection 22(3) or (4), 23(4) or 24(4); or
    - (ii) paragraph 30(1)(a) or (b); or
    - (iii) table item 2 of point SCH6-B1 of the Rate Calculator (which provides for the pension MBR mentioned in table item 1 of section 59A);

is, for the purposes of the indexation of such an amount on that day, to be reduced by the brought-forward PBLCI indexation amount, but not below 1.

Note 1: A living cost indexation factor worked out under section 59EAB is indirectly relevant to the indexation of an amount provided for by subsection 22(3) or (4), 23(4) or 24(4) or paragraph 30(1)(b). This is because:

- (a) section 198 provides for indexation of such an amount by reference to the pension MBR factor worked out under section 59LA; and
- (b) the pension MBR factor depends on the increase in the single pension rate MBR amount, which in turn depends (under section 59G) on indexation of the pension MBR amount under section 59C, which may involve the living cost indexation factor worked out under section 59EAB.

Note 2: A living cost indexation factor worked out under section 59EAB is indirectly relevant to the indexation of an amount provided for by paragraph 30(1)(a). This is because that amount is affected by indexation under section 59G, which in turn depends on indexation under section 59C.

Note 3: Once the brought-forward PBLCI indexation amount becomes 0, there will be no further reduction of the living cost indexation factor.

Example: Assume that the living cost indexation factor worked out under section 59EAB on 20 March 2013 is 1.005. The brought-forward PBLCI indexation amount in relation to 20 March 2013 is 0.007 (as there has been no previous reduction). That living cost indexation factor is reduced to 1 on 20 March 2013.

Further assume that on 20 September 2013 the living cost indexation factor is 1.010. The brought-forward PBLCI indexation amount in relation to 20 September 2013 is 0.002. That living cost indexation factor is reduced to 1.008 on 20 September 2013.

The brought-forward PBLCI indexation amount in relation to later indexation days is now 0 so there is no further reduction of the indexation factor.

*Definition of **brought-forward PBLCI indexation amount***

(3) In this section:

**brought-forward PBLCI indexation amount** for a day means:

- (a) 0.007 less any reduction made under subsection (2) for an earlier day; or
- (b) 0 if the brought-forward CPI indexation amount for the day under section 198MA is 0.

**58 At the end of Part 5 of Schedule 5**

Add:

**35 Special rules for indexation of rates payable under clause 30**

- (1) This clause applies if clause 30 affects the rate at which service pension is payable to a person for a day on or after 20 March 2013.
- (2) Subsection 198MA(2), and the definition of **brought forward CPI indexation amount** (except paragraph (b) of that definition) in subsection 198MA(3), apply in relation to the amount described in subparagraph 30(4)(a)(i) of this Schedule for the person in the same way as they apply in relation to the person's PS minimum rate.
- (3) The following provisions do not affect the rate of the person's service pension worked out under clause 30 or an amount worked out in relation to the person's pension because of clause 34:
  - (a) subparagraph 198MA(2)(b)(vi);
  - (b) section 198MB.

## **Schedule 4—Clean energy payments under the Military Rehabilitation and Compensation Act**

### **Part 1—Clean energy advances**

#### ***Military Rehabilitation and Compensation Act 2004***

##### **1 Subsection 5(1)**

Insert:

***clean energy advance*** means an advance described in Division 1 or 3 of Part 5A of Chapter 11.

##### **2 Subsection 5(1)**

Insert:

***clean energy bonus*** under an Act or scheme means any of the following that is provided for by the Act or scheme:

- (a) a payment known as a clean energy advance;
- (c) an increase that is described using the phrase “clean energy” and affects the rate of another payment that is provided for by the Act or scheme.

##### **3 Subsection 5(1)**

Insert:

***clean energy payment*** means clean energy advance.

##### **4 Subsection 5(1)**

Insert:

***clean energy underlying payment*** means:

- (a) compensation under Part 2 of Chapter 4 (whether weekly compensation or a lump sum); or
- (b) Special Rate Disability Pension; or
- (c) compensation under Division 2 of Part 2 of Chapter 5 (whether weekly compensation or a lump sum).

**5 Subsection 5(1) (at the end of the definition of *compensation*)**

Add:

; (f) clean energy payments.

**6 At the end of Part 1 of Chapter 8**

Add:

**345A Application of this Chapter to decisions about clean energy payments**

- (1) This section modifies the way this Chapter applies in relation to a decision by the Commission that is only about a person's entitlement to a clean energy payment.
- (2) This Chapter applies to the person in the same way as it applies to a claimant. However, this does not affect the following provisions:
  - (a) subsection 346(3);
  - (b) section 348;
  - (c) subsections 349(2) and (3);
  - (d) Part 4;
  - (e) subsections 356(2) and (3);
  - (f) subsection 357(6);
  - (g) subsections 358(2) and (3).

**7 Subsection 415(2)**

Omit "and 317 apply", substitute " , 317 and 424K apply".

**8 Subsection 415(2) (note)**

Repeal the note, substitute:

Note: Chapter 6 and Part 5A have their own recovery provisions (see sections 315, 316, 317 and 424K).

**9 After Part 5 of Chapter 11**

Insert:

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## Part 5A—Clean energy payments

### Division 1—Eligibility for clean energy advances

#### 424A Recipient of compensation for permanent impairment

##### *Eligibility for days before 1 July 2012*

- (1) The Commission may, on a day (the **test day**) on or after 14 May 2012 and before 1 July 2012, determine that a person is eligible for a clean energy advance for compensation under Part 2 of Chapter 4 if:
  - (a) the condition in subsection (3) is met for the test day; and
  - (aa) the person is residing in Australia on the test day; and
  - (b) the person is in Australia on the test day.

##### *Eligibility for days in 2012-13 financial year*

- (2) The Commission may determine that a person is eligible for a clean energy advance for compensation under Part 2 of Chapter 4 if:
  - (a) the condition in subsection (3) is met for a day (the **test day**) in the financial year starting on 1 July 2012; and
  - (aa) the person is residing in Australia on the test day; and
  - (b) the person is in Australia on the test day.

The determination must specify the first day, in the financial year, for which the condition in subsection (3) is met, the person is residing in Australia and the person is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

##### *Receipt of compensation*

- (3) A condition for determination of eligibility is that either or both of the following apply:
  - (a) on the test day the person either:
    - (i) is receiving weekly compensation under Part 2 of Chapter 4; or
    - (ii) would be receiving weekly compensation under that Part apart from paragraph 398(3)(b) (of this Act) and

offsetting described in subsection 13(4) of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*;

- (b) before the test day the person received lump sum compensation under Part 2 of Chapter 4.

*Only one determination of a person's eligibility*

- (4) The Commission may make only one determination of a particular person's eligibility under this section.

#### **424B Recipient of Special Rate Disability Pension**

*Eligibility for days before 1 July 2012*

- (1) The Commission may, on a day (the **test day**) on or after 14 May 2012 and before 1 July 2012, determine that a person is eligible for a clean energy advance for Special Rate Disability Pension if:
  - (a) the condition in subsection (3) is met for the test day; and
  - (aa) the person is residing in Australia on the test day; and
  - (b) the person is in Australia on the test day.

*Eligibility for days in period 1 July 2012-19 March 2013*

- (2) The Commission may determine that a person is eligible for a clean energy advance for Special Rate Disability Pension if:
  - (a) the condition in subsection (3) is met for a day (the **test day**) in the period starting on 1 July 2012 and ending on 19 March 2013; and
  - (aa) the person is residing in Australia on the test day; and
  - (b) the person is in Australia on the test day.

The determination must specify the first day, in the period, for which the condition in subsection (3) is met, the person is residing in Australia and the person is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

*Receipt of Special Rate Disability Pension*

- (3) A condition for determination of eligibility is that either:
  - (a) the person is receiving Special Rate Disability Pension on the test day; or

- 
- (b) the person would receive Special Rate Disability Pension on the test day apart from section 204 and paragraph 398(3)(b).

*Only one determination of a person's eligibility*

- (4) The Commission may make only one determination of a particular person's eligibility under this section.

**424C Recipient of compensation for wholly dependent partner of deceased member**

*Eligibility for days before 1 July 2012*

- (1) The Commission may, on a day (the **test day**) on or after 14 May 2012 and before 1 July 2012, determine that a person is eligible for a clean energy advance for compensation under Division 2 of Part 2 of Chapter 5 if:
- (a) the condition in subsection (3) is met for the test day; and
  - (aa) the person is residing in Australia on the test day; and
  - (b) the person is in Australia on the test day.

*Eligibility for days in period 1 July 2012-19 March 2013*

- (2) The Commission may determine that a person is eligible for a clean energy advance for compensation under Division 2 of Part 2 of Chapter 5 if:
- (a) the condition in subsection (3) is met for a day (the **test day**) in the period starting on 1 July 2012 and ending on 19 March 2013; and
  - (aa) the person is residing in Australia on the test day; and
  - (b) the person is in Australia on the test day.

The determination must specify the first day, in the period, for which the condition in subsection (3) is met, the person is residing in Australia and the person is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

*Receipt of compensation*

- (3) A condition for determination of eligibility is that either or both of the following apply:
- (a) on the test day the person either:

**Schedule 4** Clean energy payments under the Military Rehabilitation and Compensation Act

**Part 1** Clean energy advances

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- (i) is receiving weekly compensation under Division 2 of Part 2 of Chapter 5; or
- (ii) would be receiving weekly compensation under that Division apart from paragraph 398(3)(b);
- (b) before the test day the person received lump sum compensation under Division 2 of Part 2 of Chapter 5 and subsection 388(6) has not applied to the person before the test day.

*Only one determination of a person's eligibility*

- (4) The Commission may make only one determination of a particular person's eligibility under this section.

**424D One advance for each clean energy underlying payment**

A separate clean energy advance is payable to a person for each clean energy underlying payment for which the Commission has determined that the person is eligible for a clean energy advance.

Note: This section is subject to section 424L (multiple entitlement exclusions).

**Division 2—Amount of a clean energy advance**

**424E Amount of a clean energy advance**

- (1) On the day (the ***decision day***) that the Commission determines that a person is eligible for a clean energy advance for a clean energy underlying payment, the Commission must work out the amount of the advance.

Note: The advance will be paid in a lump sum as soon as is reasonably practicable: see section 424J.

- (2) The amount of the advance is the result of the following formula rounded up to the nearest multiple of \$10:

Clean energy advance daily rate × Number of advance days

where:

***clean energy advance daily rate*** is worked out under section 424F.

***number of advance days*** is worked out under section 424G.

---

**424F Clean energy advance daily rate**

*For compensation under Part 2 of Chapter 4*

- (1) The **clean energy advance daily rate** for compensation under Part 2 of Chapter 4 is the same as that rate worked out under subsection 61D(1) of the *Veterans' Entitlements Act 1986* for a pension at a rate determined under subsection 22(3) of that Act.

*For Special Rate Disability Pension*

- (2) The **clean energy advance daily rate** for Special Rate Disability Pension is the same as that rate worked out under subsection 61D(1) of the *Veterans' Entitlements Act 1986* for a pension at a rate determined under subsection 24(4) of that Act.

*For compensation under Division 2 of Part 2 of Chapter 5*

- (3) The **clean energy advance daily rate** for compensation under Division 2 of Part 2 of Chapter 5 is the same as that rate worked out under subsection 61D(4) of the *Veterans' Entitlements Act 1986* for a pension at a rate determined under subsection 30(1) of that Act.

**424G Number of advance days**

The person's **number of advance days** is the number of days in the period:

- (a) starting on 1 July 2012 or, if the person is eligible for the clean energy advance because of a determination under subsection 424A(2), 424B(2) or 424C(2), the day specified under that subsection in the determination; and
- (b) ending on:
- (i) 19 March 2013, if the clean energy underlying payment is Special Rate Disability Pension or compensation under Division 2 of Part 2 of Chapter 5; or
  - (ii) 30 June 2013, if the clean energy underlying payment is compensation under Part 2 of Chapter 4.

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## Division 3—Top-up payments of clean energy advance

### 424H Top-up payments of clean energy advance

- (1) The Commission may by legislative instrument determine that persons:
  - (a) who have been paid the amount (the **original payment**) of a specified clean energy advance for a clean energy underlying payment (the **original underlying payment**) worked out under Division 2; and
  - (b) whose circumstances change, within a period specified in the instrument, in a way that is specified in the instrument and is covered by subsection (2) or (3);are eligible for a further payment, of the amount worked out in accordance with the instrument, of the clean energy advance.
- (2) This subsection covers a person's circumstances changing in a way such that:
  - (a) immediately after the change the Commission could still have determined that the person would have been eligible for a clean energy advance for the original underlying payment, had the Commission not already made such a determination; and
  - (b) had the amount of the original payment been worked out by reference to the person's circumstances immediately after the change, the clean energy advance daily rate that would have been used for working out that amount would have been greater than the rate actually used for working out that amount.
- (3) This subsection covers a change in a person's circumstances that, apart from a multiple entitlement exclusion, would (if any necessary administrative decisions were made) entitle the person to a clean energy bonus, under an Act or a scheme, relating to a payment other than the original underlying payment.
- (4) For the purposes of subsection (3), a **multiple entitlement exclusion** is an instrument that:
  - (a) provides a person is not entitled to a clean energy bonus under an Act or a scheme because of the person's entitlement to or receipt of the original payment or the original underlying payment; and

- (b) is made under:
  - (i) section 424L; or
  - (ii) section 65A of the *Veterans' Entitlements Act 1986*; or
  - (iii) section 918 of the *Social Security Act 1991*;or is an instrument establishing entitlements to a clean energy bonus under a scheme.
- (5) An instrument under subsection (1) may provide for:
  - (a) different periods for changes of circumstances depending on different changes in circumstances; and
  - (b) different ways of working out further amounts of the original payment depending on different changes in circumstances.

## **Division 4—Payment of clean energy advance**

### **424J Payment of clean energy advance**

- (1) An amount of clean energy advance for which a person is eligible is payable in a single lump sum on the day that the Commission considers to be the earliest day on which it is reasonably practicable for the advance to be made.
- (2) However, the clean energy advance is not payable if the Commission is aware that the person has died.

## **Division 5—Debts**

### **424K Debts relating to clean energy advances**

- (1) This section applies if:
  - (a) a person has been paid a clean energy advance for a clean energy underlying payment; and
  - (b) after the advance was paid, one of the following events happens to a determination that directly or indirectly affected the payability or amount of the clean energy advance paid to the person:
    - (i) the determination is changed, revoked or set aside;
    - (ii) the determination is superseded by another determination; and

- (c) the event happened wholly or partly because the person knowingly made a false or misleading statement or knowingly provided false information; and
- (d) had the event happened on or before the day the advance was paid:
  - (i) the advance would not have been paid; or
  - (ii) the advance would have been reduced.

- Note 1: Examples of determinations directly affecting the payability or amount of the clean energy advance include:
- (a) a determination relating to the person's eligibility for the clean energy underlying payment to which the advance related; and
  - (b) the determination of the person's eligibility for the clean energy advance.
- Note 2: An example of a determination indirectly affecting the amount of the advance is a determination relating to a change in circumstances that results in the person becoming eligible for a further payment of the advance under an instrument made under section 424H.

*Creation and amount of debt*

- (2) The advance is a debt due to the Commonwealth by the person if subparagraph (1)(d)(i) applies.
- (3) The amount by which the advance would have been reduced is a debt due to the Commonwealth by the person if subparagraph (1)(d)(ii) applies.

*Recovery of debt*

- (4) A debt under this section is recoverable by the Commission from the person in a court of competent jurisdiction.
- (5) The recoverable amount may be deducted from an amount that is payable to or for the benefit of the person under this Act.

## **Division 6—Multiple entitlement exclusions**

### **424L Multiple entitlement exclusions**

- (1) The Commission may by legislative instrument determine that persons in circumstances specified in the instrument are not entitled to a clean energy bonus under this Act that is specified in the instrument.

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Note: For *clean energy bonus* see subsection 5(1).

- (2) Those circumstances must relate to persons' entitlement to or receipt of one or more of the following:
- (a) another clean energy bonus under this Act;
  - (b) a clean energy bonus under the *Veterans' Entitlements Act 1986*;
  - (c) a clean energy bonus under the *Social Security Act 1991*;
  - (d) a clean energy bonus under a scheme (however described), whether or not the scheme is provided for by or under an Act.
- (3) An instrument under subsection (1) has effect according to its terms, despite any other provision of this Act.

## **Part 2—Clean energy supplements**

### **Division 1—Amendments commencing on 20 March 2013**

#### ***Military Rehabilitation and Compensation Act 2004***

##### **10 Subsection 5(1) (after paragraph (a) of the definition of *clean energy bonus*)**

Insert:

- (b) a payment known as a clean energy supplement or a quarterly clean energy supplement;

##### **11 Subsection 5(1) (at the end of the definition of *clean energy payment*)**

Add “or clean energy supplement”.

##### **12 Subsection 5(1)**

Insert:

***clean energy supplement*** means clean energy supplement payable under section 209A or 238A.

##### **13 Subsection 204(2)**

Omit “or for financial advice”, substitute “, financial advice or clean energy supplement”.

##### **14 After section 209**

Insert:

#### **209A Clean energy supplement for Special Rate Disability Pension**

- (1) The Commonwealth is liable to pay a clean energy supplement to a person for a day if:

- (a) Special Rate Disability Pension:

- (i) is payable to the person for the day; or
    - (ii) would be payable to the person for the day apart from section 204 and paragraph 398(3)(b); and

- 
- (b) the person resides in Australia on the day; and
  - (c) on the day the person either:
    - (i) is in Australia; or
    - (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

Note: Section 424L may affect the person's entitlement to the clean energy supplement.

- (2) The daily rate of the supplement is  $\frac{1}{14}$  of the CES 24(4) rate under the *Veterans' Entitlements Act 1986* on the day.

## **15 At the end of Division 2 of Part 2 of Chapter 5**

Add:

### **238A Clean energy supplement for compensation for wholly dependent partners of deceased members**

- (1) The Commonwealth is liable to pay a clean energy supplement to a person for a day if:
  - (a) the condition in subsection (2) is met for the day; and
  - (b) the person is residing in Australia on the day; and
  - (c) on the day the person either:
    - (i) is in Australia; or
    - (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

Note: Section 424L may affect the person's entitlement to the clean energy supplement.

#### *Condition—receipt of compensation under this Division*

- (2) The condition is that either or both of the following apply:
  - (a) weekly compensation under this Division (except this section) either:
    - (i) is payable to the person for the day; or
    - (ii) would be payable to the person for the day apart from paragraph 398(3)(b);
  - (b) before the day the person received lump sum compensation under this Division and subsection 388(6) has not applied to the person before the day.

*Rate of clean energy supplement*

- (3) The daily rate of the supplement is  $\frac{1}{14}$  of the CES 30(1) rate under the *Veterans' Entitlements Act 1986* on the day.

**16 After subsection 430(3)**

Insert:

- (3AA) In specifying intervals in a direction under subsection (1), the Commission may take account of a person's choice, notified to the Commission, to be paid clean energy supplement quarterly. This does not limit the Commission's powers under that subsection.

**Division 2—Amendments commencing on 1 July 2013**

***Military Rehabilitation and Compensation Act 2004***

**17 Subsection 5(1) (definition of *clean energy supplement*)**

After "section", insert "83A,".

**18 At the end of Part 2 of Chapter 4**

Add:

**83A Clean energy supplement for compensation under this Part**

- (1) The Commonwealth is liable to pay a clean energy supplement to a person for a day if:
- (a) the condition in subsection (2) is met for the day; and
  - (b) the person is residing in Australia on the day; and
  - (c) on the day the person either:
    - (i) is in Australia; or
    - (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

Note: Section 424L may affect the person's entitlement to the clean energy supplement.

*Condition—receipt of compensation under this Part*

- (2) The condition is that either or both of the following apply:
- (a) weekly compensation under this Part (except this section):

- 
- (i) is payable to the person for the day; or
  - (ii) would be payable to the person for the day apart from paragraph 398(3)(b) (of this Act) and offsetting described in subsection 13(4) of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*;
- (b) before the day the person received lump sum compensation under this Part.

*Rate of clean energy supplement*

- (3) The daily rate of the supplement is, subject to section 404, <sup>1/14</sup> of the CES 22(3) rate under the *Veterans' Entitlements Act 1986* on the day.

Note: Section 404 provides for indexation of the daily rate for each indexation year starting on or after 1 July 2014.

**19 Section 404 (heading)**

Repeal the heading, substitute:

**404 Indexation of amounts and rates**

**20 Subsection 404(2)**

Repeal the subsection, substitute:

- (1A) This section also applies, for indexation years commencing on and after 1 July 2014, to the daily rate mentioned in subsection 83A(3).
- (2) The dollar amount or rate mentioned in the provision, for an indexation year in which the indexation factor is greater than 1, is replaced by the amount or rate worked out using the formula:

Dollar amount or rate for the provision  
for the previous financial year  $\times$  Indexation factor for  
the indexation year

## **Part 3—Indexation**

### ***Military Rehabilitation and Compensation Act 2004***

#### **21 After subsection 404(5)**

Insert:

- (5A) For the purposes of replacing the dollar amount mentioned in subsection 74(1) for an indexation year starting on or after 1 July 2013, the indexation factor is reduced by the brought-forward CPI indexation amount for the year, but not below 1.

#### **22 Subsection 404(6)**

Insert:

***brought-forward CPI indexation amount*** for an indexation year starting on or after 1 July 2013 means 0.007 less any reduction made under subsection (5A) for an earlier indexation year.

## **Schedule 5—Clean energy payments under the Farm Household Support Act**

### ***Farm Household Support Act 1992***

#### **1 Subsection 3(1)**

Insert:

***combined couple rate of pension supplement***

#### **2 Subsection 3(1)**

Insert:

***illness separated couple***

#### **3 Subsection 3(1)**

Insert:

***maximum basic rate***

#### **4 Subsection 3(1)**

Insert:

***partial capacity to work***

#### **5 Subsection 3(1)**

Insert:

***partnered***

#### **6 Subsection 3(1)**

Insert:

***partnered (partner in gaol)***

#### **7 Subsection 3(1)**

Insert:

***Pension Rate Calculator A***

## 8 Subsection 3(1)

Insert:

*respite care couple*

## 9 Subsection 3(2)

Insert:

*advance qualification day* means:

- (a) for a person qualifying for a clean energy advance because of a determination made under subsection 8G(1) or 8H(1)—the day that determination is made; or
- (b) for a person qualifying for a clean energy advance because of a determination made under subsection 8G(2)—the day specified in that determination because of subsection 8G(3); or
- (c) for a person qualifying for a clean energy advance because of a determination made under subsection 8H(2) or (3)—the day specified in that determination because of subsection 8H(4).

## 10 Subsection 3(2)

Insert:

*clean energy advance* means an advance described in section 8G, 8H or 24F.

## 11 Subsection 3(2)

Insert:

*clean energy advance daily rate* has the meaning given by section 24D.

## 12 Subsection 3(2)

Insert:

*clean energy advance period* means:

- (a) for a person qualifying under section 8G for a clean energy advance—the period starting on 1 July 2012 and ending on 19 March 2013; or

- (b) for a person qualifying under subsection 8H(1) or (2) for a clean energy advance—the period starting on 1 July 2012 and ending on 30 June 2013; or
- (c) for a person qualifying under subsection 8H(3) for a clean energy advance—the period starting on 1 July 2013 and ending on 31 December 2013.

**13 Subsection 3(2)**

Insert:

*number of advance days* has the meaning given by section 24E.

**14 Subsection 3(2)**

Insert:

*pension age* has the same meaning as in the *Social Security Act 1991* (otherwise than when used in Part 3.14A or 3.14B of that Act in relation to a person who is a veteran (within the meaning of the *Veterans' Entitlements Act 1986*)).

**15 Subsection 3(2)**

Insert:

*youth allowance age* has the same meaning as in Part 2.11 of the *Social Security Act 1991*.

**16 Subsection 3(2)**

Insert:

*youth disability supplement* has the same meaning as in Module D of the Youth Allowance Rate Calculator in the *Social Security Act 1991*.

**17 Part 2 (heading)**

Repeal the heading, substitute:

**Part 2—Qualification for and payability of certain support and payments**

**18 After Division 1B of Part 2**

Insert:

## **Division 1C—Qualification for clean energy advances**

### **8G Person not of youth allowance age**

*Qualification for days 14 May 2012 to 30 June 2012*

- (1) The Secretary may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine, in writing, that a person is qualified for a clean energy advance if, on that day:
  - (a) the person is not of youth allowance age; and
  - (b) the person receives exceptional circumstances relief payment; and
  - (c) the person's rate of payment is greater than nil; and
  - (d) the person is in Australia.

*Qualification for days 1 July 2012 to 19 March 2013*

- (2) The Secretary may determine, in writing, that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2012 and ending on 19 March 2013:
  - (a) the person is not of youth allowance age; and
  - (b) the person receives exceptional circumstances relief payment; and
  - (c) the person's rate of payment is greater than nil; and
  - (d) the person is in Australia.
- (3) A determination under subsection (2) must specify the first day during the period set out in that subsection for which the person:
  - (a) satisfies paragraphs (2)(a), (b) and (c); and
  - (b) is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

### **8H Person of youth allowance age**

*Qualification for days 14 May 2012 to 30 June 2012*

- (1) The Secretary may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine, in writing, that a person is qualified for a clean energy advance if, on that day:

- (a) the person is of youth allowance age; and
- (b) the person receives exceptional circumstances relief payment; and
- (c) the person's rate of payment is greater than nil; and
- (d) the person is in Australia.

*Qualification for days 1 July 2012 to 30 June 2013*

- (2) The Secretary may determine, in writing, that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2012 and ending on 30 June 2013:
  - (a) the person is of youth allowance age; and
  - (b) the person receives exceptional circumstances relief payment; and
  - (c) the person's rate of payment is greater than nil; and
  - (d) the person is in Australia.

*Qualification for days 1 July 2013 to 31 December 2013*

- (3) The Secretary may determine, in writing, that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2013 and ending on 31 December 2013:
  - (a) the person is of youth allowance age; and
  - (b) the person receives exceptional circumstances relief payment; and
  - (c) the person's rate of payment is greater than nil; and
  - (d) the person is in Australia.

*First day of qualification under subsection (2) or (3)*

- (4) A determination under subsection (2) or (3) must specify the first day during the period set out in that subsection for which the person:
  - (a) satisfies paragraphs (a), (b) and (c) of that subsection; and
  - (b) is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 13 weeks.

**8J Limits on qualifying for multiple advances**

- (1) A person cannot qualify for more than one clean energy advance under section 8G.

- (2) A person can qualify for at most 2 clean energy advances under section 8H:
  - (a) one under either subsection 8H(1) or (2); and
  - (b) one under subsection 8H(3).
- (3) A person who has qualified for a clean energy advance under subsection 8H(1) cannot qualify for a clean energy advance under subsection 8G(1).

Note 1: Top-up payments of clean energy advance may be payable under section 24F if the person's circumstances change during the person's clean energy advance period.

Note 2: A person who has qualified for a clean energy advance under subsection 8H(1) or (2) can qualify for a clean energy advance under subsection 8G(2).

Note 3: However, a second qualification mentioned in note 2 will only result in a further payment if it satisfies the criteria for a top-up payment (see subsection 24C(3) and section 24D).

## 19 At the end of subsection 14(1)

Add:

Note: A claim is not required for a clean energy advance.

## 20 After Part 4

Insert:

# Part 4A—Amount of a clean energy advance

## 24C Amount of a clean energy advance

- (1) On the day (the **decision day**) that the Secretary determines that a person (the **recipient**) is qualified for a clean energy advance, the Secretary must work out the amount of the advance.

Note: The advance will be paid in a lump sum as soon as is reasonably practicable (see subsection 25(4) and section 26C).

- (2) The amount of the advance is the result of the following formula rounded up to the nearest multiple of \$10:

Clean energy advance daily rate × Number of advance days

- (3) However, no amount is payable under this section for the qualification if:
- (a) the qualification is under section 8G; and
  - (b) a clean energy advance has already been paid to the recipient for a qualification under section 8H.

Note: The qualification under section 8G may result in a top-up payment under section 24F.

## 24D *Clean energy advance daily rate*

*Recipient has reached pension age*

- (1) If the recipient reaches pension age on or before the decision day, the recipient's **clean energy advance daily rate** is worked out by:
- (a) working out 1.7% of the total of:
    - (i) double the maximum basic rate under Pension Rate Calculator A, worked out for 1 July 2012 for a person who is partnered; and
    - (ii) the combined couple rate of pension supplement for 1 July 2012; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of \$5.20 (rounding up if that result is not a multiple of \$5.20 but is a multiple of \$2.60); and
  - (c) adding \$5.20 to the result of paragraph (b); and
  - (d) applying the applicable percentage in the following table to the result of paragraph (c); and
  - (e) dividing the result of paragraph (d) by 364.

| <b>Percentage to be applied</b> |                                                                      |                   |
|---------------------------------|----------------------------------------------------------------------|-------------------|
| <b>Item</b>                     | <b>Recipient's family situation on the advance qualification day</b> | <b>Use this %</b> |
| 1                               | Not a member of a couple                                             | 66.33%            |
| 2                               | Partnered                                                            | 50%               |
| 3                               | Member of an illness separated couple                                | 66.33%            |
| 4                               | Member of a respite care couple                                      | 66.33%            |
| 5                               | Partnered (partner in gaol)                                          | 66.33%            |

*Recipient under pension age but not of youth allowance age*

- (2) If the recipient is not covered by subsection (1) and is not of youth allowance age on the advance qualification day, the recipient's **clean energy advance daily rate** is worked out by:
- (a) working out 1.7% of the maximum basic rate for newstart allowance, worked out:
    - (i) for 1 July 2012; and
    - (ii) for a person in circumstances the same as the recipient's on the advance qualification day; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
  - (c) adding 20 cents to the result of paragraph (b); and
  - (d) dividing the result of paragraph (c) by 14.

*Recipient under 21 with a partial capacity to work*

- (3) If, on the advance qualification day, the recipient is under 21 and has a partial capacity to work, the recipient's **clean energy advance daily rate** is worked out by:
- (a) working out 1.7% of the total of the maximum basic rate, and the youth disability supplement, for youth allowance, worked out:
    - (i) for the first day of the recipient's clean energy advance period; and
    - (ii) for a person in circumstances the same as the recipient's on the advance qualification day; and
  - (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
  - (c) adding 20 cents to the result of paragraph (b); and
  - (d) dividing the result of paragraph (c) by 14.

*Other recipients of youth allowance age*

- (4) If, on the advance qualification day, the recipient is of youth allowance age and not covered by subsection (3), the recipient's **clean energy advance daily rate** is worked out by:
- (a) working out 1.7% of the maximum basic rate for youth allowance, worked out:

- (i) for the first day of the recipient's clean energy advance period; and
- (ii) for a person in circumstances the same as the recipient's on the advance qualification day; and
- (b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and
- (c) adding 20 cents to the result of paragraph (b); and
- (d) dividing the result of paragraph (c) by 14.

#### **24E Number of advance days**

The recipient's **number of advance days** is the number of days in the recipient's clean energy advance period that are on or after:

- (a) if the recipient qualifies for the clean energy advance before 1 July 2012—1 July 2012; or
- (b) otherwise—the advance qualification day.

#### **24F Top-up payments of clean energy advance**

*Work out adjusted amount if circumstances change*

- (1) If:
  - (a) the Secretary pays a clean energy advance (the **original payment**) to the recipient; and
  - (b) the recipient's circumstances change on a day (the **change day**) before the end of the recipient's clean energy advance period;

work out an amount under subsection (3). However, if this section has previously applied to the recipient, work out an amount under subsection (4).

*When a top-up is payable*

- (2) If the total of:
  - (a) the original payment; and
  - (b) any previous payments under this subsection;falls short of the amount worked out under subsection (3) or (4) (as applicable), the recipient is qualified for a further payment of clean energy advance equal to the amount of the shortfall.

Note: The advance will be paid in a lump sum as soon as is reasonably practicable (see subsection 25(4) and section 26C).

*Adjusted amount for the earliest change day*

- (3) For the purposes of subsection (1), round up to the nearest multiple of \$10 the result of the formula:

Original pro-rata amount + First pro-rata amount

where:

**first pro-rata amount** means the amount that would be the result of the formula set out in subsection 24C(2) if:

- (a) the advance qualification day were the change day; and
- (b) if the change day is specified in a determination, for the recipient, under subsection 8G(2) because of subsection 8G(3):
  - (i) the recipient's clean energy advance period were worked out by reference to the qualification resulting from that determination; and
  - (ii) the reference in subsection 24D(1) to the decision day were a reference to the change day.

Note: Paragraph (b) only applies if the recipient qualifies a second time for a clean energy advance, this time under section 8G (whereas the recipient qualified for the original payment under section 8H).

**original pro-rata amount** means the amount that would be the result of the formula set out in subsection 24C(2) if the recipient's number of advance days did not include days on or after the change day.

Note: The formula set out in subsection 24C(2) does not include the rounding mentioned in that subsection.

*Adjusted amount for later change days*

- (4) For the purposes of subsection (1), round up to the nearest multiple of \$10 the sum of the following:

- (a) the original pro-rata amount worked out under subsection (3) for the earliest change day;
- (b) the first pro-rata amount worked out under subsection (3) for the earliest change day but as if the number of advance days did not include days on or after the next change day;

- (c) the amount for each change day later than the earliest worked out in a way corresponding to the way the first pro-rata amount was worked out under paragraph (b) for the earliest change day.

**21 Part 5 (heading)**

Repeal the heading, substitute:

**Part 5—Payment of certain support and payments**

**22 At the end of section 25**

Add:

- (4) Clean energy advance becomes payable to a person qualified for the advance on the day the Secretary considers to be the earliest day on which it is reasonably practicable for the advance to be made. However, the Secretary must not pay the advance if the Secretary is aware that the person has died.

Note: This subsection applies to a qualification under section 8G, 8H or 24F.

**23 After section 26B**

Insert:

**26C Clean energy advance to be by way of a single lump sum**

Clean energy advance is paid to a person in a single lump sum in such manner as the Secretary considers appropriate.

Note: An amount of clean energy advance may be reduced for the purpose of recovering a debt under section 56 of this Act (see section 1231A of the *Social Security Act 1991*).

**24 Paragraph 54(1)(c)**

Omit “or farm help income support”, substitute “, farm help income support or clean energy advance”.

**25 Section 55 (heading)**

Repeal the heading, substitute:

**55 Certain support and payments to be inalienable**

**26 Section 55**

Omit “and farm help scheme payments are”, substitute “, farm help scheme payments and clean energy advances are”.

**27 At the end of section 56 (before the note)**

Add:

(4) If:

- (a) an amount purporting to be an amount of clean energy advance has been paid to a person; and
- (b) some or all of the amount was not payable to the person; the amount that was not payable may be recovered by the Commonwealth as a debt due to the Commonwealth.

**28 Section 56 (note)**

Omit “or farm help income support”, substitute “, farm help income support or clean energy advance”.

**29 Subsection 57(3)**

Omit “Exceptional circumstances relief payment is”, substitute “Exceptional circumstances relief payment and clean energy advance are”.

***Social Security Act 1991***

**30 Section 1227A (heading)**

Repeal the heading, substitute:

**1227A Certain debts arising under Farm Household Support Act**

**31 Subsection 1227A(1A)**

After “re-establishment grant”, insert “, or an amount of clean energy advance (within the meaning of that Act),”.

**32 After paragraph 1227A(2)(a)**

Insert:

- (aa) if a clean energy advance (within the meaning of the *Farm Household Support Act 1992*) is payable to the person liable to pay the debt—a deduction from that advance; or

**33 Subsection 1227A(3)**

After “re-establishment grant”, insert “, or an amount of clean energy advance (within the meaning of the *Farm Household Support Act 1992*),”.

**34 Section 1231A (heading)**

Repeal the heading, substitute:

**1231A Deductions from debtor’s farm household payments or support**

**35 Paragraph 1231A(1)(b)**

Omit “drought relief payment”, substitute “a payment or support”.

**36 Subsection 1231A(2)**

Omit “or the farm help income support”, substitute “, the farm help income support or the clean energy advance (within the meaning of the *Farm Household Support Act 1992*)”.

**37 At the end of section 1231A**

Add:

- (5) For the purposes of this section, treat the payment of a clean energy advance (within the meaning of the *Farm Household Support Act 1992*) as the payment of an instalment of that advance.

Note: This will be a single instalment.

## Schedule 6—Low income supplement

### Part 1—Amendment of the social security law

#### *Social Security Act 1991*

##### **1 Subsection 23(1) (at the end of the definition of *clean energy payment*)**

Add:

(c) low income supplement; or

##### **2 Subsection 23(1)**

Insert:

***low income supplement*** means low income supplement under Division 3 of Part 2.18A.

##### **3 After Division 1 of Part 2.18A**

Insert:

### Division 3—Low income supplement

#### **916A Definitions**

In this Division:

***income tax return*** has the same meaning as in the *Income Tax Assessment Act 1997*.

***tax-free threshold*** has the same meaning as in the *Income Tax Rates Act 1986*.

#### **916B Qualification for low income supplement**

A person is qualified for a low income supplement for an income year if:

- (a) the person satisfies each of the following for the previous income year:
  - (i) the income requirement in section 916C;

- (ii) the excluded payment requirement in section 916D;
- (iii) the tax requirement in section 916E;
- (iv) the remaining requirements in section 916F; and
- (b) the person makes a claim for the supplement; and
- (c) when the person makes a claim for the supplement, the person is not in gaol or a psychiatric institution.

Note: Generally a person must make a claim for low income supplement for an income year in that income year (see section 27C of the Administration Act).

### **916C The income requirement**

- (1) A person satisfies the income requirement for an income year if the person's qualifying income for the year is less than:
  - (a) \$30,000 if the person is not a member of a couple, and does not have a dependent child, at the claim time; or
  - (b) \$45,000 if:
    - (i) the person is a member of a couple at the claim time; and
    - (ii) neither the person, nor the person's partner at that time, has a dependent child at that time; or
  - (c) \$60,000 if the person has a dependent child at the claim time; or
  - (d) \$60,000 if the person is a member of a couple at the claim time, and the person's partner at that time has a dependent child at that time.

#### *Qualifying income*

- (2) A person's **qualifying income** for an income year is:
  - (a) if the person is a member of a couple at the claim time—the sum of:
    - (i) the person's accepted adjusted taxable income for the income year; and
    - (ii) the accepted adjusted taxable income for the income year of the person's partner; or
  - (b) otherwise—the person's accepted adjusted taxable income for the income year.

*Adjusted taxable income*

- (3) A person's **adjusted taxable income** for an income year is the sum of:
- (a) the person's adjusted taxable income (within the meaning of Schedule 3 to the Family Assistance Act, disregarding clauses 3 and 3A of that Schedule) for the income year; and
  - (b) any superannuation income stream benefits (within the meaning of the *Income Tax Assessment Act 1997*) received by the person in relation to the income year, to the extent that those benefits are non-assessable non-exempt income (within the meaning of that Act).

Note: A person's adjusted taxable income (within the meaning of the Family Assistance Act) has several income components (see Schedule 3 to that Act).

*Accepted adjusted taxable income*

- (4) A person has an **accepted adjusted taxable income** if:
- (a) the Commissioner of Taxation has made an assessment of the person's taxable income for the income year and, for each of the other components of the person's adjusted taxable income for the income year, either or both of the following apply:
    - (i) the Commissioner holds information about the component;
    - (ii) to the extent that the Commissioner does not hold information about the component—the Secretary accepts under subsection (5) an estimate of the component; or
  - (b) the Secretary accepts under subsection (6) an estimate of the person's adjusted taxable income for the income year.

Note: For paragraph (a), a person's taxable income is a component of the person's adjusted taxable income (see Schedule 3 to the Family Assistance Act).

*When the Secretary may accept estimates*

- (5) The Secretary may, for the purposes of subparagraph (4)(a)(ii), accept an estimate of a component of a person's adjusted taxable income for an income year if the Secretary is satisfied that the estimate is reasonable.

- (6) The Secretary may, for the purposes of paragraph (4)(b), accept an estimate of a person's adjusted taxable income for an income year if:
- (a) the person's estimated taxable income for the income year is not more than the tax-free threshold for the income year; and
  - (b) the Secretary is satisfied that:
    - (i) the estimate of each of the components of the person's adjusted taxable income is reasonable; and
    - (ii) the Commissioner of Taxation has not made an assessment of the person's taxable income for the income year; and
    - (iii) the person has not lodged, and is not required under the Income Tax Assessment Act to lodge, an income tax return for the income year.

*Definition*

- (7) In this section:

**claim time** means the time a person makes a claim for low income supplement for an income year.

**916D The excluded payment requirement**

- (1) A person satisfies the excluded payment requirement for an income year if:
- (a) there were at least 92 days during the year in respect of which relevant clean energy payments were not paid to the person; and
  - (b) the person satisfies subsection (2) for the income year; and
  - (c) there were at least 13 weeks during the year for which the person did not receive any of the payments set out in subsection (3).

Note: For **relevant clean energy payment**, see subsection (5).

- (2) A person satisfies this subsection for an income year if either:
- (a) there were at least 13 weeks during the income year for which the person did not have an FTB child; or
  - (b) if paragraph (a) does not apply—all of the following apply:
    - (i) the Secretary determined under paragraph 19(b) of the Family Assistance Administration Act that the person

- was not entitled to be paid family tax benefit for a past period;
- (ii) because of that determination, there were at least 13 weeks during the income year for which the person was not entitled to be paid family tax benefit;
- (iii) the determination was not made because of section 26 of the Family Assistance Act.

*Excluded payments*

- (3) The payments are the following:
  - (a) a social security pension (other than a sole parent pension or special needs pension);
  - (b) a social security benefit;
  - (c) seniors supplement under Part 2.25B of this Act or Part VIIAD of the Veterans' Entitlements Act;
  - (d) a payment under the ABSTUDY Scheme that included an amount identified as living allowance;
  - (e) a payment under Part 5 or 6 of the *Farm Household Support Act 1992*;
  - (f) a pension under Part II, III or IV of the Veterans' Entitlements Act (other than a pension that is payable at a rate specified in subsection 30(2) of that Act);
  - (g) compensation under Part 2 of Chapter 4, or Division 2 of Part 2 of Chapter 5, of the Military Rehabilitation and Compensation Act;
  - (h) a Special Rate Disability Pension (within the meaning of section 198 of the Military Rehabilitation and Compensation Act);
  - (i) a payment under the Military Rehabilitation and Compensation Act Education and Training Scheme worked out by reference to the maximum basic rate of youth allowance;
  - (j) a payment under the Veterans' Children Education Scheme worked out by reference to the maximum basic rate of youth allowance.
- (4) For the purposes of paragraph (3)(g), if a person has received compensation mentioned in that paragraph as a lump sum (whether paid before, on or after the commencement of this Division), the person is taken to be receiving the weekly amount that would have

been payable had the person not chosen to receive that compensation as a lump sum.

*Meaning of **relevant clean energy payment***

- (5) In this section, **relevant clean energy payment** means:
- (a) a clean energy payment (other than a low income supplement and an essential medical equipment payment); or
  - (b) a clean energy advance (within the meaning of the Family Assistance Act); or
  - (c) family tax benefit, to the extent that the amount of the family tax benefit worked out under Schedule 1 to the Family Assistance Act includes either or both an amount of clean energy supplement (Part A) or clean energy supplement (Part B); or
  - (d) single income family supplement (within the meaning of the Family Assistance Act); or
  - (e) a clean energy advance (within the meaning of the *Farm Household Support Act 1992*); or
  - (f) a clean energy payment (within the meaning of the Military Rehabilitation and Compensation Act); or
  - (g) a clean energy payment (within the meaning of the Veterans' Entitlements Act), other than an essential medical equipment payment (within the meaning of that Act).

**916E The tax requirement**

- (1) A person satisfies the tax requirement for an income year if the person's accepted taxable income for the income year is:
- (a) less than \$18,000; or
  - (b) \$18,000 or more, but less than the person's LIS threshold amount for the income year.

*Accepted taxable income*

- (2) A person has an **accepted taxable income** for an income year if:
- (a) the Commissioner of Taxation has made an assessment of the person's taxable income for the income year; or
  - (b) the Secretary accepts an estimate of the person's taxable income for the income year under subsection (3).

- (3) The Secretary may accept an estimate of a person's taxable income for an income year if:
- (a) the estimate is not more than the tax-free threshold for the income year; and
  - (b) the Secretary is satisfied that:
    - (i) the estimate is reasonable; and
    - (ii) the Commissioner of Taxation has not made an assessment of the person's taxable income for the income year; and
    - (iii) the person has not lodged, and is not required under the Income Tax Assessment Act to lodge, an income tax return for the income year; and
  - (c) if the estimate is \$18,000 or more:
    - (i) the person has provided the Secretary with an estimate of the person's eligible tax offsets (within the meaning of subsection (4)) for the income year; and
    - (ii) the Secretary is satisfied that that estimate is reasonable.

*LIS threshold amount*

- (4) The **LIS threshold amount** for a person for an income year is worked out as follows:

$$\left( \frac{\text{Amount of the person's eligible tax offsets for the income year}}{0.15} \right) + \$18,000$$

where:

**eligible tax offsets**, for a person for an income year, means the person's tax offsets (if any) for the income year, disregarding any tax offset under section 159N of the *Income Tax Assessment Act 1936* (tax offset for certain low income earners).

**tax offset** has the same meaning as in the *Income Tax Assessment Act 1997*.

## 916F The remaining requirements

A person (the **claimant**) satisfies the remaining requirements for an income year if:

- (a) the claimant was, at all times during the year, an Australian resident or a special category visa holder residing in Australia; and
- (b) the claimant was in Australia for at least 39 weeks of the year; and
- (c) the claimant was not subject to a newly arrived resident's waiting period at any time during the year; and
- (d) the claimant was not a dependent child of another person for more than 25 weeks of the year; and
- (e) the claimant was not in gaol and/or psychiatric institutions for more than 25 weeks of the year; and
- (f) no person was eligible for family tax benefit in respect of the claimant in relation to more than 25 weeks of the year.

### **916G Availability of supplement**

A person cannot receive more than one low income supplement for an income year.

### **916H Non-receipt of social security payment**

- (1) This section applies for the purposes of a provision of this or another Act if:
  - (a) the provision provides a benefit (whether the benefit is a pension, benefit, payment, supplement or any other sort of benefit) if a person meets specified criteria; and
  - (b) one of the specified criteria is that the person is receiving a social security payment, or is a recipient of a social security payment.
- (2) For the purposes of the provision, a person is not taken to be receiving a social security payment, or to be a recipient of a social security payment, merely because the person receives low income supplement.

### **916J Amount of supplement**

The amount of a low income supplement for an income year is \$300.

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

### **4 Subsection 16(3)**

After “person may”, insert “, subject to subsection (3A),”.

### **5 After subsection 16(3)**

Insert:

- (3A) A claim by a person for low income supplement for an income year must not be combined with any other claim.

### **6 Before Subdivision G of Division 1 of Part 3**

Insert:

## **Subdivision FC—Time limit for claims for low income supplement**

### **27C Time limit for claim**

- (1) A claim for low income supplement for an income year must be made during that income year.
- (2) However, the claim may be made after the end of that income year if the Secretary is satisfied that:
  - (a) there are special circumstances applying to the person’s claim that justify making a late claim; and
  - (b) the claim is made within a reasonable period having regard to those circumstances.

### **7 After section 204A**

Insert:

### **204B Secretary may require Commissioner to provide information in relation to claimants for low income supplement**

- (1) The Secretary may, in relation to claims for low income supplement, require the Commissioner of Taxation to provide the Secretary with information about people, including tax file numbers, being information:
  - (a) that is in the possession of the Commissioner; and

- (b) that relates to any of the following for an income year:
    - (i) taxable income;
    - (ii) tax offsets (within the meaning of the *Income Tax Assessment Act 1997*);
    - (iii) adjusted taxable income (within the meaning of the *Family Assistance Act*);
    - (iv) income tax (within the meaning of the *Income Tax Assessment Act 1997*); and
  - (c) that the Secretary is not otherwise able to require the Commissioner to provide under section 204A.
- (2) Information provided to the Secretary under a requirement made under subsection (1) may be used only for the purposes of ascertaining whether a person is or was qualified for low income supplement for an income year.

## Part 2—Application and transitional provisions

### 8 Application—claims from 1 July 2012

The amendments to the *Social Security Act 1991* and the *Social Security (Administration) Act 1999* made by Part 1 of this Schedule apply in relation to claims for low income supplement made on or after 1 July 2012.

### 9 Transitional—tax-free threshold for the 2011-12 income year

For the purposes of applying subsections 916C(6) and 916E(3) of the *Social Security Act 1991* (as inserted by this Schedule) in relation to the 2011-12 income year:

- (a) the definition of ***tax-free threshold*** in section 916A does not apply; and
- (b) ***tax-free threshold*** means \$6,000.

### 10 Transitional—tax requirement for claims made in the 2012-13 income year

- (1) For a person who makes a claim for low income supplement for the 2012-13 income year:

- (a) subsection 916E(1) of the *Social Security Act 1991*, as inserted by this Schedule, does not apply in relation to the claim; and
- (b) the person is taken to satisfy the tax requirement referred to in subparagraph 916B(a)(iii) of that Act (as inserted by this Schedule) for the 2011-12 income year if the person satisfies the requirement in subitem (2).

- (2) A person satisfies this subitem if:

- (a) the person has an accepted taxable income (within the meaning of subsection 916E(2) of the *Social Security Act 1991*, as inserted by this Schedule) for the 2011-12 income year; and
- (b) the amount of income tax owed by the person for that year, as worked out under subsection 4-10(3) of the *Income Tax Assessment Act 1997* by reference to the person's accepted taxable income, is less than \$300.

## **Part 3—Other amendments**

### ***Income Tax Assessment Act 1936***

#### **11 After paragraph 202(h)**

Insert:

(haa) to facilitate the administration of Division 3 of Part 2.18A of the *Social Security Act 1991* (which deals with payment of low income supplement); and

### ***Taxation Administration Act 1953***

#### **12 Paragraph 8WA(1AA)(b)**

After “(h),”, insert “(haa),”.

#### **13 Paragraphs 8WB(1A)(a) and (b)**

After “(h),”, insert “(haa),”.

## Schedule 7—Essential medical equipment payment

### Part 1—Amendment of the social security law

#### *Social Security Act 1991*

#### **1 Subsection 23(1) (at the end of the definition of *clean energy payment*)**

Add:

(d) an essential medical equipment payment.

#### **2 Subsection 23(1)**

Insert:

*EMEP residence* has the meaning given by section 917A.

#### **3 Subsection 23(1)**

Insert:

*essential medical equipment payment* has the meaning given by section 917A.

#### **4 Subsection 23(1)**

Insert:

*medical equipment* has the meaning given by section 917A.

#### **5 Subsection 23(1)**

Insert:

*person with medical needs* has the meaning given by section 917A.

#### **6 After Division 3 of Part 2.18A**

Insert:

## **Division 4—Essential medical equipment payment**

### **917A Definitions**

In this Division:

**EMEP residence** has the meaning given by subsection 917C(1).

**essential medical equipment payment:**

- (a) means an essential medical equipment payment under this Division (except in section 917F); and
- (b) in section 917F—has the meaning given by that section.

**medical equipment**, in relation to a person who satisfies the medical needs requirement under paragraph 917C(1)(b), means the heating or cooling system (as the case requires) of the residence described in that paragraph.

**person with medical needs** has the meaning given by paragraph 917C(2)(b).

### **917B Qualification for essential medical equipment payment**

- (1) A person (the **claimant**) is qualified for an essential medical equipment payment for an income year if:
  - (a) the Secretary is satisfied that the claimant satisfies each of the following on the EMEP test day:
    - (i) the medical needs requirement in section 917C;
    - (ii) the concession card requirement in section 917D;
    - (iii) the energy account requirement in section 917E; and
  - (b) a medical practitioner has (subject to subsection (2)) certified that:
    - (i) the claimant meets the medical needs requirement under subsection 917C(1) on a day; or
    - (ii) another specified person meets the medical needs requirement under subsection 917C(1) on a day;(as the case requires); and
  - (c) the claimant is not prevented from receiving an essential medical equipment payment by section 917F; and
  - (d) the claimant is not a dependent child of another person on the EMEP test day; and

- (e) the claimant is in Australia on the *EMEP test day*.
- (2) Paragraph (1)(b) does not apply if the Secretary is otherwise satisfied that the claimant or another specified person meets the medical needs requirement in section 917C.

*Meaning of **EMEP test day***

- (3) For the purposes of subsection (1), the **EMEP test day** is either:
  - (a) the day in the income year referred to in subsection (1) on which the claimant makes the claim for the payment; or
  - (b) an anniversary (in the income year referred to in subsection (1)) of the day on which the claimant made a claim for the payment if:
    - (i) the claimant made the claim in a previous income year; and
    - (ii) since the claimant made the claim, the Secretary has not determined that the claimant has ceased to be qualified for the payment.

Note 1: Under section 11 of the Administration Act, a person is required to make a claim for a social security payment.

Note 2: For additional rules relating to the claim, see section 19 of the Administration Act.

*Determining qualification for later income years*

- (4) In determining whether a person is qualified for an essential medical equipment payment for an income year after the income year in which the claim for the payment is made, the Secretary:
  - (a) may act on the basis of the documents and information in his or her possession; and
  - (b) is not required to conduct any inquiries or investigations into the matter or to require (whether under this Act or otherwise) the giving of any information or the production of any document.
- (5) Despite subsection (4), the Secretary may require a further certification for the purposes of paragraph (1)(b), or further information or a further document for the purposes of subsection (2), in an income year after the income year in which the claim is made.

## **917C The medical needs requirement**

### *Person who has medical needs*

- (1) A person satisfies the medical needs requirement on a day if:
- (a) the person has a medical condition on that day, and as a result:
    - (i) the person requires the use of specified essential medical equipment in a residence (the **EMEP residence**) that is the person's home and is either a private residence or a specified residence; and
    - (ii) the person uses that equipment in that residence; or
  - (b) the person has a specified medical condition on that day, and as a result:
    - (i) the person is unable to regulate his or her body temperature; and
    - (ii) additional heating or cooling is required, in a residence (the **EMEP residence**) that is the person's home and is either a private residence or a specified residence, to manage the person's condition; and
    - (iii) the person uses additional heating or cooling in that residence.

### *Caring for a person who has medical needs*

- (2) A person (the **carer**) also satisfies the medical needs requirement on a day if:
- (a) the carer provides care and attention on a regular and ongoing basis for a person; and
  - (b) the person (the **person with medical needs**) satisfies the medical needs requirement under subsection (1) on the day; and
  - (c) the person with medical needs is specified in the certification under subparagraph 917B(1)(b)(ii) or is the person specified for the purposes of subsection 917B(2) (as the case requires); and
  - (d) the carer's home is the EMEP residence that is the home of the person with medical needs.

*Legislative instrument*

- (3) The Minister may, by legislative instrument, specify:
- (a) essential medical equipment for the purposes of paragraph (1)(a); and
  - (b) medical conditions for the purposes of paragraph (1)(b); and
  - (c) residences for the purposes of paragraphs (1)(a) and (b).

**917D The concession card requirement**

A person satisfies the concession card requirement on a day if:

- (a) the person is a holder of a concession card, or the person's name is included on a concession card, on that day; or
- (b) both of the following apply:
  - (i) the person satisfies the medical needs requirement under subsection 917C(2) (caring for a person) on that day in relation to a person with medical needs;
  - (ii) the person with medical needs is a holder of a concession card, or the name of the person with medical needs is included on a concession card, on that day.

**917E The energy account requirement**

- (1) A person satisfies the energy account requirement on a day if:
- (a) on that day, the energy account for the relevant EMEP residence is in the name of that person; or
  - (b) on that day, the energy account for the relevant EMEP residence is in the name of that person's partner; or
  - (c) the person contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence; or
  - (d) if the person is not the person with medical needs—the person with medical needs contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence.
- (2) For the purposes of subsection (1), an **energy account** for a residence means any account for:
- (a) electricity; or
  - (b) any other specified form of energy;
- that is supplied to the residence.

- (3) The Minister may, by legislative instrument, specify forms of energy for the purposes of paragraph (2)(b).

#### **917F Availability of payments**

- (1) No essential medical equipment payment may be made for an income year in relation to medical equipment that is used in an EMEP residence if an essential medical equipment payment has already been made for that income year in relation to the same equipment and the same residence.
- (2) No more than 2 essential medical equipment payments may be made in relation to the same medical equipment for an income year (subject to subsection (1)).
- (3) Essential medical equipment payments for an income year may not be made, in relation to a person with medical needs, in relation to more than 2 EMEP residences.

#### *Meaning of essential medical equipment payment*

- (4) In this section, an **essential medical equipment payment** means an essential medical equipment payment under this Division or Division 3 of Part IIIE of the Veterans' Entitlements Act.

#### **917G Amount of payment**

The amount of an essential medical equipment payment for an income year is \$140.

Note: The amount specified is indexed on each 1 July (see sections 1190 and 1191).

#### **917H Non-receipt of social security payment**

- (1) This section applies for the purposes of a provision of this or another Act if:
- (a) the provision provides a benefit (whether the benefit is a pension, benefit, payment, supplement or any other sort of benefit) if a person meets specified criteria; and
  - (b) one of the specified criteria is that the person is receiving a social security payment, or is a recipient of a social security payment.

- (2) For the purposes of the provision, a person is not taken to be receiving a social security payment, or to be a recipient of a social security payment, merely because the person receives an essential medical equipment payment.

**7 Section 1190 (at the end of the table)**

Add:

|     | <b>Essential medical<br/>equipment<br/>payment</b> |      |              |
|-----|----------------------------------------------------|------|--------------|
| 70. | essential medical<br>equipment payment             | EMEP | section 917G |

**8 Subsection 1191(1) (at the end of the table)**

Add:

|     | <b>Essential<br/>medical<br/>equipment<br/>payment</b> |        |          |                                                                                                                                     |        |
|-----|--------------------------------------------------------|--------|----------|-------------------------------------------------------------------------------------------------------------------------------------|--------|
| 42. | EMEP                                                   | 1 July | December | highest<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than the<br>December<br>quarter of<br>2011) | \$1.00 |

**9 At the end of section 1192**

Add:

- (9) The first indexation of amounts under item 42 of the CPI Indexation Table in subsection 1191(1) is to take place on 1 July 2013.

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

### **10 After section 18**

Insert:

### **19 Special requirements regarding claims for essential medical equipment payment**

- (1) A claim for an essential medical equipment payment must include a statement by the person making the claim that the medical equipment to which the claim relates is used in the relevant EMEP residence.
- (2) If:
  - (a) a person who provides care and attention for a person with medical needs makes a claim for an essential medical equipment payment; and
  - (b) the person with medical needs is not a dependent child of that or any other person;the claim must be signed by the person with medical needs.

## **Part 2—Amendment of the Veterans' Entitlements Act**

### ***Veterans' Entitlements Act 1986***

#### **11 Section 5 (index of definitions)**

Insert:

|                |       |
|----------------|-------|
| EMEP residence | 5Q(1) |
|----------------|-------|

#### **12 Section 5 (index of definitions)**

Insert:

|                                     |       |
|-------------------------------------|-------|
| essential medical equipment payment | 5Q(1) |
|-------------------------------------|-------|

#### **13 Section 5 (index of definitions)**

Insert:

|             |       |
|-------------|-------|
| income year | 5Q(1) |
|-------------|-------|

#### **14 Section 5 (index of definitions)**

Insert:

|                   |       |
|-------------------|-------|
| medical equipment | 5Q(1) |
|-------------------|-------|

#### **15 Section 5 (index of definitions)**

Insert:

|                           |       |
|---------------------------|-------|
| person with medical needs | 5Q(1) |
|---------------------------|-------|

#### **16 Subsection 5Q(1) (at the end of the definition of *clean energy payment*)**

Add:

(c) an essential medical equipment payment.

**17 Subsection 5Q(1)**

Insert:

*EMEP residence* has the meaning given by section 63A.

**18 Subsection 5Q(1)**

Insert:

*essential medical equipment payment* has the meaning given by section 63A.

**19 Subsection 5Q(1)**

Insert:

*income year* has the meaning given by the *Income Tax Assessment Act 1997*.

**20 Subsection 5Q(1)**

Insert:

*medical equipment* has the meaning given by section 63A.

**21 Subsection 5Q(1)**

Insert:

*person with medical needs* has the meaning given by section 63A.

**22 Subsection 5Q(1) (paragraph (b) of the definition of tax year)**

Omit “(within the meaning of the *Income Tax Assessment Act 1997*)”.

**23 After Division 1 of Part IIIE**

Insert:

**Division 3—Essential medical equipment payment**

**Subdivision A—Definitions**

**63A Definitions**

In this Division:

**EMEP residence** has the meaning given by subsection 63C(1).

**essential medical equipment payment:**

- (a) means an essential medical equipment payment under this Division (except in section 63F); and
- (b) in section 63F—has the meaning given by that section.

**medical equipment**, in relation to a person who satisfies the medical needs requirement under paragraph 63C(1)(b), means the heating or cooling system (as the case requires) of the residence described in that paragraph.

**person with medical needs** has the meaning given by paragraph 63C(2)(b).

## **Subdivision B—Eligibility for essential medical equipment payment**

### **63B Eligibility for essential medical equipment payment**

- (1) A person (the **claimant**) is eligible for an essential medical equipment payment for an income year if:
  - (a) the Commission is satisfied that the claimant satisfies each of the following on the EMEP test day:
    - (i) the medical needs requirement in section 63C;
    - (ii) the concession card requirement in section 63D;
    - (iii) the energy account requirement in section 63E; and
  - (b) a medical practitioner has (subject to subsection (2)) certified that:
    - (i) the claimant meets the medical needs requirement under subsection 63C(1) on a day; or
    - (ii) another specified person meets the medical needs requirement under subsection 63C(1) on a day; (as the case requires); and
  - (c) the claimant is not prevented from receiving an essential medical equipment payment by section 63F; and
  - (d) the claimant is not a dependent child of another person on the EMEP test day; and
  - (e) the claimant is in Australia on the EMEP test day.

- (2) Paragraph (1)(b) does not apply if the Commission is otherwise satisfied that the claimant or another specified person meets the medical needs requirement in section 63C.

*Meaning of **EMEP test day***

- (3) For the purposes of subsection (1), the **EMEP test day** is either:
- (a) the day in the income year referred to in subsection (1) on which the claimant makes the claim for the payment; or
  - (b) an anniversary (in the income year referred to in subsection (1)) of the day on which the claimant made a claim for the payment if:
    - (i) the claimant made the claim in a previous income year; and
    - (ii) since the claimant made the claim, the Commission has not determined that the claimant has ceased to be eligible for the payment.

Note: For claims, see Subdivision C.

*Determining eligibility for later income years*

- (4) In determining whether a person is eligible for an essential medical equipment payment for an income year after the income year in which the claim for the payment is made, the Commission:
- (a) may act on the basis of the documents and information in its possession; and
  - (b) is not required to conduct any inquiries or investigations into the matter or to require (whether under this Act or otherwise) the giving of any information or the production of any document.
- (5) Despite subsection (4), the Commission may require a further certification for the purposes of paragraph (1)(b), or further information or a further document for the purposes of subsection (2), in an income year after the income year in which the claim is made.

## **63C The medical needs requirement**

*Person who has medical needs*

- (1) A person satisfies the medical needs requirement on a day if:

- (a) the person has a medical condition on that day, and as a result:
  - (i) the person requires the use of specified essential medical equipment in a residence (the **EMEP residence**) that is the person's home and is either a private residence or a specified residence; and
  - (ii) the person uses that equipment in that residence; or
- (b) the person has a specified medical condition on that day, and as a result:
  - (i) the person is unable to regulate his or her body temperature; and
  - (ii) additional heating or cooling is required, in a residence (the **EMEP residence**) that is the person's home and is either a private residence or a specified residence, to manage the person's condition; and
  - (iii) the person uses additional heating or cooling in that residence.

*Caring for a person who has medical needs*

- (2) A person (the **carer**) also satisfies the medical needs requirement on a day if:
  - (a) the carer provides care and attention on a regular and ongoing basis for a person; and
  - (b) the person (the **person with medical needs**) satisfies the medical needs requirement under subsection (1) on the day; and
  - (c) the person with medical needs is specified in the certification under subparagraph 63B(1)(b)(ii) or is the person specified for the purposes of subsection 63B(2) (as the case requires); and
  - (d) the carer's home is the EMEP residence that is the home of the person with medical needs.

*Meaning of **specified essential medical equipment**, **specified medical condition** and **specified residence***

- (3) In this section:

***specified essential medical equipment*** means any medical equipment that is specified under subsection 917C(3) of the Social Security Act.

***specified medical condition*** means any medical condition that is specified under subsection 917C(3) of the Social Security Act.

***specified residence*** means any residence that is specified under subsection 917C(3) of the Social Security Act.

### **63D The concession card requirement**

- (1) A person satisfies the concession card requirement on a day if:
  - (a) the person is a holder of a concession card, or the person's name is included on a concession card, on that day; or
  - (b) both of the following apply:
    - (i) the person satisfies the medical needs requirement under subsection 63C(2) (caring for a person) on that day in relation to a person with medical needs;
    - (ii) the person with medical needs is a holder of a concession card, or the name of the person with medical needs is included on a concession card, on that day.
- (2) For the purposes of subsection (1), a ***concession card*** means any of the following cards:
  - (a) a pensioner concession card issued under section 53;
  - (b) a seniors health card issued under section 118ZG;
  - (c) a card known as the Repatriation Health Card—For All Conditions, that evidences a person's eligibility, under this Act or the *Military Rehabilitation and Compensation Act 2004*, to be provided with treatment for all injuries or diseases;
  - (d) a card known as the Repatriation Health Card—For Specific Conditions, that evidences a person's eligibility, under this Act or the *Military Rehabilitation and Compensation Act 2004*, to be provided with treatment for specific injuries or diseases.

### **63E The energy account requirement**

- (1) A person satisfies the energy account requirement on a day if:

- (a) on that day, the energy account for the relevant EMEP residence is in the name of that person; or
  - (b) on that day, the energy account for the relevant EMEP residence is in the name of that person's partner; or
  - (c) the person contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence; or
  - (d) if the person is not the person with medical needs—the person with medical needs contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence.
- (2) For the purposes of subsection (1), an **energy account** for a residence means any account for:
  - (a) electricity; or
  - (b) any other specified form of energy;that is supplied to the residence.
- (3) In this section:  
**specified form of energy** means any form of energy that is specified under subsection 917E(3) of the Social Security Act.

#### 63F Availability of payments

- (1) No essential medical equipment payment may be made for an income year in relation to medical equipment that is used in an EMEP residence if an essential medical equipment payment has already been made for that income year in relation to the same equipment and the same residence.
- (2) No more than 2 essential medical equipment payments may be made in relation to the same medical equipment for an income year (subject to subsection (1)).
- (3) Essential medical equipment payments may not be made, in relation to a person with medical needs, in relation to more than 2 EMEP residences.

#### *Meaning of essential medical equipment payment*

- (4) In this section, an **essential medical equipment payment** means an essential medical equipment payment under this Division or Division 4 of Part 2.18A of the Social Security Act.

### **63G Amount of payment**

The amount of an essential medical equipment payment for an income year is \$140.

Note: The amount specified is indexed on each 1 July (see section 198E).

### **63H Debts arising in respect of essential medical equipment payments**

(1) If:

- (a) an individual has been paid an essential medical equipment payment because of a determination made under this Division; and
- (b) after the payment was made to the individual, the determination is or was (however described) changed, revoked, set aside, or superseded by another determination; and
- (c) the decision to change, revoke, set aside or supersede the determination is or was made for the reason, or for reasons including the reason, that the individual knowingly made a false or misleading statement, or knowingly provided false information; and
- (d) apart from that statement or information, the payment would not have been paid to the individual;

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

- (2) The other provisions of this Act under which debts arise do not apply in relation to essential medical equipment payments.

### **Subdivision C—Claim for essential medical equipment payment**

#### **63J Need for a claim**

A person who wants to be paid an essential medical equipment payment must make a proper claim.

Note: For **proper claim** see section 63M (form) and section 63N (residence in Australia).

**63K Special requirements regarding claims for essential medical equipment payment**

- (1) A claim for an essential medical equipment payment must include a statement by the person making the claim that the medical equipment to which the claim relates is used in the relevant EMEP residence.
- (2) If:
  - (a) a person who provides care and attention for a person with medical needs makes a claim for an essential medical equipment payment; and
  - (b) the person with medical needs is not a dependent child of that or any other person;the claim must be signed by the person with medical needs.

**63L Who can claim?**

- (1) Subject to subsection (2), a claim must be made by:
  - (a) the person who wants to be paid an essential medical equipment payment; or
  - (b) with the approval of the person—another person on the person's behalf.
- (2) If the person is unable, because of physical or mental incapacity, to approve another person to make the claim on his or her behalf, the Commission may approve another person to make the claim.

**63M Making a claim**

- (1) To be a proper claim, the claim must be:
  - (a) made in writing; and
  - (b) in accordance with a form approved by the Commission; and
  - (c) accompanied by any evidence available to the claimant that the claimant considers may be relevant to the claim; and
  - (d) lodged at an office of the Department in Australia in accordance with section 5T.
- (2) A claim lodged in accordance with section 5T is taken to have been made on a day determined under that section.

### **63N Claimant must be an Australian resident**

A claim is not a proper claim unless the person making the claim, or on whose behalf the claim is being made, is an Australian resident on the day on which the claim is lodged.

Note: For *Australian resident* see section 5G.

### **63P Claim may be withdrawn**

- (1) A claimant for an essential medical equipment payment or a person on behalf of a claimant may withdraw a claim that has not been determined.
- (2) A claim that is withdrawn is taken to have not been made.
- (3) A withdrawal may be made either orally or by document lodged at an office of the Department in Australia in accordance with section 5T.

#### *Oral withdrawal of a claim*

- (4) An oral withdrawal of a claim must be made to a person in an office of the Department in Australia.

#### *Acknowledgement of oral withdrawal of a claim*

- (5) As soon as practicable after receiving an oral withdrawal of a claim, the Secretary must give the claimant an acknowledgement notice in writing stating that:
  - (a) an oral withdrawal of the claim was made; and
  - (b) the claimant, or a person on behalf of the claimant, may, within 28 days from the day the acknowledgement notice is given, request the Secretary to treat the withdrawal as if it had not been made.

*Reactivating the withdrawn claim*

- (6) If, within 28 days from the day on which the Secretary gave the acknowledgement notice, a claimant, or a person on behalf of a claimant, requests the Secretary to treat the oral withdrawal of the claim as if it had not been made, the oral withdrawal is taken not to have been made.

Note: A request made under paragraph (5)(b) has the effect of reactivating the claim. In particular, the commencement day of the claim stays the same.

**Subdivision D—Investigation of claim**

**63Q Secretary to investigate claim and submit it to Commission**

- (1) If a person makes a proper claim for an essential medical equipment payment, the Secretary must investigate the matters to which the claim relates.
- (2) When the investigation is completed, the Secretary must submit the claim to the Commission for consideration and determination.
- (3) When the claim is submitted to the Commission it must be accompanied by:
- (a) any evidence supplied by the claimant in support of the claim; and
  - (b) any documents or other evidence obtained by the Department in the course of the investigation that are relevant to the claim; and
  - (c) any other documents or other evidence under the control of the Department that are relevant to the claim.

**Subdivision E—Consideration and determination of claim**

**63R Duties of Commission in relation to claim**

- (1) When the claim is submitted to the Commission, the Commission must consider all matters that are, in the Commission's opinion, relevant to the claim and must then determine the claim.
- (2) In considering the claim, the Commission must:
- (a) satisfy itself with respect to; or

(b) determine;  
(as the case requires) all matters relevant to the determination of the claim.

- (3) Without limiting subsection (1), the Commission, in considering the claim, must consider:
- (a) the evidence submitted with the claim under section 63Q; and
  - (b) any further evidence subsequently submitted to the Commission in relation to the claim.

Note: A claimant may apply to the Commission for review of a determination made under this section (see section 64A).

### **63S Entitlement determination**

The Commission must determine that a person is entitled to an essential medical equipment payment if the Commission is satisfied that the person is eligible for the payment.

### **63T Date of effect of determination**

A determination under section 63S takes effect, on the day that the determination is made or on such later day or earlier day as is specified in the determination.

## **Division 4—Review of decisions**

### **64A Review of certain decisions**

A person who is dissatisfied with a decision of the Commission in relation to a clean energy payment may request the Commission to review the decision.

### **64B Application for review**

- (1) A request for review of a decision under section 64A must:
- (a) be made within 3 months after the person seeking review was notified of the decision; and
  - (b) set out the grounds on which the request is made; and
  - (c) be in writing; and
  - (d) be lodged at an office of the Department in Australia in accordance with section 5T.

- (2) A request lodged in accordance with section 5T is taken to have been made on a day determined under that section.
- (3) If a request for review of a decision is made in accordance with subsection (1), the Commission must review the decision.
- (4) If the Commission has delegated its powers under this section to the person who made the decision under review, that person must not review the decision.

**64C Commission's powers where request for review**

- (1) If the Commission reviews a decision under this Part, the Commission must affirm the decision or set it aside.
- (2) If the Commission sets the decision aside it must, subject to subsection (3), substitute a new decision in accordance with this Act.
- (3) If the decision set aside is a decision that a person ceases to be entitled to a clean energy payment, the Commission need not substitute another decision.

Note: For the Commission's evidence gathering powers, see section 64G.

**64D Date of effect of certain review decisions**

- (1) If the Commission sets aside a decision and substitutes for it a decision that a person is entitled to a clean energy payment, the substituted decision takes effect from a date specified by the Commission.
- (2) The date specified by the Commission must not be earlier than the date from which, had the Commission determined that the person is entitled to a clean energy payment, such a determination could have taken effect.

**64E Commission must make written record of review decision and reasons**

- (1) When the Commission reviews a decision under this Part it must make a written record of its decision upon review.
- (2) The written record must include a statement that:

- (a) sets out the Commission's findings on material questions of fact; and
- (b) refers to the evidence or other material on which those findings are based; and
- (c) provides reasons for the Commission's decision.

#### **64F Person who requested review to be notified of decision**

- (1) When the Commission affirms or sets aside a decision under this Part it must give the person who requested the review of the decision:
  - (a) a copy of the Commission's decision; and
  - (b) subject to subsection (2), a copy of the statement about the decision referred to in subsection 64E(2); and
  - (c) if the person has a right to apply to the Administrative Appeals Tribunal for review of the Commission's decision—a statement giving the person particulars of that right.
- (2) If the statement referred to in paragraph (1)(b) contains any matter that, in the opinion of the Commission:
  - (a) is of a confidential nature; or
  - (b) might, if communicated to the person who requested review, be prejudicial to his or her physical or mental health or well-being;the copy given to the person is not to contain that matter.

#### **64G Powers of Commission to gather evidence**

- (1) The Commission or the Commission's delegate may, in reviewing a decision under this Part:
  - (a) take evidence on oath or affirmation for the purposes of the review; and
  - (b) adjourn a hearing of the review from time to time.
- (2) The presiding member of the Commission or the Commission's delegate may, for the purposes of the review:
  - (a) summon a person to appear at a hearing of the review to give evidence and to produce such documents (if any) as are referred to in the summons; and

- (b) require a person appearing at a hearing of the review for the purpose of giving evidence either to take an oath or to make an affirmation; and
  - (c) administer an oath or affirmation to a person so appearing.
- (3) The person who applied for the review under this Division is a competent and compellable witness upon the hearing of the review.
- (4) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the evidence that the person will give will be true.
- (5) The Commission's power under paragraph (1)(a) to take evidence on oath or affirmation:
  - (a) may be exercised on behalf of the Commission by:
    - (i) the presiding member or the Commission's delegate; or
    - (ii) another person (whether a member or not) authorised by the presiding member or the Commission's delegate; and
  - (b) may be exercised within or outside Australia; and
  - (c) must be exercised subject to any limitations specified by the Commission.
- (6) Where a person is authorised under subparagraph (5)(a)(ii) to take evidence for the purposes of a review, the person has:
  - (a) all the powers of the Commission under subsection (1); and
  - (b) all the powers of the presiding member under subsection (2);for the purposes of taking that evidence.
- (7) In this section:

***Commission's delegate*** means a person to whom the Commission has delegated its powers under section 64B and who is conducting the review in question.

#### **64H Withdrawal of request for review**

- (1) A person who requests a review under section 64A may withdraw the request at any time before it is determined by the Commission.
- (2) To withdraw the request, the person must give written notice of withdrawal to the Secretary and the notice must be lodged at an

office of the Department in Australia in accordance with section 5T.

- (3) Subject to section 64B, a person who withdraws a request for review may subsequently make another request for review of the same decision.

Note: Section 64B provides that a person who wants to request a review of a decision must do so within 3 months after the person has received notice of the decision.

#### **24 Paragraph 127(1)(b)**

Omit “or recreation transport allowance”, substitute “, recreation transport allowance or essential medical equipment payment”.

#### **25 After subsection 175(2)**

Insert:

- (2A) If the Commission, under section 64C, affirms a decision of the Commission referred to in that section or sets it aside and substitutes another decision, a person may apply to the Administrative Appeals Tribunal for review of the decision so affirmed or substituted.

#### **26 Subsection 175(2AAA)**

Omit “(2AAA)”, substitute “(2B)”.

#### **27 Subsection 175(2AAAA)**

Omit “(2AAAA)”, substitute “(2C)”.

#### **28 Subsection 175(2AA)**

Omit “(2AA)”, substitute “(2D)”.

#### **29 Subsection 175(2A)**

Omit “(2A)”, substitute “(2E)”.

#### **30 Subsection 175(2A)**

Omit “subsection (1A), (2), (2AAAA), (2AAA) or (2AA)”, substitute “any of subsections (1A) to (2D)”.

#### **31 Paragraph 176(3)(a)**

Omit "(2AA)", substitute "(2A), (2D)".

### 32 Paragraph 176(3)(a)

After "57E," insert "64F,".

### 33 Subsections 177(5A) and (5C)

Omit "175(2AA)", substitute "175(2D)".

### 34 After section 198D

Insert:

#### 198E Variation of amount of essential medical equipment payment

- (1) This section applies to the dollar amount mentioned in section 63G (essential medical equipment payment).
- (2) That dollar amount, for an indexation day on which the indexation factor is greater than 1, is replaced by the amount that is worked out using the following formula:

$$\text{Dollar amount on the day before the indexation day} \times \frac{\text{Indexation factor for the indexation day}}{\text{Indexation factor for the indexation day}}$$

- (3) The ***indexation factor*** for an indexation day is the number worked out using the following formula:

$$\frac{\text{Indexation number for the most recent December quarter before the indexation day}}{\text{Highest index number for an earlier December quarter (but not before December 2011)}}$$

- (4) The indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the fourth decimal place is more than 4.
- (5) If an amount worked out under subsection (2) is not a multiple of a dollar, the amount is to be rounded to the nearest multiple of a dollar (rounding up in the case of 50 cents).
- (6) In this section:

***indexation day*** means 1 July 2013 and each later 1 July.

## **Part 3—Application and transitional provisions**

### **35 Application**

The amendments made by this Schedule apply in relation to the 2012-13 and later income years.

### **36 Transitional**

- (1) A person may make a claim for an essential medical equipment payment under the *Social Security Act 1991* or the *Veterans' Entitlements Act 1986* for the 2012-13 income year on or after 18 June 2012.

Note: A claim for an essential medical equipment payment for the 2012-13 income year must be made before 1 July 2013 (see paragraph 917B(3)(a) of the *Social Security Act 1991* and paragraph 63B(3)(a) of the *Veterans' Entitlements Act 1986*).

- (2) For the purposes of the *Social Security Act 1991*, the *Social Security (Administration) Act 1999* and the *Veterans' Entitlements Act 1986*, a person who makes a claim for the 2012-13 income year before 1 July 2012 is taken to have made the claim on 1 July 2012.

## **Schedule 8—Single income family supplement**

### ***A New Tax System (Family Assistance) Act 1999***

#### **1 Subsection 3(1) (at the end of the definition of *family assistance*)**

Add:

; or (f) single income family supplement.

#### **2 Subsection 3(1) (at the end of the definition of *FTB child*)**

Add:

; and (e) in relation to single income family supplement—has the meaning given in Subdivision A of Division 1 of Part 3 but, in applying Subdivision D of that Division to that supplement in a case where a claim for that supplement is required for there to be an entitlement to be paid that supplement, a reference in Subdivision D of that Division to a claim for payment of family tax benefit is to be read as a reference to a claim for payment of that supplement.

#### **3 Subsection 3(1)**

Insert:

***single income family supplement*** means the supplement for which an individual is eligible under Division 6 of Part 3.

#### **4 At the end of Part 3**

Add:

### **Division 6—Eligibility for single income family supplement**

#### **Subdivision A—Eligibility of individuals for single income family supplement in normal circumstances**

##### **57G When an individual is eligible for single income family supplement in normal circumstances**

(1) An individual is eligible for single income family supplement if:

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- 
- (a) the individual has at least one qualifying child; and
  - (b) the individual:
    - (i) is an Australian resident; or
    - (ii) is a special category visa holder residing in Australia; or
    - (iii) satisfies subsection (2); and
  - (c) the individual is not an absent overseas recipient (disregarding section 63A); and
  - (d) the individual's rate of single income family supplement, worked out under Division 4B of Part 4, is greater than nil.

*When individual satisfies this subsection*

- (2) An individual satisfies this subsection if:
  - (a) the individual is the holder of a visa determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the *Social Security Act 1991*; and
  - (b) either:
    - (i) the individual is in Australia; or
    - (ii) the individual is temporarily absent from Australia for a period not exceeding 13 weeks and the absence is an allowable absence in relation to special benefit within the meaning of Part 4.2 of that Act.

*Qualifying child*

- (3) For the purposes of this Division, an individual is a **qualifying child** of another individual (the **adult**) if:
  - (a) the individual is an FTB child of the adult and the individual is not an absent overseas FTB child (disregarding section 63A); or
  - (b) the following apply:
    - (i) the individual is receiving disability support pension under Part 2.3 of the *Social Security Act 1991* and the individual's maximum basic rate is worked out under item 1 or 3 of Table B in point 1066A-B1 or item 1 or 3 of Table B in point 1066B-B1 of that Act;
    - (ii) apart from subparagraph (i), the individual would be an FTB child of the adult and would not be an absent overseas FTB child (disregarding section 63A); or
  - (c) the following apply:

- (i) the individual is receiving youth allowance and the individual's maximum basic rate is worked out under item 1 or 2 of Table BA in point 1067G-B2 or item 1 of Table BC in point 1067G-B4 of the *Social Security Act 1991*;
  - (ii) apart from subparagraph (i), the individual would be an FTB child of the adult and would not be an absent overseas FTB child (disregarding section 63A); or
- (d) the following apply:
  - (i) the individual is receiving special benefit under Part 2.15 of the *Social Security Act 1991*;
  - (ii) if youth allowance were payable to the individual, the individual's maximum basic rate would be worked out under item 1 or 2 of Table BA in point 1067G-B2 or item 1 of Table BC in point 1067G-B4 of that Act;
  - (iii) apart from subparagraph (i), the individual would be an FTB child of the adult and would not be an absent overseas FTB child (disregarding section 63A); or
- (e) the following apply:
  - (i) the individual, or someone on behalf of the individual, is receiving instalments under the scheme known as the ABSTUDY scheme that include an amount identified as living allowance that is being paid at the standard (at home) rate;
  - (ii) the individual is a dependent student under the scheme and is aged 16 or more and under 21;
  - (iii) apart from subparagraph (i), the individual would be an FTB child of the adult and would not be an absent overseas FTB child (disregarding section 63A); or
- (f) the following apply:
  - (i) the individual, or someone on behalf of the individual, is receiving education allowance under section 3.3 of the Veterans' Children Education Scheme;
  - (ii) the individual is aged 16 or more;
  - (iii) apart from subparagraph (i), the individual would be an FTB child of the adult and would not be an absent overseas FTB child (disregarding section 63A); or
- (g) the following apply:

- 
- (i) the individual, or someone on behalf of the individual, is receiving education allowance under section 3.3 of the Military Rehabilitation and Compensation Act Education and Training Scheme;
  - (ii) the individual is aged 16 or more;
  - (iii) apart from subparagraph (i), the individual would be an FTB child of the adult and would not be an absent overseas FTB child (disregarding section 63A).

**57GA Only one member of a couple eligible for single income family supplement**

- (1) Subject to this Division, for any period when 2 individuals who are members of a couple would otherwise be eligible at the same time for single income family supplement in respect of one or more qualifying children, only one member is eligible.
- (2) The member who is eligible is the one determined by the Secretary to be eligible.

**57GB Extension of meaning of qualifying child in a blended family case**

- (1) This section applies if:
  - (a) 2 individuals are members of the same couple; and
  - (b) either or both of the individuals have a child from another relationship (whether before or after the 2 individuals became members of that couple).
- (2) While the 2 individuals are members of that couple, each child who is a qualifying child of one member of the couple is taken also to be a qualifying child of the other member of the couple.

**57GC Eligibility for single income family supplement of members of a couple in a blended family**

- (1) If the Secretary is satisfied that:
  - (a) 2 individuals who are members of the same couple (**person A** and **person B**) would each be eligible for single income family supplement in respect of 2 or more qualifying children during a period but for subsection 57GA(1); and

- (b) at least one of the children is a child of a previous relationship of person A; and
  - (c) at least one of the other children is:
    - (i) a child of the relationship between person A and person B; or
    - (ii) a child of a previous relationship of person B;
- the Secretary may:
- (d) determine that person A and person B are both eligible for single income family supplement for the children for the period; and
  - (e) determine person A's and person B's percentage of the single income family supplement for the children.
- (2) The Secretary cannot make a determination under subsection (1) for a past period if person A or person B has been paid single income family supplement for the period.
- (3) For the purposes of this section:
- (a) a qualifying child of an individual is a ***child of a previous relationship*** of an individual who is a member of a couple if the child is an immediate child of that individual but not of the individual's partner; and
  - (b) a child is a ***child of the relationship of 2 individuals*** who are members of a couple if the child is an immediate child of both members of the couple; and
  - (c) a qualifying child of an individual is an ***immediate child*** of the individual if:
    - (i) the child is the natural child, adopted child or relationship child of the individual; or
    - (ii) the individual is legally responsible for the child.

**57GD Eligibility for single income family supplement of separated members of a couple for period before separation**

If the Secretary is satisfied that:

- (a) 2 individuals are not members of the same couple (***person A*** and ***person B***); and
- (b) during a period in the past when person A and person B were members of the same couple, they had a qualifying child or children; and

- 
- (c) but for subsection 57GA(1), person A and person B would both be eligible for single income family supplement for the qualifying child or children for that period;
- the Secretary may:
- (d) determine that person A and person B are both eligible for single income family supplement for the child or children for that period; and
  - (e) determine person A's and person B's percentage of the single income family supplement for the child or children for that period.

### **Subdivision B—Eligibility of individuals for single income family supplement where death occurs**

#### **57GE Continued eligibility for single income family supplement if a qualifying child dies**

- (1) This section applies if:
  - (a) an individual is eligible for single income family supplement (except under section 57GG) in respect of one qualifying child; and
  - (b) that child dies.

*Individual remains eligible for single income family supplement for 14 weeks after the death of the child*

- (2) The individual is eligible for single income family supplement, at a rate worked out under Division 4B of Part 4, for each day in the period of 14 weeks beginning on the day the child died. This subsection has effect subject to subsection (3) of this section and to section 57GF.

*14 weeks reduced in certain circumstances*

- (3) The period for which the individual is eligible for single income family supplement under subsection (2) does not include:
  - (a) if the child was aged 21 and undertaking full-time study or studying overseas full-time when the child died—any day on which the child would have been aged 22 if the child had not died; or

- (b) in any other case—any day on which the child would have been aged 21 if the child had not died.

**57GF Eligibility for a single amount of single income family supplement if a qualifying child dies**

If, apart from this section, the period for which an individual is eligible for single income family supplement under subsection 57GE(2) extends over 2 income years:

- (a) the individual is eligible for a single amount of single income family supplement for the period falling in the second of those income years worked out under Division 4B of Part 4 on the assumption that:
  - (i) the individual's taxable income for the period falling in the second of those income years is the same as the individual's taxable income for the first of those income years; and
  - (ii) the individual's partner's taxable income for the period falling in the second of those income years is the same as the individual's partner's taxable income for the first of those income years; and
- (b) the period for which the individual is eligible for single income family supplement under subsection 57GE(2) does not include the period falling in the second of those income years.

**57GG Eligibility for single income family supplement if an eligible individual dies**

*Eligibility other than because of the death of a qualifying child*

- (1) If:
  - (a) an individual is eligible for an amount (the **subject amount**) of single income family supplement (except because of section 57GE or 57GF applying in relation to the death of a qualifying child); and
  - (b) the individual dies; and
  - (c) before the individual died, the subject amount had not been paid to the individual (whether or not a claim under Part 3 of the Family Assistance Administration Act had been made); and

- 
- (d) another individual makes a claim under that Part for payment of single income family supplement because of the death of a person, stating that he or she wishes to become eligible for so much of the subject amount as does not relate to any period before the beginning of the income year preceding the income year in which the individual died; and
  - (e) the Secretary considers that the other individual ought to be eligible for that much of the subject amount;
- the other individual is eligible for that much of the subject amount and no-one else is, or can become, eligible for or entitled to be paid any of the subject amount.

*Eligibility because of the death of a qualifying child*

- (2) If:
  - (a) an individual dies; and
  - (b) either:
    - (i) before the individual's death, the individual was eligible for an amount (the **subject amount**) of single income family supplement under section 57GE or 57GF in relation to the death of a qualifying child, and the subject amount had not been paid to the individual (whether or not a claim under Part 3 of the Family Assistance Administration Act had been made); or
    - (ii) the individual died at the same time as the qualifying child, and would have been so eligible for the subject amount if the individual had not died; and
  - (c) another individual makes a claim under that Part for payment of single income family supplement because of the death of a person, stating that he or she wishes to become eligible for so much of the subject amount as does not relate to any period before the beginning of the income year preceding the income year in which the individual died; and
  - (d) the Secretary considers that the other individual ought to be eligible for that much of the subject amount;

the other individual is eligible for that much of the subject amount and no-one else is, or can become, eligible for or entitled to be paid any of the subject amount.

## **5 After Division 4A of Part 4**

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Insert:

## Division 4B—Rate of single income family supplement

### 84G Rate of single income family supplement

- (1) An individual's rate of single income family supplement is worked out in accordance with this section.
- (2) For the purposes of this section:
  - (a) the **main income earner** is:
    - (i) if the individual is not a member of a couple—the individual; or
    - (ii) if the individual is a member of a couple—the member of the couple whose taxable income for the income year is the highest (or the individual if those taxable incomes are equal); and
  - (b) if the individual is a member of a couple—the **low income earner** is the member of the couple whose taxable income for the income year is the lowest (or the individual's partner if those taxable incomes are equal).

#### *Annual rate*

- (3) An individual's annual rate of single income family supplement is nil if the main income earner's taxable income for the income year (rounded down to the nearest dollar) is:
  - (a) \$68,000 or less; or
  - (b) \$150,000 or more.
- (4) An individual's annual rate of single income family supplement is worked out as follows if the main income earner's taxable income for the income year (rounded down to the nearest dollar) is more than \$68,000 and less than \$150,000:

#### *Method statement*

- Step 1. Work out the main income earner's taxable income (rounded down to the nearest dollar).
- Step 2. Reduce the amount at step 1 by \$68,000.

|         |                                                                                                                                                                                                                                                                                                                                                                         |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Step 3. | Multiply the amount worked out at step 2 by 0.025.                                                                                                                                                                                                                                                                                                                      |
| Step 4. | If the amount at step 3 is less than or equal to \$300, the provisional component is the amount at step 3.                                                                                                                                                                                                                                                              |
| Step 5. | If the amount at step 3 is more than \$300, the provisional component is: <ul style="list-style-type: none"> <li>(a) if the main income earner's taxable income exceeds \$80,000 and is less than or equal to \$120,000—\$300; or</li> <li>(b) if the main income earner's taxable income exceeds \$120,000—\$300 less \$0.01 for each dollar of the excess.</li> </ul> |
| Step 6. | If the individual is not a member of a couple—the individual's annual rate of single income family supplement is the provisional component.                                                                                                                                                                                                                             |
| Step 7. | If the individual is a member of a couple—the individual's annual rate of single income family supplement is the provisional component less any reduction under step 8.                                                                                                                                                                                                 |
| Step 8. | If the low income earner's taxable income for the income year (rounded down to the nearest dollar) exceeds \$16,000, the provisional component is reduced (but not below nil) by \$0.15 for each dollar of the excess.                                                                                                                                                  |

*Daily rate*

- (5) The daily rate of single income family supplement is the annual rate divided by 365 and rounded to the nearest cent (rounding 0.5 cents upwards). If the daily rate before rounding is above nil and below half a cent, round up to 1 cent.

**84GA Sharing single income family supplement between members of a couple in a blended family**

If the Secretary determines under section 57GC an individual's percentage of the single income family supplement for qualifying

children of the individual, the individual's annual rate of single income family supplement is that percentage of the rate that would otherwise apply.

**84GB Sharing single income family supplement between separated members of a couple for period before separation**

If the Secretary determines under section 57GD an individual's percentage of the single income family supplement for a qualifying child or children of the individual for a period, the individual's annual rate of single income family supplement for that period is that percentage of the rate that would otherwise apply for the period.

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

**6 Subsection 3(1) (at the end of the definition of *TFN claim person*)**

Add:

- ; or (d) in relation to a claim for single income family supplement under Division 4E of Part 3, means:
  - (i) the claimant; and
  - (ii) if the claim is for payment of single income family supplement for a past period—any partner of the claimant during the past period.

**7 Subsection 3(1) (at the end of the definition of *TFN determination person*)**

Add:

- ; or (c) in relation to single income family supplement and a determination under which the claimant is entitled to be paid single income family supplement for a past period—the claimant or any partner of the claimant during the past period.

**8 Subsection 3(1) (at the end of paragraph (c) of the definition of *TFN substitution person*)**

Add “or”.

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**9 Subsection 3(1) (after paragraph (c) of the definition of *TFN substitution person*)**

Insert:

- (d) by an individual for payment of single income family supplement by single payment/in substitution because of the death of another individual based on eligibility for an amount of single income family supplement under section 57GG of the Family Assistance Act;

**10 After Division 4D of Part 3**

Insert:

**Division 4E—Single income family supplement**

**Subdivision A—Making claims**

**65K Need for a claim**

- (1) Subject to subsection (2), the only way that an individual can become entitled to be paid single income family supplement is to make a claim in accordance with this Division.
- (2) If:
  - (a) in relation to a period in an income year:
    - (i) a determination under section 16 or 17 is in force in respect of an individual as a claimant; or
    - (ii) a determination under section 18 is in force in respect of an individual because the Secretary is satisfied that the individual is eligible for family tax benefit under section 32 of the Family Assistance Act; and
  - (b) the individual's rate of family tax benefit payable under the determination in relation to that period takes into account one or more FTB children of the individual;the individual is not required to make a claim for single income family supplement in relation to that period.

**65KA How to claim**

- (1) An individual (a *claimant*) may make a claim:

- (a) for payment of single income family supplement for a past period; or
- (b) for payment of single income family supplement by single payment/in substitution because of the death of another individual.

*Form etc. of claim*

- (2) To be effective:
  - (a) a claim must:
    - (i) be made in a form and manner; and
    - (ii) contain any information; and
    - (iii) be accompanied by any documents; required by the Secretary; and
  - (b) in the case of a claim for payment of single income family supplement for a past period—the tax file number requirement in section 65KB must be satisfied in relation to the claim; and
  - (c) in the case of a claim for payment of single income family supplement in substitution because of the death of another individual—the tax file number requirement in section 65KC must be satisfied in relation to the claim.

**65KB Tax file number requirement to be satisfied for claims for a past period**

- (1) This section sets out the tax file number requirement that must be satisfied in relation to a claim for the purposes of paragraph 65KA(2)(b) (which states what is required for certain claims to be effective).
- (2) Subject to subsection (7), the requirement is that a statement of one of the kinds set out in subsections (3), (4) and (5) must be made in relation to each TFN claim person.

*Statement of tax file number*

- (3) The first kind of statement that can be made is a statement of the TFN claim person's tax file number. Regardless of who the TFN claim person is, this kind of statement can be made by the claimant only.

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*Statement that TFN claim person does not know what his or her tax file number is etc.*

- (4) The second kind of statement that can be made is a statement by the TFN claim person that the person:
  - (a) has a tax file number but does not know what it is; and
  - (b) has asked the Commissioner of Taxation to inform the person of his or her tax file number; and
  - (c) authorises the Commissioner of Taxation to tell the Secretary:
    - (i) whether the person has a tax file number; and
    - (ii) if the person has a tax file number—that number.

*Statement that an application for a tax file number is pending*

- (5) The third kind of statement that can be made is a statement by the TFN claim person that the person:
  - (a) has an application for a tax file number pending; and
  - (b) authorises the Commissioner of Taxation to tell the Secretary:
    - (i) if a tax file number is issued to the person—that number; or
    - (ii) if the application is refused—that the application has been refused; or
    - (iii) if the application is withdrawn—that the application has been withdrawn.

*How statement to be given*

- (6) A statement made by the claimant must be in the claim. A statement made by any other TFN claim person must be in a document, in a form approved by the Secretary, that the claimant gives the Secretary together with the claim.

*Exemption from tax file number requirement*

- (7) The Secretary may determine that the requirement in subsection (2) does not apply to a TFN claim person if:
    - (a) the person is, or was, the claimant's partner; and
    - (b) the claimant cannot obtain from the person:
      - (i) the person's tax file number; or
-

- (ii) a statement by the person under subsection (4) or (5).

**65KC Tax file number requirement to be satisfied for claim in substitution because of the death of another individual**

- (1) This section sets out the tax file number requirement that must be satisfied in relation to a claim for the purposes of paragraph 65KA(2)(c) (which states what is required for claims in substitution because of the death of another individual to be effective).
- (2) Subject to subsections (7) and (8), the requirement is that a statement of one of the kinds set out in subsections (3), (4) and (5) must be made in relation to each TFN substitution person.

*Statement of tax file number*

- (3) The first kind of statement that can be made is a statement of a TFN substitution person's tax file number. Regardless of who the TFN substitution person is, this kind of statement can be made by the claimant only.

*Statement that TFN substitution person does not know what his or her tax file number is etc.*

- (4) The second kind of statement that can be made is a statement by a TFN substitution person who was the deceased individual's partner during the period in respect of which the payment is claimed to the effect that the TFN substitution person:
  - (a) has a tax file number but does not know what it is; and
  - (b) has asked the Commissioner of Taxation to inform the person of his or her tax file number; and
  - (c) authorises the Commissioner of Taxation to tell the Secretary:
    - (i) whether the person has a tax file number; and
    - (ii) if the person has a tax file number—that number.

*Statement that an application for a tax file number is pending*

- (5) The third kind of statement that can be made is a statement by a TFN substitution person who was the deceased individual's partner

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during the period in respect of which the payment is claimed to the effect that the TFN substitution person:

- (a) has an application for a tax file number pending; and
- (b) authorises the Commissioner of Taxation to tell the Secretary:
  - (i) if a tax file number is issued to the person—that number; or
  - (ii) if the application is refused—that the application has been refused; or
  - (iii) if the application is withdrawn—that the application has been withdrawn.

*How statement to be given*

- (6) A statement made by the claimant must be made in the claim. A statement made by a TFN substitution person must be in a document, in a form approved by the Secretary, that the claimant gives the Secretary together with the claim.

*Exemption from tax file number requirement*

- (7) The Secretary may determine that the requirement in subsection (2) does not apply in relation to a TFN substitution person if the claimant does not know the person's tax file number.
- (8) The Secretary may determine that the requirement in subsection (2) does not apply in relation to a TFN substitution person if the claimant cannot obtain a statement referred to in subsection (4) or (5) in respect of the person.

**65KD Restrictions on claims for payment for a past period**

*Restriction where previous claim*

- (1) A claim for payment of single income family supplement for a past period is not effective if the claimant has previously made a claim for payment of single income family supplement for any of the past period (whether or not the claim has yet been determined).

*Other restrictions*

- (2) A claim for payment of single income family supplement for a past period is not effective if:

- (a) the period does not fall wholly within one income year; or
  - (b) the period does fall wholly within one income year but the claim is made after the end of the 2 income years immediately following that income year.
- (3) A claim for payment of single income family supplement for a past period is not effective if the period occurs in the income year in which the claim is made.

#### **65KE Restrictions on bereavement claims**

##### *Restriction where previous claim*

- (1) A claim for payment of single income family supplement by single payment/in substitution because of the death of another individual is not effective if the claimant has previously made a claim for payment of single income family supplement because of the death of that individual (whether or not the claim has yet been determined).

##### *Other restrictions*

- (2) If a claim for payment of single income family supplement by single payment/in substitution because of the death of another individual is based on eligibility for an amount of single income family supplement under section 57GF or 57GG of the Family Assistance Act, the claim is not effective if it is made after the end of the income year following the one in which the death occurred.

#### **65KF Claim may be withdrawn or varied**

- (1) A claimant may withdraw or vary a claim before the claim is determined.
- (2) The claimant may only do so in a manner determined by the Secretary.
- (3) If a claim is withdrawn, it is taken never to have been made.

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**Subdivision B—Determination of claims and payment of single income family supplement****65KG Secretary must determine claim**

If an effective claim is made, the Secretary must determine the claim in accordance with this Subdivision. If a claim is not effective, it is taken not to have been made.

**65KH Restriction on determining claim where income tax assessment not made**

- (1) If, in relation to a claim for payment of single income family supplement made by an individual:
  - (a) the claim is for payment of that supplement for a past period; and
  - (b) the past period falls in an income year (the ***past period income year***) that is one of the 2 income years before the one in which the claim is made; and
  - (c) either or both of subsections (2) and (3) apply;the Secretary can only determine the claim if each assessment concerned has been made.
- (2) This subsection applies if:
  - (a) the claimant is required to lodge an income tax return for the past period income year; and
  - (b) at the time the claim is made, an assessment has not been made under the *Income Tax Assessment Act 1936* of the tax payable on the claimant's taxable income for the past period income year.
- (3) This subsection applies if:
  - (a) a person is the claimant's partner at any time during the past period; and
  - (b) that person is required to lodge an income tax return for the past period income year; and
  - (c) at the time the claim is made, an assessment has not been made under the *Income Tax Assessment Act 1936* of the tax payable on that person's taxable income for the past period income year.

**65KI Restriction on determining claim where income tax return not lodged**

- (1) If, in relation to a claim for payment of single income family supplement made by an individual:
  - (a) the claim is for payment of that supplement for a past period; and
  - (b) the past period falls in an income year (the ***past period income year***) that is one of the 2 income years before the one in which the claim is made; and
  - (c) either or both of subsections (2) and (3) apply;then the claim is taken never to have been made.
- (2) This subsection applies if:
  - (a) the claimant is required to lodge an income tax return for the past period income year; and
  - (b) the claimant has not lodged the return before the end of the 2 income years immediately following the past period income year.
- (3) This subsection applies if:
  - (a) a person is the claimant's partner at any time during the past period; and
  - (b) that person is required to lodge an income tax return for the past period income year; and
  - (c) that person has not lodged the return before the end of the 2 income years immediately following the past period income year.

**65KJ Restriction on determining claim where tax file number not provided etc.**

*Statement that TFN claim person or TFN substitution person does not know what his or her tax file number is etc.*

- (1) If:
  - (a) a TFN claim person makes a statement of the kind set out in subsection 65KB(4); or
  - (b) a TFN substitution person makes a statement of the kind set out in subsection 65KC(4);the Secretary can only determine the claim concerned if:

- (c) within 28 days after the claim is made, the Commissioner of Taxation tells the Secretary the person's tax file number; or
- (d) 28 days pass after the claim is made without the Commissioner of Taxation telling the Secretary that the person has no tax file number.

*Statement that an application for a tax file number is pending*

(2) If:

- (a) a TFN claim person makes a statement of the kind set out in subsection 65KB(5); or
- (b) a TFN substitution person makes a statement of the kind set out in subsection 65KC(5);

the Secretary can only determine the claim concerned if:

- (c) within 28 days after the claim is made, the Commissioner of Taxation tells the Secretary the person's tax file number; or
- (d) 28 days pass after the claim is made without the Commissioner of Taxation telling the Secretary that:
  - (i) the person has not applied for a tax file number; or
  - (ii) an application by the person for a tax file number has been refused; or
  - (iii) the person has withdrawn an application for a tax file number.

- (3) If, after the 28 days mentioned in subsection (1) or (2) have passed, the Secretary cannot, because of that subsection, determine the claim, the claim is taken never to have been made.

### **65KK Determination of past period entitlement claim**

If:

- (a) the claim is one for payment of single income family supplement for a past period; and
- (b) the Secretary is satisfied that the claimant was eligible for single income family supplement:
  - (i) for the whole of the period in accordance with Subdivision A of Division 6 of Part 3 of the Family Assistance Act; or
  - (ii) for part of the period in accordance with that Subdivision and for the remainder of the period in accordance with section 57GE of that Act;

the Secretary must determine that the claimant is entitled to be paid single income family supplement for the past period.

**65KL Determination of bereavement entitlement claim**

If:

- (a) the claim is one for payment of single income family supplement by single payment/in substitution because of the death of another individual; and
- (b) the Secretary is satisfied that the claimant is eligible for single income family supplement under section 57GF or 57GG of the Family Assistance Act;

the Secretary must determine that the claimant is entitled to be paid the single income family supplement.

**65KM Determination that no entitlement**

If the Secretary is not satisfied as mentioned in section 65KK or 65KL, the Secretary must determine that the claimant is not entitled to be paid single income family supplement for the past period or because of the death of the other individual, as the case requires.

**65KN When determination is in force**

A determination under this Division comes into force when it is made and remains in force at all times afterwards.

**65KO Notice of determination**

- (1) The Secretary must give notice of a determination under this Subdivision to the claimant, stating:
  - (a) whether the claimant is entitled to be paid single income family supplement under the determination; and
  - (b) if the claimant is so entitled—the amount of the supplement and how it is to be paid; and
  - (c) that the claimant may apply for review of the determination in the manner set out in Part 5.
- (2) The determination is not ineffective by reason only that the requirements of subsection (1) are not complied with.

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**65KP Payment of single income family supplement—no claim required**

- (1) Subject to this section, if an individual is not required to make a claim for single income family supplement in relation to a period (the ***past period***) in an income year (the ***past period income year***), the Secretary must pay any amount of single income family supplement the individual is eligible for in relation to that past period:
- (a) on the day that the Secretary considers to be the earliest day on which it is reasonably practicable for the amount to be paid; and
  - (b) in such manner as the Secretary considers appropriate.

Note: Subsection 65K(2) sets out when a claim for single income family supplement is not required.

- (2) If either or both of the following apply:
- (a) the individual is required to lodge an income tax return for the past period income year;
  - (b) the following apply:
    - (i) a person is the individual's partner at any time during the past period;
    - (ii) that person is required to lodge an income tax return for the past period income year;

then the amount of single income family supplement cannot be paid to the individual unless, in relation to each person who is required to lodge an income tax return for that income year, an assessment has been made under the *Income Tax Assessment Act 1936* of the tax payable on that person's taxable income for that income year.

- (3) If either or both of the following apply:
- (a) the individual is required to lodge an income tax return for the past period income year, but the individual has not lodged the return before the end of the 2 income years immediately following the past period income year;
  - (b) the following apply:
    - (i) a person is the individual's partner at any time during the past period;
    - (ii) that person is required to lodge an income tax return for the past period income year;

- (iii) that person has not lodged the return before the end of the 2 income years immediately following the past period income year;

then the amount of single income family supplement is not to be paid to the individual.

- (4) This section is subject to Part 4, Division 3 of Part 8B and sections 225 and 226.

**65KQ Payment of single income family supplement—claim required**

- (1) If an individual is entitled to be paid an amount of single income family supplement under a determination on a claim for payment of single income family supplement:

- (a) for a past period; or
  - (b) by single payment/in substitution because of the death of another individual;

the Secretary must pay the amount to the individual at such time and in such manner as the Secretary considers appropriate.

- (2) This section is subject to Part 4, Division 3 of Part 8B and sections 225 and 226.

**65KR Secretary's power to request tax file numbers**

- (1) If a determination is in force under which the claimant is entitled to be paid single income family supplement for a past period, the Secretary may request the claimant to give the Secretary, within 28 days of the request being made, a written statement, in relation to a specified TFN determination person, of whichever of the kinds set out in subsections (2), (3) and (4) the claimant chooses.

*Statement of tax file number*

- (2) The first kind of statement that can be made is a statement of the TFN determination person's tax file number. Regardless of who the TFN determination person is, this kind of statement can be made by the claimant only.

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*Statement that TFN person does not know what his or her tax file number is etc.*

- (3) The second kind of statement that can be made is a statement by the TFN determination person that the person:
- (a) has a tax file number but does not know what it is; and
  - (b) has asked the Commissioner of Taxation to inform the person of his or her tax file number; and
  - (c) authorises the Commissioner of Taxation to tell the Secretary:
    - (i) whether the person has a tax file number; and
    - (ii) if the person has a tax file number—that number.

*Statement that an application for a tax file number is pending*

- (4) The third kind of statement that can be made is a statement by the TFN determination person that the person:
- (a) has an application for a tax file number pending; and
  - (b) authorises the Commissioner of Taxation to tell the Secretary:
    - (i) if a tax file number is issued to the person—that number; or
    - (ii) if the application is refused—that the application has been refused; or
    - (iii) if the application is withdrawn—that the application has been withdrawn.

### **65KS Variation of past period determinations where failure to provide tax file number**

*Non-compliance with request*

- (1) If:
- (a) the Secretary makes a request under subsection 65KR(1); and
  - (b) the claimant does not comply with the request within 28 days of the request being made;
- then, subject to subsection (2), the consequence in subsection (7) applies.

*Exemption from request under subsection 65KR(1)*

- (2) The Secretary may determine that the consequence in subsection (7) does not apply if:
- (a) the TFN determination person concerned is or was the claimant's partner; and
  - (b) the claimant cannot obtain from the person:
    - (i) the person's tax file number; or
    - (ii) a statement by the person under subsection 65KR(3) or (4).

*Statement made by TFN determination person under subsection 65KR(3)*

- (3) If:
- (a) the Secretary makes a request under subsection 65KR(1); and
  - (b) by the end of 28 days after the request is made, the claimant gives the Secretary a statement by the TFN determination person of the kind set out in subsection 65KR(3); and
  - (c) the Commissioner of Taxation subsequently tells the Secretary that the TFN determination person has no tax file number;
- the consequence in subsection (7) applies.

*Statement made by TFN determination person under subsection 65KR(4)*

- (4) If:
- (a) the Secretary makes a request under subsection 65KR(1); and
  - (b) by the end of 28 days after the request is made, the claimant gives the Secretary a statement by the TFN determination person of the kind set out in subsection 65KR(4); and
  - (c) the Commissioner of Taxation subsequently tells the Secretary that the TFN determination person has not applied for a tax file number, that an application by the person for a tax file number has been refused or that the person has withdrawn an application for a tax file number;
- the consequence in subsection (7) applies.

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*Statement made by TFN claim person under subsection 65KB(4)*

(5) If:

- (a) a TFN claim person has made a statement of the kind set out in subsection 65KB(4); and
  - (b) a determination is in force under which the claimant is entitled to be paid single income family supplement for a past period; and
  - (c) the Commissioner of Taxation subsequently tells the Secretary that the TFN claim person has no tax file number;
- the consequence in subsection (7) applies.

*Statement made by TFN claim person under subsection 65KB(5)*

(6) If:

- (a) a TFN claim person has made a statement of the kind set out in subsection 65KB(5); and
  - (b) a determination is in force under which the claimant is entitled to be paid single income family supplement for a past period; and
  - (c) the Commissioner of Taxation subsequently tells the Secretary that the TFN claim person has not applied for a tax file number, that an application by the person for a tax file number has been refused or that the person has withdrawn an application for a tax file number;
- the consequence in subsection (7) applies.

*Consequence—variation of determination*

- (7) For the purposes of subsection (1), (3), (4), (5) or (6), the consequence is that the Secretary may, if the determination is one under which the claimant is entitled to be paid single income family supplement for a past period, vary the determination so that it has the effect that the claimant is not entitled to be paid single income family supplement for any day in the past period.

*Consequence of Secretary later becoming aware of tax file number*

(8) If:

- (a) under subsection (7), the Secretary varies the determination; and

- (b) the Secretary finds out the tax file number of the TFN determination person or TFN claim person, as the case requires, at any time after the variation takes place; the Secretary must vary the determination to undo the effect mentioned in subsection (7).

**65KT Notice of variation of determination**

- (1) The Secretary must give notice of any variation of a determination under this Subdivision to the claimant, stating the effect of the variation and that the claimant may apply for review of the decision involved in the manner set out in Part 5.
- (2) The variation is not ineffective by reason only that the requirements of subsection (1) are not complied with.

**11 After paragraph 66(1)(ea)**

Insert:

- (eb) single income family supplement;

**12 Paragraph 71(1)(a)**

Omit “or maternity immunisation allowance”, substitute “, maternity immunisation allowance or single income family supplement”.

**13 Subsection 93A(6) (after paragraph (a) of the definition of *family assistance payment*)**

Insert:

- (aa) a payment of single income family supplement; or

**14 After subparagraph 111(2)(a)(ixb)**

Insert:

- (ixc) subsection 65KA(2);

**15 At the end of section 154A**

Add:

- (8) If the tax file number of an individual, or of the partner of an individual, is provided to the Secretary under Division 4E of Part 3, this section applies as if a reference to the amounts included in the individual’s adjusted taxable income were a reference to the

individual's taxable income or the individual's partner's taxable income (as the case requires).

**16 Section 219TA (after paragraph (ha) of the definition of *relevant benefit*)**

Insert:

(hb) single income family supplement; or

**17 Application**

The amendments made by this Schedule apply in relation to the 2012-13 income year and later income years.

## Schedule 9—Aged care amendments

### *Aged Care Act 1997*

#### **1 Subsection 58-3(1)**

Omit “84%”, substitute “85%”.

#### **2 Subsection 58-3B(3)**

Repeal the subsection, substitute:

*Standard resident contribution*

- (3) The ***standard resident contribution*** for a care recipient who is a \*protected resident is the amount obtained by rounding down to the nearest cent an amount equal to 77.5% of the \*basic age pension amount (worked out on a per day basis).

#### **3 Subsection 58-3C(3)**

Repeal the subsection, substitute:

*Standard resident contribution*

- (3) The ***standard resident contribution*** for a care recipient to whom this section applies is the amount obtained by rounding down to the nearest cent an amount equal to 96.5% of the \*basic age pension amount (worked out on a per day basis).

#### **4 Subsection 58-4(5) (table items 5 and 6)**

Repeal the items, substitute:

|   |                                                |    |
|---|------------------------------------------------|----|
| 5 | 20 March 2012 to 30 June 2012 (inclusive)      | 82 |
| 6 | 1 July 2012 to 19 September 2012 (inclusive)   | 83 |
| 7 | 20 September 2012 to 19 March 2013 (inclusive) | 84 |

#### **5 Application**

The amendments made by this Schedule apply in relation to the calculation of the standard resident contribution for a care recipient under Division 58 of the *Aged Care Act 1997* in respect of a day that is on or after 1 July 2012.

## Schedule 10—Other amendments

### *A New Tax System (Family Assistance) Act 1999*

#### **1 Paragraph 7(j) of Schedule 3**

Omit “or remote area allowance”, substitute “, remote area allowance or clean energy supplement”.

### *Income Tax Assessment Act 1997*

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

Add:

|                                       |        |
|---------------------------------------|--------|
| clean energy advance.....             | 52-150 |
| single income family supplement ..... | 52-150 |

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

After:

|                                   |                  |
|-----------------------------------|------------------|
| child disability assistance ..... | Subdivision 52-A |
|-----------------------------------|------------------|

insert:

|                                                                                               |        |
|-----------------------------------------------------------------------------------------------|--------|
| clean energy advance under the <i>Farm Household Support Act 1992</i> .....                   | 53-10  |
| clean energy payment under the <i>Social Security Act 1991</i> .....                          | 52-10  |
| clean energy payment under the <i>Veterans’ Entitlements Act 1986</i> .....                   | 52-65  |
| clean energy payment under the <i>Military Rehabilitation and Compensation Act 2004</i> ..... | 52-114 |

#### **4 At the end of subsection 52-10(1) (before the note)**

Add:

; or (zb) clean energy payments under the *Social Security Act 1991*.

#### **5 Before subsection 52-10(2)**

Insert:

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(1L) Clean energy payments under the *Social Security Act 1991* are exempt from income tax.

**6 Section 52-15 (at the end of the cell at table item 1, column headed “the *supplementary amount* is the total of:”)**

Add:

; and (e) so much of the  
payment as is included  
by way of clean energy  
supplement

**7 Section 52-15 (at the end of the cell at table item 2, column headed “the *supplementary amount* is the total of:”)**

Add:

; and (g) so much of the  
payment as is included  
by way of clean energy  
supplement

**8 Section 52-15 (at the end of the cell at table item 3, column headed “the *supplementary amount* is the total of:”)**

Add:

; and (f) so much of the  
payment as is included  
by way of clean energy  
supplement

**9 Section 52-15 (at the end of the cell at table item 4, column headed “the *supplementary amount* is the total of:”)**

Add:

; and (e) so much of the  
payment as is included  
by way of clean energy  
supplement

**10 Section 52-40 (after table item 4)**

Insert:

|    |                      |            |                |                |
|----|----------------------|------------|----------------|----------------|
| 4A | Clean energy payment | Part 2.18A | Not applicable | Not applicable |
|----|----------------------|------------|----------------|----------------|

**11 After paragraph 52-65(1)(a)**

Insert:

(b) clean energy payments; or

**12 Before subsection 52-65(2)**

Insert:

(1G) Clean energy payments under the *Veterans' Entitlements Act 1986* are exempt from income tax.

**13 At the end of section 52-70**

Add:

; and (e) so much of the payment as is included by way of clean energy supplement.

**14 Section 52-75 (after table item 3)**

Insert:

|    |                      |           |                |
|----|----------------------|-----------|----------------|
| 3A | Clean energy payment | Part IIIE | Not applicable |
|----|----------------------|-----------|----------------|

**15 Section 52-114 (at the end of the table)**

Add:

|    |                                                                              |        |                |
|----|------------------------------------------------------------------------------|--------|----------------|
| 22 | Clean energy payment (sections 83A, 209A and 238A and Part 5A of Chapter 11) | Exempt | Not applicable |
|----|------------------------------------------------------------------------------|--------|----------------|

**16 Subsection 52-150(1)**

Omit “or single income family bonus”, substitute “, single income family bonus, clean energy advance or single income family supplement”.

**17 Section 53-10 (after table item 1)**

Insert:

|    |                             |                                            |      |
|----|-----------------------------|--------------------------------------------|------|
| 1A | <b>Clean energy advance</b> | <i>The Farm Household Support Act 1992</i> | None |
|----|-----------------------------|--------------------------------------------|------|

***Social Security Act 1991***

**18 Paragraph 8(8)(jaa)**

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Omit “or single income family bonus”, substitute “, single income family bonus or clean energy advance”.

**19 After paragraph 8(8)(yh)**

Insert:

(yha) a clean energy payment under the Veterans’ Entitlements Act;

**20 After paragraph 8(8)(zna)**

Insert:

(znb) a clean energy payment under the Military Rehabilitation and Compensation Act;

**21 Before section 1224AA**

Insert:

**1224A Debts relating to low income supplements or essential medical equipment payments**

- (1) This section applies if:
  - (a) an individual has been paid:
    - (i) a low income supplement; or
    - (ii) an essential medical equipment payment;because of a determination made under Part 3 of the Administration Act; and
  - (b) after the payment was made to the individual, the determination is or was (however described) changed, revoked, set aside, or superseded by another determination; and
  - (c) the decision to change, revoke, set aside or supersede the determination is or was made wholly or partly because the individual knowingly made a false or misleading statement, or knowingly provided false information; and
  - (d) apart from that statement or information, the payment would not have been paid.
- (2) An amount equal to the payment is a debt due to the Commonwealth by the individual.

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

**22 Paragraph 1231(1AA)(b)**

After “economic security strategy payment,”, insert “low income supplement, essential medical equipment payment,”.

**23 Paragraph 1231(1AA)(b)**

Omit “or bonus” (wherever occurring), substitute “, supplement or bonus”.

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

**24 Subsection 47(1) (at the end of the definition of *lump sum benefit*)**

Add:

- ; or (k) clean energy advance; or
- (l) low income supplement or essential medical equipment payment.

**25 After section 47C**

Insert:

**47D Payment of clean energy advance**

- (1) If an individual is qualified for a clean energy advance, the Secretary must pay the advance to the individual in a single lump sum:
- (a) on the day that the Secretary considers to be the earliest day on which it is reasonably practicable for the advance to be made; and
  - (b) in such manner as the Secretary considers appropriate.
- Note: This section applies to a qualification under Subdivision A or C of Division 1 of Part 2.18A of the 1991 Act.
- (2) However, the Secretary must not pay the advance if the Secretary is aware that the individual has died.

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**47DAA Payment of low income supplement or essential medical equipment payment**

If an individual is qualified for a low income supplement or essential medical equipment payment, the Secretary must pay the supplement or payment (as the case requires) to the individual in a single lump sum in such manner as the Secretary considers appropriate.

**26 Section 123A (after paragraph (c) of the definition of *relevant payment*)**

Insert:

(ca) a clean energy payment; or

**27 Section 123TC**

Insert:

***clean energy income-managed payment*** means:

- (a) a clean energy advance under the 1991 Act; or
- (b) a clean energy advance under the Veterans' Entitlements Act for service pension; or
- (c) a clean energy advance under the Family Assistance Act; or
- (d) quarterly clean energy supplement under the 1991 Act; or
- (e) quarterly clean energy supplement under the Veterans' Entitlements Act for service pension.

**28 After Subdivision DD of Division 5 of Part 3B**

Insert:

**Subdivision DE—Clean energy income-managed payments**

**123XPJ Deductions from clean energy income-managed payments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) a clean energy income-managed payment is payable to the person.

*Deductions from clean energy income-managed payments*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the **deductible portion** of a clean energy income-managed payment is 100% of the amount of the payment.

**29 Paragraph 129(3)(a)**

After "pension bonus", insert ", low income supplement or essential medical equipment payment".

**30 After subsection 238(1)**

Insert:

- (1A) Subsection (1) does not apply to a social security payment that is a payment of low income supplement or an essential medical equipment payment.

***Veterans' Entitlements Act 1986***

**31 Paragraph 5H(8)(paa)**

Omit "or single income family bonus", substitute ", single income family bonus or clean energy advance".

**32 After paragraph 5H(8)(zza)**

Insert:

(zzaaaa) a clean energy payment under the MRCA;

**33 After paragraph 5H(8)(zzag)**

Insert:

(zzah) a clean energy payment under Part IIIE;

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*[Minister's second reading speech made in—  
House of Representatives on 13 September 2011  
Senate on 12 October 2011]*

*(175/11)*

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