



Clean Energy Advances for Approved Care Organisations Administrative Scheme Determination 2012

Clean Energy (Household Assistance Amendments) Act 2011

I, JENNY MACKLIN, Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform make this Determination under subitem 36 (1) of Part 3 of Schedule 2 to the *Clean Energy (Household Assistance Amendments) Act 2011*.

Dated

1 February

2012

J Macklin

Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform

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Part 1 Preliminary

1 Name of Determination

This Determination is the *Clean Energy Advances for Approved Care Organisations Administrative Scheme Determination 2012*.

2 Commencement

This Determination commences on the later of:

- (a) 14 May 2012; and
- (b) the day after the end of the period in which it could be disallowed in either House of the Parliament.

Note: See section 42 of the *Legislative Instruments Act 2003* for the period referred to in paragraph (b).

3 Purpose

This Determination provides for a scheme under which payments of clean energy advances may be made to approved care organisations (within the meaning of the *A New Tax System (Family Assistance) Act 1999*) in particular circumstances occurring in relation to the period starting on 14 May 2012 and ending on 30 June 2013.

4 Interpretation

- (1) In this Determination:

agency has the same meaning as in subsection 3(1) of the *A New Tax System (Family Assistance) (Administration) Act 1999*.

approved care organisation has the same meaning as in subsection 3(1) of the *A New Tax System (Family Assistance) Act 1999*.

clean energy advance means an advance to which an approved care organisation is entitled under section 5 or 8 of this Determination.

clean energy daily rate: has the meaning given by section 7 of this Determination.

Family Assistance Act means the *A New Tax System (Family Assistance) Act 1999*.

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

family assistance law has the same meaning as in subsection 3(1) of the *A New Tax System (Family Assistance)(Administration) Act 1999*.

officer has the same meaning as in subsection 3(1) of the *A New Tax System (Family Assistance) (Administration) Act 1999*.

Secretary means the Secretary of the Department responsible for the administration of this Determination.

SSAT means the Social Security Appeals Tribunal.

- (2) A term used in this Determination in relation to payment of family tax benefit to an approved care organisation has the same meaning as in the Family Assistance Act and the Family Assistance Administration Act.

Part 2

Entitlement to clean energy advances

5 Entitlement of approved care organisation to a clean energy advance

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 approved care organisation is entitled to a clean energy advance if, in relation to that day, a determination under section 16 of the Family Assistance Administration Act is in force in respect of the approved care organisation as a claimant.

Note: The amount of the advance is worked out under sections 6 and 7.

Entitlement for days 1 July 2012 to 30 June 2013

- (2) The Secretary may determine that an approved care organisation is entitled to a clean energy advance if, in relation to any day during the period starting on 1 July 2012 and ending on 30 June 2013, a determination under section 16 or 17 of the Family Assistance Administration Act is in force in respect of the approved care organisation as a claimant.

Note: The amount of the advance is worked out under sections 6 and 7.

One clean energy advance only

- (3) An approved care organisation is not entitled to more than one clean energy advance under this section.

Part 3

Amount of clean energy advance

6 Amount of clean energy advance

- (1) On the day (the *decision day*) that the Secretary determines that an approved care organisation is entitled to a clean energy advance under section 5, 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 approved care organisation's clean energy advance is worked out as follows:

Method statement

Step 1. Work out the approved care organisation's clean energy daily rate (see section 7) on the decision day (assuming that an approved care organisation's annual rate of family tax benefit for an individual that is to be indexed on 1 July 2012 had already been indexed on the decision day).

Note: An approved care organisation's annual rate of family tax benefit for an individual is specified in subsection 58(2) of the Family Assistance Act.

Step 2. Multiply the amount at step 1 by 365: the result is the amount of the approved care organisation'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 approved care organisation's clean energy advance is worked out as follows:

Method statement

Step 1. Work out the sum of the approved care organisation's clean energy daily rates (see section 7) for each day in the period beginning on 1 July 2012 and ending on the decision day.

Step 2. Multiply the approved care organisation'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 approved care organisation'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 approved care organisation's clean energy advance is the sum of the approved care organisation's clean energy daily rates (see section 7) for each day in the 2012-13 income year.

7 Clean energy daily rate

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

Method statement

Step 1. If the approved care organisation is entitled to be paid family tax benefit on that day, multiply the approved care organisation's daily rate of family tax benefit for an individual on that day by the number of individuals in respect of whom the approved care organisation is entitled to be paid family tax benefit on that day.

Note: An approved care organisation's daily rate of family tax benefit for an individual is worked out in subsection 58(3) of the Family Assistance Act.

Step 2. Multiply the amount at step 1 by 0.017 (rounded to the nearest cent (rounding 0.5 cents upwards)): the result is the approved care organisation's *clean energy daily rate* for that day.

- (2) If step 1 of the method statement in subsection (1) does not apply in relation to an approved care organisation on a day, the approved care organisation's *clean energy daily rate* for that day is nil.

Part 4

Top-up payments of clean energy advance

8 Top-up payments of clean energy advance

- (1) If:
- (a) the Secretary pays a clean energy advance (the *original payment*) to an approved care organisation in circumstances where the Secretary determined the approved care organisation is entitled to the advance under section 5; and
 - (b) the decision day (see subsection 6(1)) is before 1 July 2013; and
 - (c) on a day or days after the decision day and before 1 July 2013, the number of individuals in respect of whom the approved care organisation is entitled to be paid family tax benefit changes, so that the amount of the original payment is less than the amount of the clean energy advance that would have been paid to the approved care organisation if the decision day had been on or after 1 July 2013;
- then the approved care organisation is entitled to a further payment of clean energy advance equal to the amount of the shortfall.
- (2) Subsection (1) does not apply until on or after 1 July 2013.

Part 5

Payment of clean energy advance to approved care organisations

9 Payment of clean energy advance

If an approved care organisation is entitled to a clean energy advance, the Secretary must pay the advance to the approved care organisation 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 approved care organisation does not have to make a claim for the advance.

Part 6

Debt recovery

10 Debts arising in respect of clean energy advance

- (1) This section applies in relation to an approved care organisation that has been paid a clean energy advance.
- (2) For the purposes of this section, the *relevant determination* in relation to the approved care organisation is the determination referred to in subsection 5(1) or (2) of this Determination.

Situation in which whole amount is a debt

- (3) If:
 - (a) after the advance was paid to the approved care organisation, the relevant determination in relation to the approved care organisation, 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 approved care organisation 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 approved care organisation.

Situation in which part of amount is a debt

- (4) If:
 - (a) after the advance was paid to the approved care organisation, the relevant determination in relation to the approved care organisation, 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 approved care organisation 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 approved care organisation.

11 Person other than payee obtaining payment of a cheque

If:

- (a) an amount of clean energy advance is paid by cheque; and
- (b) a person other than the payee obtains possession of the cheque from the payee; and
- (c) the cheque is not endorsed by the payee to the person; and
- (d) the person obtains value for the cheque;

the amount of the cheque is a debt due by the person to the Commonwealth.

12 Provisions for debt recovery

A debt arising under this Part is to be recovered in accordance with Divisions 3 and 4 of Part 4 of the Family Assistance Administration Act as if those Divisions applied to a debt under this Part.

Part 7

Miscellaneous

13 Review of decisions

Part 5 of the Family Assistance Administration Act applies, as far as it is capable of doing so, to a decision under this Determination in relation to a clean energy advance for an approved care organisation as if the decision were a decision relating to a clean energy advance for an individual under the family assistance law.

14 Delegation

- (1) The Secretary may delegate his or her powers under this Determination to an officer.
- (2) However, the Secretary may only delegate a power to an officer of an agency other than the Department, if the head of the agency has agreed to the delegation.

15 Decisions to be in writing

A decision of an officer under this Determination:

- (a) must be in writing; and
- (b) is taken to be in writing if it is made, or recorded, by operation of a computer.

16 Secretary may arrange for use of computer programs for decision making

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the Secretary may make decisions under this Determination.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.