



Australian Government

Department of Education, Employment and Workplace Relations

Social Security (Clean Energy Advance – Top-Up Payment) (DEEWR) Determination 2012

Social Security Act 1991

I, BILL SHORTEN, Minister for Employment and Workplace Relations, acting under section 914G of the *Social Security Act 1991*, make this Determination.

Dated 26 April 2012

Signed
Bill Shorten
Minister for Employment and Workplace Relations

Part 1 Preliminary

1 Name of determination

This Determination is the *Social Security (Clean Energy Advance – Top-up Payment) (DEEWR) Determination 2012*.

2 Commencement

This Determination commences on 14 May 2012.

3 Definitions

In this Determination:

ABSTUDY Living Allowance has the same meaning as in the Act.

Act means the *Social Security Act 1991*.

advance qualification day has the same meaning as in the Act.

change day means the day on which a person has a change in circumstances that results in a change to the type or rate of income support payment that the person receives.

clean energy advance has the same meaning as in the Act, the Veterans' Entitlements Act and the MRCA.

clean energy advance daily rate has the same meaning as in the Act, the Veterans' Entitlements Act and the MRCA.

clean energy advance period has the same meaning as in the Act, the Veterans' Entitlements Act and the MRCA.

clean energy qualifying payment has the same meaning as in the Act.

clean energy underlying payment has the same meaning as the Veterans' Entitlements Act and the MRCA.

Commonwealth scheme means the ABSTUDY scheme, the Military Rehabilitation and Compensation Act Education and Training Scheme and the Veterans' Children Education Scheme.

income support payment means a clean energy qualifying payment, a clean energy underlying payment, a VCES payment, a MRCAETS payment and ABSTUDY Living Allowance.

most recent change day means the last day, before a person's top-up payment is calculated, on which the person had a change of circumstances that results in a change to the type or rate of income support payment that the person receives.

most recent clean energy advance daily rate means the clean energy daily rate that would have been used to calculate a person's clean energy advance if the person's advance qualification day was the most recent change day.

multiple qualification exclusion has the same meaning as in the Act.

MRCA means the *Military Rehabilitation and Compensation Act 2004*.

MRCAETS payment means an education allowance under Part 3.3, 3.4, 3.5, 3.6, or 3.7 of the Military Rehabilitation and Compensation Act Education and Training Scheme established under section 258 of the MRCA.

new change day means the day on which a person has a change in circumstances that results in a change to the type or rate of income support payment the person receives and that occurs after the person has previously qualified for a top-up payment under this Determination.

new clean energy advance daily rate means the clean energy advance daily rate that would have been used to calculate a person's clean energy advance if the person first qualified for a clean energy advance on the change day.

new clean energy advance period means the clean energy advance period that applies to a person from the change day.

original change day means the day a person's circumstances change so as to first qualify the person for an initial top-up payment.

original clean energy advance daily rate means the clean energy advance daily rate that was used to calculate a person's original payment.

original clean energy advance period means the clean energy advance period that applied to the original payment.

original payment means the clean energy advance originally paid to a person for the relevant clean energy advance period.

original payment start day means the later of the start of the relevant clean energy advance period or the person's advance qualification day.

Secretary has the same meaning as in the Act.

social security payment has the same meaning as in the Act.

top-up payment means a payment as calculated under Part 3 of this Determination.

top-up qualifying condition has the meaning given by subsection 4(2) of this Determination.

VCES payment means an education allowance under Parts 3.3, 3.4, 3.5, 3.6, 3.6A or 3.7 of the Veterans' Children Education Scheme established under section 117 of the Veterans' Entitlements Act.

Veterans' Entitlements Act means the *Veterans' Entitlements Act 1986*.

Part 2 When a person will qualify for a top-up payment

4 Qualification for top-up payment

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- (1) Subject to subsection 4(3) of this Determination, if:
- (a) the Secretary pays a clean energy advance (***the original payment***) to a person; and
 - (b) the person's circumstances change on a day (***the change day***) and the person satisfies a ***top-up qualifying condition*** in relation to that change of circumstances as set out in subsection 4(2); and
 - (c) either
 - (i) the change of circumstances means that a higher clean energy daily rate would be used to calculate the original payment if the person's advance qualification day were the change day; or
 - (ii) except for the provisions of a multiple qualification exclusion the person would qualify for a clean energy advance under the Act, another Act or a Commonwealth scheme;

the person is qualified for a top-up payment calculated in accordance with Part 3 of this Determination.

- (2) For the purposes of paragraph 4(1)(b) above, a person satisfies a ***top-up qualifying condition*** if:
- (a) the person was paid an original payment under section 914 of the Act, or was paid a top-up payment in accordance with this Determination, and;
 - (i) despite the change in circumstances the person still receives one of the payments listed in subsection 914(4) of the Act and the change of circumstances occurs before 20 March 2013; or
 - (ii) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914(4) of the Act but on the change day receives a payment listed in subsection 914A(5) of the Act and the change of circumstances occurs before 1 July 2013; or
 - (iii) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914(4) of the Act but on the change day receives one of the payments listed in paragraphs (b), (c), and (d) of the definition of ***clean energy underlying payment*** in

subsection 5Q(1) of the Veterans' Entitlements Act and the change of circumstances occurs before 20 March 2013; or

(iv) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914(4) of the Act but on the change day receives compensation under Division 2 of Part 2 of Chapter 5 of the MRCA and the change of circumstances occurs before 20 March 2013; or

(v) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914(4) of the Act but on the change day receives an ABSTUDY Living Allowance payment and the change of circumstances occurs before 1 July 2013; or

(vi) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914(4) of the Act but on the change day receives a VCES payment and the change of circumstances occurs before 1 July 2013; or

(vii) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914(4) of the Act but on the change day receives a MRCAETS payment and the change of circumstances occurs before 1 July 2013; or

(b) the person was paid an original payment under subsections 914A(1) or (2) of the Act, or was paid a top-up payment under this Determination, and;

(i) despite the change in circumstances the person still receives one of the payments listed in subsection 914A(5) of the Act and the change of circumstances occurs before 1 July 2013; or

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- (ii) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914A(5) of the Act but on the change day receives one of the payments listed in subsection 914(4) of the Act and the change of circumstances occurs before 20 March 2013; or
 - (iii) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914A(5) of the Act but on the change day receives one of the payments listed in paragraphs (b), (c), and (d) of the definition of **clean energy underlying payment** in subsection 5Q(1) of the Veterans' Entitlements Act and the change of circumstances occurs before 20 March 2013; or
 - (iv) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914A(5) of the Act but on the change day receives compensation under Division 2 of Part 2 of Chapter 5 of the MRCA and the change of circumstances occurs before 20 March 2013; or
 - (v) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914A(5) of the Act but on the change day receives an ABSTUDY Living Allowance payment and the change of circumstances occurs before 1 July 2013; or
 - (vi) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914A(5) of the Act but on the change day receives a VCES payment and the change of circumstances occurs before 1 July 2013; or
 - (vii) as a result of the change in circumstances the person no longer receives a payment listed in subsection 914A(5) of the Act but on the change day receives a MRCAETS payment and the change of circumstances occurs before 1 July 2013; or
- (c) the person was paid an original payment under subsection 914A(3) of the Act and on the change day the person receives one of the payments listed in subsection 914A(5) of the Act, an ABSTUDY Living Allowance, a VCES payment, or a MRCAETS payment, and the change of circumstances occurs before 1 January 2014.

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- (3) Despite any other provision of this Determination, if a person received an original payment under subsection 914A(3) of the Act and as a result of a change in circumstances they start to receive one of the payments listed in subsection 914(4) of the Act or a ***clean energy underlying payment*** in relation to the change day, the person will not qualify for a top-up payment.

Part 3 Method of working out the top-up payment

5 Top-up payment for first change of circumstances

If the person has not previously qualified for a top-up payment under section 4 of this Determination the amount of top-up payment is to be calculated in accordance with Method Statement 1 below.

Method Statement 1

Step 1: Multiply the original clean energy advance daily rate by the number of days from the original payment start day until the day before the change day.

Step 2: Multiply the new clean energy advance daily rate by the number of days remaining in the new clean energy advance period from the change day.

Step 3: Add up the amounts from Steps 1 and 2.

Step 4: Round the result from Step 3 up to the nearest \$10.

Step 5: Deduct the original payment from the result of Step 4. If the result is greater than zero the result becomes the top-up payment that is payable to the person.

6 Top-up payment for subsequent change of circumstances

If the person has previously been paid a top-up payment calculated in accordance with section 5 of this Determination and they have a further change in circumstances any additional top-up is to be calculated as follows.

Method Statement 2

- Step 1: Multiply the original clean energy advance daily rate by the number of days from the original payment start day until the day before the first change day.
- Step 2: Calculate the number of days from the first change day until the day before the second change day and multiply by the second clean energy advance daily rate. Repeat this step as needed for subsequent changes (excluding the most recent change day), multiplying the number of days between change days by the clean energy advance daily rate that applies as a result of the particular change in circumstances.
- Step 3: Calculate the number of days from the most recent change day until the end of the new clean energy period and multiply by the most recent clean energy advance daily rate.
- Step 4: Add up the amounts from Steps 1, 2 and 3.
- Step 5: Round the result from Step 4 up to the nearest \$10.
- Step 6: Calculate the sum of the original payment and any previous top-up payments paid to the person under this Determination.
- Step 7: Deduct the result of Step 6 from the result of Step 5. If the result is greater than zero this becomes the top-up payment that is payable to the person.