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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CLEAN ENERGY (HOUSEHOLD ASSISTANCE AMENDMENTS) BILL 2011

EXPLANATORY MEMORANDUM

**(Circulated by the authority of the
Minister for Families, Housing, Community Services and
Indigenous Affairs, the Hon Jenny Macklin MP)**

CLEAN ENERGY (HOUSEHOLD ASSISTANCE AMENDMENTS) BILL 2011

OUTLINE

The 2011 Clean Energy Legislative Package

The **Clean Energy (Household Assistance Amendments) Bill 2011** is part of the Clean Energy Legislative Package, which sets up the carbon pricing mechanism (the mechanism) as part of the Government's climate change plan, as set out in *Securing a clean energy future: the Australian Government's climate change plan*.

The full policy context and background to the mechanism is set out in the explanatory memorandum for the **Clean Energy Bill 2011**. A description of the Bills which will introduce the mechanism is set out below.

The Clean Energy Bill 2011 and related Bills

Main Bill	<p>The Clean Energy Bill 2011 creates the mechanism. It sets out the structure of the mechanism and process for its introduction. These include:</p> <ul style="list-style-type: none">• entities and emissions that are covered by the mechanism;• entities' obligations to surrender eligible emissions units;• limits on the number of eligible emissions units that will be issued;• the nature of carbon units;• the allocation of carbon units, including by auction and the issue of free units;• mechanisms to contain costs, including the fixed charge period and price floors and ceilings;• linking to other emissions trading schemes;• assistance for emissions-intensive trade-exposed activities and coal-fired electricity generators;• monitoring, investigation, enforcement and penalties;• administrative review of decisions; and• reviews of aspects of the mechanism over time.
Statutory bodies	<p>The Clean Energy Regulator Bill 2011 sets up the Regulator, which is a statutory authority that will administer the mechanism and enforce the law. The responsibilities of the Regulator include:</p> <ul style="list-style-type: none">• providing education on the mechanism, particularly about the administrative arrangements of the mechanism;• assessing emissions data to determine each entity's liability;• operating the Australian National Registry of Emissions Units (the Registry);• monitoring, facilitating and enforcing compliance with the mechanism;• allocating units including freely allocated units, fixed charge units and auctioned units;• applying legislative rules to determine if a particular entity is eligible for assistance in the form of units to be allocated administratively, and the number of other units to be allocated;• administering the National Greenhouse and Energy Reporting System (NGERS), the Renewable Energy Target (RET) and the Carbon Farming Initiative (CFI); and• accrediting auditors for the CFI and NGERS.

	<p>The Climate Change Authority Bill 2011 sets up the Authority, which will be an independent body that provides the Government with expert advice on key aspects of the mechanism and the Government's climate change mitigation initiatives.</p> <p>The Government will remain responsible for carbon pricing policy decisions.</p> <p>This Bill also sets up the Land Sector Carbon and Biodiversity Board which will advise on key initiatives in the land sector.</p>
Consequential amendments	<p>The Clean Energy (Consequential Amendments) Bill 2011 makes consequential amendments to ensure:</p> <ul style="list-style-type: none"> • NGERS supports the mechanism; • the Registry covers the mechanism and the CFI; • the Regulator covers the mechanism, CFI, the Renewable Energy Target and NGERS; • the Regulator and Authority are set up as statutory agencies and regulated by public accountability and financial management rules; • that emissions units and their trading are covered by laws on financial services; • that activities related to emissions trading are covered by laws on money laundering and fraud; • synthetic greenhouse gases are subject to an equivalent carbon price applied through existing regulation of those substances; • the Regulator can work with other regulatory bodies, including the Australian Securities and Investments Commission (ASIC), the Australian Competition and Consumer Commission (ACCC) and the Australian Transaction Reporting and Analysis Centre (Austrac); • the taxation treatment of emissions units for the purposes of GST and income tax is clear; and • the Conservation Tillage Refundable Tax Offset is established.
Procedural Bills	<p>Those elements of the mechanism which oblige a person to pay money are implemented through separate Bills that comply with the requirements of section 55 of the <i>Constitution</i>.</p> <p>These Bills are the Clean Energy (Unit Shortfall Charge—General) Bill 2011, Clean Energy (Unit Issue Charge – Fixed Charge) Bill 2011, Clean Energy (Unit Issue Charges – Auctions) Bill 2011, Clean Energy (Charges—Excise) Bill 2011, Clean Energy (Charges—Customs) Bill 2011, Clean Energy (International Unit Surrender Charge) Bill 2011, Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011 and Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011.</p>
Related Bills	<p>Other elements of the Government's Climate Change Plan are being implemented through other legislation. These are:</p> <ul style="list-style-type: none"> • the Clean Energy (Excise Tariff Legislation Amendment) Bill 2011 and the Clean Energy (Customs Tariff Amendment) Bill 2011, which imposes an effective carbon price on aviation and non-transport gaseous fuels through excise and customs tariffs; • the Clean Energy (Fuel Tax Legislation Amendment) Bill 2011, which reduces the business fuel tax credit entitlement of non-exempted industries for their use of liquid and gaseous transport fuels, in order to provide an effective carbon price on business through the fuel tax system; and • the Clean Energy (Household Assistance Amendments) Bill 2011, Clean Energy (Tax Laws Amendments) Bill 2011 and the Clean Energy (Income Tax Rates Amendments) Bill 2011, which will implement the household assistance measures announced by the Government on 10 July 2011. These Bills amend relevant legislation to provide payment increases for pensioners, allowees and family payment recipients and provide income tax cuts and establish new supplements for low and middle-income households.

This Bill needs to be read in the context, in particular, of the **Clean Energy Bill 2011**.

Clean Energy (Household Assistance Amendments) Bill 2011

This Bill delivers on the Government's commitments to low and middle-income households to help Australians adjust to a low emissions economy, and assist with the cost impacts resulting from a carbon price. This household assistance will provide higher payments, equivalent to a 1.7 per cent increase, to pensioners, veterans, self-funded retirees and families. This Bill also establishes new supplements for low-income families, single income families and certain households that have significantly higher than average electricity costs due to a medical condition, ageing or disability.

Further household assistance measures made through amendments to the tax laws are introduced separately.

Date of effect and application

The provisions in this Bill apply from various dates. Generally, the clean energy advance provisions in the Bill apply from 14 May 2012, with most payments being made over the period 14 May to 30 June 2012. The clean energy supplement provisions apply from 2013 after the relevant clean energy advance period. Commencement of the whole Bill is dependent upon commencement of the new ***Clean Energy Act 2011***.

Proposal announced

The measures are based on the Government's announcement of its *Clean Energy Future Plan* on 10 July 2011 as set out in *Securing Australia's clean energy future: the Australian Government's climate change plan*.

Financial impact statement

The financial impact statement is included in the explanatory memorandum for the **Clean Energy Bill 2011**.

Regulation impact statement

The Regulation Impact Statement for the mechanism, entitled *Australia's plan for a clean energy future*, is available at <http://ris.finance.gov.au>. The Regulation Impact Statement was prepared by the Department of Climate Change and Energy Efficiency and has been assessed as adequate by the Office of Best Practice Regulation.

CLEAN ENERGY (HOUSEHOLD ASSISTANCE AMENDMENTS) BILL 2011

NOTES ON CLAUSES

Abbreviations used in this explanatory memorandum

- ‘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*
- ‘Farm Household Support Act’ means the *Farm Household Support Act 1992*
- ‘FTB’ means family tax benefit
- ‘Military Rehabilitation and Compensation Act’ means the *Military Rehabilitation and Compensation Act 2004*
- ‘Social Security Act’ means the *Social Security Act 1991*
- ‘Social Security Administration Act’ means the *Social Security (Administration) Act 1999*
- ‘Veterans’ Entitlements Act’ means the *Veterans’ Entitlements Act 1986*

Clause 1 sets out how the new Act is to be cited, that is, as the *Clean Energy (Household Assistance Amendments) Act 2011*.

Clause 2 provides a table that sets out the commencement dates of the various sections in, and Schedules to, the new Act.

Clause 3 provides that each Act that is specified in a Schedule is amended or repealed as set out in that Schedule.

Schedule 1 – Clean energy payments under the social security law

Summary

The Clean Energy Household Assistance Package will provide financial assistance through increased Government payments to assist families, veterans, allowees, pensioners, carers, and self-funded retirees for increases in the cost of living arising from the introduction of a carbon price on 1 July 2012.

The financial assistance provided by this Schedule will be delivered through social security payments that are equivalent to permanent increases of 1.7 per cent to the rates of relevant payments. The amendments in this Schedule provide for assistance to be delivered in a lump sum clean energy advance before commencement of the carbon pricing scheme, paid from May to June 2012. Ongoing, permanent clean energy supplements will be paid from the end of the clean energy advance lump sum period, as a distinct component of the person's rate of social security payment, in line with regular payment cycles.

Background

Clean energy advances

Part of the Schedule makes amendments to the social security law to provide for lump sum clean energy advances payable to people in receipt of social security payments before the commencement of the carbon pricing scheme. The clean energy advance period will cover a period of six to 18 months, depending on the type of social security payment received and which clean energy advance period applies.

Generally, the clean energy advance provisions in the Bill apply from 14 May 2012, with most payments being made over the period 14 May to 30 June 2012. The clean energy advance will include:

- the expected additional Consumer Price Index impact of carbon pricing (0.7 per cent); and
- an additional increase amount above the Consumer Price Index impact (one per cent).

The clean energy advance would be paid in respect of the period from 1 July 2012 until the normal payment indexation arrangements begin to deliver Consumer Price Index increases related to carbon pricing. This period differs for different social security payments:

- For pensions (other than disability support pension for people who are under 21 and do not have dependent children), seniors supplement and most qualified allowances, the period is 1 July 2012 to 19 March 2013. Pensioners (including those paid a transitional rate as part of the 2009 pension reforms but not including pension PP (single) recipients), part-pensioners, seniors supplement recipients (including self-funded retirees who are eligible for a Commonwealth Seniors Health Card) and any social security recipient over pension age will all receive the same clean energy advance.
- For youth allowance, austudy and disability support pension for people who are under 21 and do not have dependent children, an initial clean energy advance will cover the entire 2012-13 financial year.
- For youth allowance, austudy and disability support pension for people who are under 21 and do not have dependent children, a second clean energy advance will be provided in July 2013, in respect of the period 1 July 2013 to 31 December 2013, as Consumer Price Index increases would only begin to reflect the impact of carbon pricing for these payments from 1 January 2014.

Clean energy supplements

Once normal indexation begins to deliver Consumer Price Index increases in respect of carbon pricing for a particular payment, the additional increases to social security payments will be paid as clean energy supplements.

Ongoing clean energy supplements will start to be paid from the end of the clean energy advance lump sum period for each payment type. The clean energy supplements will be a distinct component of a person's rate of social security payment, similar to the existing pension supplement for pensioners. The clean energy supplements will be permanent, and indexed by the Consumer Price Index so they maintain their value in real terms over time.

People will generally be able to choose whether to receive their clean energy supplement fortnightly, or as a quarterly payment in arrears. Self-funded retirees with a Commonwealth Seniors Health Card will receive the clean energy supplement quarterly, in line with the payment of their seniors supplement.

Indexation

The expected additional impact on the Consumer Price Index from carbon pricing (0.7 per cent) will be permanently included in the clean energy supplement (plus an additional one per cent increase). Part 4 contains amendments to the Social Security Act that provide for the expected impact of the carbon price on indexation (0.7 per cent) to be transferred from the indexation on maximum basic rate and pension supplement of certain social security payments to the clean energy supplement. The maximum basic rate and the pension supplement will continue to be indexed in accordance with usual indexation arrangements. The clean energy supplement will also be indexed to maintain its real value over time.

Explanation of the changes

Part 1 – Clean energy advance

Division 1 – Main amendment

Amendments to the Social Security Act

Item 1 inserts a new Part 2.18A into Chapter 2 of the Social Security Act to provide for clean energy payments. New Part 2.18A creates two new social security payments, the clean energy advance and the clean energy supplement. The new Part also sets out the qualification, payability and rate rules for both the clean energy advance and the clean energy supplement.

Division 1 – Clean energy advances

Subdivision A – Qualifying for clean energy advances

New **section 914** sets out the qualification rules for people in receipt of social security payments (other than austudy, youth allowance and disability support pension for people who are under 21 years of age and who do not have a dependent child) for the clean energy advance.

New subsection 914(1) provides that, if, on a day between 14 May 2012 and 30 June 2012, a person receives one of the payments listed in new subsection 914(4), their rate of payment is greater than nil, and they are in Australia, the Secretary may determine that the person is qualified for a clean energy advance.

New subsection 914(2) provides that, if, on a day between 1 July 2012 and 19 March 2013, a person receives one of the payments listed in new subsection 914(4), their rate of payment is greater than nil, and they are in Australia, the Secretary may determine that the person is qualified for a clean energy advance.

New subsection 914(3) provides that, if the Secretary makes a determination under new subsection 914(2), the determination must specify the first day on which the person satisfies new paragraphs 914(2)(a) and (b), and the first day during the period that the person is in Australia, disregarding any temporary absence that is less than 13 weeks.

These provisions mean that people who are temporarily overseas at the commencement of the clean energy period will receive the clean energy advance when they return to Australia. If they have been overseas for less than 13 weeks, they will be entitled to the full advance amount. However, if they have been overseas for more than 13 weeks, they will receive a pro-rated advance amount.

The social security payments (the *clean energy qualifying payments*) listed in new subsection 914(4) are:

- age pension;
- benefit PP (partnered) (otherwise known as parenting payment partnered);
- bereavement allowance;
- carer payment;
- disability support pension (other than for a person who is under 21 with no dependent children);
- newstart allowance;
- pension PP (single) (otherwise known as parenting payment single);
- partner allowance;
- seniors supplement;
- sickness allowance;
- special benefit, where the rate of that benefit is worked out as if the person were qualified for newstart allowance;
- widow allowance;
- widow B pension;
- wife pension.

New **section 914A** sets out the qualification rules for people in receipt of austudy, youth allowance, disability support pension for a person who is under the age of 21 without a dependent child, and special benefit where the rate is determined by reference to youth allowance.

New subsection 914A(1) provides that, if, on a day between 14 May 2012 and 30 June 2012, a person receives one of the payments listed in subsection 914A(5), their rate of payment is greater than nil, and they are in Australia, the Secretary may determine that the person is qualified for a clean energy advance.

New subsection 914A(2) provides that, if, on a day between 1 July 2012 and 30 June 2013, a person receives one of the payments listed in new subsection 914A(5), their rate of payment is greater than nil, and they are in Australia, the Secretary may determine that the person is qualified for the first clean energy advance.

New subsection 914A(3) provides that, if, on a day between 1 July 2013 and 31 December 2013, a person receives one of the payments listed in new subsection 914A(5), their rate of payment is greater than nil, and they are in Australia, the Secretary may determine that the person is qualified for the second clean energy advance.

New subsection 914A(4) provides that, if the Secretary makes a determination under new subsections 914A(2) and (3), the determination must specify the first day on which the person satisfies new paragraphs (a) and (b) of the relevant subsection, and the first day during the period the person is in Australia, disregarding any temporary absence that is less than 13 weeks.

The social security payments (the ***clean energy qualifying payments***) listed in new subsection 914A(5) are:

- austudy payment;
- disability support pension for a person who is under 21 with no dependent children;
- special benefit, where the rate of that benefit is worked out as if the person were qualified for austudy payment or youth allowance;
- youth allowance.

Generally, people receiving a nil rate of social security payment at the commencement of the clean energy advance period will not qualify for a clean energy advance. People may, however, qualify for a pro-rated clean energy advance if their rate increases above nil at some stage during the 2012-13 year.

New **section 914B** provides that, in certain circumstances, a nil rate of social security payment can be disregarded when determining a person's qualification for a clean energy advance under new section 914 or 914A.

New subsection 914B(1) provides that, if, at the time the Secretary makes a determination under new sections 914 or 914A regarding qualification, a person's rate of clean energy qualifying payment is nil merely because they are receiving quarterly pension supplement or because they have received an advance of pharmaceutical allowance, the person is not precluded from qualifying for a clean energy advance.

New subsection 914B(2) provides that, for the purposes of sections 914 and 914A, if a social security payment is taken to be payable to a person because of the operation of subsection 23(1D), the person is deemed to have a payment rate that is greater than nil. This provision is inserted to ensure that people in receipt of Defence Force Income Support Allowance, who have a nil rate of social security payment, will still qualify for a clean energy advance under the social security law.

New **section 914C** provides that a person will only be able to be paid, at most, two clean energy advances. A person will qualify for only one clean energy advance if they qualify under new section 914 or new subsection 914A(1) or (2), no matter how many times during the relevant clean energy advance period (as defined in subsection 23(1)) the person satisfies the qualification criteria. A person will also only qualify for one clean energy advance if they qualify under new subsection 914A(3), no matter how many times in the clean energy advance period) they meet those criteria. A person may qualify for a clean energy advance under new section 914 or for a first clean energy advance under new subsection 914A(1) or (2) and then a second clean energy advance under new subsection 914A(3).

This section provides that people who come on and off social security payments during the 2012-13 year (for example, due to fluctuating employment income), will not receive a new clean energy advance every time they come back onto a payment.

As their clean energy supplement will not start until 1 January 2014, there are two clean energy advance periods for people in receipt of youth allowance, austudy or disability support pension for people under 21 and without dependent children. These people will receive one clean energy advance relating to the period 1 July 2012 to 30 June 2013 and a second advance relating to the period 1 July 2013 to 30 December 2013. A person who receives a clean energy advance for the first period and remains on, or transfers to, one of these payment types before or during the second clean energy advance period will receive a second clean energy advance.

Note 1 advises the reader that additional limitations on the payability of clean energy advance may apply as a result of new section 918.

Note 2 at the end of new section 914C confirms for the reader the fact that, despite the rule against multiple clean energy advance payments, a person may qualify for a top-up payment of clean energy advance if there is a change in their circumstances during the clean energy advance period. These top-up payments are set out in Subdivision C of the new Part 2.18A.

Subdivision B – Amount of a clean energy advance

New **section 914D** sets out how a clean energy advance is to be calculated for a person, depending on their circumstances and the particular social security payment that they receive.

New subsection 914D(1) provides that, when the Secretary determines that a person is qualified for a clean energy advance (on the **decision day**), the Secretary must also determine the amount of clean energy advance that is payable to the person (the **recipient**). The note at the end of new subsection 914D(1) confirms for the reader that the clean energy advance will be paid in a single lump sum as soon as is reasonably practicable after the decision day, as provided for in new section 47D of the Social Security Administration Act. New section 47D is inserted into the Social Security Administration Act by **item 23** of Schedule 10 to this Bill.

New subsection 914D(2) provides that the amount of the clean energy advance will be the **clean energy advance daily rate** multiplied by the **number of advance days** rounded up to the nearest \$10. Clean energy advance daily rate means the rate as worked out for the person's circumstances under new section 914E and the number of advance days means the number of days worked out under new section 914F.

New **section 914E** sets out the various methods of calculating a person's clean energy advance daily rate. A person's clean energy advance daily rate will depend on the type of payment that the person receives.

New subsection 914E(1) provides that a person's clean energy advance daily rate is worked out in accordance with the table at the end of the subsection. The table cross-references the various clean energy advance qualifying payments with the relevant subsection of new section 914E, which sets out how the clean energy advance daily rate is calculated for a person in receipt of that particular payment.

The note at the end of new subsection 914E(1) signposts the definitions of recipient and decision day in new subsection 914D(1).

New subsection 914E(2) sets out the method for calculating the clean energy advance daily rate for people in receipt of age pension, bereavement allowance, disability support pension (other than for a person who is under 21 years and who does not have a dependent child), wife pension, carer payment, widow B pension, seniors supplement and any payment where the person is over pension age. A person's clean energy advance daily rate is worked out by calculating 1.7 per cent of the sum of twice the maximum basic rate set out in Rate Calculator A for a person who is partnered (as at 1 July 2012) and the combined couple rate of pension supplement (as at 1 July 2012). This figure is then rounded up or down to the nearest \$5.20, rounding up where the result is not a multiple of \$5.20 but is a multiple of \$2.60. An amount of \$5.20 is then added to this figure, which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as an increase to payments rather than as a lump sum.

The calculation produces an annual figure for a combined couple, which is then adjusted to take account of the particular person's circumstances by applying the percentages in the table at the end of new subsection 914E(2) that correspond with the person's relationship status. The percentage adjusted figure is then rounded up or down to the nearest multiple of \$2.60, rounding up if the figure is not a multiple of \$2.60 but is a multiple of \$1.30. The final figure is an annual figure, which is then divided by 364 to obtain a daily rate.

The reference in subparagraph 914E(2)(a)(i) to maximum basic rate under Pension Rate Calculator A for a person who is partnered means the maximum basic rate specified in table item 2 of the table at the end of point 1064-B1 in Rate Calculator A, as indexed.

The note at the end of new subsection 914E(2) confirms for the reader that the subsection covers payments in Pension Rate Calculators A, B and C, seniors supplement, recipients of other payments who are over pension age and people who have their rate of payment calculated by reference to clause 146 of Schedule 1A to the Social Security Act.

New subsection 914E(3) sets out the method for calculating the clean energy advance daily rate for people who have not reached pension age and are in receipt of pension PP (single), or in receipt of newstart allowance or youth allowance where that person's rate is calculated by reference to pension PP (single). A person's clean energy advance daily rate is worked out by calculating 1.7 per cent of the sum of the maximum basic rate set out in the Pension PP (Single) Rate Calculator (as at 1 July 2012) and the pension supplement basic amount (as at 1 July 2012). This figure is then rounded up or down to the nearest \$2.60, rounding up where the result is not a multiple of \$2.60 but is a multiple of \$1.30). An amount of \$5.20 is then added to this figure to compensate for the lack of indexation that would have occurred if the clean energy advance was paid as an increase to payments rather than as a lump sum. The final figure is an annual figure which is then divided by 364 to obtain a daily rate.

New subsection 914E(4) sets out the method for calculating the clean energy advance daily rate for people who have not reached pension age and are in receipt of benefit PP (partnered), newstart allowance, sickness allowance, partner allowance, special benefit related to newstart allowance, or widow allowance. A person's clean energy advance daily rate is worked out by calculating 1.7 per cent of the maximum basic rate as at 1 July 2012 set out in the relevant rate calculator payable to the person based on that person's particular circumstances. This figure is then rounded up or down to the nearest 10 cents, rounding up where the result is not a multiple of 10 cents but is a multiple of 5 cents. An amount of 20 cents is then added to this figure, which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as an increase to people's payments rather than as a lump sum. The final figure is a fortnightly figure, which is then divided by 14 to obtain a daily rate.

The reference to 'a person whose circumstances on that day would be or were the same as the recipient's circumstances on the advance qualification day' in subparagraph 914E(4)(a)(ii) is intended to reflect the various maximum basic rates that are set out in the different rate calculators. The rate calculators have various maximum basic rates that apply to a person depending on their living arrangements, age, relationship status and length of time they have been in receipt of social security payments. This paragraph is inserted so that the calculation of a person's clean energy advance daily rate is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. The different rate calculators have different variables, and consideration must be given to the recipient's circumstances as they are on the advance qualification day to determine which maximum basic rate applies to the recipient.

New subsection 914E(5) sets out the method for calculating the clean energy advance daily rate for people in receipt of disability support pension for people who are under 21 years who do not have a dependent child. A person's clean energy advance daily rate is worked out by calculating 1.7 per cent of the sum of the maximum basic rate and youth disability supplement, as at 1 July 2012, set out in the relevant rate calculator and rounding this figure up or down to the nearest \$2.60, rounding up where the result is not a multiple of \$2.60 but is a multiple of \$1.30. An amount of \$5.20 is then added to this figure, which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as an increase to people's payments rather than as a lump sum. The final figure is an annual figure, which is then divided by 364 to obtain a daily rate.

The reference to ‘a person whose circumstances on that day would be or were the same as the recipient’s circumstances on the advance qualification day’ in subparagraph 914E(5)(a)(ii) is intended to reflect the various maximum basic rates that are set out in the different rate calculators. The rate calculators have various maximum basic rates that apply to a person depending on their living arrangements, age, and relationship status. This paragraph is inserted so that the calculation of a person’s clean energy advance daily rate is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. Consideration must be given to the recipient’s circumstances as they are on the advance qualification day to determine which maximum basic rate applies to the recipient.

New subsection 914E(6) sets out the method for calculating the clean energy advance daily rate for people in receipt of youth allowance (other than those whose rate has youth disability supplement added or whose rate is calculated by reference to pension PP (single)), austudy and special benefit related to youth allowance. A person’s clean energy advance daily rate is worked out by calculating 1.7 per cent of the maximum basic rate, as at 1 July 2012, set out in the relevant rate calculator based on that person’s particular circumstances. This figure is then rounded up to the nearest 10 cents, rounding up where the result is not a multiple of 10 cents but is a multiple of 5 cents. An amount of 20 cents is then added to this figure, which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as an increase in payments rather than as a lump sum. The final figure is a fortnightly figure, which is then divided by 14 to obtain a daily rate.

The reference to ‘a person whose circumstances on that day would be or were the same as the recipient’s circumstances on the advance qualification day’ in subparagraph 914E(6)(a)(ii) is intended to reflect the various maximum basic rates that are set out in the different rate calculators. The rate calculators have various maximum basic rates that apply to a person depending on their living arrangements, age, relationship status and length of time they have been in receipt of social security payments. This paragraph is inserted so that the calculation of a person’s clean energy advance daily rate is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. The different rate calculators have different variables, and consideration must be given to the recipient’s circumstances as they are on the advance qualification day to determine which maximum basic rate applies to the recipient.

New subsection 914E(7) sets out the method for calculating the clean energy advance daily rate for people in receipt of youth allowance who also receive youth disability supplement. A person's clean energy advance daily rate is worked out by calculating 1.7 per cent of the sum of the maximum basic rate and youth disability supplement, as at 1 July 2012, set out in the relevant rate calculator based on that person's particular circumstances. This figure is then rounded up to the nearest 10 cents, rounding up where the result is not a multiple of 10 cents but is a multiple of five cents. An amount of 20 cents is then added to this figure, which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as an increase to payments rather than as a lump sum. The final figure is a fortnightly figure, which is then divided by 14 to obtain a daily rate.

The reference to 'a person whose circumstances on that day would be or were the same as the recipient's circumstances on the advance qualification day' in subparagraph 914E(7)(a)(ii) is intended to reflect the various maximum basic rates that are set out in the different rate calculators. The rate calculators have various maximum basic rates that apply to a person depending on their living arrangements, age, relationship status and length of time they have been in receipt of social security payments. This paragraph is inserted so that the calculation of a person's clean energy advance daily rate is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. The different rate calculators have different variables, and consideration must be given to the recipient's circumstances as they are on the advance qualification day to determine which maximum basic rate applies to the recipient.

New **section 914F** sets out how the **number of advance days** is worked out to enable the clean energy advance to be calculated. Where a person qualifies for a clean energy advance before 1 July 2012, the number of advance days is the number of days in the person's clean energy advance period that are on or after 1 July 2012. Where the person qualifies after 1 July 2012, the number of advance days is the number of days remaining in the clean energy advance period on and from the person's **advance qualification day**. The term advance qualification day is defined by **item 2** of this Schedule.

Subdivision C – Top-up payments of clean energy advance

New Subdivision C of new Part 2.18A provides for the Minister to determine, by legislative instrument, the circumstances in which top-up payments of clean energy advance may be paid to people where they have a change of circumstances during the clean energy advance period that would result in the person not being appropriately assisted for the anticipated increased energy costs.

The operation of this Subdivision will mean that, if the person's change of circumstance during the clean energy advance period results in:

- the person starting to receive a different clean energy qualifying payment that is paid at a higher rate than their previous clean energy qualifying payment (for example, a person who moves from newstart allowance to the age pension if they reach age pension age during 2012-13);
- the person starting to receive the same clean energy qualifying payment at a higher rate (for example, where a person separates from their partner during the year and moves from a partnered to single rate);
- the person starting to receive a different clean energy qualifying payment that has a longer clean energy advance period (for example, where a person changes from newstart allowance to austudy); or
- the person not being able to receive the entire advance amount because of a multiple entitlement exclusion;

the person will receive an additional amount of clean energy advance equivalent to the difference between the higher and lower advance amounts for the number of days remaining in the advance period.

This may happen more than once during a clean energy advance period, and may result from people switching from, to or between payments under the Social Security Act, Veterans' Entitlements Act and the Military Rehabilitation and Compensation Act.

Due to the numerous and complex interactions between the relevant payments under the Social Security Act, Veterans' Entitlements Act and Military Rehabilitation and Compensation Act, the circumstances under which top-ups will be payable will be determined by legislative instrument. This will reduce the complexity of the legislation, and will optimise the ability of Centrelink to provide timely top-up payments for a wide range of circumstances. The legislative instrument will be made in writing, by the Minister and will be subject to disallowance by the Parliament.

The terms ***entitled, entitlement, qualified*** and ***qualification for*** (and any variation of those words) used in new **section 914G** are intended to cover the differing words used in the various Acts to express when an individual meets the criteria for a clean energy advance or a top-up payment. The terms are not intended to limit the authority set out in new subsection 914G(1) only to those cases where an Act or scheme specifies that a person is 'entitled' to, or 'qualified' for, a clean energy advance or top-up payment. It is intended that the words entitled, entitlement, qualified and qualification (or any variation of those words) used in this section are to be given their ordinary and plain English meaning.

Division 5 – Multiple qualification exclusions

Division 5 of new Part 2.18A, containing new **section 918**, provides for a legislative instrument-making power to ensure that the clean energy advance is only paid to people who ought to receive it. It provides the Minister with the ability to specify that people are not able to receive a **clean energy bonus** under the social security law if they have already received a clean energy bonus under other legislation, such as the Veterans' Entitlements Act, or under an administrative scheme such as ABSTUDY. Clean energy bonus is defined by new subsection 918(3), mentioned below.

A definition of clean energy bonus is inserted into section 23(1) by **item 2** below as any payment under any Act or scheme that uses the words 'clean energy'. This will include the clean energy advance and clean energy supplement.

For example, a person who switches from a payment under the Veterans' Entitlements Act to a payment under the Social Security Act would qualify for a further clean energy advance that would cover the same clean energy advance period. This may result in the person receiving much greater assistance than is necessary. It would be more appropriate to provide this person with a top-up payment rather than a further clean energy advance.

Similarly, a person who receives a clean energy advance because they are receiving ABSTUDY (which is an administrative scheme and not a legislative payment) and who switches to newstart allowance during the clean energy advance period, would qualify for a new clean energy advance. This may result in the person receiving much greater assistance than is necessary. It would be more appropriate to provide this person with a top-up payment rather than a further clean energy advance.

Additionally, there are some people who may receive payments under more than one Act and, if they receive a clean energy supplement under more than one Act, they may receive much greater assistance than is necessary.

Due to the numerous and complex interactions between the payments under the various Acts and schemes, the circumstances under which a clean energy bonus will not be payable to a person will be determined by legislative instrument.

New subsection 918(1) provides that the Minister may determine that, in certain circumstances, people are not entitled to a clean energy bonus under the social security law.

New subsection 918(2) provides that the circumstances determined by the Minister under subsection 918(1) must relate to a person's entitlement to, or receipt of, one or more of the following payments:

- (a) a clean energy bonus under the Social Security Act;

- (b) a clean energy bonus under the Military Rehabilitation and Compensation Act;
- (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.

The terms **qualified** and **qualification for** (and any variation of those words) used in section 918 are intended to cover the differing words used in the various Acts to express when an individual meets the criteria for a clean energy bonus. The terms are not intended to limit the authority set out in subsections 918(1) and (2) to only those cases where an Act or scheme specifies that a person is 'entitled' to a clean energy bonus. It is the intention that the words qualified and qualification for (and any variation of those words) used in this section are to be given their ordinary and plain English meaning.

New subsection 918(3) provides that any instrument made in accordance with subsection 918(1) is to have effect according to its terms, irrespective of any other provision within the Social Security Act.

Division 2 – Other amendments

Amendments to the Social Security Act

Items 2, 3, 4, 5, 6, 7, 8 and 9 insert new definitions into subsection 23(1) of the Social Security Act.

Advance qualification day for a person who qualifies for a clean energy advance before 1 July 2012 means the day the determination is made. For a person who qualifies after 1 July 2012, the advance qualification day will be the day specified in the determination. The note at the end of the definition of advance qualification day confirms for the reader that the advance qualification day for a person who qualifies after 1 July 2012 will be the day the person first meets all the qualification criteria, and that temporary absences from Australia (absences of less than 13 weeks) will be disregarded for the purpose of determining qualification.

Clean energy advance means the lump sum payment that is calculated for the person by applying the rules set out in Subdivisions A and C of Division 1 of new Part 2.18A, which is inserted by **item 1**.

Clean energy advance daily rate means the rate calculated for the person by virtue of new section 914E.

There are three different **clean energy advance periods**, depending on a person's circumstances. The clean energy advance period for people in receipt of social security payment, other than austudy, youth allowance or disability support pension for a person who is under 21 with no dependent children, means the period starting on 1 July 2012 and ending on 19 March 2013. For people in receipt of austudy, youth allowance or disability support pension for a person who is under 21 without dependent children, there are two different clean energy advance periods. The first commences on 1 July 2012 and ends on 30 June 2013, and the second commences on 1 July 2013 and ends on 31 December 2013.

Clean energy bonus is defined as any payment known as a clean energy advance, or any increase, using the words 'clean energy', to a person's rate of payment paid under either the Social Security Act, or any other Act or scheme administered by the Commonwealth.

A **clean energy payment** will include a clean energy advance.

A person's **clean energy qualifying payment** means the social security payments listed in new subsections 914(4) and 914A(5). A person must receive one of these payments on the advance qualification day to qualify for a clean energy advance. The particular clean energy qualifying payment that a person receives will determine the person's clean energy advance period.

The **number of advance days** means the number of days remaining in the clean energy period as determined in new section 914F.

Item 10 inserts a new **section 1224** into Part 5.2 of Chapter 5 of the Social Security Act. This new provision sets out when a clean energy advance is a debt to the Commonwealth. In broad terms, a debt would only arise where some or all of the clean energy qualifying payment was incorrectly paid, and therefore some or all of the clean energy advance was incorrectly paid, because a relevant individual knowingly made a false or misleading statement or knowingly provided false or misleading information. This is similar to the debt rules for the economic stimulus payments that were linked to certain social security payments in relation to 14 October 2008. The relevant rules are set out in new subsections 1224(1), (2) and (3).

Where an individual is paid a clean energy advance, a low income supplement or an essential medical equipment payment because of a determination made under Part 3 of the Social Security Administration Act, the determination is later changed, revoked, set aside or superseded by another determination, and a reason for the determination needing to be changed was that a relevant individual knowingly made a false or misleading statement or knowingly provided false or misleading information, and if, apart from that statement or information, the payment would not have been paid, then the amount of the payment made is a debt. The relevant rules are set out in new subsections 1224(1), (2) and (3).

New subsection 1224(4) states that, with the exception of section 1224AA of the Social Security Act (relating to misdirected cheques), other provisions in relation to the raising of social security debts do not apply to clean energy advances.

Amendments to the Social Security Administration Act

Item 11 inserts a new **section 12K** into the Social Security Administration Act to confirm that a person does not need to make a specific claim for a clean energy advance, and advances will be paid automatically to qualified people. Qualification for a clean energy advance depends on a person's circumstances and is based on information that is already known to the Secretary.

Part 2 – Clean energy supplement

Division 1 – Supplement payable from 20 March 2013

Amendments to the Social Security Act

Item 12 inserts a new **section 20B** into the Social Security Act, which establishes the ***clean energy pension rate***. The clean energy pension rate is worked out by calculating 1.7 per cent of the total of twice the maximum basic rate under Pension Rate Calculator A for a person who is partnered and the combined couple rate of pension supplement (as at 20 March 2013), and rounding the result up or down to the nearest multiple of \$5.20 (rounding up if the result is not a multiple of \$5.20 but is a multiple of \$2.60).

The reference to the maximum basic rate under Pension Rate Calculator A for a person who is partnered means the amount set out at table item 2 in Table B – maximum basic rates at the end of point 1064-B1 in Module B as indexed.

Note 1 at the end of new section 20B confirms for the reader that this rate will be indexed every six months in line with Consumer Price Index increases as set out in sections 1191 to 1194. Note 2 at the end of new section 20B confirms that the clean energy pension rate is an annual rate.

Items 13, 14, 15 and 16 insert definitions into subsection 23(1) of the Social Security Act.

Clean energy pension rate means the rate established by new section 20B, inserted by **item 12** above.

Clean energy supplement for a person means the amount of clean energy supplement that is added to a person's rate of payment according to the relevant rate calculator for that person's particular social security payment.

Clean energy (under pension age) rate means the clean energy (under pension age) rate calculated for a person under the relevant clean energy supplement Module of the person's rate calculator for the person's social security payment.

Clean energy (youth disability) rate means the rate calculated for a person under point 1067G-BA6 of the Youth Allowance Rate Calculator.

Item 17 repeals section 1061UB and substitutes a new **section 1061UB** to provide for a new rate of seniors supplement, which includes a component of clean energy supplement equal to the rate of clean energy supplement that the person would have received if they were in receipt of age pension.

A person's daily rate of seniors supplement is calculated as follows:

- Step 1: apply the applicable percentage in the table at the end of the section to the combined couple rate of minimum pension supplement;
- Step 2: round the result of step 1 up or down to the nearest \$2.60;
- Step 3: work out the clean energy pension rate that would apply to a person if that person were receiving age pension and apply the applicable percentage in the table at the end of this section;
- Step 4: round the result of step 3 up or down to the nearest \$2.60;
- Step 5: add the results of step 2 and step 4;
- Step 6: divide the result of step 5 by 364 to calculate the daily rate.

Note 1 at the end of new section 1061UB is inserted to direct the reader to the definition of **combined couple rate of minimum pension supplement** in subsection 20A(2) of the Social Security Act. Note 2 at the end of new section 1061UB is inserted to direct the reader to the definition of clean energy pension rate in new section 20B.

Item 18 inserts a new step 1B into the method statement immediately after step 1A at point 1064-A1, and **item 19** inserts into step 4 of the method statement a reference to the new step 1B. New step 1B provides for a clean energy supplement to be added to a person's rate of payment as calculated by Pension Rate Calculator A.

Item 20 inserts a new **module C** into Pension Rate Calculator A, which sets out how a person's clean energy supplement is to be calculated.

Point 1064-C1 provides that a clean energy supplement is to be added to a person's rate of pension if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks.

Point 1064-C2 provides that the clean energy supplement module does not apply if the person has elected to receive their clean energy supplement quarterly.

Point 1064-C3 provides that a person's clean energy supplement is worked out by applying the percentage table at the end of point 1064-C3 to the clean energy pension rate and rounding the result up or down to the nearest \$2.60 (rounding up where the result is not a multiple of \$2.60 but is a multiple of \$1.30).

The application of the percentage table at the end of the point means that a person who is not a member of a couple receives an amount of clean energy supplement that is 66.33 per cent of the clean energy pension rate, and that a person who is partnered receives a clean energy supplement that is 50 per cent of the clean energy pension rate. Members of an illness or respite care separated couple, or a person whose partner is in gaol, will receive a clean energy supplement that is 66.33 per cent of the clean energy pension rate (that is, the same rate as a single person).

The note at the end of point 1064-C3 signposts the definition of clean energy pension rate in new section 20B.

Item 21 inserts a new step 3 into the method statement immediately after step 2A at point 1065-A1 and **item 22** inserts into step 4 of the method statement a reference to the new step 3. New step 3 provides for a clean energy supplement to be added to a person's rate of payment as calculated by Pension Rate Calculator B.

Item 23 inserts a new **module C** into Pension Rate Calculator B, which sets out how a person's clean energy supplement is to be calculated.

Point 1065-C1 provides that a clean energy supplement is to be added to a person's rate of pension if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks.

Point 1065-C2 provides that the clean energy supplement module does not apply if the person has elected to receive their clean energy supplement quarterly.

Point 1065-C3 provides that a person's clean energy supplement is worked out by applying the percentage table at the end of point 1065-C3 to the clean energy pension rate and rounding the result up or down to the nearest \$2.60 (rounding up where the result is not a multiple of \$2.60 but is a multiple of \$1.30).

The application of the percentage table at the end of the point means that a person who is not a member of a couple receives an amount of clean energy supplement that is 66.33 per cent of the clean energy pension rate, and that a person who is partnered receives a clean energy supplement that is 50 per cent of the clean energy pension rate. Members of an illness or respite care separated couple, or a person whose partner is in gaol, will receive a clean energy supplement that 66.33 per cent of the clean energy pension rate (that is, the same rate as a single person).

The note at the end of point 1065-C3 signposts the definition of clean energy pension rate in new section 20B.

Item 24 inserts a new step 2 into the method statement immediately after step 1A at point 1066-A1 and **item 25** inserts into step 4 of the method statement a reference to the new step 2. New step 2 provides for a clean energy supplement to be added to a person's rate of payment as calculated by Pension Rate Calculator C.

Item 26 inserts a new **module C** into Pension Rate Calculator C, which sets out how a person's clean energy supplement is to be calculated.

Point 1066-C1 provides that a clean energy supplement is to be added to a person's rate of pension if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks.

Point 1066-C2 provides that a person's clean energy supplement is worked out by applying the percentage table at the end of point 1066-C2 to the clean energy pension rate and rounding the result up or down to the nearest \$2.60 (rounding up where the result is not a multiple of \$2.60 but is a multiple of \$1.30).

The application of the percentage table at the end of the point means that a person who is not a member of a couple receives an amount of clean energy supplement that is 66.33 per cent of the clean energy pension rate, and that a person who is partnered receives a clean energy supplement that is 50 per cent of the clean energy pension rate. Members of an illness or respite care separated couple, or a person whose partner is in gaol, will receive a clean energy supplement that is 66.33 per cent of the clean energy pension rate (that is, the same rate as a single person). As people who are in receipt of bereavement allowance or widow allowance are not members of a couple, their rate of clean energy supplement will be 66.33 per cent of the rate that two members of a couple would receive.

The note at the end of point 1066-C2 signposts the definition of clean energy pension rate in new section 20B.

Item 27 inserts a new step 1B into the method statement immediately after step 1A at point 1068-A1. New step 1B provides for a clean energy supplement to be added to a person's rate of payment as calculated by Benefit Rate Calculator B.

Item 28 inserts a new **module C** into Benefit Rate Calculator B, which sets out how a person's clean energy supplement is to be calculated.

Point 1068-C1 provides that a clean energy supplement is to be added to a person's rate of benefit if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks. New module C will not apply to the calculation of a person's rate if that person is receiving quarterly clean energy supplement.

Point 1068-C2 provides that, if a person has reached pension age, then their clean energy supplement will be 1/26 of the amount worked out by applying the percentage table at the end of the point to the clean energy pension rate and rounding the result up or down to the nearest multiple of \$2.60 (rounding up if the result is not a multiple of \$2.60 but is a multiple of \$1.30).

The note at the end of new point 1068-C2 signposts the definition of clean energy pension rate in new section 20B.

New point 1068-C3 provides that, if a person has not reached pension age, the person's clean energy supplement is the person's clean energy (under pension age) rate as provided for in new point 1068-C4 below.

New point 1068-C4 provides that a person's clean energy (under pension age) rate is worked out by calculating 1.7 per cent of the maximum basic rate that applies for that particular person's living circumstances on 20 March 2013, rounded up or down to the nearest multiple of 10 cents (rounding up where the result is not a multiple of 10 cents but is a multiple of five cents).

The note at the end of point 1068-C4 confirms for the reader that the various rates of clean energy supplement worked out under this module will be indexed each six months in line with the Consumer Price Index, as set out in sections 1191 to 1194.

The reference to 'a person whose circumstances on that day were the same as the recipient's current circumstances' in paragraph 1068-C4(a) is intended to reflect the various maximum basic rates that are set out in the rate calculator. The rate calculator has various maximum basic rates that apply to a person depending on their living arrangements, age, relationship status and length of time they have been in receipt of social security payments. This paragraph is inserted so that the calculation of a person's clean energy supplement is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. Consideration must be given to the recipient's circumstances as they are on the particular day to determine which maximum basic rate applies to the recipient.

Item 29 inserts a new step 1B into the method statement immediately after step 1A at point 1068A-A1, and **item 30** inserts into step 4 of the method statement a reference to the new step 1B. New step 1B provides for a clean energy supplement to be added to a person's rate of payment as calculated by Pension PP (Single) Rate Calculator.

Item 31 inserts a new **module BB** into Pension PP (Single) Rate Calculator, which sets out how a person's clean energy supplement is to be calculated.

New point 1068A-BB1 provides that a clean energy supplement is to be added to a person's rate of pension if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks. New module BB will not apply to the calculation of a person's rate if that person is receiving quarterly clean energy supplement.

Point 1068A-BB2 provides that, if a person has reached pension age, then their clean energy supplement will be the amount worked out by applying the percentage table at the end of the point to the clean energy pension rate and rounding the result up or down to the nearest multiple of \$2.60 (rounding up if the result is not a multiple of \$2.60 but is a multiple of \$1.30).

The note at the end of new point 1068A-BB2 signposts the definition of clean energy pension rate in new section 20B.

New point 1068A-BB3 provides that, if a person has not reached pension age, the person's clean energy supplement is the person's clean energy (under pension age) rate as provided for in new point 1068A-BB4 below.

New point 1068A-BB4 provides that a person's clean energy (under pension age) rate is worked out by calculating 1.7 per cent of the sum of the maximum basic rate and the pension supplement basic amount on 20 March 2013, rounded up or down to the nearest multiple of 10 cents (rounding up where the result is not a multiple of 10 cents but is a multiple of five cents).

The note at the end of point 1068A-BB4 confirms for the reader that the various rates of clean energy supplement worked out under this module will be indexed each six months in line with the Consumer Price Index, as set out in sections 1191 to 1194.

Item 32 inserts a new step 2B into the method statement immediately after step 2A at point 1068B-A2, and **item 33** inserts a new step 2B into the method statement immediately after step 2A at point 1068B-A3. New step 2B provides for a clean energy supplement to be added to a person's rate of payment as calculated by Benefit PP (Partnered) Rate Calculator.

Item 34 inserts a new **module DB** into Benefit PP (Partnered) Rate Calculator, which sets out how a person's clean energy supplement is to be calculated.

New point 1068B-DB1 provides that a clean energy supplement is to be added to a person's rate of benefit if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks. New module DB will not apply to the calculation of a person's rate if that person is receiving quarterly clean energy supplement.

Point 1068B-DB2 provides that, if a person has reached pension age then their clean energy supplement will be 1/26 of the amount worked out by applying the percentage table at the end of the point to the clean energy pension rate and rounding the result up or down to the nearest multiple of \$2.60 (rounding up if the result is not a multiple of \$2.60 but is a multiple of \$1.30).

The note at the end of new point 1068B-DB2 signposts the definition of clean energy pension rate in new section 20B.

New point 1068B-DB3 provides that, if a person has not reached pension age, the person's clean energy supplement is the person's clean energy (under pension age) rate as provided for in new point 1068B-DB4 below.

New point 1068B-DB4 provides that a person's clean energy (under pension age) rate is worked out by calculating 1.7 per cent of the maximum basic rate that applies for a person's particular living circumstances on 20 March 2013, rounded up or down to the nearest multiple of 10 cents (rounding up where the result is not a multiple of 10 cents but is a multiple of five cents).

The note at the end of point 1068B-DB4 confirms for the reader that the various rates of clean energy supplement worked out under this module will be indexed each six months in line with the Consumer Price Index, as set out in sections 1191 to 1194.

The reference to 'a person whose circumstances on that day were the same as the recipient's current circumstances' in subparagraph 1068B-DB4(a)(ii) is intended to reflect the various maximum basic rates that are set out in the rate calculator. The rate calculator has various maximum basic rates that apply to a person depending on their relationship status. This paragraph is inserted so that the calculation of a person's clean energy supplement is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. Consideration must be given to the recipient's circumstances as they are on the particular day to determine which maximum basic rate applies to the recipient.

Item 35 inserts a new **subparagraph 146(4)(a)(ia)** after subparagraph 146(4)(a)(i) of Schedule 1A. The new subparagraph provides that the provisional annual payment rate that is calculated under subclause 146(4) is to include a clean energy supplement amount as determined by new subclause 149(5), which is inserted by **item 36** below.

Item 36 inserts a new **subclause 149(5)** after subclause 149(4). New subclause 149(5) provides that, if subclauses 147(1) or (2) are relevant to the calculation of a person's rate of payment, then an amount of clean energy supplement is to be added to the person's rate of payment. The amount of clean energy supplement is to be calculated by reference to Module C of Pension Rate Calculator A as if the person's rate of payment were calculated using that rate calculator. It is intended that a person to whom clause 146 of Schedule 1A applies will receive the same rate of clean energy supplement as a person whose rate is calculated under Pension Rate Calculator A.

Note 1 at the end of subclause 149(5) confirms that a clean energy supplement is to be added to a person's total rate of payment calculated by reference to paragraph 146(4)(a).

Note 2 at the end of subclause 149(5) confirms for the reader that Division 2 of the new Part 2.18A in relation to quarterly clean energy supplement is to apply to a person to whom clause 146 applies. That is, if a person elects to receive their clean energy supplement on a quarterly basis, then clean energy supplement is not to be included in a person's fortnightly instalment of pension.

Note 3 at the end of subclause 149(5) confirms that the order of reduction in section 1210 is to apply to a person's rate of pension, and that section 43 of the Social Security Administration Act will also apply. The effect of these two provisions for people to whom clause 146 applies is that, if their rate of pension would be reduced because of the application of the income or assets test such that they would receive less than the full amount of clean energy supplement but more than zero, then the rate of clean energy supplement will be increased to the full amount.

Amendments to the Social Security Administration Act

Item 37 repeals subsection 48B(3) and substitutes a new **subsection 48B(3)**. New subsection 48B(3) provides that a person's instalment of seniors supplement is worked out by calculating a daily rate for each day in the test period that the person qualified for the payment and adding all the qualifying days together to arrive at an instalment amount.

Division 2 – Supplement payable from 1 January 2014

Amendments to the Social Security Act

Item 38 inserts a new step 1A into the method statement immediately after step 1 at point 1066A-A1, and **item 39** inserts into step 5 of the method statement a reference to the new step 1A. New step 1A provides for a clean energy supplement to be added to a person's rate of payment as calculated by Pension Rate Calculator D for people in receipt of disability support pension who are under 21 and who do not have a dependent child.

Item 40 inserts a new **module BA** into Pension Rate Calculator D, which sets out how a person's clean energy supplement is to be calculated.

New point 1066A-BA1 provides that a clean energy supplement is to be added to a person's rate of pension if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks. New module BA will not apply to the calculation of a person's rate if that person is receiving quarterly clean energy supplement.

New point 1066A-BA2 provides that a person's rate of clean energy supplement is their clean energy (under pension age) rate as worked out by new point 1066A-BA3 below.

New point 1066A-BA3 provides that the annual clean energy rate is 1.7 per cent of the sum of the person's maximum basic rate and youth disability supplement, worked out for 1 January 2014, rounded up or down to the nearest \$2.60 (rounding up where the amount is not a multiple of \$2.60 but is a multiple of \$1.30). The maximum basic rate that applies will depend on the person's circumstances as at 1 January 2014.

The note inserted at the end of point 1066A-BA3 is to advise the reader that the clean energy rate is to be indexed every 12 months in accordance with Consumer Price Index increases. This is provided for in sections 1191 to 1194 of the Social Security Act.

The reference to 'a person whose circumstances on that day were the same as the recipient's current circumstances' in subparagraph 1066A-BA3(a)(ii) is intended to reflect the various maximum basic rates that are set out in the rate calculator. The rate calculator has various maximum basic rates that apply to a person depending on their living arrangements, age, relationship status and length of time they have been in receipt of social security payments. This paragraph is inserted so that the calculation of a person's clean energy supplement is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. Consideration must be given to the recipient's circumstances as they are on the particular day to determine which maximum basic rate applies to the recipient.

Item 41 inserts a new step 2A into the method statement immediately after step 2 at point 1066B-A1, and **item 42** inserts into step 5 of the method statement a reference to the new step 2A. New step 2A provides for a clean energy supplement to be added to a person's rate of payment as calculated by Pension Rate Calculator E for people in receipt of disability support pension who are blind, under 21 and who do not have a dependent child.

Item 43 inserts a new **module BA** into Pension Rate Calculator E, which sets out how a person's clean energy supplement is to be calculated.

New point 1066B-BA1 provides that a clean energy supplement is to be added to a person's rate of pension if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks. New module BA will not apply to the calculation of a person's rate if that person is receiving quarterly clean energy supplement.

New point 1066B-BA2 provides that a person's rate of clean energy supplement is their clean energy (under pension age) rate as worked out by new point 1066B-BA3 below.

New point 1066B-BA3 provides that the annual clean energy rate is 1.7 per cent of the sum of the person's maximum basic rate and youth disability supplement, worked out for 1 January 2014, rounded up or down to the nearest \$2.60 (rounding up where the amount is not a multiple of \$2.60 but is a multiple of \$1.30). The maximum basic rate that applies will depend on the person's circumstances as at 1 January 2014.

The note inserted at the end of point 1066B-BA3 is to advise the reader that the clean energy rate is to be indexed every 12 months in accordance with Consumer Price Index increases. This is provided for in sections 1191 to 1194 of the Social Security Act.

The reference to 'a person whose circumstances on that day were the same as the recipient's current circumstances' in subparagraph 1066B-BA3(a)(ii) is intended to reflect the various maximum basic rates that are set out in the rate calculator. The rate calculator has various maximum basic rates that apply to a person depending on their living arrangements, age, relationship status and length of time they have been in receipt of social security payments. This paragraph is inserted so that the calculation of a person's clean energy supplement is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. Consideration must be given to the recipient's circumstances as they are on the particular day to determine which maximum basic rate applies to the recipient.

Item 44 inserts a new step 1A into the method statement immediately after step 1 at point 1067G-A1. New step 1A provides for a clean energy supplement to be added to a person's rate of payment as calculated by the Youth Allowance Rate Calculator.

Item 45 inserts a new **module BA** into Pension Rate Calculator E, which sets out how a person's clean energy supplement is to be calculated.

New point 1067G-BA1 provides that a clean energy supplement is to be added to a person's rate of benefit if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks. New module BA will not apply to the calculation of a person's rate if that person is receiving quarterly clean energy supplement.

New point 1067G-BA2 provides that a person's rate of clean energy supplement is their clean energy (under pension age) rate as worked out by new point 1066B-BA3 below.

New point 1067G-BA3 provides that the annual clean energy rate is 1.7 per cent of the person's maximum basic rate, worked out for 1 January 2014, that applies depending on the person's circumstances rounded up or down to the nearest 10 cents (rounding up where the amount is not a multiple of 10 cents but is a multiple of five cents).

The note inserted at the end of point 1067G-BA3 is to advise the reader that the clean energy rate is to be indexed every 12 months in accordance with Consumer Price Index increases. This is provided for in sections 1191 to 1194 of the Social Security Act.

The reference to 'a person whose circumstances on that day were the same as the recipient's current circumstances' in subparagraph 1067G-BA3(a)(ii) is intended to reflect the various maximum basic rates that are set out in the rate calculator. The rate calculator has various maximum basic rates that apply to a person depending on their living arrangements, age, relationship status and length of time they have been in receipt of social security payments. This paragraph is inserted so that the calculation of a person's clean energy supplement is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. Consideration must be given to the recipient's circumstances as they are on the particular day to determine which maximum basic rate applies to the recipient.

New point 1067G-BA4 provides that, if a person's maximum basic rate of youth allowance is worked out by reference to the pension PP (single) rate, their clean energy supplement is to be worked out under Module BB of the Pension PP (Single) Rate Calculator.

New point 1067G-BA5 provides that, if youth disability supplement is added to a person's rate of payment, their rate of clean energy supplement is to be worked out by point 1067G-BA6 below.

New point 1067G-BA6 provides that a person's rate of clean energy supplement is 1.7 per cent of the sum of the relevant maximum basic rate and youth disability supplement, rounded to the nearest multiple of 10 cents (rounding up where the result is not a multiple of 10 cents but is a multiple of five cents).

Item 46 inserts a new step 1B into the method statement immediately after step 1A at point 1067L-A1, and **item 47** inserts into step 5 of the method statement a reference to the new step 1B. New step 1B provides for a clean energy supplement to be added to a person's rate of payment as calculated by the Austudy Rate Calculator.

Item 48 inserts a new **module BB** into Austudy Rate Calculator, which sets out how a person's clean energy supplement is to be calculated.

New point 1067L-BB1 provides that a clean energy supplement is to be added to a person's rate of benefit if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks. New module BB will not apply to the calculation of a person's rate if that person is receiving quarterly clean energy supplement.

Point 1067L-BB2 provides that, if a person has reached pension age, then their clean energy supplement will be 1/26 of the amount worked out by applying the percentage table at the end of the point to the clean energy pension rate and rounding the result up or down to the nearest multiple of \$2.60 (rounding up if the result is not a multiple of \$2.60 but is a multiple of \$1.30).

The note at the end of new point 1067L-BB2 signposts the definition of clean energy pension rate in new section 20B.

New point 1067L-BB3 provides that, if a person has not reached pension age, the person's clean energy supplement is the person's clean energy (under pension age) rate as provided for in new point 1067L-BB4 below.

New point 1067L-BB4 provides that a person's clean energy (under pension age) rate is worked out by calculating 1.7 per cent of the maximum basic rate that applies for a person's particular living circumstances on 1 January 2014, rounded up or down to the nearest multiple of 10 cents (rounding up where the result is not a multiple of 10 cents but is a multiple of five cents).

The note at the end of point 1067L-BB4 confirms for the reader that the various rates of clean energy supplement worked out under this module will be indexed every 12 months in line with Consumer Price Index, as set out in sections 1191 to 1194.

The reference to 'a person whose circumstances on that day were the same as the recipient's current circumstances' in subparagraph 1067L-BB4(a)(ii) is intended to reflect the various maximum basic rates that are set out in the rate calculator. The rate calculator has various maximum basic rates that apply to a person depending on their living arrangements, age, relationship status and length of time they have been in receipt of social security payments. This paragraph is inserted so that the calculation of a person's clean energy supplement is done with reference to the maximum basic rate that applies for that person, on that day, taking into account all the variables available within the rate calculator. Consideration must be given to the recipient's circumstances as they are on the particular day to determine which maximum basic rate applies to the recipient.

Part 3 – Quarterly clean energy supplement

Division 1 – Main amendments

Amendments to the Social Security Act

Item 49 inserts Division 2 into new Part 2.18A, which was inserted by **item 1** of this Schedule. New Division 2 relates to payment of quarterly clean energy supplement.

New **section 915** provides that a quarterly clean energy supplement is payable to a person for each day that an election is in force under subsection 915A(1) or subsection 1061VA(1) for the social security payment that the person is receiving. An election under subsection 1061VA(1) is an election by that person to receive the pension supplement quarterly.

New **section 915A** sets out how a person can elect to receive quarterly clean energy supplement instead of having their clean energy supplement added to their fortnightly instalment of social security payment.

New subsection 915A(1) provides that all social security recipients can elect to receive their clean energy supplement quarterly even if they do not receive the quarterly pension supplement. In this case, the person would receive their clean energy supplement as a separate social security payment. The election is to be made in a manner or way approved by the Secretary.

The note at the end of new subsection 915A(1) confirms for the reader that, where Part 2.25C applies to a person, they can make an election to receive the pension supplement quarterly, which will cause their clean energy supplement to be payable quarterly. A person who has elected to receive the pension supplement quarterly will automatically receive the clean energy supplement quarterly.

New subsection 915A(2) provides that an election will come into force as soon as practicable after it is made.

New subsection 915A(3) provides that an election to receive the clean energy supplement quarterly will cease if a person ceases to receive a social security payment calculated using a rate calculator that has a clean energy supplement module.

New subsection 915A(4) provides that a person can revoke an election at any time in a manner or way approved by the Secretary and the revocation will come into effect as soon as practicable after it happens.

New **section 915B** provides for the rate of quarterly clean energy supplement.

New paragraph 915B(1)(a) provides that, where the rate calculator for the person's particular social security payment (the **main rate**) produces an annual figure, the person's daily rate of quarterly clean energy supplement will be 1/364 of the clean energy supplement as determined by the relevant rate calculator.

New paragraph 915B(1)(b) provides that, where the rate calculator for the person's main rate produces a fortnightly figure, the person's daily rate of quarterly clean energy supplement will be 1/14 of the clean energy supplement as determined by the relevant rate calculator.

Subsection 915B(2) provides that new subsection 1210(3A) inserted by **item 79** of this Schedule may apply to alter a person's daily rate of quarterly pension supplement.

Amendments to the Social Security Administration Act

Item 50 inserts a new **section 48D** after section 48C.

The following amendments provide that people who elect to receive their clean energy supplement quarterly will be paid in arrears for each quarter. New subsection 48D(1) provides that quarterly clean energy supplement is to be paid by instalments.

New subsection 48D(2) provides that quarterly clean energy supplement is to be paid as soon as reasonably practicable on or after the first supplement test day (the **current test day**) that follows a day on which the person is qualified for clean energy supplement.

The note after new subsection 48D(2) directs the reader to new section 915 of the Social Security Act for the determination of when quarterly clean energy supplement is payable to a person.

New subsection 48D(3) provides that the amount of instalment is worked out by calculating a daily rate of quarterly clean energy supplement for each day during the **test period** that the person is qualified for the payment and adding up all the rates as calculated for each day in the test period that the person was qualified for the payment.

New subsection 48D(4) defines supplement test day to mean, 20 March, 20 June, 20 September and 20 December of each year. Test period is defined as being 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

Amendments to the Social Security Act

Item 51 inserts a new paragraph (b) into the definition of clean energy bonus, which was inserted into subsection 23(1) by **item 6** of this Schedule. The new paragraph provides that a clean energy bonus includes clean energy supplement and quarterly clean energy supplement.

Item 52 inserts a new paragraph (b) into the definition of clean energy payment, which was inserted into subsection 23(1) by **item 7** of this Schedule. The new paragraph provides that a clean energy payment includes quarterly clean energy supplement.

Item 53 inserts a definition of ***quarterly clean energy supplement*** into subsection 23(1) of the Social Security Act, to mean the social security payment described in Division 2 of new Part 2.18A of the Social Security Act.

Items 54, 55 and 57 make technical amendments to several provisions of the Social Security Act to ensure that a person's social security payment remains payable even if their rate is nil, where the person's rate is nil merely because they have received an advance of pharmaceutical allowance, or because they have elected to receive their pension supplement and/or their clean energy supplement on a quarterly rather than fortnightly basis.

Item 56 repeals subsection 547(2) and substitutes a new **subsection 547(2)** to ensure that a person's youth allowance remains payable even if their rate is nil, where the person's rate is nil merely because they have received an advance of pharmaceutical allowance or because they have elected to receive their clean energy supplement on a quarterly rather than fortnightly basis.

Amendments to the Social Security Administration Act

Item 58 inserts a new **section 12DB** to provide that a claim is not required for quarterly clean energy supplement and it will be paid automatically to qualified people.

Item 59 inserts a reference to section 48D into subsection 55(1) to ensure that a payment of quarterly clean energy supplement is to be paid in accordance with section 55. Section 55 provides for the Secretary to pay social security payments into a person's bank account.

Part 4 – Indexation

Amendments to the Social Security Act

Item 60 inserts a number of new items into the indexed and adjusted amounts table at the end of subsection 1190(1). This item identifies the clean energy rates to be indexed and provides a convenient abbreviation for each category of rates.

Item 61 makes a technical, consequential amendment to the note at the end of section 1190, as a second note is inserted by **item 62**. That new note confirms for the reader that the indexation of the various clean energy supplement rates will have a flow-on effect to the rate at which quarterly clean energy supplement is paid and the amount of seniors supplement that is payable to a person. As the clean energy supplement rates set out in section 1190 are increased, the increase will flow on to quarterly clean energy supplement and seniors supplement.

Item 63 inserts a number of new items into the CPI Indexation table at the end of subsection 1191(1), which represent the new clean energy supplement rates. This item provides for the Consumer Price Index indexation of these rates. The arrangements are similar to the indexation arrangements that apply in relation to the maximum basic rate of the same social security payment, except that the rounding rule for the clean energy pension (CEP) rate is consistent with the rounding rule for indexation of the pension supplement as they both use a combined couple methodology that is not used elsewhere in the social security law.

Item 64 adds Note 3 at the end of subsection 1192(2) to confirm for the reader that the indexation of certain amounts may be affected by new Division 8 of Part 3.16 of the Social Security Act (as inserted by **item 68**).

Item 65 amends section 1192 of the Social Security Act to specify when the indexation arrangements for the various clean energy supplement rates first apply. New subsection 1192(3D) provides that the first indexation of amounts under items 1D, 1E and 1F of the CPI Indexation Table in subsection 1191(1) is to take place on 20 September 2013. New subsection 1192(3E) provides that the first indexation day for amounts under items 1G, 1H and 1J of the CPI Indexation Table is to take place on 1 January 2015. This item ensures that Consumer Price Index increases are not applied to the clean energy supplement amounts until the first indexation point after the supplements are added to the social security law.

Item 66 makes a technical, consequential amendment to the note at end of section 1196(2), as a second note is inserted by **item 67**. That new note confirms for the reader that the indexation of certain amounts may be affected by new Division 8 of Part 3.16 of the Social Security Act (as inserted by **item 68**).

Item 68 inserts a new Division 8 into Part 3.16 of the Social Security Act, which provides for the adjustment of indexation arrangements relating to clean energy household assistance. The additional Consumer Price Index impact of the carbon price is expected to be 0.7 per cent. The clean energy supplement will comprise the additional rise in the Consumer Price Index caused by the introduction of the carbon price (0.7 per cent), together with a further one per cent increase. The expected impact of the carbon price on indexation (0.7 per cent) will be delivered through the clean energy supplement, rather than indexation of the primary social security payment. Regular indexation of the primary payment will continue to apply, adjusted by the equivalent amount now being delivered through the clean energy supplement.

Special rules for indexation of certain rates on or after 20 March 2013

New section 1206GF sets out some special rules that apply to indexation of specified amounts on or after 20 March 2013. These special rules provide for the adjustment of primary payment indexation in order to pay the expected increase in the Consumer Price Index due to the carbon price (0.7 per cent) through the clean energy supplement. Regular indexation of the primary payment will continue to apply, adjusted by the equivalent amount now being delivered through the clean energy supplement.

The indexation factor is relevant in working out an indexed amount (the method statement in subsection 1192(2) refers) and is usually worked out in accordance with section 1193.

However, subsection 1206GF(1) sets out rules for adjusting the indexation factors that apply to certain **amounts** on or after 20 March 2013, to reflect the fact that the 0.7 per cent expected additional Consumer Price Index impact from carbon pricing will be delivered through the clean energy supplement, rather than indexation of the primary social security payment. (This 0.7 per cent is the initial **brought forward CPI indexation amount** of 0.007.) This subsection also ensures that primary social security payments will not be affected, should the relevant CPI indexation factor be less than one plus the brought forward CPI indexation amount.

The amounts affected by subsection 1206GF(1) are then listed in new subsection 1206GF(2). These are:

- pension MBR (maximum basic rate);
- PS (pension supplement) rate;
- PS minimum rate;
- PS basic rate;
- benefit MBR (ordinary);
- pension supplement component for pension bonus; and

- maximum transitional pension rates.

The initial ***brought forward CPI indexation amount*** is 0.007, the expected additional increase in the Consumer Price Index due to carbon pricing, which is being delivered through the clean energy supplement, rather than indexation of the primary social security payment.

The ***brought forward CPI indexation amount*** is defined in new subsection 1206GF(5) to mean:

- zero, if subsection 1206GF(3) applies and the brought forward PBLCI indexation amount in relation to that day is zero; or
- 0.007 less any previous adjustment under subsection 1206GF(1).

The ***brought forward PBLCI indexation amount*** is defined to mean:

- zero, if the brought forward CPI indexation amount in relation to the day is zero; or
- 0.007 less any previous adjustment under subsection 1206GF(3).

The note at the end of subsection 1206GF(1) provides that, once the brought forward CPI indexation amount is zero, there is no further adjustment of the indexation factor. An example is also included to provide the reader with a clear picture of how the adjustment of indexation will apply.

New subsection 1206GF(3) provides some special rules that modify the cost of living indexation factor (worked out under section 1197) for pension MBR except to the extent that it covers the maximum basic rate of pension PP (single). These rules apply for each indexation after 20 March 2013, and have the effect of adjusting the cost of living indexation factor to reflect the fact that the 0.7 per cent expected additional Consumer Price Index impact from carbon pricing will be delivered through the clean energy supplement, rather than indexation of the primary social security payment. These rules also ensure that primary social security payments will not be reduced, should the relevant PBLCI indexation factor be less than one plus the brought forward PBLCI indexation amount. (The initial brought forward PBLCI indexation amount is 0.007.)

The ***brought forward PBLCI indexation amount*** is defined in new subsection 1206GF(5), as described above.

The note at the end of subsection 1206GF(3) provides that, once the brought forward PBLCI indexation amount is zero, there is no further adjustment of the indexation factor. An example is also included to provide the reader with a clear picture of how the adjustment of indexation will apply.

New subsection 1206GF(5) provides that the adjustment rules as they apply to pension MBR do not affect a rate of payment worked out under clause 146 of Schedule 1A or an amount worked out in relation to a pension because of clause 149 of Schedule 1A.

Special rules for indexation of certain rates on or after 1 January 2014

New **section 1206GG** modifies the indexation arrangements for AP MBR and YA MBR, which are indexed on 1 January 2014. New subsection 1206GG(1) requires that the indexation factor for these amounts on 1 January 2014 (and subsequent indexation days if required) be adjusted by the ***brought forward indexation amount***, but also ensures that the relevant payments will not be adjusted, should the relevant CPI indexation factor be less than one plus the brought forward CPI indexation amount.

The ***brought forward indexation amount*** is then defined in new subsection 1206GG(2) to mean 0.007 less any previous adjustment under this section.

The note at the end of section 1206GG provides that, once the brought forward indexation amount is zero, there is no further adjustment of the indexation factor. An example is also included to provide the reader with a clear picture of how the adjustment of indexation will apply.

Part 5 – Other amendments

Amendments to the Social Security Act

Item 69 repeals and substitutes **subsection 17(8)**. New subsection 17(8) redefines the formula to work out the ‘income cut-out amount’ to take into account the clean energy supplement component. The terms ‘maximum basic rate’ and ‘ordinary free area limit’ are unchanged. The term ‘pension supplement component’ is used to mean the amount previously referred to as the ‘Point 1064-BA3 amount’. The new formula adds the clean energy supplement component to the maximum basic rate and pension supplement component, multiplies this total by two, and then adds the ordinary free area limit. The total is then divided by 52 to give a weekly income cut-out amount.

Item 70 adds to subsection 1061ECA(2) (method statement, at the end of step 2) the words ‘and (c) the person’s clean energy supplement (if any)’. This includes the clean energy supplement in the calculation of the amount of advance payment of various pensions which may be paid to a person.

Items 71 to 74 make technical consequential amendments to the method statements and rate calculators to omit references to items or steps that have been repealed.

Item 75 omits the word ‘either’ in paragraph 1210(1)(a) and substitutes the words ‘one or more’.

Item 76 inserts a new subparagraph 1210(1)(a)(ia) into section 1210 to refer to the clean energy supplement module (the **CE Module**). This ensures that that the clean energy supplement can be reduced as a result of the application of the income and assets tests. However, **items 83 and 84** will ensure that people who are over pension age and in receipt of a part pension due to their income or asset level will receive the full amount of the clean energy supplement.

Item 77 inserts a new item 4A into the table at the end of subsection 1210(1), which refers to the person's clean energy supplement. By inserting the clean energy supplement after table item 4, a person's clean energy supplement will be reduced by the application of the income or assets test after any amount added for rent assistance (if applicable) but before any amount of the person's pension supplement minimum amount.

Item 78 repeals the note at the end of subsection 1210(1) and inserts two new notes. Note 1 provides that, for the purposes of table item 4A, a person's rate of clean energy supplement will be nil if they are receiving quarterly clean energy supplement. Similarly, Note 2 provides that table item 5 will not apply if a person is in receipt of quarterly pension supplement.

Item 79 inserts a new **subsection 1210(3A)** after subsection 1210(3). New subsection 1210(3A) provides that, if:

- a quarterly clean energy supplement is payable to a person; and
- if quarterly clean energy supplement were not payable to the person (that is, they had not elected to receive quarterly clean energy supplement), their rate would have included a component of clean energy supplement; and
- their rate of social security payment would have been reduced by the application of the income or assets test;

their rate of quarterly clean energy supplement is reduced to the same extent that their rate of social security would have been reduced if they had not elected to receive their clean energy supplement on a quarterly basis.

The note at the end of new subsection 1210(3A) confirms for the reader that the reduction provided by the subsection may be disregarded in certain circumstances, and refers the reader to new subsection 43(5B) of the Social Security Administration Act (inserted at **item 84**, below).

Item 80 repeals and substitutes **subsection 1210(4)**. This sets out a new table detailing the Modules that are relevant to the application of section 1210. New subsection 1210(4) sets out the details of which rate calculators include payment of pension supplement, pharmaceutical allowance, and clean energy supplement, and signposts the relevant module of the rate calculator. In addition, the table signposts the relevant income and assets test modules of the various rate calculators.

Amendments to the Social Security Administration Act

Items 81, 82, 83 and 84 amend section 43 to provide that, where any amount of pension supplement minimum amount, clean energy supplement, or quarterly clean energy supplement is payable to a person after the application of the income or assets test, then the full amount is to be paid to that person.

For example, if, a person's employment income reduces their rate of pension so that they receive an amount that is less than the full amount of the pension supplement minimum amount (but more than nil), their daily rate of pension will be increased to an amount that is equal to the daily rate of pension supplement minimum amount plus the daily rate of the clean energy supplement.

These provisions will ensure that people who are over pension age and in receipt of a part pension due to their income or asset level will receive the full amount of the clean energy supplement.

Schedule 2 – Clean energy payments under the family assistance law

Summary

The financial assistance provided by this Schedule will be delivered through increases to family payments equivalent to 1.7 per cent.

This Schedule provides families with a new lump sum clean energy advance, with most payments to occur during May to June 2012 before commencement of the carbon pricing scheme. Ongoing, permanent clean energy supplements will be paid from 1 July 2013, which will be separate components of an individual's Part A and Part B rates of family tax benefit. Provision is also made for the payment of clean energy advances and supplements to approved care organisations where they receive family tax benefit.

Background

Clean energy advances

Generally, the clean energy advance provisions for families receiving family tax benefit (Part A or Part B) apply from 14 May 2012, with most payments being made over the period 14 May to 30 June 2012. Eligible families will be able to receive top-ups if their circumstances change such as having a new baby and their rate of family payment increases.

The annual value of the clean energy advance payment would be equivalent to a 1.7 per cent increase in family payments. The clean energy advance will include:

- the expected Consumer Price Index impact of carbon pricing (0.7 per cent); and
- an additional increase amount above the Consumer Price Index impact (one per cent).

Clean energy supplements

From 1 July 2013, the rate of FTB would be increased through the introduction of new clean energy supplements (Part A and Part B). Consistent with the clean energy advance, the annual rate of the clean energy supplements would be equivalent to a 1.7 per cent increase in the standard rates and end of year supplements for FTB Part A and Part B.

The expected additional impact on the Consumer Price Index from carbon pricing (0.7 per cent) will be permanently included in the clean energy supplement, rather than in the indexation on the FTB child rates and FTB supplements. An additional amount equivalent to a one per cent increase to the FTB child rates and FTB supplements will also be permanently included in the clean energy supplement. Therefore, the expected impact of the carbon price on indexation (0.7 per cent) will effectively be transferred from the indexation of the relevant FTB child rates and FTB supplements to the clean energy supplement.

Regular indexation of the relevant FTB child rates will continue to apply, adjusted by the equivalent amount transferred to the clean energy supplement. The clean energy supplements will be permanent, and indexed by the Consumer Price Index so they maintain their value in real terms over time.

The new clean energy supplements would be available on an ongoing basis as part of an individual's fortnightly FTB payments or, if the individual chooses, on a quarterly basis. The supplements can also be paid as part of an individual's end of year entitlement if the individual claims their FTB for a previous income year.

An approved care organisation may currently receive FTB for the children in their care, paid at the same rate as the base standard rate of FTB Part A for an FTB child who has not turned 18. In 2010-11, around 60 organisations received FTB for an estimated 3,000 children. As children may be in the care of an approved care organisation for varying periods of time, it would not be appropriate to provide a clean energy advance in the same manner as that proposed for families. The Schedule will enable the determination of an administrative scheme for paying clean energy advances to an approved care organisation, by way of a legislative instrument made by a Minister administering the family assistance law.

From 1 July 2013, the rate of FTB for an approved care organisation would include the clean energy supplement, which would be indexed annually from 1 July 2014. The annual rate of the clean energy supplement on 1 July 2013 would be equivalent to a 1.7 per cent increase in the standard rate of FTB for an approved care organisation on 1 July 2013. The Consumer Price Index indexation of the standard rate of FTB for an approved care organisation would be adjusted in the same way as the indexation adjustment of the standard rate of FTB occurs for families.

The amendments made by this Schedule commence on 14 May 2012 (which is the date from which clean energy advances will be paid). The commencement of Schedule 2 is also conditional on the commencement of section 3 of the *Clean Energy Act 2011*.

Explanation of the changes

Part 1 – Clean energy advances for individuals

In broad terms, Part 1 of Schedule 2 to the Bill inserts new Part 8 into the Family Assistance Act, which sets out the entitlement rules for clean energy advances and the method for calculating the amount of an advance. The administrative framework supporting clean energy advances is provided by amendments to the Family Assistance Administration Act, and necessary consequential amendments are made.

Amendments to the Family Assistance Act

Items 1 and 2 define terms which are used in new Part 8 of the Family Assistance Act, as inserted by **item 3**, and in provisions in the Family Assistance Administration Act as relevant.

An ***absent overseas FTB child*** is defined by reference to section 63 of the Family Assistance Act. An FTB child generally becomes an absent overseas FTB child after the child has been absent from Australia for 13 weeks. An ***absent overseas recipient*** (a concept also used in new Part 8) is already defined in subsection 3(1) of the Family Assistance Act.

A ***clean energy advance*** is defined to mean an advance to which an individual is entitled under new Division 1 of Part 8 (entitlement to clean energy advance) or new Division 3 of Part 8 (top-up payments of clean energy advance).

Item 3 inserts new Part 8 into the Family Assistance Act. New Part 8 sets out the circumstances in which an individual is entitled to a clean energy advance and a top-up and the method for calculating an individual's clean energy advance and clean energy daily rate.

New Part 8 – Clean energy advances

Division 1 – Entitlement to clean energy advances

Entitlement in normal circumstances

New **section 103** sets out the conditions that need to be satisfied for an individual to be entitled to a clean energy advance in normal circumstances.

Clean energy advances will start being paid from 14 May 2012 and many families will receive their advance before 1 July 2012. As the advance is designed to cover the 2012-13 income year, there are some differences in the entitlement conditions where an entitlement determination is made during the period 14 May until 30 June 2011 or is made on or after 1 July 2012.

Families who are entitled to FTB instalments during the period 14 May to 30 June 2012, will be entitled to the advance if they meet conditions on the determination day.

However, some families elect to claim their FTB in a lump sum at the end of the financial year. These families will not have claimed FTB in this period, so will not receive the clean energy advance for 2012-13 until they claim FTB for this year. This could be at the end of the 2012-13 year for lump sum payment of FTB, or at any time during 2012-13 to receive fortnightly instalments of FTB. Families who have previously received FTB as a lump sum can claim FTB as fortnightly instalments at any time. If they wish to receive their clean energy advance in May to June 2012 at the same time as instalment recipients, they will need to claim FTB as fortnightly instalments prior to May 2012.

New subsection 103(1) enables the Secretary to make an entitlement determination for an individual on a day during the period 14 May to 30 June 2012 if specified conditions are met on the determination day.

The individual must be entitled to payment of FTB by instalments (under section 16 of the Family Assistance Administration Act) or because of the death of a child (under section 18 of the Family Assistance Administration Act because of eligibility under section 32 of the Family Assistance Act).

The individual must be in Australia on the day the determination is made.

The individual's rate of FTB on that day, worked out under Division 1 of Part 4, but disregarding any FTB advance reduction, must be greater than nil. That rate must also take into account at least one FTB child of the individual who is in Australia on the determination day.

Finally, neither the individual nor their partner must be prevented under section 32AA or 32AD of the Family Assistance Administration Act from being paid FTB on the basis of an estimate on that day.

A note at the end of new subsection 103(1) indicates to the reader that the amount of the advance is then worked out under new sections 105 and 106.

New subsection 103(2) applies where the Secretary makes the entitlement determination on or after 1 July 2012. Such an entitlement determination can be made where the following conditions are met on any day in the 2012-13 income year (the period covered by the advance).

As with new subsection 103(1), the individual must have a determination under section 16 or section 18 (because of the death of an FTB child). However, an individual can also have a determination under section 17 of the Family Assistance Administration Act (FTB entitlement determination in respect of a past period) in relation to a day during the 2012-13 income year.

The individual must not be an absent overseas recipient, disregarding any extension of the individual's FTB portability period under section 63A.

In broad terms, an individual becomes an absent overseas recipient after 13 weeks' absence from Australia (section 62 of the Family Assistance Act refers). For FTB purposes, the 13-week period can be extended under section 63A. However, for the purposes of the clean energy advance, an absent overseas recipient and an FTB recipient who is in an extended period under section 63A would be precluded from entitlement to a clean energy advance.

The individual's rate of FTB worked out under Division 1 of Part 4, but disregarding any FTB advance reduction, must be greater than nil. That rate must also take into account at least one FTB child of the individual who is not an absent overseas FTB child, disregarding section 63A of the Family Assistance Act. The concept of **absent overseas FTB child** is defined in subsection 3(1) of the Family Assistance Act (the definition is inserted by **item 1**). For the purposes of the clean energy advance, an individual would not be entitled to an advance if each FTB child of the individual is an absent overseas FTB child or an FTB child who is in an extended portability period under section 63A.

A note at the end of new subsection 103(2) indicates to the reader that the amount of the advance is worked out under new sections 105 and 106.

However, new subsection 103(3) provides that an entitlement determination under new subsection 103(2) cannot be made on a day before 1 July 2013 in prescribed circumstances. An entitlement determination cannot be made if the individual is outside Australia on the day, having left Australia before 1 April 2013 and the individual is not an absent overseas recipient (disregarding section 63A) on that day. Similarly, an entitlement determination cannot be made if each FTB child of the individual is outside Australia on the day, having left Australia before 1 April 2013 and each FTB child is not an absent overseas FTB child (disregarding section 63A) on that day.

The condition in paragraphs 103(1)(b) and (d) for the individual and at least one FTB child to be in Australia on the determination day, and the condition in subsection 103(3) preventing a determination under subsection 103(2) if the individual or each FTB child is outside Australia and left before 1 April 2013 but the absence has not yet exceeded 13 weeks, is intended to avoid paying clean energy advance for days occurring in the future during 2012-13 that may exceed the 13-week FTB portability period. The projected amount of clean energy advance for days occurring in the future during 2012-13 will be based on the individual's rate of FTB on the determination day. Therefore, if entitlement to a clean energy advance under subsection 103(1) or (2) could arise on a day before the absence from Australia exceeds 13 weeks, this would fail to exclude the period after 13 weeks' absence. In contrast, a determination under subsection 103(2) can be made on a day when the absence has exceeded 13 weeks, because the amount of clean energy advance will exclude any days during 2012-13 which are known to have exceeded the 13-week FTB portability period.

Under new subsection 103(4), section 32 is disregarded for the purposes of new paragraphs 103(1)(c) and (d) and 103(2)(c) and (d).

In broad terms, an FTB child who dies continues to be an FTB child for a bereavement period of 14 weeks for FTB purposes (the period is reduced in certain circumstances, such as where the child would have reached an age cut out). For instalment cases or cases where the period overlaps two income years, some or all of the amount for the deceased child may be paid as a lump sum. Where this happens, section 32 of the Family Assistance Act provides that the bereavement period is reduced by the period covered by the lump sum payment.

Disregarding section 32 would ensure that a deceased child continues to be an FTB child for the same period that would apply for FTB if a lump sum were not paid for the child, and would enable an individual to meet the entitlement rules for the clean energy advance.

New subsection 103(5) provides that an individual cannot be entitled to more than one advance under new section 103.

This rule does not prevent an individual, whose circumstances change, from also being entitled to a top-up under new section 108. It would also remain open for an individual to seek review of the amount of their clean energy advance as appropriate and, if the amount calculated was incorrect, to be paid the difference.

This rule also does not prevent a new carer from being entitled to a clean energy advance in respect of an FTB child where there is a change in care of the child. For example, one parent initially has sole care of a child and is entitled to FTB, and is paid a clean energy advance on 1 June 2012 for the full period of 1 July 2012 to 30 June 2013 (365 days). The sole care changes to the other parent on 1 August 2012 and FTB is granted from that day. The new carer would be entitled to a clean energy advance for the period 1 August 2012 to 30 June 2013 (334 days), provided they meet the other entitlement conditions.

Entitlement where death occurs

An individual who has an FTB entitlement determination under section 18 of the Family Assistance Administration Act because of the death of another individual (who was caring for a child) can also be entitled to a clean energy advance in circumstances where the deceased individual was, or would have been, entitled to an advance but has not been paid their entitlement. Subsection (1) of new **section 104** covers this situation.

An example is where an individual has FTB children in 2012-13 and usually claims their FTB at the end of the year through a past period claim. If the individual dies before making such a claim, another individual (for example the new carer of the children) can claim and be entitled to the deceased individual's FTB under existing rules and clean energy advance under new section 104. The amount of the clean energy advance would then be the amount of clean energy advance that the deceased individual would have been entitled to (new section 107 refers).

A note at the end of this provision refers the reader to new section 107, which provides for rules for working out the amount of advance in this situation.

New subsection 104(2) ensures that only one individual can be entitled to the unpaid clean energy advance of a deceased individual.

Division 2 – Amount of clean energy advance

Amount of the clean energy advance where entitlement under section 103

New **section 105** sets out the rules for working out the amount of an individual's clean energy advance where an individual is entitled to a clean energy advance under new section 103.

New subsection 105(1) provides that the amount of the individual's clean energy advance must be worked out on the day that the Secretary determines an individual is entitled to the advance (referred to as the **decision day**).

New subsection 105(2) applies where the decision day is before 1 July 2012 and provides for the amount of the advance to be worked out in accordance with a specified method statement. This amount may be affected by new subsection 105(5), which applies where there is a percentage determination under section 28 or 29 of the Family Assistance Act in force in relation to the day.

The amount may also be affected by new subsection 105(6), which provides for a different method of calculation, to be specified in a legislative instrument, where an individual is entitled to a clean energy advance under section 103 in relation a child, but the individual's former partner was previously entitled to an advance in relation to that child when the individual and the former partner were a couple.

In this situation, the intention is to avoid duplication of payment for a child, subject to enabling a top-up amount for the child where new circumstances result in a higher rate of FTB for the child. Therefore, for the period in 2012-13 that the individual is separated from the former partner and the individual is entitled to FTB for the child, it is intended that the individual would receive a daily amount for the child equal to the excess of the daily amount that would be payable if the former partner had not previously been entitled for the child, above the daily amount for the child that the former partner was previously entitled to when they were a couple. It is intended that no daily amount would be payable to the individual for the child if there is no excess amount.

An example is where a couple received the base rate of FTB Part A only for a child (paid to the child's father), but after separation, the mother receives the maximum rate of FTB Part A and Part B for the child. The mother would be paid an amount of clean energy advance based on the amount for maximum FTB Part A and Part B less the amount for the base rate of FTB Part A.

The first step in the method statement in new subsection 105(2) is to work out the individual's clean energy daily rate on the decision day (which will be based on the individual's FTB circumstances on that day) and using the FTB rates that will apply from 1 July 2012, after indexation occurs.

The second step of the method statement is to multiply the daily rate worked out under step 1 by 365 which then results in the amount of the individual's clean energy advance.

New subsection 105(3) applies where the decision day is in the 2012-13 income year and provides for the amount of the advance to be worked out in accordance with a specified method statement. This amount may be affected by new subsection 105(5) (where there is a percentage determination under section 28 or 29 of the Family Assistance Act) and new subsection 105(6) (which provides for a different method of calculation where a former partner was previously entitled to an advance for the same child when the individual and the former partner were a couple).

The first step is to work out the clean energy daily rates for each day in the period 1 July 2012 until the decision day. The daily rates are worked out under new section 106. The daily rate for each of these days would be based on the individual's circumstances on each day. The individual's clean energy daily rate for one or more of these days could be nil if, for example, the individual's only FTB child was an absent overseas FTB child on that day. This is made clear in new subsection 106(2).

The second step is to multiply the individual's clean energy daily rate on the decision day by the number of days remaining in the 2012-13 income year.

The sum of the amounts worked out under steps 1 and 2 would be the amount of the individual's clean energy advance.

New subsection 105(4) applies where the decision day is on or after 1 July 2013 and provides that the amount of the individual's clean energy advance is the sum of the daily rates for each day in the 2012-13 income year. The daily rate for each of these days would be based on the individual's circumstances on each day and would have regard, as relevant, to a percentage determination under section 28 or 29 of the Family Assistance Act (new subsection 105(5) refers). The daily rate could also be affected by new subsection 105(6), which provides for a different method of calculation where a former partner was previously entitled to an advance for the same child when the individual and the former partner were a couple.

New subsection 105(5) ensures that a percentage determination under section 28 or 29 of the Family Assistance Act in relation to a particular day is reflected in an individual's clean energy daily rate.

New subsection 105(6) applies where an individual is entitled to a clean energy advance under new section 103 in relation to a child and a former partner of the individual was previously entitled to an advance in relation to the same child while the individual and their former partner were a couple. In these circumstances, the individual's clean energy advance will be worked out in accordance with a method specified by the Minister in a legislative instrument. The instrument making power is in new subsection 105(7).

Clean energy daily rate

New **section 106** provides for the calculation of an individual's clean energy daily rate.

In broad terms, an individual's clean energy daily rate would include:

- an amount relating to FTB Part A if the individual's Part A rate (disregarding any FTB advance reduction) exceeds nil; and
- an amount relating to FTB Part B if the individual's Part B rate exceeds nil.

If an individual's FTB Part A or Part B rate is affected by a shared care percentage for a child, this will also affect the clean energy daily rate in the usual way.

An individual's clean energy daily rate is worked out using the method statement in new subsection 106(1).

Step 1 of the method statement provides a method for working out an amount relating to the individual's FTB Part A.

The amount relating to FTB Part A would differ depending on whether the individual's income and maintenance tested rate under method 1 exceeds or does not exceed the base rate or, where method 2 applies, whether the individual's Method 2 income and maintenance tested rate exceeds or does not exceed the tapered base rate (the provisional Part A rate).

An individual's FTB Part A rate is worked out under Method 1 if the individual has at least one FTB child and either the individual's adjusted taxable income does not exceed the individual's higher income free area or the individual or their partner is receiving a prescribed social security or veterans' income support payment. Method 2 applies where the individual has at least one FTB child and the individual's adjusted taxable income exceeds the individual's higher income free area and neither the individual nor their partner is receiving a prescribed social security or veterans' income support payment.

Under step 1 of the method statement in new subsection 106(1), if the individual's Part A rate is worked out using method 1 (under clause 3 of Schedule 1) and their income and maintenance tested rate exceeds their base rate (as defined in clause 4 of Schedule 1), then the amount relating to FTB Part A is the sum of the individual's method 1 standard rate and FTB Part A supplement (being the amounts at paragraphs (a) and (ca) of step 1 of the method statement in clause 3 of Schedule 1).

If the individual's Part A rate is worked out using method 1 (under clause 3 of Schedule 1) and their income and maintenance tested rate is less than or equal to their base rate, then the amount relating to FTB Part A is the sum of the individual's method 2 standard rate and FTB Part A supplement (being the amounts at paragraphs (a) and (d) of step 1 of the method statement in clause 25 of Schedule 1).

If the individual's Part A rate is worked out using method 2 (under clause 25 of Schedule 1) and their Method 2 income and maintenance tested rate is less than or equal to their provisional Part A rate, then the amount relating to FTB Part A is the sum of the individual's method 2 standard rate and FTB Part A supplement (being the amounts at paragraphs (a) and (d) of step 1 of the method statement in clause 25 of Schedule 1).

If the individual's Part A rate is worked out using method 2 (under clause 25 of Schedule 1) and their Method 2 income and maintenance tested rate exceeds their provisional Part A rate, then the amount relating to FTB Part A is the sum of the individual's method 1 standard rate and FTB Part A supplement (being the amounts at paragraphs (a) and (ca) of step 1 of the method statement in clause 3 of Schedule 1).

In each of the above scenarios, the individual's standard rate will incorporate an amount for each FTB child (subject to new subsections 106(4) and (6) explained below) and will have regard to any applicable shared care percentage. The individual's FTB Part A supplement would be included in calculating the Part A element of their clean energy advance, regardless of whether the individual has satisfied the FTB reconciliation conditions for 2012-13 (under section 32B of the Family Assistance Administration Act). This is made clear by the amendment to section 32A of the Family Assistance Administration Act made by **item 47**.

The amount relating to FTB Part A will be an annual amount as are all the amounts referred to in step 1.

Step 2 of the method statement in new subsection 106(1) provides a method for working out an amount relating to the individual's FTB Part B.

The amount relating to FTB Part B would be based on the individual's standard rate under Division 2 of Part 4 of Schedule 1 (having regard to shared care percentages as relevant) and the individual's FTB Part B supplement on the relevant day. The individual's FTB Part B supplement would be included in calculating the Part B element of their clean energy advance, regardless of whether the individual has satisfied the FTB reconciliation conditions for 2012-13 (under section 32B of the Family Assistance Administration Act). This is made clear by the amendment to section 32A of the Family Assistance Administration Act made by **item 47**.

The result in step 2 relating to FTB Part B is also an annual amount.

Under step 3, the amounts at steps 1 and 2 are added together. The result is then multiplied by 0.017 in step 4. This is the equivalent of a 1.7 per cent increase in the relevant annual Part A and Part B amounts, and includes:

- the expected CPI impact of carbon pricing (0.7 per cent); and
- an additional increase above CPI (one per cent).

Step 5 then requires the amount in step 4 to be converted to a daily amount by dividing by 365. The daily amount would then be rounded to the nearest cent (rounding 0.5 cents upwards). The result is the individual's clean energy daily rate for that day. As is the case with FTB, an individual can have different daily rates on different days, depending on their circumstances.

New subsection 106(2) makes it clear that, if steps 1 and 2 of the method statement do not apply in relation to a day, then the individual's clean energy daily rate for that day is nil.

New subsection 106(3) also provides that the individual's clean energy daily rate for a day that the individual is an absent overseas FTB recipient (disregarding any FTB portability extension under section 63A of the Family Assistance Act) is nil.

New subsection 106(4) ensures that the calculation process set out in the method statement for a day does not have regard to an FTB child who is, on that day, an absent overseas FTB child of the individual or in a period of extended FTB portability period under section 63A of the Family Assistance Act. This rule disregards the child for the purposes of working out whether an individual's rate of FTB consisted of, or included, a Part A or Part B rate greater than nil, and in determining which of the paragraphs in steps 1 and 2 of the method statement apply.

New subsection 106(5) provides that the calculation of an individual's clean energy daily rate is to be done disregarding section 32 of the Family Assistance Act. The effect is that a deceased child would continue to be considered an FTB child of the individual for each day in the bereavement period (usually 14 weeks) even if the individual has been paid FTB for the deceased child as a single lump sum. Section 32 would otherwise operate in this situation to reduce the individual's bereavement period for the deceased child.

New subsection 106(6) applies where the decision day is before 1 July 2013 and an FTB child of the individual is outside Australia on the day, having left Australia before 1 April 2013 and is not an absent overseas FTB child (disregarding section 63A) on that day. In these circumstances, the child is disregarded for the purposes of calculating the individual's clean energy daily rate.

However, if the child returns to Australia before 1 July 2013, the return is taken to be a change in circumstances for the purposes of invoking the operation of new section 108, which allows for top-up payments of clean energy advance.

If the child does not return before 1 July 2013, then there is taken to be a trigger day on 30 June 2013 for the purposes of new section 108. In this situation also, new section 108 will allow for the recalculation of an individual's clean energy advance and the payment of a top-up as appropriate.

These rules are in new subsections 106(7) and (8) respectively.

Amount of advance where entitlement under section 104

New **section 107** applies where an individual is entitled to a clean energy advance because of the death of another individual (where entitlement arises under new subsection 104(1)). An example is where the deceased individual was caring for a child in 2012-13 but died before claiming FTB for 2012-13. The amount of the individual's clean energy advance in this situation is the amount that the deceased individual was, or would have been, entitled to be paid had they not died.

Division 3—Top-up payments of clean energy advance

Top-up payments of clean energy advance

An individual's FTB circumstances may change after they are paid a clean energy advance (on the basis of an entitlement determination under new section 103). In broad terms, the intention is that new FTB circumstances would result in a top-up to the original clean energy advance if the change in circumstances results in a person receiving a higher rate of payment, for example, where a family has another FTB child, or a separated parent's shared care percentage for a child increases.

New **section 108** provides the entitlement rules for top-up payments of clean energy advance.

An individual is entitled to a top-up payment of clean energy advance if the individual has been paid a clean energy advance on the basis of entitlement under new section 103 (where the amount was not worked out under new subsection 105(6) in accordance with a method specified in a legislative instrument), the decision day is before 1 July 2013 and, after the decision day and before 1 July 2013, the individual's circumstances change such that the amount of the original payment is less than the amount that would have been calculated if the decision day were the day on which the individual's circumstances changed (the **trigger day**). This allows the clean energy amount to be calculated having regard to the changed circumstances and compared with the original amount. The amount of the top-up payment to which the individual is entitled in these circumstances is the shortfall.

Where the individual has already been paid a top-up payment of clean energy advance and circumstances change again, then the relevant consideration is whether the sum of the amount of the original advance payment plus any previous top-up payment is less than the amount that would have been paid if the decision day were the day on which the latest circumstances changed. The amount of the top-up payment to which the individual is entitled in these circumstances is the shortfall.

These rules are in new subsection 108(1).

However, under new subsection 108(2), if an individual is entitled to an advance under new section 103 which is worked out under new subsection 105(6) (in accordance with a method specified in a legislative instrument), the decision day is before 1 July 2013 and the individual's circumstances change after the decision day and before 1 July 2013, then the individual's entitlement and amount of top-up payments are also to be worked out in accordance with a legislative instrument. New subsection 108(3) provides the Minister with the relevant instrument making power.

For members of a couple in a blended family, new subsection 108(4) makes it clear that neither a change in a percentage determination under section 28 of the Family Assistance Act nor the ending of such a determination is to be considered a change of circumstances for the purposes of invoking the operation of new section 108. For example, if a couple were each receiving 50 per cent of FTB for their two children and were each paid a clean energy advance on that basis, and then the couple decide to change their percentages of FTB to 80 and 20 per cent, that change will not result in a top-up.

Division 4 – General rules

New **section 109** applies where an individual is entitled to a clean energy advance or top-up of clean energy advance in relation to a child, and the amount of the advance was not worked out having regard to a percentage determination under section 28 or 29 of the Family Assistance Act. In these circumstances, new section 109 ensures that, while the individual is a member of a couple, their partner cannot be entitled to an advance under new section 103 or 108 in relation to the same child.

Amendments to the Family Assistance Administration Act

Item 4 inserts new Division 4D into Part 3 of the Family Assistance Administration Act. This new Division contains new **section 65J** which sets out some payment rules for clean energy advances.

Where an individual is entitled to a clean energy advance, new subsection 65J(1) provides that the payment must be paid as a single lump sum on the day that the Secretary considers to be the earliest day on which it is practicable to make the payment and in such manner as the Secretary considers appropriate. In practice, a clean energy advance will usually be paid no later than the next FTB payment to the individual and in the same manner (deposit into a nominated account).

A note at the end of this provision informs the reader that there is no requirement for a claim for a clean energy advance as it will be paid automatically for eligible people.

New subsection 65J(2) applies where the decision day or the trigger day is in the 2012-13 income year and, on that day, the Secretary is prevented from paying FTB to an individual or their partner on the basis of an estimate because the relevant tax returns have not been lodged and there is an outstanding non-lodger FTB debt (sections 32AA and 32AD of the Family Assistance Administration Act refer). In these circumstances, the Secretary must not pay the individual a clean energy advance (an original advance or a top-up of a clean energy advance) until FTB is also paid for the decision day or the trigger day.

New subsection 65J(3) applies where the decision day is on or after 1 July 2013 and the Secretary is prevented from paying FTB to an individual or their partner on the basis of an estimate because of the application of section 32AA or 32AD of the Family Assistance Administration Act, for one or more days in the 2012-13 income year. In these circumstances, the Secretary must not pay the individual a clean energy advance until FTB is also paid for the day or days in the 2012-13 income year.

Item 5 amends subsection 66(1) with the effect that a clean energy advance is inalienable, consistent with other family assistance payments.

An amount paid by way of clean energy advance will only be a debt to the extent that a provision in the Family Assistance Administration Act expressly provides for it. **Item 6** makes an amendment to section 70 of the Family Assistance Administration Act to this effect.

Item 7 then inserts the relevant debt provision, new **section 71L**, which sets out the circumstances in which a clean energy advance is a debt.

It is possible that a change in circumstances or a review will change the individual's FTB entitlement, resulting in FTB ceasing or an FTB debt. For example, the individual may cease to have care of an FTB child during 2012-13, or the FTB reconciliation for 2012-13 may result in the individual having a lower or nil FTB entitlement for 2012-13.

However, a debt for all or part of the clean energy advance due to an FTB reassessment would generally not occur. A clean energy advance debt would only arise if the FTB reassessment was because the individual knowingly made a false or misleading statement, or knowingly provided false information. This is similar to the debt rules for the economic stimulus payments that were linked to certain FTB entitlements in relation to 14 October 2008 and 3 February 2009.

New subsection 71L(1) provides that this section applies to an individual who has been paid a clean energy advance.

New subsection 71L(2) defines a **relevant determination** as the underlying FTB determination that must be in force in relation to the individual for the individual to be entitled to a clean energy advance. The relevant determinations are mentioned in new paragraphs 103(1)(a), (2)(a) and 104(1)(a) of the Family Assistance Act (as inserted by **item 3**).

If, after an advance is paid, the relevant determination, as it relates to a day in the 2012-13 income year, is changed, revoked, set aside or superseded and a reason for this was that the individual knowingly made a false or misleading statement or knowingly provided false information and, had the change, revocation etc occurred on or before the day the advance was paid, the advance would not have been paid, then the amount of clean energy advance paid is a debt. The relevant rules are in new subsection 71L(3).

Similar rules, set out in subsection 71L(4), would apply where an individual is paid in excess of the amount of their entitlement to a clean energy advance because of a subsequent change to the relevant determination, except that the amount of the debt would be the difference between the amount of advance paid and the amount that should have been paid.

Section 74 of the Family Assistance Administration Act deals with the situation where certain payments under the family assistance law are paid by cheque and a person other than the payee obtains possession of the cheque and its value without the payee's endorsement. In this situation, there is a resultant debt owed to the Commonwealth by the person. **Item 8** amends section 74 so that it also applies where a clean energy advance cheque is misappropriated.

Section 82 of the Family Assistance Administration Act sets out the methods that can be used to recover a debt. **Item 9** amends the definition of **debt** in subsection 82(3) to include a clean energy advance so that the methods of recovery are also available in relation to a clean energy advance debt.

Section 93A of the Family Assistance Administration Act allows for the recovery of a **family assistance payment** from a financial institution in prescribed circumstances. **Item 10** includes a clean energy advance as a family assistance payment for the purposes of this provision.

Where the Secretary reviews certain decisions, there is a current requirement for the Secretary to give notice of the review decision to the person or people whose entitlement or possible entitlement to specified payments (such as family assistance or an economic security strategy payment to families) is affected by the review decision (subsection 106(3) of the Family Assistance Administration Act refers).

Item 11 amends subsection 106(3) so that the same rule also applies in relation to review decisions relating to clean energy advance.

As a general rule, an application for review of a decision must be made no later than 52 weeks after the applicant has been notified of the decision. There are exceptions, such as where the Commissioner of Taxation reviews and changes a person's taxable income. **Items 12 and 13** amend subsection 109D(4) and paragraph 109D(5)(a) of the Family Assistance Administration Act respectively to ensure that the exceptions also apply to applications for review of decisions relating to the payment of clean energy advances.

Item 14 inserts a reference to clean energy advance at the end of the definition of *relevant benefit* in section 219TA of the Family Assistance Administration Act. This would enable the Secretary to appoint a payment nominee who would be paid the clean energy payment on behalf of the entitled individual.

Part 2 – Clean energy supplement for individuals

In broad terms, Part 2 of Schedule 2 to the Bill introduces new clean energy supplement (Part A) and new clean energy supplement (Part B) into the rate calculation process for FTB in Schedule 1 to the Family Assistance Act. The clean energy supplement (Part A) will be a separate new component of an individual's Part A rate while the clean energy supplement (Part B) will be a separate new component of an individual's Part B rate.

While the new supplements will generally be paid fortnightly with FTB, the amendments in Part 2 of this Schedule also provide the rules which allow an individual to elect to receive their supplements on a quarterly basis.

Part 2 also contains the indexation arrangements for the new supplements.

Amendments to the Family Assistance Act

Item 15 inserts a new **section 58A** into the FTB rate provisions in Part 4 of Division 1 of the Family Assistance Act. New section 58A sets out the rules that enable an individual who is entitled to payment of FTB by instalments to elect to have their clean energy supplement disregarded from the FTB rate calculation process. The supplements would then be included in rate at the end of the relevant quarter through the process of review. The effect of the election would be to allow individuals to be paid their supplement each quarter, rather than with their fortnightly FTB payment. The individual would only need to make one election (not an election in relation to each relevant quarter) which would continue to be in force until revoked by the individual or until the individual ceases to be entitled to payment of FTB by instalments.

New subsection 58A(1) enables an individual who is entitled to payment of FTB by instalments in a quarter to make an election to have the clean energy supplements disregarded in calculating their rate of FTB. The election would need to be in a manner or way approved by the Secretary.

Note 1 clarifies that the Divisions referred to in new subsection 58A(1) relate to the clean energy supplement (Part A) and the clean energy supplement (Part B).

Note 2 informs the reader that, if the clean energy supplements are disregarded because of an election, they are taken into account when entitlement is reviewed under section 105 of the Family Assistance Administration Act after the end of the quarter (because new section 105B requires such a review to occur at this time). This means that families who choose to receive their clean energy supplements quarterly will be paid in arrears.

New subsection 58A(2) provides that an election comes into force as soon as practicable after it is made. In practice, the intention is to adjust an individual's fortnightly payment of FTB as soon as possible after the election is made so that future fortnightly payments exclude the clean energy supplements.

Under new subsection 58A(3), an election ceases to be in force if the individual ceases to be entitled to payment of FTB by instalments.

An individual can also elect to revoke an election. Where this happens, the election ends as soon as practicable after the revocation. A revocation must be made in a manner or way approved by the Secretary. These rules are in new subsection 58A(4).

New subsection 58A(5) defines **quarter** as a period of three months beginning on 1 July, 1 October, 1 January or 1 April. A note then refers the reader to **item 34** of Schedule 2 to this amending Act, which provides that new section 58A (inserted by **item 15**) applies in relation to the quarter beginning 1 July 2013 and all later quarters.

Clean energy supplement (Part A) as a component of the Part A rate

An individual's clean energy supplement (Part A) will be a separate component of an individual's Part A rate.

The method statement in clause 3 of Schedule 1 to the Family Assistance Act sets out the possible components of an individual's maximum rate where Method 1 applies to calculate their Part A rate. These include a standard rate (sum of the relevant FTB child rates), large family supplement, multiple birth allowance, FTB Part A supplement and rent assistance. **Item 16** introduces a new component of rate as new paragraph (cb) of Step 1, being the individual's clean energy supplement (Part A) worked out under new clause 38AA of Schedule 1.

Item 17 inserts a new clause 6 into Schedule 1. This provision allows the Minister, by legislative instrument, to determine a method for working out the extent to which a Part A rate is attributable to the components of rate set out in Step 1 of the method statement in clause 3. This would, for example, enable the Minister to determine a method for working out the order in which reductions in rate due to the income and maintenance income tests affect the components of rate, including the new clean energy supplement (Part A).

The method statement in clause 25 of Schedule 1 to the Family Assistance Act sets out the possible components of an individual's Method 2 base rate where Method 2 applies to calculate their Part A rate. These include a standard rate (sum of the relevant FTB child rates), large family supplement, multiple birth allowance and FTB Part A supplement. **Item 19** introduces a new component of rate at the end of step 1, new paragraph (e), being the individual's clean energy supplement (Part A) worked out under new clause 38AF of Schedule 1.

Item 18 makes a minor technical change to paragraph (d) in step 1 of the method statement in clause 25 of Schedule 1 to accommodate new paragraph (e).

Item 20 inserts a new **clause 25B** into Schedule 1. This provision allows the Minister, by legislative instrument, to determine a method for working out the extent to which a Part A rate is attributable to the components of rate set out in step 1 of the method statement in clause 25.

Clean energy supplement (Part B) as a component of the Part B rate

Clause 29 of Schedule 1 sets out the general method of calculating an individual's Part B rate.

Subclause 29(1) applies to work out an individual's Part B rate where the individual is not a member of a couple. The method statement in subclause 29(2) applies to an individual who is a member of a couple. In each case, there are two components of rate: the individual's standard rate and FTB Part B supplement.

Item 21 adds a new component of rate, the clean energy supplement (Part B), into subclause 29(1) as new paragraph (c).

Item 23 makes a similar amendment to the method statement in subclause 29(2) by adding the clean energy supplement (Part B) as new paragraph (c) in step 1. **Item 22** then makes a minor technical change to paragraph (b) in step 1 of the method statement in subclause 29(2) to accommodate new paragraph (c).

Item 25 inserts a new **subclause 29(2A)** into Schedule 1. This provision allows the Minister, by legislative instrument, to determine a method for working out the extent to which a Part B rate is attributable to the components of rate set out in step 1 of the method statement in subclause 29(2). This provision makes the order of reduction rule in brackets at the end of Step 3 of the method statement in subclause 29(2) superfluous. **Item 24** therefore omits the rule in brackets.

Clause 29A of Schedule 1 sets out a method of working out an individual's Part B rate for an individual who returns to work after the birth of a child. An individual's Part B rate is worked out in accordance with subclause 29A(2). There are currently two components of rate: the individual's standard rate and FTB Part B supplement. **Item 26** amends subclause 29A(2) by adding the clean energy supplement (Part B) as another component of an individual's Part B rate.

Working out the amount of an individual's clean energy supplement (Part B)

Part 4 of Schedule 1 provides for the calculation of an individual's Part B rate. **Item 27** inserts a new Division 2B into Part 4 which contains the rules for working out the amount of an individual's clean energy supplement (Part B).

New **clause 31B** sets out the rules for working out the amount of clean energy supplement (Part B) that is to be added to an individual's Part B rate.

There would be an amount for the family situation where the individual's youngest child is under five years of age and an amount for the family situation where the individual's youngest child is aged five years or more. These are the two categories of family situation for the standard rate of Part B in clause 30 of Schedule 1.

New subclause 31B(2) provides a method statement to be used to work out the 'start up' amount of clean energy supplement (Part B) on 1 July 2013 for each of these family situations.

The first step is to work out the amount of standard rate applicable on 1 July 2013 for the corresponding item in the table in clause 30 of Schedule 1.

Step 2 is to work out the FTB (B) gross supplement amount on 1 July 2013 under subclause 31A(2).

These amounts are then added at Step 3 and the result multiplied by 0.017 at Step 4. The amount at Step 4 is then rounded in accordance with Step 5.

The result is an amount of clean energy supplement (Part B) for each family situation described in the table in subclause 31B(1).

These amounts are then subject to indexation in accordance with the Consumer Price Index on 1 July 2014 and each subsequent 1 July. The indexation arrangements for the clean energy supplement (Part B) amounts are provided for in new item 9B in the Indexed and Adjusted Amounts table in clause 2 of Schedule 4 and new item 9B in the CPI Indexation table at the end of subclause 3(1) of Schedule 4 (as inserted by **items 30 and 32** respectively).

New subclause 31B(3) provides that clause 31B does not apply in relation to a day in respect of which an election under section 58A of the Family Assistance Act is in force. A note directs the reader to a related provision, new section 105B of the Family Assistance Administration Act (inserted by **item 33**), which enables the clean energy supplements to be paid to an individual at the end of a quarter on the assumption that their election was not in force for the relevant days in the quarter.

New **clause 31C** applies where an individual has a shared care percentage for an FTB child. Where the child is their only FTB child, then the individual's clean energy supplement (Part B) is that percentage of what would otherwise be their clean energy supplement (Part B). Where the child is not their only FTB child, then subclause 31C(2) requires a clean energy supplement (Part B) to be worked out for each FTB child of the individual as if they were the individual's only child and having regard to any shared care percentage that applies in relation to the child. The individual's clean energy supplement (Part B) is the highest of the amounts so calculated.

The rules in new clause 31C are similar to the rules in clause 31 of Schedule 1 which affect an individual's standard rate of FTB Part B.

Working out the amount of an individual's clean energy supplement (Part A)

Part 5 of Schedule 1 sets out some common rules that apply in working out an individual's Part A rate of FTB.

Item 28 inserts a new Division 2AA into Part 5 which contains the rules for working out the amount of an individual's clean energy supplement (Part A).

New Subdivision A sets out the rules for calculating the clean energy supplement (Part A-Method 1).

New Subdivision B sets out the rules for calculating the clean energy supplement (Part A-Method 2).

These new provisions align with the rate categories for the maximum standard rate of FTB Part A under Method 1 and the base standard rate of FTB Part A under Method 2, and include the same effect of a shared care percentage for an FTB child.

Families who receive more than the base rate of FTB Part A under Method 1, or more than the tapered base rate under Method 2, will receive a Clean Energy Supplement equivalent to a 1.7 per cent increase in the maximum standard rate and end of year supplements for FTB Part A.

Families who receive the base rate of FTB Part A under Method 1, or the tapered base rate under Method 2, will receive a Clean Energy Supplement equivalent to a 1.7 per cent increase in the base standard rate and end of year supplements for FTB Part A.

Clean energy supplement (Part A-Method 1)

New **clause 38AA** sets out the rules for working out the amount of clean energy supplement (Part A) that is to be added in working out an individual's maximum rate under clause 3 of Schedule 1 to the Family Assistance Act.

There would be an FTB clean energy child amount for each of the five categories of FTB child for the standard rate of Part A in clause 7 of Schedule 1, that is:

- FTB child who is under 13 years of age;
- FTB child who has reached 13, but is under 16, years of age;
- FTB child who has reached 16 years of age and who is a senior secondary school child;
- FTB child who has reached 16, but is under 18, years of age and who is not a senior secondary school child;
- FTB child who has reached 18, but is under 22, years of age and who is not a senior secondary school child.

The FTB clean energy child amount for each category would be worked out under new subclause 38AA(2). The amount in respect of a particular child could be affected by new clauses 38AB to 38AE, which deal with shared care, the effect of maintenance rights and other matters (discussed further below). An individual's clean energy supplement (Part A) is then the sum of the relevant FTB clean energy child amounts.

The method statement in new subclause 38AA(2) is used to work out the 'start up' FTB clean energy child amount on 1 July 2013 for each of the FTB child categories.

The first step is to work out the amount of FTB child rate applicable on 1 July 2013 under the corresponding item of the table in clause 7 of Schedule 1.

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

These amounts are then added at Step 3 and the result multiplied by 0.017 at step 4. The amount at Step 4 is then rounded in accordance with step 5.

The result is the FTB clean energy child amount for each category of FTB child.

These amounts are then subject to indexation in accordance with the Consumer Price Index on 1 July 2014 and each subsequent 1 July. The indexation arrangements for the FTB clean energy child amounts are provided for in new item 8B in the Indexed and Adjusted Amounts table in clause 2 of Schedule 4 and new item 8B in the CPI Indexation table at the end of subclause 3(1) of Schedule 4 (as inserted by **items 29 and 31** respectively).

New subclause 38AA(3) provides that new clause 38AA does not apply in relation to a day in respect of which an election under new section 58A of the Family Assistance Act is in force. A note directs the reader to a related provision, new section 105B of the Family Assistance Administration Act (inserted by **item 33**), which enables the clean energy supplements to be paid to an individual at the end of a quarter on the assumption that their election was not in force for the relevant days in the quarter.

New **clauses 38AC and 38AD** set out the circumstances in which an FTB clean energy child amount for an FTB child will be the **base FTB clean energy child amount**.

The circumstances are where:

- the individual or their partner are receiving a periodic payment under a law of the Commonwealth or under a scheme administered by the Commonwealth, and that payment has been increased by reference to the FTB child of the individual; or
- the individual or their partner are entitled to apply for maintenance in respect of the child, the Secretary considers it reasonable to do so, but neither has taken that action.

New **clause 38AB** defines the concept of a **base FTB clean energy child amount** to mean the amount that would be the FTB clean energy child amount under new subclause 38AF(2) if the individual's clean energy supplement (Part A) were being worked out under Subdivision B and the shared care rule in new clause 38AG did not apply.

These rules operate in a similar way to the rules in clauses 8 to 10 of Schedule 1, which restrict the FTB child rate for an FTB child to the base FTB child rate in the circumstances described above.

Under new **clause 38AE**, an individual's FTB clean energy child amount for a child in respect of whom the individual has a shared care percentage is that percentage of what would otherwise be the FTB clean energy child amount for the child.

This rule is similar to the rule in clause 11 of Schedule 1, which affects an individual's Method 1 standard rate for an FTB child where a percentage determination applies in relation to the child.

Clean energy supplement (Part A-Method 2)

New **clause 38AF** sets out the rules for working out the amount of clean energy supplement (Part A) that is to be added in working out an individual's Method 2 base rate under clause 25.

There would be an FTB clean energy child amount for each of the two categories of FTB child for the standard rate of Part A in subclause 26(2) of Schedule 1:

- FTB child who has not turned 18, or who has turned 18 and who is a senior secondary school child;
- FTB child who has turned 18 and who is not a senior secondary school child.

The FTB clean energy child amount for each category would be worked out under new subclause 38AF(2). The amount in respect of a particular child could be affected by new clause 38AG, which deals with situations where there is a shared care percentage in relation to a child. An individual's clean energy supplement (Part A) is then the sum of the relevant FTB clean energy child amounts.

The method statement in new subclause 38AF(2) is used to work out the 'start up' FTB clean energy child amount on 1 July 2013 for each of the FTB child categories.

The first step is to work out the amount of FTB child rate applicable on 1 July 2013, which will be the amount in paragraph 26(2)(a) of Schedule 1 for an FTB child who has not turned 18, or who has turned 18 and who is a senior secondary school, or the amount in paragraph 26(2)(b) of Schedule 1 for an FTB child who has turned 18 and who is not a senior secondary school child.

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

These amounts are then added at Step 3 and the result multiplied by 0.017 at step 4. The amount at step 4 is then rounded in accordance with step 5.

The result is the FTB clean energy child amount for each category of FTB child.

These amounts are then subject to indexation in accordance with the Consumer Price Index on 1 July 2014 and each subsequent 1 July. The indexation arrangements for the FTB clean energy child amounts are provided for in new item 8B in the Indexed and Adjusted Amounts table in clause 2 of Schedule 4 and new item 8B in the CPI Indexation table at the end of subclause 3(1) of Schedule 4 (as inserted by **items 29 and 31** respectively).

New subclause 38AF(3) provides that new clause 38AF does not apply in relation to a day in respect of which an election under new section 58A of the Family Assistance Act is in force. A note directs the reader to a related provision, new section 105B of the Family Assistance Administration Act (inserted by **item 33**), which enables the clean energy supplements to be paid to an individual at the end of a quarter on the assumption that their election was not in force for the relevant days in the quarter.

Under new **clause 38AG**, an individual's FTB clean energy child amount for a child in respect of whom the individual has a shared care percentage is that percentage of what would otherwise be the FTB clean energy child amount for the child.

This rule is similar to the rule in clause 27 of Schedule 1, which affects an individual's Method 2 standard rate for an FTB child where a percentage determination applies in relation to the child.

Items 29 to 32 provide for the indexation of the clean energy supplement (Part B) amounts and the FTB clean energy child amounts for family tax benefit (Part A) as mentioned above.

Amendments to the Family Assistance Administration Act

Item 33 inserts a new **section 105B** into the Family Assistance Administration Act.

New section 105B applies where an individual who is entitled to be paid FTB by instalments has elected not to receive their clean energy supplement on one or more days in a quarter. In these circumstances, the Secretary is required to review the individual's entitlement (under subsection 105(1) of the Family Assistance Administration Act) at the end of the quarter, having regard to the clean energy supplements as if the election were not in force for the relevant days in the quarter. The effect of this provision is that an individual's FTB entitlement determination must be reviewed at the end of the quarter and their rate recalculated to include the clean energy supplements that were disregarded due to the election.

A **quarter** is defined in new subsection 105B(3) to mean a period of three months beginning on 1 July, 1 October, 1 January or 1 April. A note then refers the reader to **item 34** of Schedule 2 to this amending Act, which provides that new section 105B applies in relation to the quarter beginning 1 July 2013 and all later quarters.

Item 34 provides for the application of the amendments made by Part 2 of Schedule 2.

The amendments made by **items 15 and 33** apply in relation to the quarter beginning 1 July 2013 and all later quarters. These amendments enable an individual to elect to have their clean energy supplements disregarded in calculating their rate of FTB and then require the individual's rate to be reviewed after the end of a quarter to add back into the individual's rate the clean energy supplements. The relevant quarters for the purposes of quarterly payment of clean energy supplements are the quarters beginning on 1 July, 1 October, 1 January and 1 April, with the first quarter being the quarter beginning on 1 July 2013.

The amendments made by **items 16 to 28** apply in relation to the 2013-14 income year and later income years. These amendments introduce the new clean energy supplements.

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. These amendments set out the indexation arrangements for the new clean energy supplements. For 1 July 2013, the supplements are calculated by reference to existing FTB child rates and supplements. These start-up amounts are then indexed on 1 July 2014 and each subsequent 1 July.

From 1 January 2012, the maximum child age of eligibility for FTB will be 21 (reduced from 24). Schedule 1 to the *Family Assistance and Other Legislation Amendment Act 2011* (the amending Act) makes the relevant amendments to the Family Assistance Act. However, item 6 of Schedule 1 preserves the existing rules for certain students aged 22 to 24 years. **Item 35** ensures that a child who continues to be an FTB child of an individual due to this saving provision would also be counted for the purposes of working out the individual's clean energy supplement Part A by deeming that item 5 of the table in subclause 38AA(1) of Schedule 1 applies for the relevant period as if the reference in that item to 22 were a reference to 25.

Part 3 – Clean energy advances for approved care organisations

Item 36 in Part 3 contains provision for a Minister administering the Family Assistance Act to determine a scheme, by legislative instrument, under which clean energy advances will be paid to approved care organisations. The Minister may vary or revoke the scheme, also by legislative instrument.

Subitem 36(2) provides that the circumstances in which the scheme provides for payments must be circumstances occurring in relation to the period 14 May 2012 to 30 June 2013. **Subitem 36(3)** lists some of the matters that may be dealt with by the scheme, such as the circumstances in which payments are to be paid, the amount of payment and other administrative matters.

Subitem 36(4) provides that an instrument determining or varying an administrative scheme cannot take effect until the end of the disallowance period.

Payments under the scheme are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly (**subitem 36(5)** refers).

Part 4 – Clean energy supplement for approved care organisations

In broad terms, Part 4 introduces a new clean energy supplement into the FTB rate calculation process for an approved care organisation. The clean energy supplement would be a separate component of an approved care organisation's rate of FTB and will generally be paid on a fortnightly basis with FTB.

Part 4 also contains indexation arrangements for the new clean energy supplement for approved care organisations.

Amendments to the Family Assistance Act

Section 58 of the Family Assistance Act provides for the rate of FTB. For an approved care organisation, the annual rate of FTB for an individual is the amount specified in subsection 58(2).

Item 37 repeals subsection 58(2) and inserts new **subsections 58(2), (2A) and (2B)**.

New subsection 58(2) provides that an approved care organisation's annual rate of FTB for an individual is the sum of the organisation's standard rate and their clean energy supplement.

New subsection 58(2A) sets out the amount of an approved care organisation's standard rate. The current rate is \$1,372.40.

New subsection 58(2B) provides a method statement for working out an approved care organisation's clean energy supplement for an individual. The method involves working out the applicable standard rate as at 1 July 2013, multiplying that amount by 0.017 (1.7 per cent) and then rounding the result to the nearest multiple of \$3.65. The result is the clean energy supplement.

Current subsection 58(3) then provides the method for converting the annual rate of FTB into a daily rate.

Subitem 42(1) provides that new paragraph 58(2)(b) and new subsection 58(2B) apply in relation to the 2013-14 income year and later income years. This ensures that the provisions introducing the approved care organisation clean energy supplement will only apply from 1 July 2013.

The indexed and adjusted amounts table in Clause 2 of Schedule 4 to the Family Assistance Act describes the amounts that are to be indexed or adjusted under Schedule 4 and provides convenient abbreviations for those amounts.

The CPI indexation table in clause 3 of Schedule 4 then provides for the indexation of specified amounts in accordance with the Consumer Price Index.

Item 10 of the indexed and adjusted amounts table currently refers to the FTB approved care organisation rate in subsection 58(2). This entry is updated by **item 38** to refer to the new FTB standard approved care organisation rate in new subsection 58(2A). **Item 40** similarly updates the relevant reference in the CPI indexation table.

Item 39 inserts a new entry into the indexed and adjusted amounts table. New item 10A refers to the approved care organisation clean energy supplement under new subsection 58(2B). **Item 41** then inserts a new item 10A into the CPI indexation table relating to the new approved care organisation clean energy supplement.

Subitem 42(2) provides that the new indexation arrangements for the approved care organisation clean energy supplement apply in relation to the indexation day that is 1 July 2014 and all later indexation days.

Part 5 – Other amendments

Part 5 contains amendments to the Family Assistance Act that provide for an indexation adjustment for certain FTB child rates, FTB supplement amounts and the FTB standard approved care organisation rate. The expected impact of the carbon price on indexation (0.7 per cent) will be delivered through the clean energy supplement rather than indexation of these amounts. Regular indexation of the amounts will continue to apply, adjusted by the equivalent amount now being delivered through the clean energy supplement..

There are other consequential amendments to the Family Assistance Act and the Family Assistance Administration Act.

Amendments to the Family Assistance Act

To be eligible for FTB, paragraph 21(1)(c) of the Family Assistance Act provides that an individual's rate of FTB, worked out under Division 1 of Part 4 but disregarding reductions (if any) under clause 5 or 25A of Schedule 1, must be greater than nil.

If an election under new section 58A is in force and the individual's rate of FTB would be greater than nil if the election was not in force, the intention is that the individual should satisfy the eligibility rule in paragraph 21(1)(c). **Item 43** amends paragraph 21(1)(c) to this effect.

Item 45 pluralises the heading of Part 4 of Schedule 4 to the Family Assistance Act and **item 46** adds new **clauses 10 and 11** into Part 4.

The indexation factor is relevant in working out an indexed amount (the method statement in subclause 4(2) of Schedule 4 to the Family Assistance Act refers) and is worked out under clause 5 of Schedule 4.

New clause 10 provides for an adjustment to the indexation factor for certain amounts on and after 1 July 2013. These amounts, specified in new subclause 10(1) are the FTB child rates under Method 1 for Part A, the FTB child rates under Method 2 for Part A, the FTB Part B standard rates and the FTB standard approved care organisation rate.

New subclause 10(2) provides that the indexation factor, worked out under clause 5 for each indexation day that is on or after 1 July 2013, is to be adjusted by the brought forward indexation amount, but not below one.

New subclause 10(3) then defines the ***brought forward indexation amount*** as 0.007, less any adjustment made for a previous indexation day. The ***brought forward indexation amount*** is initially 0.007, the expected additional increase in the Consumer Price Index due to carbon pricing which is being delivered through the clean energy supplement rather than indexation of the relevant child rates.

A note at the end of new subclause 10(3) provides that, once the brought forward indexation amount is zero, there is no further adjustment of the indexation factor. An example is also included to provide the reader with a clear picture of how the adjustment of indexation will apply.

New clause 11 provides for an adjustment to the indexation factor for certain amounts on and after 1 July 2014. These amounts, specified in new subclause 11(1), are the FTB gross supplement amount (A) and the FTB gross supplement amount (B). As the Consumer Price Indexation of the end of year FTB Part A and Part B supplements will be paused on 1 July 2013, there would be no indexation adjustment on 1 July 2013.

New subclause 11(2) provides that the indexation factor, worked out under clause 5 for each indexation day that is on or after 1 July 2014, is to be adjusted by the brought forward indexation amount, but not below one. The FTB Part A and Part B supplements will not be affected, should the relevant CPI indexation factor be less than one plus the brought forward indexation amount.

New subclause 11(3) then defines the ***brought forward indexation amount*** in relation to this clause as 0.007, less:

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

The ***brought forward indexation amount*** is the amount of the additional increase in the consumer price index due to carbon pricing that will be transferred from the indexation on FTB Part A and Part B supplements to the clean energy supplement, to the extent indexation arrangements for the FTB Part A and Part B supplements allow. It can only be equal to or less than the expected additional increase in the consumer price index due to carbon pricing (0.7 per cent or 0.007).

A note at the end of new subclause 11(3) provides that, once the brought forward indexation amount is zero, there is no further adjustment of the indexation factor. An example is also included to provide the reader with a clear picture of how the adjustment of indexation will apply.

Item 44 makes a consequential amendment to clause 5, which defines ***indexation factor***, so that its operation is subject to the rules in new clauses 10 and 11.

Amendments to the Family Assistance Administration Act

Section 32A of the Family Assistance Administration Act ensures that the FTB Part A and Part B supplements are disregarded from the FTB rate calculation process unless and until the relevant FTB reconciliation conditions are satisfied for one or more same-rate benefit periods.

The clean energy advance and the start up amount of the clean energy supplements for individuals are calculated, in part, by reference to the FTB Part A and Part B supplements. **Item 47** clarifies that the FTB Part A and Part B supplements can be included in those calculations, regardless of whether the individual has satisfied the FTB reconciliation conditions.

Schedule 3 – Clean energy payments under the Veterans' Entitlements Act

Summary

The Clean Energy Household Assistance Package will provide financial assistance to veterans, members, former members and their dependants to assist with increases in the cost of living arising from the introduction of a carbon price on 1 July 2012.

Financial assistance will be delivered through clean energy payments that are equivalent to permanent increases to the rates of relevant pensions. The amendments in this Schedule provide for assistance to be provided by a lump sum clean energy advance before commencement of the carbon pricing scheme, and for ongoing clean energy supplements to be paid from the end of the clean energy advance lump sum period.

Background

Clean energy advances

Part of the Schedule makes amendments to provide for a lump sum clean energy advance, payable to people before the commencement of the carbon pricing scheme. The clean energy advance period will cover a period of nine months.

The clean energy advance will start being paid to people from 14 May 2012 as a tax-free payment to the recipients of certain payments under the Veterans' Entitlements Act targeted under the Household Assistance Package. The clean energy advance would include:

- the expected Consumer Price Index impact of carbon pricing (0.7 per cent); and
- the additional increase amount above Consumer Price Index impact (one per cent).

The clean energy advance will be paid in respect of the period from 1 July 2012 until the normal payment indexation arrangements begin to deliver Consumer Price Index increases related to carbon pricing from 20 March 2013.

Clean energy supplements

Once normal indexation begins to deliver Consumer Price Index increases in respect of carbon pricing from 20 March 2013, the additional increase will be paid as clean energy supplements.

It is proposed that ongoing clean energy supplements will start to be paid from the end of the clean energy advance lump sum period. The clean energy supplement will be a separate payment from the relevant Veterans' Affairs pension. The clean energy supplements will be permanent, and indexed by the Consumer Price Index so they maintain their value in real terms over time.

It is proposed that recipients be given the option of receiving their supplement as a quarterly payment in arrears rather than a fortnightly payment.

Indexation

The expected additional impact on the Consumer Price Index from carbon pricing (0.7 per cent) will be permanently included in the clean energy supplement (plus an additional one per cent increase). Part 3 contains amendments to the Veterans' Entitlements Act that provide for the expected impact of the carbon price on indexation (0.7 per cent) to be transferred from the maximum basic rate and pension supplement of certain veterans' payments to the clean energy supplement. The maximum basic rate and the pension supplement will continue to be indexed in accordance with usual indexation arrangements. The clean energy supplement will also be indexed to maintain its real value over time.

The carbon price impacts will start to flow through to primary payment indexation at the 20 March 2013 indexation point.

Explanation of the changes

Part 1 – Clean energy advances

Amendments to the Veterans' Entitlements Act

Item 1 inserts four new terms into the index of definitions.

Item 2 inserts a definition for ***clean energy advance*** in subsection 5Q(1). Clean energy advance means an advance described in Subdivision A or C of Division 1 of Part III E.

Item 3 inserts a definition for ***clean energy bonus*** in subsection 5Q(1). Paragraph (a) of the definition provides that a clean energy bonus under an Act or a scheme is a payment known as a clean energy advance provided for by the Act or scheme.

Paragraph (c) of the definition provides that clean energy bonus is also an increase that is described using the phrase 'clean energy' and that affects the rate of another payment that is provided for by the Act or scheme.

Paragraph (b) of the definition will be inserted by **item 11** of Part 2 of Schedule 3 when it commences on 20 March 2013.

Item 4 inserts a definition for **clean energy payment** in subsection 5Q(1) and contains paragraph (a) to include clean energy advance.

Item 5 inserts a definition for **clean energy underlying payment** in subsection 5Q(1). Clean energy underlying payment means:

- a pension under Part II or IV at a rate determined under or by reference to Division 4 of Part II – this covers general rate, extreme disablement adjustment, intermediate rate, special rate, temporary special rate and rates set by section 27; or
- a pension under Part II or IV at a rate determined under or by reference to subsection 30(1) – this covers war widow's or war widower's pension; or
- service pension; or
- seniors supplement.

Item 6 inserts a new Part IIIE into the Veterans' Entitlements Act. New Part IIIE creates two new payments, the clean energy advance and the clean energy supplement. The new Part also sets out the eligibility, payability and rate rules for both the clean energy advance and the clean energy supplement.

Part IIIE – Clean energy payments

Division 1 – Clean energy advances

Subdivision A – Eligibility for clean energy advances

New **section 61A** sets out the eligibility rules for people in receipt of clean energy underlying payments. New subsection 61A(1) provides that, if, on a day between 14 May 2012 and 30 June 2012 (dates inclusive), a person receives a clean energy underlying payment, their rate of payment is greater than nil, and they are in Australia, the Repatriation Commission may determine that the person is eligible for a clean energy advance for the period from 1 July 2012 to 19 March 2013. This provision will provide eligibility for persons receiving a clean energy underlying payment and who are in Australia on a day during the period 14 May 2012 and 30 June 2012.

A note at the end of the section advises that clean energy underlying payment is defined in subsection 5Q(1).

New subsection 61A(2) provides that, if, on a day between 1 July 2012 and 19 March 2013 (dates inclusive), a person receives a clean energy underlying payment, their rate of payment is greater than nil, and they are in Australia, the Repatriation Commission may determine that the person is eligible for a clean energy advance for the period ending on 19 March 2013. This provision will provide eligibility for persons who begin to receive a clean energy underlying payment on or after 1 July 2012 or who were receiving the clean energy underlying payment prior to 1 July 2012 but who returned to Australia on or after 1 July 2012.

A note at the end of the section advises that clean energy underlying payment is defined in subsection 5Q(1).

New subsection 61A(3) provides that, if the Repatriation Commission makes a determination under new subsection 61A(2), the determination must specify the first day on which the person satisfies both new paragraphs 61A(2)(a) and (b), and the day that is the first day during the period the person is in Australia, disregarding any temporary absence that is less than 13 weeks.

New subsection 61A(4) provides that, if, at the time the Repatriation Commission makes a determination under new subsection 61A(1) or (2) regarding eligibility, a person's rate of clean energy underlying payment is nil merely because:

- the rate is reduced, or the pension is not payable, due to the operation of a provision under Division 4, 5 or 5A of Part II or section 74; or
- they are receiving quarterly pension supplement;

the person's rate is taken to be greater than nil and the person will, therefore, meet the requirement in paragraphs 61A(1)(b) and 61A(2)(b).

New subsection 61A(5) prevents the Repatriation Commission from determining that a person is eligible for a clean energy advance under new subsection 61A(2) if the Repatriation Commission has already determined that the person was eligible for a clean energy advance for the same clean energy underlying payment under new subsection 61A(1) or 61A(2).

New **section 61B** provides that a person may be paid a clean energy advance for each clean energy underlying payment for which the Repatriation Commission determines that the person is eligible for a clean energy advance.

A note at the end of the section explains that the section is subject to the multiple entitlement exclusion provisions in new section 65A.

Subdivision B – Amount of clean energy advance

New **section 61C** sets out how a clean energy advance is to be calculated for a person.

New subsection 61C(1) provides that, when the Repatriation Commission determines that a person is eligible for a clean energy advance (the **decision day**), the Repatriation Commission must also determine the amount of clean energy advance that is payable to the person (the **recipient**).

A note after the subsection explains that the advance will be paid as a lump sum as soon as is reasonably practicable after the decision day.

New subsection 61C(2) provides that the amount of the clean energy advance will be the **clean energy advance daily rate** multiplied by the **number of advance days**, rounded up to the nearest \$10. Clean energy advance daily rate means the rate as worked out for the person's circumstances under new section 61D and the number of advance days is the number of days worked out under new section 61E.

New **section 61D** sets out the various methods of calculating a person's clean energy daily rate. A person's clean energy advance daily rate will depend on the type of payment that the person receives.

New subsection 61D(1) sets out the formula for calculating the clean energy advance daily rate for a person whose clean energy underlying payment is a rate determined under or by reference to general rate, extreme disablement adjustment, intermediate rate or special rate of disability pension. In these cases, the daily rate is calculated by working out 1.7 per cent of the person's rate of disability pension on 1 July 2012, adding 20 cents to that amount (which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as a clean energy supplement rather than as a lump sum advance), rounding the resulting amount up or down to the nearest 10 cents and dividing that result by 14. For persons on a percentage of general rate disability pension, for the purposes of this section, their rate will be 100 per cent of the general rate disability pension.

New subsection 61D(2) sets out the formula for calculating the clean energy advance daily rate for a person whose clean energy underlying payment is a rate of disability pension determined under or by reference to section 27. In these cases, the daily rate is calculated by working out 1.7 per cent of the person's rate of disability pension on 1 July 2012 using the table at the end of the subsection, adding 20 cents to that amount (which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as a clean energy supplement rather than as a lump sum advance), rounding the resultant amount up or down to the nearest 10 cents and dividing that result by 14.

New subsection 61D(3) means, when using the table in new subsection 61D(2), the person's rate of disability pension is to be taken to be the rate that the person would be receiving if subsections 23(5) or (6), sections 25A, 26, Division 5A of Part II or section 74 were not applied and did not reduce the person's rate of disability pension.

New subsection 61D(4) sets out the formula for calculating the clean energy advance daily rate for a person whose clean energy underlying payment is war widow's or war widower's pension. In these cases, the daily rate is calculated by working out 1.7 per cent of the person's rate of war widow's or war widower's pension on 1 July 2012, adding 20 cents to that amount (which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as a clean energy supplement rather than as a lump sum advance), rounding the resultant amount up or down to the nearest 10 cents and dividing that result by 14.

New subsection 61D(5) sets out the formula for calculating the clean energy advance daily rate for people in receipt of service pension or seniors supplement. A person's clean energy advance daily rate is worked out by calculating 1.7 per cent of the sum of twice the maximum basic rate on 1 July 2012 as set out under SCH6-B1 of the Rate Calculator for a person who is partnered and the combined couple rate of pension supplement on 1 July 2012, and this figure is then rounded up or down to the nearest multiple of \$5.20. An amount of \$5.20 is then added to this figure, which compensates for the lack of indexation that would have occurred if the clean energy advance was paid as a clean energy supplement rather than as a lump sum advance. The calculation produces an annual figure for a combined couple, which is then adjusted to take account of the particular person's circumstances by applying the relevant percentage in the table at the end of new subsection 61D(5) that corresponds with the person's particular circumstances. The percentage adjusted figure is then rounded up or down to the nearest multiple of \$2.60, rounding up if the figure is not a multiple of \$2.60 but is a multiple of \$1.30. The final figure is an annual figure which is then divided by 364 to obtain a daily rate.

The note at the end of new subsection states where the family situation terms used in the table are defined in the Veterans' Entitlements Act.

New subsection 61D(6) means that, when using the table at the end of subsection 61D(5) for the purposes of paragraph 61(D)(5)(d), the person's family situation is to be determined as at either:

- the day the Repatriation Commission determines under subsection 61A(1) that the person is eligible ; or
- the day specified in a determination under subsection 61A(2) that the person is eligible.

New **section 61E** sets out how the ***number of advance days*** is worked out to enable the clean energy advance to be calculated. The number of advance days is the number of days in the person's clean energy advance period to be calculated starting on either:

- 1 July 2012; or

- if a determination under subsection 61A(2) applies to the person, the day specified in the determination under subsection 61A(3) that the person is eligible;

and ending on 19 March 2013.

Subdivision C – Top-up payments of clean energy advance

This Subdivision, comprising new **section 61F**, provides for top-up payments of clean energy advance to people where a change of circumstances during the clean energy advance period would result in the person not being appropriately compensated for the anticipated increased energy costs.

The operation of this Subdivision will mean that, if the person's circumstantial change during the clean energy advance period results in:

- the person starting to receive a different clean energy underlying payment that is paid at a higher rate than their previous clean energy underlying payment (for example, a person changes from partner service pension to war widow's or war widower's pension); or
- the person starting to receive the same clean energy underlying payment at a higher rate (for example, a person changes from the partnered rate of service pension to the single rate of service pension);

then, where the person is not able to receive the entire advance amount because of a multiple entitlement exclusion, the person will receive an additional amount of clean energy advance equivalent to the difference between the higher and lower advance amounts for the number of days remaining in the advance period.

This may happen more than once.

New subsection 61F(1) provides that the Repatriation Commission may determine, by legislative instrument, that persons who have been paid a clean energy advance (the **original payment** for the **original underlying payment**) and whose circumstances change, are eligible for a further top-up payment of clean energy advance. The instrument will further specify the time period within which the change of circumstances must occur, the type of circumstance change and the method of calculating the additional clean energy advance amount.

New subsection 61F(2) enables the Repatriation Commission to make a legislative instrument under subsection 61F(1) for a change in circumstances that involves persons becoming eligible for a higher rate of the original underlying payment.

New subsection 61F(3) enables the Repatriation Commission to make a legislative instrument under subsection 61F(1) for a change in circumstances that involves the person beginning to receive a different clean energy underlying payment.

New subsection 61F(4) provides, for the purposes of subsection (3), that a **multiple entitlement exclusion** is an instrument providing that a person is not entitled to a clean energy bonus because of the person's entitlement to or receipt of the original payment or the original payment or the original underlying payment.

A multiple entitlement exclusion is also an instrument that is made under section 65A of the Veterans' Entitlements Act, section 424L of the Military Rehabilitation and Compensation Act, section 918 of the Social Security Act, or an instrument establishing entitlements to a clean energy bonus under a scheme.

New subsection 61F(5) enables an instrument under section 61F(1) to be made in relation to different periods of time for changes in circumstances and different ways of working out further amounts of clean energy advance.

Subdivision D – Payment of clean energy advance

Subsection (1) of new **section 61G** requires a clean energy advance to be paid in a single lump sum. The amount is to be paid on the earliest day that the Commission considers it reasonably practicable for the amount to be paid.

New subsection 61G(2) provides that a clean energy advance is not payable if the Commission is aware that the person has died.

Subdivision E – Debts

Subsection (1) of new **section 61H** provides that a clean energy advance is a debt due to the Commonwealth if the payment was made because the recipient knowingly made a false or misleading statement or knowingly provided false information.

Notes 1 and 2 at the end of the subsection provide examples of determinations that directly and indirectly affect payability and amounts.

New subsections 61H(2) and (3) provide that an advance and an amount by which an advance would have been reduced can be debts due to the Commonwealth.

New subsection 61H(4) provides that the other debt creation provisions of the Veterans' Entitlements Act do not apply in relation to clean energy advances.

New subsection 61H(5) provides that a debt is a recoverable amount within the meaning of subsection 205(8).

Division 5 – Multiple entitlement exclusions

New **section 65A** provides for multiple entitlement exclusions to prevent inappropriate double payments of clean energy advances.

New subsection 65A(1) enables the Repatriation Commission to make a legislative instrument to determine the circumstances under which persons are not entitled to a clean energy bonus.

A note at the end of the subsection explains that the term clean energy bonus is defined in subsection 5Q(1).

New subsection 65A(2) requires that the circumstances, for the purposes of the legislative instrument to be made under new subsection 65A(1), must relate to a person's entitlement to, or receipt of, one or more of the following:

- another clean energy bonus under the Veterans' Entitlements Act; or
- a clean energy bonus under the Military Rehabilitation and Compensation Act; or
- a clean energy bonus under the Social Security Act; or
- a clean energy bonus under a scheme (however described), whether or not the scheme is provided for by or under an Act.

As this section will involve multiple entitlement exclusions within and between a number of different Acts and schemes, the term 'entitlement to' refers to a variety of concepts relating to a payment, amount or rate that may be used in other Acts or schemes, including, but not limited to, 'qualification for', 'eligibility for' and 'the Commonwealth being liable to pay'.

New subsection 65A(3) provides that an instrument made under subsection (1) has effect according to its terms and despite any other provision of this Act. This means that, if a person may otherwise appear to be eligible for a payment, a multiple entitlement exclusion instrument precludes that eligibility.

Part 2 – Clean energy supplements and quarterly energy supplement

Amendments to the Veterans' Entitlements Act

Items 7 to 9 insert a number of new terms into the index of definitions in section 5.

Item 10 inserts new **section 5GB** to contain the definitions required for clean energy supplement and quarterly clean energy supplement introduced in new Part III E.

New subsection 5GB(1) defines the term **CES 22(3) rate** as, subject to section 198, the rate calculated by working out 1.7 per cent of the rate specified in subsection 22(3) on 20 March 2013 (including any indexation) and rounding that result up or down to the nearest multiple of 10 cents.

A note at the end of the subsection explains that section 198 provides for the indexation of the rate.

New subsection 5GB(2) defines the term **CES 22(4) rate** as, subject to section 198, the rate calculated by working out 1.7 per cent of the rate specified in subsection 22(4) on 20 March 2013 (including any indexation) and rounding that result up or down to the nearest multiple of 10 cents.

A note at the end of the subsection explains that section 198 provides for the indexation of the rate.

New subsection 5GB(3) defines the term **CES 23(4) rate** as, subject to section 198, the rate calculated by working out 1.7 per cent of the rate specified in subsection 23(4) on 20 March 2013 (including any indexation) and rounding that result up or down to the nearest multiple of 10 cents.

A note at the end of the subsection explains that section 198 provides for the indexation of the rate.

New subsection 5GB(4) defines the term **CES 24(4) rate** as, subject to section 198, the rate calculated by working out 1.7 per cent of the rate specified in subsection 24(4) on 20 March 2013 (including any indexation) and rounding that result up or down to the nearest multiple of 10 cents.

A note at the end of the subsection explains that section 198 provides for the indexation of the rate.

New subsection 5GB(5) defines the term **CES 30(1) rate** as, subject to section 198, the rate calculated by working out 1.7 per cent of the rate specified in subsection 30(1) on 20 March 2013 (including any indexation) and rounding that result up or down to the nearest multiple of 10 cents.

A note at the end of the subsection explains that section 198 provides for the indexation of the rate.

New subsection 5GB(6) defines the term **clean energy pension rate** for a person as, subject to sections 59B, 59C, 59D and 59E, the rate of clean energy supplement worked out by calculating 1.7 per cent of the total of twice the maximum basic rate under the Rate Calculator for a person who is partnered and the combined couple rate of pension supplement (as at 20 March 2013) and rounding the result up or down to the nearest multiple of \$5.20 (rounding up if the result is not a multiple of \$5.20 but is a multiple of \$2.60).

The reference to the maximum basic rate under the Rate Calculator for a person who is partnered means the amount set out at table item 2 in Table B – maximum basic rates at the end of point SCH6-B1 as indexed.

A note at the end of the subsection explains that sections 59B, 59C, 59D and 59E provide for indexation of the rate.

Item 11 inserts paragraph (b) into the definition of **clean energy bonus** in subsection 5Q(1). Paragraph (b) defines **clean energy bonus** to include a payment known as a clean energy supplement or a quarterly clean energy supplement.

Item 12 inserts paragraph (b) into the definition **clean energy payment** in subsection 5Q(1). Paragraph (b) provides that the following payments are clean energy payments

- clean energy supplement under 62A in respect of disability pension; and
- clean energy supplement under 62B in respect of war widow's or war widower's pension; and
- quarterly clean energy supplement in respect of service pension.

Item 13 inserts a definition of **clean energy supplement** into subsection 5Q(1) as:

- clean energy supplement payable under section 62A in respect of disability pension; and
- clean energy supplement payable under 62B in respect of war widow's or war widower's pension; and
- clean energy supplement added to the maximum basic rate of service pension under the rate calculator.

The clean energy supplement is an amount that is added to a person's relevant rate of pension.

Item 14 inserts a definition of **quarterly clean energy supplement** into subsection 5Q(1), in relation to service pension, as the separate payment described in new subsection 62E.

The quarterly clean energy supplement is an amount that is added to the person's quarterly rate of pension supplement.

Item 15 inserts a new **subsection 58A(6)** after subsection 58A(5). New subsection 58A(6) provides that, where either or both a pension supplement that is more than the person's pension supplement basic amount and clean energy supplement is added to a person's maximum basic rate of pension for a particular day, the person has not elected to receive quarterly pension supplement, and, apart from this subsection, the person would receive less than the equivalent of the daily rate for the amounts in paragraph (a), then their amount is to be increased to the daily rate.

Items 16 and 17 make technical amendments to subsection 58A(7).

Item 18 repeals subsection 58A(8).

Item 19 modifies the formula in paragraph 59Q(7)(b) to take account of the new clean energy supplement. This formula is used to calculate a person's lump sum preclusion period during which a compensation affected pension will not be payable.

Item 20 inserts a definition for **point SCH6-BB3 amount** in paragraph 59Q(7)(b).

Item 21 inserts new Division 2 in new Part III E of the Veterans' Entitlements Act.

Division 2 – Clean energy supplements

Subdivision A – Clean energy supplements for pension under Parts II and IV

New **section 62A** provides for clean energy supplement for recipients of disability pension.

New subsection 62A(1) provides that a person is eligible for clean energy supplement for a day if the following requirements are met:

- the person receives disability pension for the day; and
- the person's rate of disability pension for the day is greater than nil; and
- the person is residing in Australia on the day; and
- on the day, either the person is in Australia or is temporarily absent for a period not exceeding 13 weeks.

The note at the end of new subsection 62A(1) explains that section 62C may affect whether a person meets the conditions in paragraph (1)(a) and (b) of this section.

New subsection 62A(2) provides that the Commonwealth is liable to pay clean energy supplement to the person for the day in respect of the person's disability pension.

Note 1 explains that the clean energy supplement is a separate payment from the disability pension.

Note 2 explains that section 65A may affect the person's entitlement to the clean energy supplement.

New subsection 62A(3) provides for the rate of clean energy supplement. The rate is worked out by identifying in the table the person's rate of pension and applying the corresponding rate of clean energy supplement. For the purposes of identifying the person's rate of pension that is worked out under section 27, subsections 23(5) and (6), sections 25A and 26, Division 5A of Part II and section 74 are to be ignored. This means that any compensation offsetting that would otherwise apply is to be ignored.

New **section 62B** provides for clean energy supplement for recipients of war widow's or war widower's pension.

New subsection 62B(1) provides that a person is eligible for clean energy supplement for a day if the following requirements are met:

- the person receives war widow's or war widower's pension for the day; and
- the person's rate of that pension for the day is greater than nil; and
- the person is residing in Australia on the day; and
- on the day, either the person is in Australia or is temporarily absent for a period not exceeding 13 weeks.

The note at the end of new subsection 62B(1) explains that section 62C may affect whether a person meets the conditions in paragraph (1)(a) and (b) of this section.

New subsection 62B(2) provides that the Commonwealth is liable to pay clean energy supplement to the person for the day in respect of the person's war widow's or war widower's pension.

Note 1 explains that the clean energy supplement is a separate payment from the war widow's or war widower's pension.

Note 2 explains that section 65A may affect the person's entitlement to the clean energy supplement.

New subsection 62B(3) provides that the fortnightly rate of clean energy supplement is the CES 30(1) rate as defined in new subsection 5GB(5).

New **section 62C** provides that, for the purposes of new 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 otherwise be nil or the pension would not be payable under Division 4, 5 or 5A of Part II or section 74.

New **section 62D** provides, for a person receiving disability or war or war widower's pension, an option to receive their clean energy supplement on a quarterly basis.

New subsection 62D(1) provides that a person receiving disability or war widow's or war widower's pension can elect to receive their clean energy supplement quarterly, in accordance with the requirements of the Repatriation Commission.

New subsection 62D(2) provides for when an election comes into force, ceases or may be revoked.

New subsections 62D(3) and (4) provide for when the quarterly clean energy supplement is to be paid and the amount of the supplement.

Subdivision B – Quarterly clean energy supplement for service pension

Subsection (1) of new **section 62E** provides that a quarterly clean energy supplement for service pension is payable to a person, as a separate payment, for as long as the person elects to receive quarterly pension supplement.

Note 1 at the end of the subsection explains that, as seniors supplement is paid quarterly, there is no need for a quarterly payment election.

Note 2 explains that section 65A may affect the person's entitlement to quarterly clean energy supplement. Section 65A provides for multiple entitlement exclusions.

New subsection 62E(2) specifies when an instalment of quarterly clean energy supplement is paid.

New subsection 62E(3) specifies that the amount of the instalment is the total amount payable to the person for the days in the period for which the election was in force.

New subsection 62E(4) provides that the daily rate of quarterly clean energy supplement is 1/364 of what would otherwise be the person's clean energy supplement amount under the Rate Calculator.

New subsections 62E(5) and (6) provide for an exception to a reduction of quarterly pension supplement under subclause 4(5) of Schedule 6.

Items 22 and 23 make technical amendments.

Item 24 repeals section 118PB and substitutes a new **section 118PB** to deal with the addition of clean energy supplement to a person's seniors supplement. This is achieved in new subsection 118PB(1) by changing the method for calculating seniors supplement daily rate and making provision for the addition of clean energy supplement to the daily rate of seniors supplement.

Notes 1 to 3 refer to the locations of the definitions used in the subsection.

Note 4 explains that section 65A may affect the person's entitlement to the increase in rate of senior supplement.

Subsection 118PB(2) provides that an additional amount is added to a person's rate of seniors supplement under paragraph 118PB(1) if, on that day, the person is residing in Australia and is in Australia or temporarily absent for a period not exceeding 13 weeks.

Item 25 repeals subsection 118PC(3) and substitutes a new **subsection 118PC(3)** to take account of the addition of clean energy supplement to seniors supplement.

Item 26 inserts a new **subsection 121(6B)**. New subsection 121(6B) provides that the rules in section 121 have effect subject to, or are modified to take account of, situations where a person has elected to receive quarterly clean energy supplement.

Item 27 inserts a reference to clean energy supplement in the definition of **pension** in subsection 121(7).

Item 28 inserts a reference to clean energy supplement in subparagraph 4(a)(ia) of clause 30 of Schedule 5. This will ensure that clean energy supplement is included in calculating the maximum payment rate for the purposes of a transitional rate of service pension.

Item 29 adds Note 7 at the end of subclause 30(4) of Schedule 5. Note 7 explains that section 65A may affect the inclusion of the clean energy supplement in subparagraph (4)(a)(ia).

Item 30 inserts a new subclause 5 at the end of clause 34 of Schedule 5. New subclause 5 means that, if subclause 31(1) or (2) applies to a person, the person's clean energy supplement will be included when working out the rate of the person's service pension.

Item 31 inserts a reference to clean energy supplement in note 1 to subclause 1(1) of Schedule 6.

Item 32 inserts a reference to clean energy supplement under Module BB into the table in subclause 4(1) of Schedule 6.

Item 33 inserts new notes 1 and 2 immediately after the table in subclause 4(1) of Schedule 6.

Note 1 explains that 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.

Note 2 states that Table item 5 will not apply where a person has elected (under subsection 60A(1)) to receive a quarterly pension supplement as the rate has already been reduced to nil.

Item 34 inserts new subclause (5) at the end of clause 4 of Schedule 6. New subclause 4(5) provides that, where a person's rate of service pension is to be reduced as described in subclause 4(1) and the person has elected to receive quarterly pension supplement, a 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.

Item 35 inserts Step 1B into method statement 1 in subpoint SCH6-A1(2). New Step 1B requires that an amount of clean energy supplement be worked out for the purposes of the method statement.

Item 36 makes a technical amendment to step 4 of method statement 1 in subpoint SCH6-A1(2).

Item 37 inserts a note at the end of step 4 of method statement 1 in subpoint SCH6-A1(2). The note explains that section 65A may affect whether the amount obtained in step 1B is added.

Item 38 inserts Step 2B into method statement 2 in subpoint SCH6-A1(3). New Step 2B requires that an amount of clean energy supplement be worked out for the purposes of the method statement.

Item 39 makes a technical amendment to step 4 of method statement 2 in subpoint SCH6-A1(3).

Item 40 inserts a note at the end of step 4 of method statement 2 in subpoint SCH6-A1(3). The note explains that section 65A may affect whether the amount obtained in step 2B is added.

Item 41 makes a technical amendment to step 1 of method statement 3 in subpoint SCH6-A1(4). This will ensure that an amount of clean energy supplement is not included when calculating the amount of service pension for a war widow/war widower – pensioner. Clean energy supplement for a war widow/war widower – pensioner who receives a service pension will be paid through the war widow's or war widower's pension.

Item 42 inserts new **Module BB** into Schedule 6. New Module BB sets out how a person's clean energy supplement is to be calculated.

Point SCH6-BB1 provides that a clean energy supplement is to be added to a person's rate of pension if the person is in Australia, or is temporarily absent from Australia for a period of no more than 13 weeks.

Point SCH6-BB2 provides that the clean energy supplement module does not apply to the calculation of a person's rate of service pension if that person is receiving quarterly clean energy supplement.

Point SCH6-BB3 provides that a person's clean energy supplement is worked out by applying the percentage table at the end of point SCH6-BB3 to the clean energy rate and rounding up or down to the nearest multiple of \$2.60.

Notes 1 and 2 refer to the location of terms used in the table in point SCH6-BB3.

Part 4 – Indexation

Amendments to the Veterans' Entitlements Act 1986

Item 43 inserts a new item into the indexed and adjusted amounts table at the end of section 59A. This item identifies the clean energy pension rate as an amount to be indexed under Division 18 of Part IIIB and the provision in which the amount is specified.

Item 44 makes a technical amendment to the note at the end of section 59A.

Item 45 inserts a second note after section 59A, which confirms for the reader that the indexation of the clean energy pension rate will have a flow-on effect to the rate at which quarterly clean energy supplement is paid and the amount of seniors supplement that is payable to a person. As the clean energy supplement rate is increased, the increase will flow on to quarterly clean energy supplement and seniors supplement.

Item 46 inserts a new item into the CPI indexation table at the end of subsection 59B(1) which represents the new clean energy pension rate. This item provides for the Consumer Price Index indexation of the rate. The arrangements are similar to the Consumer Price Index indexation arrangements that apply in relation to the maximum basic rate of pension, except that the rounding rule for the clean energy pension rate is consistent with the rounding rule for indexation of the pension supplement.

Item 47 inserts new **subsection 59C(2AC)** to specify that the first indexation of the clean energy pension rate is to take place on 20 September 2013. This item ensures that Consumer Price Index increases are not applied to the clean energy supplement amounts until the first indexation point after the supplements are added to the relevant pensions.

Items 48 and 49 amend subsections 59D(1) and 59EAB(1) respectively, to make it clear that the provisions are subject to new sections 198MA and 198MB. New sections 198MA and 198MB provide for the adjustment of indexation of the clean energy pension rate that will apply on or after 20 March 2013.

Item 50 amends the heading to section 198 to include a reference to clean energy supplements.

The initial **brought forward CPI indexation amount** is 0.007, the expected additional increase in the Consumer Price Index due to carbon pricing, which is being delivered through the clean energy supplement, rather than indexation on the primary veterans' payment.

Item 51 inserts a definition for **brought-forward CPI indexation amount** in subsection 198(1). The term means, in relation to a relevant period, 0.007 less any adjustment made under paragraph 198(5)(c) in relation to an earlier relevant period.

Item 52 adds new **paragraph 198(5)(c)** to subsection 198(5). New paragraph 198(5)(c) provides that, if the relevant period starts on or after 20 March 2013 and the brought-forward CPI indexation amount for the period is more than zero – the brought-forward CPI indexation amount is the number worked out under paragraph (a) or (b) of this subsection adjusted by that amount, but not below one.

Item 53 inserts new **subsections 198(9) and (9A)** to provide for the indexation of rates affected by clean energy supplements. New subsection 198(9) provides that, on each adjustment day on or after 20 September 2013, there are substituted for each of the following rates:

- CES 22(3) rate;
- CES 22(4) rate;
- CES 23(4) rate;
- CES 24(4) rate; and
- 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 198(9A). This result is then rounded up or down to the nearest \$0.10 a fortnight.

New subsection 198(9A) specifies the formula for calculating the CES indexation factor.

Item 54 adds a new **subsection 198(11)** to provide that, 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 is payable because of the grant of pension after that day that has effect before that day and is for a period starting before that day.

This provision will prevent indexation increases from being inappropriately applied to certain backdated amounts of disability or war widow's or war widower's pension.

Item 55 inserts a definition for **brought-forward CPI indexation amount** in subsection 198D(1). The term means, for a year commencing on or after 20 September 2013, 0.007 less any adjustment made under paragraph 198D(5)(d) for an earlier year.

Item 56 inserts new **paragraph 198D(5)(d)** to provide the indexation adjustment arrangements for items 7 to 15 in the table in subsection 27(1).

Item 57 inserts new **sections 198MA and 198MB** to provide for the adjustment of indexation arrangements relating to clean energy household assistance.

New section 198MA sets out some special rules that apply to indexation of specified amounts on or after 20 March 2013.

New subsection 198MA(1) provides that new section 198MA relates to the following payments on or after 20 March 2013:

- a service pension;
- seniors supplement;
- disability and war widow's or war widower's pension;
- Special Rate Disability Pension under the Military Rehabilitation and Compensation Act; and
- compensation under Division 2 of Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act.

Note 1 explains that the rate of Special Rate Disability Pension under the Military Rehabilitation and Compensation Act is set by reference to the rate of special rate disability pension under section 24 of the Veterans' Entitlements Act. This means that indexation of the rate under section 24 also affects the rate of Special Rate Disability Pension under the Military Rehabilitation and Compensation Act.

Note 2 explains that the payment rate under Division 2 of Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act is set by reference to the rate of war widow's or war widower's pension under section 30(1) of the Veterans' Entitlements Act. This means that indexation of the rate under war widow's or war widower's pension also affects the rate of compensation under Division 2 of Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act.

New subsection 198MA(2) provides that an indexation factor that is worked out under section 59D on a day that is on or after 20 March 2013 is for the purposes of the indexation of certain amounts on that day, to be adjusted by the brought-forward CPI indexation amount, but not below one.

Paragraph (b) of new subsection 198MA(2) lists the amounts that are directly or indirectly affected by the subsection. As a result of this, the payments that may be directly or indirectly affected are service pension, seniors supplement, disability pension, war widow's or war widowers pension, Special Rate Disability Pension and compensation under Division 2 of Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act.

Note 1 explains that 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 section 198 provides for indexation of such an amount by reference to the pension MBR factor worked out under section 59LA. It is also because 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 explains that 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 explains that, once the brought-forward CPI indexation amount becomes zero, there will be no further adjustment of the indexation factor.

New subsection 198MA(3) defines the term ***brought-forward CPI indexation amount*** for the purposes of the section as meaning, for a relevant day, 0.007 less any adjustment made under subsection (2) for an earlier day or zero if the brought-forward PBLCI indexation amount for the day under section 198MB is zero.

New section 198MB sets out further special rules that may apply to the indexation of specified amounts on or after 20 March 2013.

New subsection 198MB(1) provides that new section 198MB relates to the following payments on or after 20 March 2013:

- a service pension;
- seniors supplement;
- disability and war widow's or war widower's pension;
- Special Rate Disability Pension under the Military Rehabilitation and Compensation Act; and
- compensation under Division 2 of Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act.

Note 1 explains that the rate of Special Rate Disability Pension under the Military Rehabilitation and Compensation Act is set by reference to the rate of special rate disability pension under section 24 of the Veterans' Entitlements Act. This means that indexation of the rate under section 24 also affects the rate of Special Rate Disability Pension under the Military Rehabilitation and Compensation Act.

Note 2 explains that the payment rate under Division 2 of Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act is set by reference to the rate of war widow's or war widower's pension under section 30(1) of the Veterans' Entitlements Act. This means that indexation of the rate under war widow's or war widower's pension also affects the rate of compensation under Division 2 of Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act.

New subsection 198MB(2) provides some special rules that modify the living cost indexation factor that is worked out under section 59EAB. These rules apply for each indexation day on or after 20 March 2013 and have the effect of adjusting the living cost indexation factor to reflect the fact that the 0.7 per cent expected additional Consumer Price Index impact from carbon pricing will be delivered through the clean energy supplement, rather than indexation of primary veterans' payments. These rules also ensure that primary veterans' payments will not be adjusted, should the relevant PBLCI indexation factor be less than one plus the brought forward PBLCI indexation amount. (The initial brought forward PBLCI indexation amount is 0.007.)

Paragraph (b) of new subsection 198MB(2) lists the amounts that may directly or indirectly be affected by the subsection. As a result of this, the payments that may directly or indirectly be affected are service pension, seniors supplement, disability pension, war widow's or war widowers pension, Special Rate Disability Pension and compensation under Division 2 of Part 2 of Chapter 5 of the Military Rehabilitation and Compensation Act.

Note 1 explains that 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 section 198 provides for indexation of such an amount by reference to the pension MBR factor worked out under section 59LA. It is also because 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 59EAB.

Note 2 explains that an 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 explains that, once the brought-forward CPI indexation amount becomes zero, there will be no further adjustment of the indexation factor.

New subsection 198MB(3) defines the term ***brought-forward PBLCI indexation amount*** for the purposes of the section as meaning, for a relevant day, 0.007 less any adjustment made under subsection (2) for an earlier day or zero if the brought-forward CPI indexation amount for the day under section 198MA is zero.

Item 58 adds new clause 35 at the end of Part 5 of Schedule 5. New clause 35 applies if clause 30 affects the rate at which service pension is payable to a person on or after 20 March 2013.

Schedule 4 – Clean energy payments under the Military Rehabilitation and Compensation Act

Summary

The Clean Energy Household Assistance Package will provide financial assistance to members, former members and their dependants for increases in the cost of living arising from the introduction of a carbon price on 1 July 2012.

Financial assistance will be delivered through increases to payments. The amendments in this Schedule provide for assistance to be provided by a lump sum clean energy advance paid in May to June 2012 before commencement of the carbon pricing scheme, and for ongoing clean energy supplements to be paid in 2013 from the end of the clean energy advance lump sum period.

Background

Clean energy advances

Part of the Schedule makes amendments to provide for a lump sum clean energy advance payable to people before the commencement of the carbon pricing scheme. The clean energy advance period will cover a period of nine or 12 months.

The clean energy advance will start being paid to people from 14 May 2012 as a tax-free payment to the recipients of the certain payments under the Military Rehabilitation and Compensation Act targeted under the Household Assistance Package. The clean energy advance would include:

- the expected Consumer Price Index impact of carbon pricing (0.7 per cent); and
- the additional increase amount above Consumer Price Index (one per cent).

The clean energy advance will be paid in respect of the period from 1 July 2012 until the normal payment indexation arrangements begin to deliver Consumer Price Index increases related to carbon pricing on either 20 March 2013 or 1 July 2013, depending on the payment type of the recipient.

Clean energy supplements

Once normal indexation begins to deliver Consumer Price Index increases in respect of carbon pricing for a particular payment, the additional increase will be paid as clean energy supplements.

It is proposed that ongoing clean energy supplements will start to be paid from the end of the clean energy advance lump sum period. The clean energy supplements would be fortnightly payments indexed by the Consumer Price Index and that will form part of a person's rate of pension. Indexation by the Consumer Price Index would mean that these payments would maintain their value in real terms over time.

It is proposed that recipients be given the option of receiving their supplement as a quarterly payment in arrears rather than a fortnightly payment.

Indexation

The expected additional impact on the Consumer Price Index from carbon pricing (0.7 per cent) will be permanently included in the clean energy supplement (plus an additional one per cent increase). Part 3 contains amendments to the Military Rehabilitation and Compensation Act that provide for the expected impact of the carbon price on indexation (0.7 per cent) to be transferred from indexation on the primary payment of certain Military Rehabilitation and Compensation Act payments to the clean energy supplement. The primary payment will continue to be indexed in accordance with usual indexation arrangements. The clean energy supplement will also be indexed to maintain its real value over time.

The carbon price impacts will start to flow through to primary payment indexation at the 20 March 2013 or 1 July 2013 indexation point.

Explanation of the changes

Part 1 – Clean energy advances

Amendments to the Military Rehabilitation and Compensation Act

Item 1 inserts a definition for ***clean energy advance*** in subsection 5(1). Clean energy advance means an advance described in Division 1 or 3 of Part 5A of Chapter 11.

Item 2 inserts a definition for ***clean energy bonus*** in subsection 5(1). Paragraph (a) of the definition provides that a clean energy bonus under an Act or a scheme is a payment known as a clean energy advance provided for by the Act or scheme.

Paragraph (c) of the definition provides that clean energy bonus is also an increase that is described using the phrase 'clean energy' and that affects the rate of another payment that is provided for by the Act or scheme.

Paragraph (b) of the definition will be inserted by **item 10** of Part 2 of Schedule 4 when it commences on 20 March 2013.

Item 3 inserts a definition for ***clean energy payment*** in subsection 5(1), defined as a clean energy advance.

Item 4 inserts a definition for ***clean energy underlying payment*** in subsection 5(1). Clean energy underlying payment means:

- weekly compensation for permanent impairment payable under Part 2 of Chapter 4 or a lump sum payment of compensation for permanent impairment paid or payable under Part 2 of Chapter 4; or
- Special Rate Disability Pension; or
- weekly compensation payable to a wholly dependent partner under Division 2 of Part 2 of Chapter 5 or a lump sum payment of compensation paid or payable to a wholly dependent partner under Division 2 of Part 2 of Chapter 5.

Item 5 inserts a reference to clean energy payments in the definition of ***compensation*** in subsection 5(1).

Item 6 inserts a new **section 345A** in Chapter 8 so that the existing review provisions can apply to a clean energy payment.

New subsection 345A(1) states that the modifications in section 345A apply to Chapter 8 in relation to a decision by the Military Rehabilitation and Compensation Commission that is only about a person's eligibility to a clean energy payment.

New subsection 345A(2) provides that Chapter 8 applies to a person in relation to their entitlement to a clean energy payment in the same way as it applies to a person who is a claimant. This modification is necessary because no claim is required for a clean energy advance or a clean energy supplement, so the person would otherwise not be a claimant and the existing review provisions would not apply to the person in relation to their entitlement to a clean energy payment. However, the provisions listed in paragraphs 345A(2)(a) to (g) are not affected by the modification.

Item 7 inserts a reference to section 424K in subsection 415(2). This means that the provisions in section 415 relating to the recovery of overpayments will not apply as the recovery of overpayments of clean energy payment is provided for separately in new section 424K.

Item 8 amends note 2 after subsection 415(2) to explain that Chapter 6 and Part 5A have their own recovery provisions and refers to section 315, 316, 317 and 424K.

Item 9 inserts a new Part 5A into the Military Rehabilitation and Compensation Act. New Part 5A creates two new payments, the clean energy advance and the clean energy supplement. The new Part also sets out the eligibility, payability and rate rules for both the clean energy advance and the clean energy supplement.

Division 1 – Eligibility for clean energy advances

New **section 424A** sets out the eligibility rules for a clean energy advance for a person in receipt of permanent impairment compensation. New subsection 424A(1) provides that the Military Rehabilitation and Compensation Commission may, on a day (the **test day**) between 14 May 2012 and 30 June 2012 (dates inclusive), determine that the person is eligible for a clean energy advance for the period 1 July 2012 to 30 June 2013 in respect of their permanent impairment compensation if the person is in Australia on the test day and meets the conditions specified in subsection (3) for the test day.

New subsection 424A(2) provides that the Military Rehabilitation and Compensation Commission may determine that a person is eligible for a clean energy advance for the period to 30 June 2013 in respect of their permanent impairment compensation if the person is in Australia on the test day and meets the conditions specified in subsection (3) for the test day. This determination would be made on or after 1 July 2012.

A determination under 424A(2) must specify the first day on which the person meets the condition in subsection 424A(3) and is in Australia, disregarding any temporary absence that is less than 13 weeks.

New subsection 424A(3) provides that a condition for determining eligibility is that either or both of new paragraphs 424A(3)(a) and (b) apply.

New paragraph 424A(3)(a) specifies that, to be eligible for a clean energy advance in respect of permanent impairment compensation, the person must, on the test day, either be receiving permanent impairment compensation or would be receiving permanent impairment compensation if not for paragraph 398(3)(b) of the Military Rehabilitation and Compensation Act and subsection 13(4) of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*.

New paragraph 424A(3)(b) specifies that, to be eligible for a clean energy advance in respect of permanent impairment compensation, the person must, before the test day, have received a lump sum payment of permanent impairment compensation.

New subsection 424A(4) means that the Military Rehabilitation and Compensation Commission may only make one determination about an individual's eligibility under this section. That is, the Military Rehabilitation and Compensation Commission cannot make a determination that a person is eligible under both subsections 424A(1) and (2).

New **section 424B** sets out the eligibility rules for a clean energy advance for a person in receipt of Special Rate Disability Pension. New subsection 424B(1) provides that the Military Rehabilitation and Compensation Commission may, on a day (the **test day**) between 14 May 2012 and 30 June 2012 (dates inclusive), determine that the person is eligible for a clean energy advance for the period 1 July 2012 to 19 March 2013 in respect of their Special Rate Disability Pension if the person is in Australia on the test day and meets the conditions specified in subsection (3) for the test day.

New subsection 424B(2) provides that the Military Rehabilitation and Compensation Commission may determine that a person is eligible for a clean energy advance in respect of their Special Rate Disability Pension if they meet the conditions specified in subsection (3) for a test day in the period starting on 1 July 2012 and ending on 19 March 2013 and if the person is in Australia on the test day. This determination would be made on or after 1 July 2012.

A determination under 424B(2) must specify the first day on which the person meets the condition in subsection 424B(3) and is in Australia, disregarding any temporary absence that is less than 13 weeks.

New subsection 24B(3) specifies that, to be eligible for a clean energy advance in respect of Special Rate Disability Pension, the person must, on the test day, either be receiving Special Rate Disability Pension or would be receiving Special Rate Disability Pension if not for section 204 or paragraph 398(3)(b). Under section 204, Special Rate Disability Pension may be reduced, including to nil, by compensation from a source other than the Military Rehabilitation and Compensation Act or superannuation.

New subsection 424B(4) means that the Military Rehabilitation and Compensation Commission may only make one determination about an individual's eligibility under this section. That is, the Military Rehabilitation and Compensation Commission cannot make a determination that a person is eligible under both subsections 424B(1) and (2).

New **section 424C** sets out the eligibility rules for a clean energy advance for a person in receipt of compensation under Division 2 of Part 2 of Chapter 5 – compensation for the wholly dependent partner of a deceased member. New subsection 424C(1) provides that the Military Rehabilitation and Compensation Commission may, on a day (the **test day**) between 14 May 2012 and 30 June 2012 (dates inclusive), determine that the person is eligible for a clean energy advance for the period 1 July 2012 to 19 March 2013 in respect of compensation under Division 2 of Part 2 of Chapter 5 if the person is in Australia on the test day and meets the conditions specified in subsection (3) for the test day.

New subsection 424C(2) provides that the Military Rehabilitation and Compensation Commission may determine that a person is eligible for a clean energy advance for the period starting on 1 July 2012 and ending on 19 March 2013 in respect of compensation under Division 2 of Part 2 of Chapter 5 if the person is in Australia on the test day and meets the conditions specified in subsection (3) for the test day. This determination would be made on or after 1 July 2012.

A determination under 424C(2) must specify the first day on which the person meets the condition in subsection 424C(3) and is in Australia, disregarding any temporary absence that is less than 13 weeks.

New paragraph 424C(3)(a) specifies that, to be eligible for a clean energy advance in respect of compensation under Division 2 of Part 2 of Chapter 5, the person must, on the test day, either be receiving compensation under Division 2 of Part 2 of Chapter 5 or would be receiving compensation under Division 2 of Part 2 of Chapter 5 if not for paragraph 398(3)(b).

New paragraph 424C(3)(b) specifies that, to be eligible for a clean energy advance in respect of compensation under Division 2 of Part 2 of Chapter 5, the person must, before the test day, have received a lump sum payment of compensation under Division 2 of Part 2 of Chapter 5 and that subsection 388(6) has not applied to the person before the test day.

New subsection 424C(4) means that the Military Rehabilitation and Compensation Commission may only make one determination about an individual's eligibility under this section. That is, the Military Rehabilitation and Compensation Commission cannot make a determination that a person is eligible under both subsections 424C(1) and (2).

New **section 424D** provides that a person may be paid a clean energy advance for each clean energy underlying payment for which the Military Rehabilitation and Compensation Commission determines that the person is eligible for a clean energy advance.

A note at the end of the section explains that the section operates subject to section 424L which provides for multiple entitlement exclusions.

Division 2 – Amount of clean energy advance

New **section 424E** sets out how and when an amount of clean energy advance is to be calculated for a person.

New subsection 424E(1) provides that, when the Military Rehabilitation and Compensation Commission determines that a person is eligible for a clean energy advance (the **decision day**), the Military Rehabilitation and Compensation Commission must also determine the amount of clean energy advance that is payable to the person.

The note at the end of new subsection 424E(1) explains that the clean energy advance will be paid in a single lump sum as soon as is reasonably practicable after the decision day.

New subsection 424E(2) provides that the amount of the clean energy advance will be the **clean energy advance daily rate** multiplied by the **number of advance days** rounded up to the nearest multiple of \$10. Clean energy advance daily rate means the rate as worked out for the person's circumstances under new section 424F and the number of advance days is as worked out under new section 424G.

New **section 424F** sets out how to calculate a person's clean energy daily rate. A person's clean energy advance daily rate will depend on the type of payment that the person receives.

New subsection 424F(1) sets out the formula for calculating the clean energy advance daily rate for a person whose clean energy underlying payment is a permanent impairment payment. For these payments, the clean energy advance daily rate is the same as that for general rate disability pension under subsection 22(3) of the Veterans' Entitlements Act worked out under new subsection 61D(1) of the Veterans' Entitlements Act.

New subsection 424F(2) sets out the formula for calculating the clean energy advance daily rate for a person whose clean energy underlying payment is Special Rate Disability Pension. For these payments, the clean energy advance daily rate is the same as that for special rate disability pension under subsection 24(4) of the Veterans' Entitlements Act worked out under subsection 61D(1) of the Veterans' Entitlements Act.

New subsection 424F(3) sets out the formula for calculating the clean energy advance daily rate for a person whose clean energy underlying payment is a payment under Division 2 of Part 2 of Chapter 5. For these payments, the clean energy advance daily rate is the same as that for war widow's or war widower's pension under subsection 30(1) of the Veterans' Entitlements Act worked out under subsection 61D(4) of the Veterans' Entitlements Act.

New **section 424G** sets out how the number of advance days is worked out to enable the clean energy advance to be calculated. The number of advance days is the number of days in the person's clean energy advance period to be calculated starting on either:

- 1 July 2012; or
- the day specified in a determination under subsection 424A(2), 424B(2) or 424C(2) that the person is eligible;

whichever is applicable, and ending on either:

- 19 March 2013 if the clean energy underlying payment is Special Rate Disability Pension or compensation payable under Division 2 of Part 2 of Chapter 5; or
- 30 June 2013 if the clean energy underlying payment is a permanent impairment payment.

Division 3 – Top-up payments of clean energy advance

This Division provides for top-up payments of clean energy advance to people where they have a change of circumstances that would result in the person not being appropriately compensated for the anticipated increased energy costs.

The operation of this Division will mean that, if the person's circumstances change during the clean energy advance period, resulting in the person starting to receive a different clean energy underlying payment that is paid at a higher rate than their previous clean energy underlying payment, then, where the person is not able to receive the entire advance amount because of a multiple entitlement exclusion, the person will receive an additional amount of clean energy advance as a top-up that is equivalent to the difference between the higher and lower advance amounts for the number of days remaining in the advance period.

This may happen more than once.

Due to the numerous and complex interactions between the relevant payments under the Social Security Act, Veterans' Entitlements Act and the Military Rehabilitation and Compensation Act, the circumstances under which top-ups will be payable will be determined by legislative instrument. This will reduce the complexity of the legislation, and will optimise the ability of Centrelink and the Department of Veterans' Affairs to provide timely top-up payments for a wide range of circumstances. The legislative instrument will be made in writing, by the Military Rehabilitation and Compensation Commission, and will be subject to disallowance by the Parliament.

Subsection (1) of new **section 424H** provides that the Military Rehabilitation and Compensation Commission may determine, by legislative instrument, that persons who have been paid a clean energy advance (the ***original payment*** for the ***original underlying payment***) and whose circumstances change, are eligible for a further payment of clean energy advance. The instrument will further specify the time period within which the change of circumstances must occur, the type of circumstance change and the method of calculating the additional clean energy advance amount.

New subsection 424H(2) enables the Military Rehabilitation and Compensation Commission to make a legislative instrument under subsection 424H(1) for a change in circumstances that involves persons becoming eligible for the original underlying payment for a longer period.

New subsection 424H(3) enables the Military Rehabilitation and Compensation Commission to make a legislative instrument under subsection 424H(1) for a change in circumstances that involves the person beginning to receive a different clean energy underlying payment.

New paragraph 424H(4)(a) provides, for the purposes of subsection (3), that a **multiple entitlement exclusion** is an instrument providing that a person is not entitled to a clean energy bonus because of the person's entitlement to or receipt of the original payment or the original payment or the original underlying payment.

A multiple entitlement exclusion is also an instrument that is made under section 65A of the Veterans' Entitlements Act, section 424L of the Military Rehabilitation and Compensation Act, section 918 of the Social Security Act or an instrument establishing entitlements to a clean energy bonus under a scheme.

New subsection 424H(5) enables an instrument under section 424H(1) to be made in relation to different periods of time for changes in circumstances and different ways of working out further amounts of clean energy advance.

Division 4 – Payment of clean energy advance

Subsection (1) of new **section 424J** requires a clean energy advance to be paid in a single lump sum. The amount is to be paid on the earliest day that the Commission considers it reasonably practicable for the amount to be paid.

New subsection 424J(2) provides that a clean energy advance is not payable if the Commission is aware the person has died.

Division 5 – Debts

Subsection (1) of new **section 424K** provides that a clean energy advance is a debt due to the Commonwealth if the payment was made because the recipient knowingly made a false or misleading statement or knowingly provided false information.

The note at the end of the section explains the distinction between a determination that directly and indirectly affects payability or an amount.

New subsections 424K(2) and (3) provide that an advance and an amount by which an advance would have been reduced can be debts due to the Commonwealth.

New subsection 424K(4) provides that a debt under section 424K is recoverable in a court of competent jurisdiction.

New subsection 424K(5) provides that a debt under this section may be deducted from an amount that is payable to or for the benefit of the person under the Military Rehabilitation and Compensation Act.

Division 6 – Multiple entitlement exclusions

New **section 424L** provides for multiple entitlement exclusions to prevent inappropriate double payments of clean energy advances.

New subsection 424L(1) enables the Military Rehabilitation and Compensation Commission to make a legislative instrument to determine the circumstances under which persons are not entitled to a clean energy bonus.

A note at the end of the subsection explains that the term clean energy bonus is defined in subsection 5(1).

New subsection 424L(2) requires that the circumstances, for the purposes of the legislative instrument in new subsection 424L(1), must relate to a person's entitlement to, or receipt of, one or more of the following:

- another clean energy bonus under the Military Rehabilitation and Compensation Act; or
- a clean energy bonus under the Veterans' Entitlements Act; or
- a clean energy bonus under the Social Security Act; or
- a clean energy bonus under a scheme (however described) whether or not the scheme is provided for by or under an Act.

As this section will involve multiple entitlement exclusions within and between a number of different Acts and schemes, the term 'entitlement to' refers to a variety of concepts relating to a payment, amount or rate that may be used in other Acts or schemes including, but not limited to, 'qualification for', 'eligibility for' and 'the Commonwealth being liable to pay'.

New subsection 424L(3) provides that an instrument made under subsection (1) has effect according to its terms and despite any other provision of this Act. This means that, if a person may otherwise appear to be eligible for a payment, a multiple entitlement exclusion instrument precludes that eligibility.

Part 2 – Clean energy supplements

Division 1 – Amendments commencing on 20 March 2013

Amendments to the Military Rehabilitation and Compensation Act

Item 10 inserts paragraph (b) into the definition of ***clean energy bonus*** in subsection 5(1). Paragraph (b) defines ***clean energy bonus*** to include a payment known as a clean energy supplement or a quarterly clean energy supplement.

Item 11 inserts a reference to ***clean energy supplement*** into the definition ***clean energy payment*** in subsection 5(1).

Item 12 defines ***clean energy supplement*** in subsection 5(1) to mean clean energy supplement payable under section 209A or 238A.

The clean energy supplement is an amount that is added to a person's relevant rate of pension.

Item 13 inserts a reference to clean energy supplement into subsection 204(2) so the amount will not be used to reduce an amount of Special Rate Disability Pension.

Item 14 inserts new **section 209A** to provide for the payment of clean energy supplement to recipients of Special Rate Disability Pension.

New subsection 209A(1) provides that a person is eligible for clean energy supplement for a day if the following requirements are met:

- the person receives Special Rate Disability Pension for the day; or
- the person would have received Special Rate Disability Pension for the day if not for section 204 and paragraph 398(3)(b); and
- the person is residing in Australia on the day; and
- on the day, either the person is in Australia or is temporarily absent for a period not exceeding 13 weeks.

The note to new subsection 209A(1) explains that new section 424L (multiple entitlement exclusions) may affect a person's entitlement to the clean energy supplement.

New subsection 209A(2) specifies that the daily rate of clean energy supplement in respect of Special Rate Disability Pension is 1/14 of the CES 24(4) rate under the Veterans' Entitlements Act.

Item 15 inserts new **section 238A** to provide for the payment of clean energy supplement to recipients of compensation under Division 2 of Part 2 of Chapter 5.

New subsection 238A(1) provides that a person is eligible for clean energy supplement for a day if the following requirements are met:

- the person meets the condition in subsection 238A(2) for the day; and
- the person is residing in Australia on the day; and
- on the day, either the person is in Australia or is temporarily absent for a period not exceeding 13 weeks.

The note to new subsection 238A(1) explains that new section 424L (multiple entitlement exclusions) may affect a person's entitlement to the clean energy supplement.

New subsection 238A(2) specifies that the condition to be met in accordance with paragraph 238A(1)(a) is that either or both of the following apply:

- weekly compensation under Division 2 of Part 2 of Chapter 5:
 - is payable to the person for the day; or
 - would be payable to the person for the day if not for paragraph 398(3)(b) applying to the person for the day;
- before the day, the person received lump sum compensation under this Division and subsection 388(6) has not applied to the person before the test day.

New subsection 238A(3) specifies that the daily rate of clean energy supplement in respect of compensation payable under Division 2 of Part 2 of Chapter 5 is 1/14 of the CES 30(1) rate under the Veterans' Entitlements Act.

Item 16 inserts new **subsection 430(3AA)** to provide that, in specifying intervals under subsection 430(1) for making payments of clean energy supplement, the Military Rehabilitation and Compensation Commission may take account of the person's choice to be paid clean energy supplement quarterly. However, this does not limit the Military Rehabilitation and Compensation Commission's power under subsection 430(1).

Division 2 – Amendments commencing on 1 July 2013

Amendments to the Military Rehabilitation and Compensation Act

Item 17 makes a technical amendment to the definition of ***clean energy supplement*** in subsection 5(1).

Item 18 adds new **section 83A** to provide for the payment of clean energy supplement to recipients of permanent impairment payments.

New subsection 83A(1) provides that a person is eligible for clean energy supplement for a day if the following requirements are met:

- the person meets the condition in subsection 83A(2) for the day; and
- the person is residing in Australia on the day; and
- on the day, either the person is in Australia or is temporarily absent for a period not exceeding 13 weeks.

The note to new subsection 83A(1) explains that new section 424L (multiple entitlement exclusions) may affect a person's entitlement to the clean energy supplement.

New subsection 83A(2) specifies that one condition to be met in accordance with paragraph 83A(1)(a) is that either or both of the following apply:

- weekly compensation under this Part (except this section):
 - is payable to the person for the day; or
 - would be payable to the person for the day if not for paragraph 398(3)(b) of the Military Rehabilitation and Compensation Act and subsection 13(4) of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*;
- before the day, the person received lump sum compensation under this Part.

New subsection 83A(3) specifies that the daily rate of clean energy supplement in respect of permanent impairment compensation is 1/14 of the CES 22(3) rate under the Veterans' Entitlements Act.

A note at the end of the subsection explains that section 404 provides for the indexation of the daily rate for each indexation year starting on or after 1 July 2014.

Item 19 makes a technical amendment to the heading of section 404.

Item 20 repeals subsection 404(2) and substitutes new **subsections 404(1A) and (2)**.

New subsection 404(1A) provides that section 404 also applies to the daily rate of clean energy supplement for permanent impairment for indexation years commencing on and after 1 July 2014. The daily rate of supplement for permanent impairment is specified in subsection 83A(4).

New subsection 404(2) provides that the indexation formula is to apply to both a dollar amount or a rate mentioned in section 404. This is to include the clean energy supplement amount that is expressed as a daily rate.

Part 3 – Indexation

Amendments to the Military Rehabilitation and Compensation Act

Item 21 inserts new **subsection 404(5A)**. This new subsection provides for the indexation adjustment to the rate of permanent impairment payment specified in subsection 74(1). The additional Consumer Price Index impact of the carbon price is expected to be 0.7 per cent. The clean energy supplement will comprise the additional rise in the Consumer Price Index caused by the introduction of the carbon price (0.7 per cent), together with a further one per cent increase. The expected impact of the carbon price on indexation (0.7 per cent) will be delivered through the clean energy supplement, rather than indexation of the primary social security payment. Regular indexation of the primary payment will continue to apply, adjusted by the equivalent amount now being delivered through the clean energy supplement.

New subsection 404(5A) provides that, for the purposes of subsection 74(1), in an indexation year starting on or after 1 July 2013, the indexation factor is adjusted by the brought-forward CPI indexation amount for the year, but not below one.

Item 22 inserts a definition for ***brought-forward CPI indexation amount*** in subsection 404(6). The ***brought-forward CPI indexation amount*** is defined for an indexation year starting on or after 1 July 2013 as 0.007 less any adjustment made under subsection (5A) for an earlier indexation year.

Schedule 5 – Clean energy payments under the Farm Household Support Act

Summary

This Schedule provides for a lump sum clean energy advance to be paid to recipients of the exceptional circumstances relief payment under the Farm Household Support Act.

Background

As provided elsewhere in this Bill, a lump sum clean energy advance equivalent to 1.7 per cent increase in the payment will be paid from May to June 2012 to eligible social security recipients before commencement of the carbon pricing scheme.

Recipients of the exceptional circumstances relief payment under the Farm Household Support Act will also receive the clean energy advance. However, because these payments are not a qualifying social security benefit under the Social Security Act, amendments to the Farm Household Support Act provide the appropriate mechanism to allow recipients access to the advances.

The Farm Household Support Act regulates the provision of income support to qualifying recipients. Centrelink administers the payments delivered under that Act and, where applicable, its operation mirrors the provisions of the Social Security Act and the Social Security Administration Act. These amendments provide for the payment of the clean energy advance in a manner similar to the arrangements for other social security benefits, as defined in section 23 of the Social Security Act.

Explanation of the changes

Amendments to the Farm Household Support Act

Items 1 to 8 amend subsection 3(1) of the Farm Household Support Act, inserting definitions to ensure that they have the same meaning as in the Social Security Act.

Item 9 amends subsection 3(2) to insert a definition of ***advance qualification day***, to mean the day a person qualifies for the clean energy advance, or the day on which the determination is made.

Item 10 amends subsection 3(2) to insert a definition of ***clean energy advance***, to mean a clean energy advance as described in new section 8G, 8H or 24F of the Farm Household Support Act.

Item 11 amends subsection 3(2) to insert a definition of ***clean energy advance daily rate***, to mean the rate as defined in new section 24D of the Farm Household Support Act.

Item 12 amends subsection 3(2) to insert a definition of ***clean energy advance period***, to mean the period for which a person qualifies for the clean energy advance under new section 8G or new subsection 8H(1), (2) or (3).

Item 13 amends subsection 3(2) to insert a definition of ***number of advance days***, to mean the same as in new section 24E. The number of days is the number of days in the recipient's clean energy advance period that are on or after 1 July 2012, or on or after the advance qualification day.

Item 14 amends subsection 3(2) to insert a definition of ***pension age***, so it has the same meaning as in the Social Security Act, 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.

Item 15 amends subsection 3(2) to insert a definition of ***youth allowance age*** so it has the same meaning as in Part 2.11 of the Social Security Act.

Item 16 amends subsection 3(2) to insert a definition of ***youth disability supplement***, so it has the same meaning as in Module D of the Youth Allowance Rate Calculator in the Social Security Act.

Item 17 repeals the heading to Part 2, substituting 'Part 2 – Qualification for and payability of certain support and payments'. This provision reduces complexity within the legislation.

Item 18 inserts new Division 1C of Part 2. This new Division sets out, under new section 8G, the qualification periods for individuals not of youth allowance age, and, under new section 8H, for individuals of youth allowance age. These provisions allow the Secretary to make a determination regarding an individual's qualification for the advance.

New Division 1C also contains new section 8J, which limits the number of advances for which an individual may qualify. If an individual is not of youth allowance age, they may qualify for one advance under new section 8G. If an individual is of youth allowance age, the Secretary may determine that they qualify for one advance under new subsection 8H(1) or (2), and a second advance under new subsection 8H(3).

Item 19 inserts a note after subsection 14(1) in Part 3, stating that, where an individual is already in receipt of a specified payment, they are not required to lodge a claim to receive the clean energy advance.

Item 20 inserts new Part 4A. The provisions in the new Part determine the amount of clean energy advance payable and ensure that the calculation of rates is the same as for other social security benefits, as defined in section 23 of the Social Security Act.

Item 21 repeals the heading to Part 5, substituting 'Part 5 – Payment of certain support and payments'. This provision reduces complexity within the legislation.

Item 22 inserts a new **subsection 25(4)**, to specify when the clean energy advance will be payable where an individual qualifies for the advance under new section 8G, 8H or 24F, and to confirm that the clean energy advance will not be payable where the Secretary is aware that a person has died.

Item 23 inserts new section 26C, to specify how the clean energy advance will be paid to an individual. A note mentions that, should a debt be identified under section 56 of the Farm Household Support Act, the amount of advance payable may be reduced for the purpose of recovering the debt.

Item 24 inserts a reference in paragraph 54(1)(c) to the clean energy advance, to authorise the Secretary to request information from an individual to support their qualification for the advance.

Item 25 repeals the heading for section 55, substituting the heading 'Certain support and payments to be inalienable'. This provision reduces complexity within the legislation.

Item 26 inserts into section 55 a reference to the clean energy advances, to ensure that these payments are not transferable, whether by way of, or in consequence of, sale, assignment, execution, charge, bankruptcy or otherwise.

Item 27 adds new **subsection 56(4)**. This provision allows for some, or all, of the amount paid as a clean energy advance, to be recovered by the Commonwealth should an overpayment to an individual occur.

Item 28 inserts a reference to the clean energy advance in the note to section 56, to ensure that a debt due to the Commonwealth in respect of the clean energy advance may be recovered in accordance with provisions under sections 1227A and 1231A of the Social Security Act.

Item 29 inserts into subsection 57(3) a reference to the clean energy advance, to allow the clean energy advance to be paid out of the Consolidated Revenue Fund, and to be appropriated accordingly.

Amendments to the Social Security Act

Item 30 repeals the heading to section s1227A of the Social Security Act, substituting the heading 'Certain debts arising under the Farm Household Support Act'. This provision reduces complexity within the legislation.

Item 31 inserts into subsection 1227A(1A) a reference to the clean energy advance, so that a debt that is recoverable under section 56 of the Farm Household Support Act in respect of clean energy advance is also a debt that is due to, and recoverable by, the Commonwealth under the Social Security Act.

Item 32 inserts new **paragraph 1227A(2)(aa)**, to allow for a deduction to occur from the clean energy advance, should the qualifying individual be liable to pay a debt due to the Commonwealth.

Item 33 inserts into subsection 1227A(3) a reference to the clean energy advance, to give it the same meaning as in the Farm Household Support Act, and to allow a reduction in the rate of advance to recover a debt in respect of an exceptional circumstances relief payment or farm help income support payment.

Item 34 repeals the heading to section 1231A, substituting the heading 'Deductions from debtor's farm household payments or support'.

Item 35 amends paragraph 1231A(1)(b) to provide for how a deduction is made from a clean energy advance to recover debt due to the Commonwealth under section 56 of the Farm Household Support Act.

Item 36 amends paragraph 1231A(2) to provide for the Secretary to decide the amount by which the clean energy advance is to be reduced, to recover a debt due to the Commonwealth under section 56 of the Farm Household Support Act.

Item 37 adds new subsection 1231A(5), to give the definition of clean energy advance the same meaning as in the Farm Household Support Act, and to treat a lump sum payment of the advance as a single instalment of that advance.

Schedule 6 – Low income supplement

Summary

This Schedule provides for an annual lump sum low income supplement to be paid to independent adults in low-income households who are not adequately assisted through the tax reform package and the household assistance measures set out in this Bill.

Background

This Schedule introduces a new low income supplement, to be paid to individuals who meet residence, income and tax requirements and who can show that they have not received adequate assistance through the tax system or the other measures set out in this Bill. The amount of the payment is to be \$300 for each qualifying individual and is limited to one payment per year.

The low income supplement is to be paid, as an annual tax-exempt lump sum, to adults in low-income households, based on the household's circumstances from the previous income year. The low income supplement will become payable to qualifying individuals from 1 July 2012, with reference to the person's income in the previous financial year. The reason for using the person's income from the previous financial year is to facilitate the timely payment of the low income supplement to people as they need it to compensate them for the effect of the clean energy measures. For example, a person's claim for the low income supplement for the 2012-13 income year will be assessed with reference to the claimant's income for the 2011-12 financial year.

A person must make a new claim for the low income supplement each financial year, and only during the relevant financial year. That is, a claim for the 2012-13 financial year must be lodged between 1 July 2012 and 30 June 2013, and a claim for the 2013-14 financial year must be lodged between 1 July 2013 and 30 June 2014. In addition, claims for the low income supplement in respect of more than one financial year cannot be rolled into one claim. Members of a couple cannot make a combined claim, and will have to make a claim for the low income supplement separately. The person, at the time the claim is lodged, must be an Australian resident or a special category visa holder residing in Australia and not subject to a newly arrived resident's waiting period. In addition, a person must be in Australia at the time of making a claim.

Qualification

Qualification for the low income supplement will require the person to satisfy all of the following criteria – the income requirement, the excluded payment requirement, the tax requirement, and the remaining requirements.

The purpose of the income requirement is to identify potential candidates for the low income supplement who meet the income threshold through an assessment of their adjusted taxable income. The excluded payment requirement identifies whether a claimant has received some government assistance, either through one of the other clean energy payments or through other welfare payments. The remaining requirements set out a number of other matters, such as residency, that must be met to qualify for the low income supplement.

Qualification under the tax requirement for the 2012-13 financial year is to be based on an assessment of whether an individual had a tax liability (that is, tax paid excluding the Medicare levy, Medicare levy surcharge and the one-year flood and cyclone reconstruction levy) in the 2011-12 financial year of less than \$300. If an individual had a tax liability of less than \$300 in 2011-12, that person is assumed to be not able to receive adequate assistance through the tax reform package and, therefore, meets the tax requirement for the low income supplement. A claimant's tax liability for assessment in 2012-13 is easily identifiable on the claimant's 2011-12 tax assessment.

Due to the tax reform package, there will be an increase in the statutory tax-free threshold, and the maximum value of the low income tax offset will be decreased with effect from the 2012-13 financial year. The net effect of these changes will be an increase in the effective tax-free threshold. This means for low income supplement claims made in 2013-14 and subsequent years, assessing whether a person has met the tax requirement will need to involve a notional assessment of how the person's tax liability compares to that from the tax system in 2011-12.

A person whose taxable income is less than \$18,000 will meet the tax requirement of the low income supplement as the person will have received less than \$300 in assistance through the tax reform package. Generally, a person who meets the other qualification requirement with taxable income equal to or above \$18,000 will have received assistance equal to or above \$300.

There are, however, a broad range of tax offsets in the tax system that mean a person can have taxable income higher than \$18,000, yet have a tax liability of less than \$300. If all offsets a person is entitled to are not accounted for, then the level of tax that would have been paid by a person based on the 2011-12 income year would be overestimated, which would in turn overestimate the level of tax assistance a person would receive under the changes to the tax system.

If the claimant's taxable income is above the statutory tax-free threshold for the relevant income year, assessment on this comprehensive basis requires the claimant to have lodged a tax return and have a tax notice of assessment for the relevant income year, and will involve Centrelink using the amount of the person's eligible tax offsets to calculate whether the tax requirement is met. If the person's taxable income is below the statutory tax-free threshold, the person may choose to provide an estimate of their taxable income and any eligible tax offsets. Where an estimate is not allowed, Centrelink will need to request information from the Australian Taxation Office on the claimant's eligible tax offsets in the previous income year, exclusive of the low income tax offset.

The amendments made by this Schedule commence on 14 May 2012, but payments will only be made from 1 July 2012. Claims for the low income supplement will be accepted from 1 July 2012.

Explanation of the changes

Part 1 – Amendment of the social security law

Amendments to the Social Security Act

Item 1 inserts into the definition of ***clean energy payment***, inserted by Schedule 1, reference to the low income supplement.

Item 2 inserts the definition of ***low income supplement*** into subsection 23(1) of the Social Security Act.

Item 3 adds new Division 3 at the end of new Part 2.18A, inserted by Schedule 1. New **section 916A** sets out the definitions of ***income tax return*** and ***tax-free threshold***, which are relevant to new Division 3.

New **section 916B** deals with the qualification requirements for the low income supplement. Qualification is to be based on the person's circumstances from the previous financial year. To qualify for a low income supplement for an income year, the person must satisfy all the requirements set out in new paragraph 916B(a) for the previous income year. That is, the person must satisfy the income requirement in new section 916C, the excluded payment requirement in new section 916D, the tax requirement in new section 916E, and the remaining requirements in new section 916F.

New paragraph 916B(b) requires a person to lodge a claim for the low income supplement, and new paragraph 916B(c) provides that, at the time of lodging the claim for the low income supplement, the person must not be in gaol or a psychiatric institution. For the purposes of the low income supplement, new paragraph 916B(c) overrides section 35 of the Social Security Administration Act (which allows a person in gaol or a psychiatric institution to make a claim in certain limited circumstances).

In addition, at the time the claim is lodged, the person must be an Australian resident and in Australia (see section 29 of the Social Security Administration Act) or a special category visa holder residing in Australia (see section 31A of the Social Security Administration Act).

The note at the end of new section 916B points the reader to new section 27C of the Social Security Administration Act, which provides a time limit in which claims for the low income supplement can be made.

New **section 916C** sets out the income thresholds that will apply for people claiming the low income supplement. New subsection 916C(1) states that a person will satisfy the income requirement for an income year if the person's qualifying income for the year is less than:

- \$30,000 for singles without a dependent child;
- \$45,000 for couples without a dependent child;
- \$60,000 for singles with a dependent child;
- \$60,000 for couples with a dependent child.

New subsection 916C(2) sets out a person's **qualifying income** for an income year:

- (a) if the person is a member of a couple at the time of claim, the sum of the person's and the person's partner's accepted adjusted taxable income for the income year; or
- (b) otherwise – the person's accepted adjusted taxable income for the income year.

New subsection 916C(3) provides that 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, which relate to the adjusted taxable income of members, or certain former members, of a couple) for the income year; and
- (b) any superannuation income stream benefits received by the person in relation to the income year to the extent that they are non-assessable non-exempt income within the meaning of the *Income Tax Assessment Act 1997*.

The note at the end of new subsection 916C(3) makes the reader aware that a person's adjusted taxable income is made up of several income components (see Schedule 3 to the Family Assistance Act).

New subsection 916C(4) sets out that 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 new subsection 916C(5) an estimate of the component; or
- (b) the Secretary accepts under new subsection 916C(6) an estimate of the person's adjusted taxable income for the income year.

The purpose of this subsection is to enable the Secretary to use information from the Commissioner of Taxation that the Commissioner has supplied to the Secretary to determine whether the claimant meets the income requirement. However, if the Commissioner does not hold any information in relation to components of a person's adjusted taxable income, the Secretary can accept an estimate from the person. This may occur where a person is not required to lodge an income tax return, for example, because their taxable income is below the tax-free threshold.

The note after new subsection 916(4) makes it clear that, for the purposes of new paragraph 916(4)(a), a person's taxable income is a component of the person's adjusted taxable income (see Schedule 3 to the Family Assistance Act).

New subsection 916C(5) provides that the Secretary may, for the purposes of new subparagraph 916C(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.

New subsection 916C(6) provides that the Secretary may, for the purposes of new paragraph 916C(4)(b), accept an estimate of a person's adjusted taxable income for the income year if:

- (a) the person's estimated taxable income is not more than the tax-free threshold for the income year; and

- (b) the Secretary is satisfied on each of these points: the estimate of each of the components of the person's adjusted taxable income is reasonable; the Commissioner of Taxation has not made an assessment of the person's taxable income for the income year; and the person has not lodged, and is not required to lodge, a tax return. With respect to an estimate of a person's adjusted taxable income, a person must provide an estimate of each component of their adjusted taxable income. To accept the estimate, the Secretary must also be satisfied that the person has not lodged, and is not required to lodge under tax law, an income tax return for the income year. If a person has lodged an income tax return, even if not required under the tax law, paragraph 916(4)(a) will apply to the person. That is, the Secretary will use information obtained by the Commissioner of Taxation concerning components of adjusted taxable income and, to the extent that the Commissioner does not hold information concerning a component, an estimate may be accepted.

New subsection 916C(7) provides a definition of the term ***claim time*** used in this section. It is intended that, for the purposes of assessing whether a person satisfies the income requirement, information about the person's partner's adjusted taxable income (or estimate of the person's partner's adjusted taxable income) will relate to information about the person's partner at the time the claim is made.

Example

On 1 November 2012, Mary makes a claim for the low income supplement based on her circumstances for the 2011-12 income year. She is currently a member of a couple, although she and her partner, John, only moved in together in August 2012. However, for the purposes of assessing whether Mary meets the income requirements, details about John's adjusted taxable income for the 2011-12 financial year will be taken into consideration.

New **section 916D** sets out the excluded payment requirements that must be satisfied for a claimant to qualify for the low income supplement. New subsection 916D(1) provides that a person satisfies this 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 (in other words, the person would satisfy the excluded payment requirement if they did not receive a relevant clean energy payment for 91 days or less during the income year); and
- (b) the requirements of new subsection 916D(2) are satisfied for the income year; and
- (c) the person did not receive any of the payments set out in new subsection 916D(3) for at least 13 weeks during the year.

The note at the end of new subsection 916D(1) signposts new subsection 916D(5), which provides a definition of relevant clean energy payment.

New subsection 916D(2) sets out the excluded payment requirement with respect to family tax benefit. A person satisfies this subsection if there were at least 13 weeks during the income year for which the person did not have an FTB child.

However, if there were fewer than 13 weeks during the income year for which the person did not have an FTB child, a person satisfies new subsection 916D(2) if all the following apply:

- (a) the Secretary made a determination under paragraph 19(b) of the Family Assistance Administration Act that the person was not entitled to family tax benefit for a past period; and
- (b) because of that determination, there were at least 13 weeks during the income year for which the person was not entitled to family tax benefit; and
- (c) the determination was not made because of section 26 of the Family Assistance Act.

The intention is to require a person to test their entitlement for family tax benefit at the end of the 13-week period during the income year. For example, if a determination is made under paragraph 19(a) or a variation under section 31 of the Family Assistance Administration Act that the person is not entitled to be paid family tax benefit, it is intended that the person should, after 13 weeks, make a past period claim to check whether they continued to be not entitled to family tax benefit for that period.

The requirement that the determination not have been made because of section 26 of the Family Assistance Act is to address the situation where a person is not receiving family tax benefit during the 13-week period because their partner at the time was receiving family tax benefit instead. This rule is intended to prevent unintended access to the low income supplement simply because a couple swapped receipt of family tax benefit during the year (for example, 26 weeks for one member of a couple and 26 weeks for the other).

New subsection 916D(3) sets out the list of payments for the purposes of new paragraph 916D(1)(c).

New subsection 916D(4) deems, for the purposes of new paragraph 619D(3)(g), that, if a person has received a lump sum compensation payment as mentioned in new paragraph 619D(3)(g), 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.

This provision applies whether the lump sum was paid before, on or after the commencement of this Division. For example, where a person has received a lump sum two years ago, which is intended to compensate a person for the future, this subsection deems that person to be receiving weekly compensation payments. Therefore, if a person is deemed to receive weekly payments for, say, 38 weeks during the income year, the person would satisfy the excluded payment requirement. If the person was deemed to receive payments for, say, 40 weeks during the income year, they would not satisfy this requirement.

New subsection 916D(5) provides for the meaning of **relevant clean energy payment** for the purposes of new paragraph 916D(1)(a).

New **section 916E** sets out the tax requirements that must be satisfied to qualify for the low income supplement. Essentially, if the person's tax liability would be less than \$300 under the 2011-12 tax system, the person would not receive adequate assistance through the changes to the tax system starting in 2012-13 and, therefore, the person meets the tax requirement for the low income supplement.

New subsection 916E(1) provides that a person satisfies the tax requirement for the 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.

New subsection 916E(2) provides that a person has an **accepted taxable income** for an income year if the Commissioner of Taxation has made an assessment of the person's taxable income for the income year or the Secretary accepts an estimate of the person's taxable income for the income year under new subsection 916E(3).

New subsection 916E(3) provides rules for when the Secretary may accept an estimate of a person's taxable income for an income year. The Secretary may accept an estimate if:

- (a) the estimate is not more than the tax-free threshold for the income year; and
- (b) the Secretary is satisfied that the estimate is reasonable, the Commissioner of Taxation has not made an assessment of the person's taxable income for the income year, and the person has not lodged and is not required under the tax law to lodge an income tax return for the income year; and

- (c) if the estimate is \$18,000 or more, the person has provided the Secretary with an estimate of the person's eligible tax offsets (within the meaning of new subsection 916E(4)) for the income year and the Secretary is satisfied that the estimate is reasonable.

New subsection 916E(4) provides the following calculation for working out a person's **LIS threshold amount**.

$$\left(\frac{\text{Amount of the person's eligible tax offsets for the income year}}{0.15} \right) + \$18,000$$

A person's **eligible tax offsets** for an income year are the person's tax offsets (if any) for the income year, disregarding any tax offset for low income earners under section 195N of the *Income Tax Assessment Act 1936*. **Tax offset** has the same meaning as in the *Income Tax Assessment Act 1997*.

The claimant's eligible tax offsets are divided by 0.15 to give amount (a). Amount (a) is then added to \$18,000 to give amount (b). If amount (b) is greater than the person's taxable income, they meet the tax requirement for the low income supplement.

Tax offsets are targeted benefits that reduce the amount of tax a person is liable to pay. Most tax offsets only allow a person to reduce their income tax liability to zero, not provide a net payment. For the purposes of new subsection 916E(4), a person's eligible tax offsets are considered, including amounts not utilised because the person does not have an income tax liability.

Example

In his 2012-13 tax return, William was entitled to \$445 in low income tax offset and also claimed \$500 under the net medical expenses tax offset and a further \$338 in zone tax offset as he lives in a designated remote area. William's total offsets excluding the low-income tax offset amount to \$838 (\$500 + \$338). Thus his amount (a) is \$5,587 (\$838 / 0.15) and his particular LIS threshold (or amount (b), that is, \$18,000 + \$5,587) is \$23,587. If William's taxable income was \$23,000 in 2012-13, he would be entitled to claim the low income supplement in 2013-14. If William's taxable income was \$25,000 in 2012-13, he would not be entitled to claim the low income supplement in 2013-14, but would have still benefited from tax cuts which would have reduced his tax liability by around \$500.

New **section 916F** sets out the remaining requirements that must be met for a person to qualify for the low income supplement. To qualify, a person must, at all times during the year: have been an Australian resident or a special category visa holder living in Australia; have remained in Australia for at least 39 weeks of the year; and not have been subject to a newly arrived resident's waiting period at any time during the year.

Additionally: the claimant must not have been a dependent child of another person for more than 25 weeks of the year; the claimant must not have been in gaol or a psychiatric institution for more than 25 weeks of the year; and no other person must have been eligible for family tax benefit for the claimant for more than 25 weeks of the year. (The claimant in this instance refers to a child of the other person.)

New **section 916G** specifies that a person cannot receive more than one low income supplement for an income year.

New **section 916H** provides for special rules to restrict the unintended consequence of a person, who has been paid a low income supplement, becoming entitled because of this to other benefits. It provides that, if a provision provides a benefit (whether a pension, benefit, payment, supplement or any other sort of benefit), a person meets specified criteria, and one of the criteria is that the person is receiving a social security payment, or is a recipient of a social security payment, then, 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 a low income supplement.

New **section 916J** sets out that the amount of the low income supplement for an income year is \$300.

Amendments to the Social Security Administration Act

Item 4 makes a minor technical amendment to subsection 16(3) as a consequence of the amendment made by **item 5**.

Item 5 inserts new subsection 16(3A), providing that a claim by a person for the low income supplement for an income year must not be combined with any other claim. In effect, claims for the low income supplement in respect of more than one financial year cannot be rolled into one claim.

Item 6 inserts a new Subdivision FC into Division 1 of Part 3. New Subdivision FC provides rules that impose a time limit for a person to make a claim for the low income supplement. The new Subdivision comprises new **section 27C**, which provides that a claim for the low income supplement for an income year must be made during that income year (that is, between 1 July and 30 June of the relevant income year). However, a claim will be accepted after the end of that income year if the Secretary is satisfied that there are special circumstances that affected the person being able to lodge the claim within the prescribed time limit, and if the claim is made within a reasonable period having regard to the circumstances affecting the person.

Item 7 inserts new **section 204B** into Division 3 of Part 5. The effect of new section 204B is to allow tax information about people in relation to claims for the low income supplement and tax file numbers to be used to verify that a person meets the income and tax requirement for qualification for the payment.

New subsection 204B(1) provides that the Secretary may, in relation to claims for the low income supplement, require the Commissioner of Taxation to provide the Secretary with information about people, including tax file numbers. The information that the Secretary can seek under this provision must be information in the possession of the Commissioner that relates to taxable income, tax offsets (within the meaning of the *Income Tax Assessment Act 1997*), adjusted taxable income (within the meaning of the Family Assistance Act) and income tax (within the meaning of *Income Tax Assessment Act 1997*) for an income year. In addition, the information provided by the Commissioner must not be information that the Secretary is able to require the Commissioner to provide under section 204A.

New subsection 204B(2) limits the purposes for which the information provided pursuant to new subsection 204B(1) may be used. The purposes are limited to ascertaining whether a person is or was qualified for the low income supplement for an income year.

Part 2 – Application and transitional provisions

Item 8 is an application provision which provides that the amendments made by Part 1 of this Schedule to the Social Security Act and the Social Security Administration Act apply in relation to claims for low income supplement made on or after 1 July 2012.

Item 9 provides the tax-free threshold for the 2011-12 income year. For the purposes of applying new subsections 916C(6) and 916E(3) of the Social Security Act (as inserted by this Schedule) in relation to the 2011-12 income year, the definition of ***tax-free threshold*** in new section 916A does not apply and the ***tax-free threshold*** is \$6,000.

Item 10 provides the tax requirement that must be met if a person makes a claim for the low income supplement for the 2012-13 income year. A claim for the 2012-13 income year will be assessed on the household's circumstances for the 2011-12 financial year.

Subitem 10(1) provides that new subsection 916E(1) of the Social Security Act (as inserted by this Schedule) does not apply in relation to a claim that is made for low income supplement for the 2012-13 income year and the person is taken to satisfy the tax requirement referred to in new subparagraph 916B(a)(iii) of that Act for the 2011-12 income year if the person satisfies the requirement in subitem 10(2).

A person satisfies subitem 10(2) if:

- (a) for the 2011-12 income year, the person has an accepted taxable income (within the meaning of new subsection 916E(2) of the Social Security Act, as inserted by this Schedule); and

(b) the amount of income tax owed by the person for the 2011-12 income 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. That is, if a person's tax liability is less than \$300 for the 2011-12 income year, the person would not have received adequate assistance through the tax system and, accordingly, would meet the tax requirement for the low income supplement.

Part 3 – Other amendments

Amendments to the Income Tax Assessment Act 1936

Item 11 inserts new paragraph 202(haa) into section 202 of the *Income Tax Assessment Act 1936* (ITAA 1936) to facilitate the administration of new Division 3 of new Part 2.18A of the Social Security Act (which deals with payment of low income supplement).

Amendments to the Taxation Administration Act 1953

Items 12 and 13 make minor technical amendments to paragraphs 8WAA(1AA)(b), 8WB(1A)(a) and 8WB(1A)(b) of the *Taxation Administration Act 1953* as a consequence of the amendment made by **item 11**.

Schedule 7 – Essential medical equipment payment

Summary

This Schedule provides for an annual indexed payment of \$140 to certain households where a person, for medical reasons, must use essential medical equipment, resulting in higher than average energy use. The payment is sufficient to cover the expected change in running costs for the highest energy use machine expected to be covered by this payment.

Background

There is a proportion of the population who have significantly higher than average electricity costs due to a medical condition or disability. This includes people using essential medical equipment, as well as people who are unable to self-regulate their body temperature and, therefore, use additional energy for heating and cooling.

These people will require further assistance in addition to the general cash assistance they may receive through the broader Clean Energy Household Assistance Package.

This Commonwealth assistance is sufficient to cover the expected change in energy costs as a result of the introduction of the carbon price in addition to assistance already provided by States and Territories. The scope of State and Territory schemes already supporting such individuals at 30 June 2011 will guide the scope of Commonwealth assistance.

The essential medical equipment payment will be administered by Centrelink and the Department of Veterans' Affairs. A cash payment gives households greater freedom to adjust and spend assistance how they see fit. Centrelink customers who claim the essential medical equipment payment will be able to use the Centrepay service to apply part or all of their assistance payments directly to their energy bills.

Qualification

An essential medical equipment payment will be available to households within Australia, where a person has a medical condition requiring the use of essential medical equipment or is unable to self-regulate their body temperature, and who, therefore, has to use additional energy for heating and cooling. To be eligible, the person with the disability or medical condition, or their carer must hold a concession card or be listed on a concession card.

A medical practitioner must certify that the relevant condition exists, that the equipment is required, and is being used unless the Secretary or Repatriation Commission is otherwise satisfied this requirement is met. The Secretary or Repatriation Commission may otherwise be satisfied, for example, where the equipment user can show that a State or Territory energy authority has accepted their medical condition and is giving a rebate. The types of medical equipment to be covered, and the nature of medical conditions resulting in the inability to regulate body temperature will be specified by legislative instrument.

Where the essential medical equipment is being used by a dependent child, the child's carer may be qualified to receive the payment based upon the child's medical need for the equipment, or for additional heating or cooling. More generally, if a carer provides care and attention on a regular and ongoing basis for a person they live with, including a non-dependent adult with medical needs, the carer may be qualified for the payment.

No priority in qualification as between a carer and a person with a medical condition is imposed by the provisions. However, a claim by a person who cares for a non-dependent young person or adult with a medical condition must be signed by the person with the medical condition, ensuring that the equipment user is aware that the payment has been claimed. Existing arrangements for a person who is limited in dealing with such formalities would also apply to the new claim process – for example, many of these people would already have a nominee who would act on their behalf.

The payment will be focused primarily on electricity usage, as this is the most common energy source for medical equipment used in private homes. However, other types of energy use may also be expanded by legislative instrument, as required.

The essential medical equipment payment will be limited generally to being paid only once in relation to the same medical equipment in a particular residence for an income year (ending on 30 June). An essential medical equipment payment will be available for each piece of equipment used in a residence, whether used by one or by a number of users. In some instances, such as shared care arrangements of children, payment of the essential medical equipment payment may be made in relation to each household in which the equipment using person lives, although limited to two households.

People will only need to claim the essential medical equipment payment in the first year, and then payments will be made on the anniversary of the date of claim, provided nothing has changed which renders the claimant no longer qualified at that time. Like all social security and Veterans' Affairs recipients, the claimant is subject to an obligation to inform Centrelink or the Department of Veterans' Affairs of the occurrence of any event or change which might affect the payment. In general, the types of medical condition resulting in the need for medical equipment are stable, such that loss of qualification is unlikely. However, the Secretary or Repatriation Commission will have discretion to seek further information, including a recertification by a medical practitioner where necessary.

The essential medical equipment payment will be \$140 in 2012-13 and will be indexed.

The amendments made by this Schedule commence on 14 May 2012, but payments will only be made from 1 July 2012.

Provisions with the same effect as those for the purposes of the social security law will be inserted into the Veterans' Entitlements Act. Households holding concession cards under the Veterans' Entitlements Act may be entitled to an essential medical equipment payment paid under that Act. Generally, an essential medical equipment payment cannot be received under both Acts.

Explanation of the changes

Part 1 – Amendment of the social security law

Items 1 to 10 amend the Social Security Act.

Item 1 inserts the essential medical equipment payment into the definition of ***clean energy payment*** inserted by Schedule 1.

Items 2, 3, 4, and 5 insert definitions of ***EMEP residence, essential medical equipment payment, medical equipment*** and ***person with medical needs***, all by reference to new **section 917A** (inserted by **item 6**, below).

Item 6 adds new Division 4 after Division 3 of new Part 2.18A, inserted by Schedule 1.

New **section 917B** deals with qualification for the essential medical equipment payment. ***Essential medical equipment payment*** is defined at new section 917A to mean a payment under new Division 4 (except in new section 917F, where it has the meaning given by that section). New subsection 917B(1) provides that a person is qualified for an essential medical equipment payment for an income year if the Secretary is satisfied that, on the EMEP test day (defined in new subsection 917B(3) below), the claimant satisfies the medical needs requirement in new section 917C, the concession card requirement in new section 917D and the energy account requirement in new section 917E.

Additionally, the person must not be prevented from receiving an essential medical equipment payment by new section 917F, and must be in Australia on the EMEP test day. The claimant must also not be a dependent child of another person on the EMEP test day. This restricts dependent children from claiming the payment in their own right. However, a claim may be made by the parent or carer of a dependent child with medical needs if all other requirements are met.

Additionally, a medical practitioner must have certified (subject to new subsection (2)) that the claimant or another specified person meets the medical needs requirement under new subsection 917C(1) on a day. **Medical practitioner** is defined in section 23 of the Social Security Act to mean a person registered and licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of medical practitioners. This does not require that the certification be in respect of the EMEP test day. However, the certification must confirm that all elements of new subsection 917C(1) are present on a day and more generally.

New subsection 917B(2) provides an exception to the requirement for a medical certification, where the Secretary is otherwise satisfied that the claimant or another specified person meets the medical needs requirement in new section 917C. The Secretary may otherwise be satisfied, for example, where the equipment user can show that a State or Territory energy authority has accepted their medical condition and is giving a rebate for a type of equipment specified for the essential medical equipment payment.

The **EMEP test day** is defined in new subsection 917B(3). In the income year of claim, this day is the day on which the claimant makes the claim for the payment. In subsequent income years, the EMEP test day is the anniversary of the day on which the claimant made the claim in a previous year, provided that, since the claimant made the claim, the Secretary has not determined that the claimant has ceased to be qualified for the payment. If the Secretary has determined that the claimant is no longer qualified and cancelled the payment, the person may reclaim.

A note highlights that section 11 of the Social Security Administration Act requires that a person make a claim for a social security payment in order to be paid the payment.

A second note highlights that additional rules relating to claims for the essential medical equipment payment are provided by new section 19 of the Social Security Administration Act (inserted by **item 10** below).

New subsection 917B(4) allows the Secretary to act on the basis of documents and information in his or her possession when determining whether a person is qualified for an essential medical equipment payment for an income year after the income year in which the claim is made. The Secretary is additionally not required to conduct any inquiries or investigations into the matter or to require the giving of any information or the production of any document for this purpose. Any person who has made a claim for or received a social security payment or concession card has an obligation to inform the Department of any event or change of circumstances that might affect payment or qualification (see section 66A of the Social Security Administration Act).

The Secretary has general information-seeking powers under Part 5 of the Social Security Administration Act, if the Secretary considers the information may be relevant to matters such as qualification for a payment. Additionally, new subsection 917B(5) makes it clear that the Secretary may require a further certification from a medical practitioner, or a further document for the purposes of new subsection (2) in an income year after the income year in which the claim is made. This further certification may be required where the medical condition may change over time, for example, in situations where the person is likely to recover from the medical condition.

The medical needs requirement is set out in new **section 917C**. New subsection 917C(1) deals with the person who has a medical condition meeting the medical needs requirement. New paragraph 917C(1)(a) covers a person who uses specified essential medical equipment. The person will meet the requirement if the person has a medical condition on that day that requires the use of specified essential medical equipment in a residence that is the person's home, the residence is either a private residence or a specified residence, and the person uses that equipment in that residence. It is not necessary that the equipment be used by the person on the particular day provided the conditions are met more generally.

New paragraph 917C(1)(b) covers a person who is unable to regulate his or her body temperature because of a specified medical condition. The person will meet the requirement if the person has a specified medical condition, additional heating or cooling is required in a residence that is the person's home to manage the person's condition, the residence is either a private residence or a specified residence, and the person uses additional heating or cooling in that residence. It is not necessary that additional heating or cooling is used by the person on the particular day, provided the conditions are met more generally.

For both cases, the **EMEP residence** is the residence that is the person's home, and is either a private residence or a specified residence. This term is defined in new section 917A by reference to new subsection 917C(1).

Medical equipment is defined in new section 917A in relation to a person who has a specified medical condition and, as a result, is unable to regulate his or her body temperature, as meaning the heating or cooling system of the residence that is the person's home described in new paragraph 917C(1)(b). Medical equipment also includes specified free-standing medical equipment used by a person such as an external heart pump, or a dialysis machine.

New subsection 917C(2) allows a carer for a person with medical needs to satisfy the medical needs requirement on a day in their own right, based upon the person with medical needs satisfying the medical needs requirement under new subsection 917C(1) on the day (including being specified in the required certification or otherwise satisfying the Secretary of the requirements). A **person with medical needs** is defined in new section 917A by reference to new paragraph 917C(2)(b).

To be a carer for a person with medical needs, the carer must provide care and attention on a regular and ongoing basis for the person with medical needs. The carer's home must also be the EMEP residence that is the home of the person with medical needs. A parent or person responsible for a dependent child who has medical needs would meet this requirement, including a foster carer of such a child.

New subsection 917C(3) provides that the Minister may specify, by legislative instrument, essential medical equipment for the purposes of new paragraph 917C(1)(a), medical conditions for the purposes of new paragraph 917C(1)(b), and residences for the purposes of paragraphs 917C(1)(a) and (b). A specified residence which is not a private residence may be, for example, a supported disability group residence. Allowing these matters to be specified by legislative instrument provides flexibility in the nature of equipment, conditions and types of residence covered.

New **section 917D** sets out the concession card requirement for the purposes of new section 917B. (Concession card is defined for the purposes of the Social Security Act in section 6A to mean a pensioner concession card, a health care card or a seniors health card.) A person satisfies the concession card requirement on a day if the person is a holder of a concession card, or the person's name is included on a concession card. Sections 240A and 240B of the Social Security Administration Act allow dependants of the holder of a concession card to be listed on the card in many instances (which will generally include the person's partner and any dependent children – section 6A of the Social Security Act).

A person will also meet the concession card requirement if the person cares for a person who has medical needs, and the person with medical needs is the holder of, or included on, a concession card on that day.

New **section 917E** sets out the energy account requirement on a day to meet new section 917B. A person satisfies the energy account requirement if the energy account for the relevant EMEP residence is in the name of that person or the person's partner. Alternatively, the person will satisfy the energy account requirement if the person contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence. This would potentially give rise to qualification in situations where the account is held within the household by someone other than the person or the person's partner.

For situations where the claim is being made by the carer for the person with medical needs, and the carer or their partner does not hold the energy account, the carer may none the less be qualified if the person with medical needs contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence.

The word, account, is to take its ordinary meaning. This will cover households who can supply some or all of their own energy needs, for example, with solar panels, provided the household has a service relationship with an energy supplier.

An energy account means any account for electricity, or any other form of energy specified for the purposes of this provision by the Minister by legislative instrument.

New **section 917F** sets out the rules around the availability of payments. New subsection 917F(1) provides that 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.

Example

If Susan has two children, Jane and Martha, where Jane uses a dialysis machine, and Martha a sleep apnoea monitor, then Susan may receive an essential medical equipment payment in respect of Jane's machine, and an essential medical equipment payment in respect of Martha's monitor. However, if Susan's partner, Chris, claims an essential medical equipment payment in relation to Jane or Martha's equipment when Susan has already been paid for that equipment for that income year, no essential medical equipment payment may be paid to Chris.

However, an exception is made for situations in which an equipment user has a number of homes, and the medical equipment is used at each of the homes. In this case, no more than two essential medical equipment payments may be made in relation to the same medical equipment for one income year. New subsection 917F(2) provides that no more than two essential medical equipment payments may be made in relation to the same medical equipment for an income year (subject to new subsection 917F(1)). Because new subsection 917F(1) limits payments within a particular residence to one per piece of medical equipment per residence, this results in more than one payment being available only if the same equipment is used in a number of residences, that is, where the user has a number of homes. However, 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 two EMEP residences (new subsection 917F(3)).

Example

In the example above, if Susan and Chris separate, but share care of Martha and Jane, who take their equipment from one home to the other, Susan and Chris may each be paid an essential medical equipment payment in an income year for each of Martha's monitor and Jane's dialysis machine.

New subsection 917F(4) provides that essential medical equipment payment for the purposes of this section, means such a payment under new Division 4, or under new Division 3 of Part III E of the Veterans' Entitlements Act, inserted by this Schedule. In other words, the same rules apply, regardless of whether an essential medical equipment payment is paid under the Social Security Act or the Veterans' Entitlements Act.

New **section 917G** provides that the amount of an essential medical equipment payment for an income year is \$140.00. However, a note alerts the reader that the payment is indexed on each 1 July by reference to sections 1190 and 1191 of the Social Security Act.

New **section 917H** provides for special rules to restrict the unintended consequence of a person who has been paid an essential medical equipment payment becoming entitled because of this to other benefits. It provides that, if a provision provides a benefit (whether a pension, benefit, payment supplement or any other sort of benefit) if a person meets specified criteria, and one of the criteria is that the person is receiving a social security payment, or is a recipient of a social security payment, then, 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.

Items 7, 8 and 9 amend sections 1190, 1191 and 1192 to provide for indexation by the Consumer Price Index of the essential medical equipment payment, with the first indexation taking place on 1 July 2013. The indexed payment will be rounded to the nearest dollar.

Item 10 amends the Social Security Administration Act by inserting new **section 19**, in relation to claims for the essential medical equipment payment. New subsection 19(1) provides that an essential medical equipment payment claim 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.

New subsection 19(2) provides that, if a person who provides care and attention for a person with medical needs makes a claim for an essential medical equipment payment, and the person with medical needs is not a dependent child of that or any other person, then the claim must be signed by the person with medical needs. This ensures administratively that an adult person with medical needs is aware when a claim for an essential medical equipment payment is made in respect of the equipment they use.

Part 2 – Amendment of the Veterans’ Entitlements Act

Items 11 to 34 amend the Veterans’ Entitlements Act.

Items 11 to 15 insert new terms into the index of definitions.

Item 16 inserts a reference to the essential medical equipment payment into the definition of ***clean energy payment*** in subsection 5Q(1).

Items 17 to 21 insert definitions of ***EMEP residence***, ***essential medical equipment payment***, ***income year***, ***medical equipment*** and ***person with medical needs*** into subsection 5Q(1).

Item 22 makes a technical amendment to paragraph (b) of the definition of ***tax year*** in subsection 5Q(1).

Item 23 adds new Divisions 3 and 4 after Division 1 of new Part III E.

Division 3 – Essential medical equipment payment

Subdivision A – Definitions

New **section 63A** defines terms used in new Division 3.

Subdivision B – Eligibility for essential medical equipment payment

New **section 63B** deals with eligibility for the essential medical equipment payment. ***Essential medical equipment payment*** is defined at new section 63A, to mean a payment under this Division (except in new section 63F, where it has the meaning given by that section). A person is eligible for an essential medical equipment payment for an income year if the Repatriation Commission is satisfied that, on the EMEP test day, the claimant satisfies the medical needs requirement in section 63C, the concession card requirement in section 63D and the energy account requirement in section 63E.

Additionally, the person must not be prevented from receiving an essential medical equipment payment by new section 63F, and must be in Australia on the EMEP test day. The claimant must also not be a dependent child of another person on the EMEP test day (defined in subsection (3)). This restricts dependent children from claiming the payment in their own right. However, a claim may be made by the parent or carer of a dependent child with medical needs if all other requirements are met.

Additionally, a medical practitioner must have certified (subject to subsection 63B(2)) that the claimant or another specified person meets the medical needs requirement under subsection 63C(1) on a day. This does not require that the certification be in respect of the EMEP test day. However, the certification must confirm that all elements of new subsection 63C(1) are present on a day and more generally.

Subsection 63B(2) provides an exception to the requirement for a medical certification, where the Repatriation Commission is otherwise satisfied that the claimant or another specified person meets the medical needs requirement in section 63C. The Repatriation Commission may otherwise be satisfied, for example, where the equipment user can show that a State or Territory energy authority has accepted their medical condition and is giving a rebate for a type of equipment specified for the essential medical equipment payment.

The **EMEP test day** is defined in subsection 63B(3). In the income year of claim, this day is the day on which the claimant makes the claim for the payment. In subsequent income years, the EMEP test day is the anniversary of the day on which the claimant made the claim in a previous year, provided that, since the claimant made the claim, the Repatriation Commission has not determined that the claimant has ceased to be eligible for the payment. If the Repatriation Commission has determined that the claimant is no longer eligible and cancelled the payment, the person may reclaim.

A note advises that claims for the essential medical equipment payment are provided by new sections 63J to 63P in Subdivision C.

Subsection 63B(4) allows the Repatriation Commission to act on the basis of documents and information in his or her possession when determining whether a person is qualified for an essential medical equipment payment for an income year after the income year in which the claim is made. The Repatriation Commission is additionally not required to conduct any inquiries or investigations into the matter or to require the giving of any information or the production of any document for this purpose.

Additionally, subsection 63B(5) makes it clear that the Repatriation Commission may require a further certification from a medical practitioner, or a further document for the purposes of subsection (2) in an income year after the income year in which the claim is made. This further certification may be required where the medical condition may change over time, for example, in situations where the person is likely to recover from the medical condition.

The medical needs requirement is set out in new **section 63C**. Subsection (1) deals with the person who has a medical condition meeting the medical needs requirement. Paragraph (a) covers a person who uses specified essential medical equipment. The person will meet the requirement if the person has a medical condition on that day that requires the use of specified essential medical equipment in a residence that is the person's home, and if the person uses that equipment in that residence. It is not necessary that the equipment be used by the person on the particular day provided the conditions are met more generally.

Paragraph (b) covers a person who is unable to regulate his or her body temperature because of a specified medical condition. The person will meet the requirement if the person has a specified medical condition, additional heating or cooling is required in a residence that is the person's home to manage the person's condition, and the person uses additional heating or cooling in that residence. It is not necessary that additional heating or cooling is used by the person on the particular day provided the conditions are met more generally.

For both cases, the **EMEP residence** is either the private residence that is the person's home or a specified residence. A specified residence is defined at new subsection 63C(3) below.

Medical equipment is defined in new section 63A in relation to a person who has a specified medical condition and, as a result, is unable to regulate his or her body temperature, as meaning the heating or cooling system of the residence that is the person's home.

Subsection 63C(2) allows a carer for a person with medical needs to satisfy the medical needs requirement on a day in their own right, based upon the person with medical needs satisfying the medical needs requirement under subsection (1) on the day (including being specified in the required certification or otherwise satisfying the Repatriation Commission of the requirements). To meet this requirement, the carer must provide care and attention on a regular and ongoing basis for the person with medical needs. The carer's home must also be the EMEP residence that is the home of the person with medical needs. A parent or person responsible for a dependent child who has medical needs would meet this requirement, including a foster carer of such a child.

Subsection 63C(3) provides that, for the purposes of section 63C of the Veterans' Entitlements Act, specified essential medical equipment means any medical equipment that is specified by the Minister for Families, Housing, Community Services and Indigenous Affairs in a legislative instrument under subsection 917C(3) of the Social Security Act.

Subsection 63C(3) further provides that, for the purposes of section 63C of the Veterans' Entitlements Act, a specified medical condition means any medical condition that is specified by the Minister for Families, Housing, Community Services and Indigenous Affairs in a legislative instrument under subsection 917C(3) of the Social Security Act.

Subsection 63C(3) also provides that, for the purposes of section 63C of the Veterans' Entitlements Act, a specified residence means any residence that is specified by the Minister for Families, Housing, Community Services and Indigenous Affairs in a legislative instrument under subsection 917C(3) of the Social Security Act.

Allowing these matters to be specified by legislative instrument provides flexibility in the nature of equipment and conditions covered, and using the legislative instrument made by the Minister for Families, Housing, Community Services and Indigenous Affairs for the Veterans' Entitlements Act, will ensure the requirements remain consistent under the two Acts.

New **section 63D** sets out the concession card requirement for the purposes of new section 63B.

Subsection 63D(1) provides that a person satisfies the concession card requirement on a day if the person is a holder of a concession card, or the person's name is included on a concession card. Dependants of the holder of a concession card are listed on the card in many instances (which will generally include the person's partner and any dependent children).

A person will also meet the concession card requirement if the person cares for a person who has medical needs, and the person with medical needs is the holder of, or included on a concession card on that day.

Subsection 63D(2) specifies that the following cards are, for the purposes of subsection (1), a concession card:

- a pensioner concession card issued under section 53 of the Veterans' Entitlements Act (section 53 provides for fringe benefits under the Veterans' Entitlements Act, one of which is a pensioner concession card);
- a seniors health card issued under section 118ZG of the Veterans' Entitlements Act;
- a Repatriation Health Card – For All Conditions – this card is also known as the Gold Card and is issued to persons who are eligible to be provided with treatment for all injuries or diseases under the Veterans' Entitlements Act or the Military Rehabilitation and Compensation Act; and

- a Repatriation Health Card – For Specific Conditions – this card is also known as the White Card and is issued to persons who are eligible to be provided with treatment for specific injuries or diseases under the Veterans' Entitlements Act or the Military Rehabilitation and Compensation Act.

New **section 63E** sets out the energy account requirement on a day to meet new section 917B. A person satisfies the energy account requirement if the energy account for the relevant EMEP residence is in the name of that person or the person's partner. Alternatively, the person will satisfy the energy account requirement if the person contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence. This would potentially give rise to qualification in situations where the account is held within the household by someone other than the person or the person's partner.

For situations where the claim is being made by the carer for the person with medical needs, and the carer or their partner does not hold the energy account, the carer may none the less be qualified if the person with medical needs contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence.

Account is to take its ordinary meaning. This will cover households who can supply some or all of their own energy needs, for example, with solar panels, provided the household has a service relationship with an energy supplier.

An energy account means any account for electricity, or any other form of energy specified by the Minister for Families, Housing, Community Services and Indigenous Affairs in a legislative instrument under subsection 917E(3) of the Social Security Act.

Allowing this to be specified by legislative instrument provides flexibility in the types of energy used, and using the legislative instrument made by the Minister for Families, Housing, Community Services and Indigenous Affairs, for the purposes of the essential medical equipment payment under the Veterans' Entitlements Act, will ensure that the specified types of energy will remain consistent under the two Acts.

New **section 63F** sets out the rules around the availability of payments. Subsection (1) provides that 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.

However, an exception is made for situations in which an equipment user has a number of homes, and the medical equipment is used at each of the homes. In this case, no more than two EMEP payments may be made in relation to the same medical equipment for one income year. Subsection (2) provides that no more than two essential medical equipment payments may be made in relation to the same medical equipment for an income year (subject to subsection (1)). Because subsection (1) limits payments within a particular residence to only one payment per piece of medical equipment per residence, this results in more than one payment being available only if the same equipment is used in a number of residences, that is, to situations where the user has a number of homes. However, only two payments may be made in this circumstance.

Subsection 63F(4) provides that essential medical equipment payment for the purposes of this section, means such a payment under this Division, or under Division 4 of Part 2.18A of the Social Security Act. In other words, the same rules apply regardless of whether an essential medical equipment payment is paid under the Veterans' Entitlements Act or the Social Security Act.

New **section 63G** provides that the amount of an essential medical equipment payment for an income year is \$140.00. However, a note advises that the payment is indexed on each 1 July under new section 198E (inserted by **item 34**).

New **section 63H** provides that an essential medical equipment payment is a debt due to the Commonwealth if the payment was made because the recipient knowingly made a false or misleading statement or knowingly provide false information.

Subsection (2) provides that the other debt creation provisions of the Veterans' Entitlements Act do not apply in relation to an essential medical equipment payment.

Subdivision C – Claim for essential medical equipment payment

New **section 63J** requires that a person make a proper claim for an essential medical equipment payment.

New **section 63K** sets out the special requirements for claims for an essential medical equipment payment. Subsection (1) requires that the person making the claim must include a statement that the medical equipment is used in the relevant EMEP residence.

Subsection (2) requires that, where a carer is making a claim for an essential medical equipment payment and the person with the medical needs is not a dependent child of that carer, the person with the medical needs must sign the claim.

New **section 63L** requires that a claim must be made by either the person who wants to be paid the essential medical equipment payment or, with the approval of that person, another person on their behalf.

Subsection (2) ensures that, where a person is unable to approve another person to make a claim on their behalf because of physical or mental incapacity, the Repatriation Commission may approve another person to make the claim.

New **section 63M** sets out the requirements making a proper claim. In accordance with subsection (1), to be a proper claim, a claim must be made in writing in accordance with a form approved by the Repatriation Commission. It must also be accompanied by any relevant evidence available to the claimant and be lodged at an office of the Department in Australia in accordance with section 5T of the Veterans' Entitlements Act.

Subsection (2) provides that a claim lodged in accordance with section 5T is taken to have been made on a day determined under that section.

New **section 63N** further requires that, to be a proper claim, the person making the claim, or on whose behalf the claim is being made, must be an Australian resident on the day the claim is lodged.

A note at the end of the section advises that **Australian resident** is defined in section 5G of the Veterans' Entitlements Act.

New **section 63P** sets out the conditions that apply to the withdrawal of a claim.

New subsections (1) and (2) provide that, if the claimant or the person representing the claimant seeks to withdraw a claim before it is determined, then the claim will not be taken to have been made.

Under new subsection 63P(3), the withdrawal of the claim can be made orally or in writing. A written withdrawal must be lodged at an office of the Department in Australia.

In accordance with new subsection 63P(4), an oral withdrawal must be made to a person in an office of the Department in Australia.

New subsections 63P(5) and (6) sets out the additional safeguards for oral withdrawals. The Secretary is required to provide a written acknowledgment of the oral withdrawal and give the person 28 days to reconsider his or her decision to withdraw the claim. If the person advises the Secretary within 28 days of receiving the acknowledgment notice that he or she wishes to continue with the claim, the oral withdrawal is taken not to have been made.

The note after subsection 63P(6) advises that the person's decision to revoke the oral withdrawal will reactivate the claim without affecting the commencement date of the claim.

Subdivision D – Investigation of claim

New **section 63Q** requires the Secretary of the Department of Veteran's Affairs to investigate the claim and submit it to the Repatriation Commission.

Subsections (1) and (2) provide that, where a person has made a proper claim for an essential medical equipment payment, the Secretary must investigate matters relating to the claim. The Secretary will then submit the claim to the Repatriation Commission for determination.

Subsection (3) requires that the claim be submitted to the Repatriation Commission with all the evidence the claimant has provided, all documents or other evidence obtained by the Department in its investigations and any other documents under the control of the Department that are relevant to the claim.

Subdivision E – Consideration and determination of claim

New **section 63R** describes the duties of the Repatriation Commission in relation to the claim.

Subsection (1) requires that the Repatriation Commission consider all matters relevant to the claim and that it make a determination about the claim.

In accordance with subsection (2), the Repatriation Commission must, in considering the claim, satisfy itself with respect to all matters relevant to the claim. It must also determine all matters relevant to the claim.

As specified by subsection (3), the Repatriation Commission must consider the evidence submitted with the claim under section 63Q and any further evidence that is submitted in relation to the claim.

Under new **section 63S**, if the Repatriation Commission is satisfied that the person is eligible for the essential medical equipment payment, it must determine that the person is entitled to the payment.

Division 4 – Review of decisions

New **section 64A** provides for the review of decisions of the Repatriation Commission about clean energy payments.

Subsection (1) enables a person who is dissatisfied with a decision of the Repatriation Commission in relation to a clean energy payment to request the Repatriation Commission to review the decision.

New **section 64B** sets out the requirements for an application for review.

Subsection (1) requires that a request for a review under section 64A must be made in writing, within three months of notification of the decision. It must also set out the grounds for the review and be lodged at an office of the Department in Australia in accordance with section 5T.

Subsection (2) provides that a request lodged in accordance with section 5T is taken to have been made on a day determined under that section.

Subsection (3) requires the Repatriation Commission to review its decision if a request for such a review has been made in accordance with subsection (1).

Subsection (4) means that, where the Commission delegated its powers under this section to the person who made the decision under review, that person must not undertake the review of the decision.

New **section 64C** sets out the Repatriation Commission's review powers. The Repatriation Commission must affirm or set aside the decision under review. If the decision is set aside, then, subject to subsection (3), the Repatriation Commission must substitute a new decision. If the decision set aside was a decision that a person ceases to be entitled to a clean energy payment, then the Repatriation Commission does not need to substitute another decision.

A note at the end of the section advises that the Repatriation Commission's evidence gathering powers are in section 64G.

New **section 64D** sets out the date of effect requirements for reviews. Under subsection (1), if the Repatriation Commission sets aside a decision and substitutes a decision that a person is entitled to a clean energy payment, the substituted decision takes effect from a date specified by the Repatriation Commission.

Subsection (2) requires that the specified date cannot be earlier than the date of effect that would have applied had the Repatriation Commission initially determined that the person was entitled to a clean energy payment.

New **section 64E** requires the Repatriation Commission to make a written record of its decision upon review. The written record must set out the Repatriation Commission's findings on material questions of fact, must refer to the evidence or material on which the findings were based and include reasons for the decision.

New **section 64F** requires that the Repatriation Commission must give to the person who requested the review, a copy of its decision and a statement about the decision. However, if the statement contains any matter that, in the opinion of the Repatriation Commission, is of a confidential nature or might be prejudicial to the physical or mental health or well-being of the person who requested the review, that information is to be removed from the statement. If the person has a further right of review to the Administrative Appeals Tribunal, the Repatriation Commission must give the person particulars of that right.

New **section 64G** sets out the Repatriation Commission's evidence-gathering powers in relation to reviews of clean energy payments. In accordance with subsections (1) and (2), the Repatriation Commission or its delegate, may take evidence on oath or affirmation and adjourn a hearing. The presiding member of the Repatriation Commission or the delegate may summon a person to appear at a review hearing to give evidence or produce documents, may require that person to take an oath or to make an affirmation and may administer an oath or affirmation to the person.

Under subsection (3), for the purposes of the review, the person who applied for the review is a competent and compellable witness.

Subsection (4) makes it clear that the oath or affirmation is an oath or affirmation that the evidence that the person will give will be true.

Under subsection (5), the Repatriation Commission's power to take evidence on oath or affirmation may be exercised on behalf of the Repatriation Commission by the presiding member, the delegate or another person. The oath or affirmation may be exercised within or outside Australia, and is subject to any limitation specified by the Repatriation Commission.

Subsection (6) provides that, where a person is authorised to take evidence for the purposes of taking evidence for the review, the person has all the powers of the Repatriation Commission under subsection (1) and all the powers of the presiding member under subsection (2).

Subsection (7) defines, for the purposes of the section, the term **Commission delegate** to mean a person to whom the Repatriation Commission has delegated its powers under section 64B and who is conducting the review in question.

New **section 64H** sets out the circumstances under which a person may withdraw a request for review. This may be done at any time before the review is determined and must be in writing. A person may make another request for review in accordance with section 64A.

Item 24 includes a reference to an essential medical equipment payment in paragraph 127(1)(b).

Item 25 inserts a new **subsection 175(2A)**. New subsection 175(2A) grants jurisdiction to the Administrative Appeals Tribunal in relation to a decision of the Repatriation Commission under section 64C to affirm a decision or set aside and substitute another decision.

Items 26 to 30 renumber subsections of section 175.

Items 31 to 33 make technical amendments to sections 176 and 177 to include references to relevant new review provisions relating to clean energy payments. Sections 176 and 177 relate to the review of decisions by the Administrative Appeals Tribunal.

Item 34 inserts new **section 198E** after section 198D. New section 198E provides for the indexation of the amount of an essential medical equipment payment by the Consumer Price Index. The first indexation is to take place on 1 July 2013. The indexed payment will be rounded to the nearest dollar.

Part 3 – Application and transitional provisions

Item 35 provides that the amendments made by this Schedule apply in relation to the 2012-13 and later income years.

Item 36 provides transitional rules to allow for claims for the essential medical equipment payment to be made from 18 June 2012, for payment on 1 July 2012. **Subitem 36(1)** allows a person to make a claim for an essential medical equipment payment under either the Social Security Act or the Veterans' Entitlements Act for the 2012-13 income year on or after 18 June 2012.

A note alerts the reader that a claim for an essential medical equipment payment for the 2012-13 income year must be made before 1 July 2013.

Subitem 36(2) provides that, for the purposes of the Social Security Act, the Social Security Administration Act and the Veterans' Entitlements Act, a person who made 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

Summary

This Schedule introduces a new payment, the single income family supplement, into the family assistance law. The payment is part of the Household Assistance Package. It will provide up to \$300 a year to single income families with primary earner income between \$68,000 and \$150,000, recognising that, unlike dual income families, these single income families only get one tax cut.

Background

The single income family supplement will provide assistance to individuals who have a qualifying child where the main income earner (if partnered, the member of the couple with the highest taxable income) has a taxable income between \$68,000 and \$150,000, and may be subject to the partner's taxable income (if any).

A qualifying child will be an FTB child who has not been absent from Australia for more than 13 weeks. A qualifying child will also include a child who has not been absent from Australia for more than 13 weeks and who would be an FTB child except that the child (or someone on the child's behalf) is receiving an 'at home' rate of one of the following payments – disability support pension, youth allowance, special benefit, ABSTUDY living allowance, or an education allowance under the Veterans' Children Education Scheme or the Military Rehabilitation and Compensation Act Education and Training Scheme.

If the main income earner's taxable income is greater than \$68,000, the rate increases from nil at \$68,000 by 2.5 cents for each dollar above \$68,000 until the taxable income reaches \$80,000 and the rate reaches the maximum of \$300. The rate will stay at \$300 for taxable income between \$80,000 and \$120,000, and will then reduce by one cent for each dollar above \$120,000 until the supplement cuts out when taxable income reaches \$150,000. If the claimant is a member of a couple, the rate payable based on the main income earner's taxable income will also be subject to the low income earner's taxable income (the member of the couple with the lowest taxable income). If the low income earner's taxable income exceeds \$16,000, the rate will be reduced by 15 cents for each dollar above \$16,000, until the rate reaches nil.

This Schedule commences on 1 July 2012, with the first payments of the supplement being made from 1 July 2013.

Explanation of the changes

Amendments to the Family Assistance Act

Item 1 amends the definition of ***family assistance*** in subsection 3(1) of the Family Assistance Act to include the single income family supplement. This ensures that single income family supplement will come within the various rules that apply to family assistance payments (such as the review and debt recovery provisions in the Family Assistance Administration Act).

Item 2 amends the definition of ***FTB child*** in the Family Assistance Act to include the meaning of an FTB child for the purpose of the single income family supplement. An FTB child for single income family supplement will have the same meaning as for family tax benefit (FTB). However, when applying Subdivision D of Division 1 of Part 3 (Determination of percentage of care) in a case where a claim for single income family supplement is required, the reference in Subdivision D to a claim for payment of FTB is to be read as a reference to a claim for payment of single income family supplement.

Item 3 inserts into subsection 3(1) a new definition of ***single income family supplement***.

Item 4 adds new Division 6 at the end of Part 3. New Subdivision A of Division 6 sets out the rules that apply to determine an individual's eligibility for single income family supplement in normal circumstances.

New **section 57G** sets out the eligibility criteria for single income family supplement. Firstly, the individual must have a qualifying child, as set out in new subsection 57G(3). Secondly, the individual must also meet the residency requirements as provided for in new paragraph 57G(1)(b) and new subsection 57G(2). Thirdly, the individual must not be an absent overseas recipient (disregarding section 63A, relating to the effect on rate of an FTB child's absence from Australia). Finally, their rate of single income family supplement, worked out under new Division 4B of Part 4, must be greater than nil.

New paragraph 57G(1)(b) and new subsection 57G(2) set out the residency requirements for the supplement. These provisions are consistent with the residency requirements for FTB as set out in paragraph 21(1)(b) and subsection 21(1A) of the Family Assistance Act.

Qualifying child, for the purpose of single income family supplement, is defined in new subsection 57G(3). For an individual to be a qualifying child of another individual (the ***adult***), they must meet one of the seven categories of qualifying child set out in new subsection 57G(3).

New paragraph 57G(3)(a) is the first category of qualifying child, and provides that an individual is a qualifying child of an adult if the individual is an FTB child of the adult and the individual is not an absent overseas FTB child (disregarding section 63A). Determining whether an individual is an absent overseas FTB child relies on section 63 of the Family Assistance Act. In broad terms, an FTB child becomes an absent overseas FTB child after 13 weeks' absence from Australia. The discretion in section 63A to extend the 13-week period would be disregarded for single income family supplement. Therefore, neither an absent overseas FTB child nor an FTB child who is in an extended FTB portability period under section 63A would be a qualifying child for single income family supplement.

For single income family supplement, an FTB child will have the same meaning as for FTB, due to the amendment made by **item 2**.

New paragraphs 57G(3)(b) to (g) set out the remaining six categories of qualifying child that apply if an individual would be an FTB child who is not an absent overseas child (disregarding an extended FTB portability period under section 63A) except that the individual (or someone on behalf of the individual) is receiving an income support payment at an 'at home' rate for a person who is not independent. The relevant income support payments and 'at home' rates are as follows:

- disability support pension (aged under 21) under Part 2.3 of the Social Security Act if 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;
- youth allowance under Part 2.11 of the Social Security Act if 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 that Act;
- special benefit under Part 2.15 of the Social Security Act if, assuming youth allowance were payable, 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;
- ABSTUDY living allowance paid at the standard (at home) rate (provided the individual is a dependent student aged 16 or more and under 21);
- education allowance under section 3.3 of the Veterans' Children Education Scheme (provided the child is aged 16 or more);
- education allowance under section 3.3 of the Military Rehabilitation and Compensation Act Education and Training Scheme (provided the child is aged 16 or more).

New **section 57GA** provides that the Secretary will determine who is eligible for the supplement where both members of an intact couple may be eligible for the supplement. This is consistent with section 26 of the Family Assistance Act for FTB, ensuring that only one member of the intact couple will be paid the new supplement.

New **sections 57GB and 57GC** provide rules for blended families. New section 57GB is similar to section 27 of the Family Assistance Act, and provides that, where two individuals are members of a couple and either or both have a child from a previous relationship, then any qualifying child is deemed to be a qualifying child of both individuals. Therefore, either individual can be eligible for the single income family supplement for the child, although generally only one will be determined as eligible by the Secretary because of the application of new section 57GA. New section 57GC is similar to section 28 of the Family Assistance Act and gives certain blended families an alternative to the rule in new section 57GA.

The alternative in new section 57GC acknowledges that there may be occasions when it is more appropriate that each member of the couple is eligible for single income family supplement and the rate of single income family supplement for the family unit is apportioned between the couple.

New section 57GC covers members of a couple (person A and B) where A has at least one child from a previous relationship, and at least one of the other children is a child of the relationship between A and B or a child of a previous relationship of B. In this scenario, where A and B would both be eligible for single income family supplement for the children but for new section 57GA, then the Secretary has a discretion to determine that both A and B are to be eligible for single income family supplement for the children and the percentage of each individual's single income family supplement for the children.

New subsection 57GC(2) sets out that this rule cannot apply to a past period where either individual has already been paid single income family supplement for the period. New subsection 57GC(3) defines terms used in this provision, consistent with the terms used in subsection 28(3) of the Family Assistance Act.

New **section 57GD** is similar to section 29 of the Family Assistance Act, and deals with situations where two individuals who are not members of a couple claim single income family supplement for a past period during which they were members of the same couple with a qualifying child. Given that both individuals would be eligible for the single income family supplement but for new section 57GA, the Secretary has the discretion to determine that both individuals are eligible for the single income family supplement for the qualifying child and the Secretary may determine the percentage of each individual's single income family supplement.

New Subdivision B of Division 6 of Part 3 deals with eligibility for single income family supplement where a qualifying child dies or the eligible individual dies.

New **section 57GE** sets out that an individual will continue to be eligible for single income family supplement for 14 weeks if they only have one qualifying child and that child dies. This rule applies where the individual only has one qualifying child, because single income family supplement eligibility is paid irrespective of the number of qualifying children that an individual has, and, if the individual has more than one qualifying child, they will continue to be eligible for the past period because of the other child(ren). New subsection 57GE(2) provides that, if new section 57GE applies, the individual continues to be eligible for single income family supplement based on the rate worked out under new Division 4B of Part 4 for each day in the 14-week period beginning on the day the child died.

New subsection 57GE(3) provides that the 14-week period will be reduced when a child would have turned 22 if the child was aged 21 and undertaking full-time study or studying overseas full-time when they died, or, in any other case, when the child would have been aged 21.

New **section 57GF** sets out the rules that apply if the 14-week period determined in new subsection 57GE(2) extends over two income years. In this situation, the individual is eligible for a single amount of single income family supplement for the period falling in the second income year, and the taxable income (for the individual and, if applicable, their partner) for the second income year is deemed to be the same as the taxable income for the first income year.

The rule in new section 57GF for an individual for whom the 14-week period extends over two income years enables the eligibility for the period falling in the second income year to be paid at the same time as the eligibility falling in the first income year. This avoids a need to claim for the period falling in the second income year after the end of that year.

New **section 57GG** sets out what occurs where, due to the death of an eligible individual, there is an unpaid amount of single income family supplement.

This section applies where an individual would have been eligible for an amount of single income family supplement, but died before receiving the amount of the supplement. In these circumstances, if another individual makes a claim for the payment, stating that they would like to become eligible for the amount of the supplement that had not been paid because of the death of the individual, the Secretary may make a determination that the individual is eligible for the amount of the supplement.

If the Secretary makes such a determination, no-one else is, or can become, eligible for or entitled to be paid that amount.

Item 5 inserts after Division 4A of Part 4 of the Family Assistance Act a new Division 4B. New Division 4B sets out how to determine the rate of single income family supplement.

New **section 84G** provides the rules for determining the rate of single income family supplement and includes a method statement that must be applied in calculating the rate.

New subsection 84G(1) provides that an individual's rate of single income family supplement is worked out in accordance with new section 84G.

New subsection 84G(2) sets out what is meant by **main income earner** and **low income earner** for the purpose of new section 84G. If the individual is a member of a couple, the main income earner is the individual with the highest taxable income and the low income earner is the individual whose taxable income is the lowest (unless their income is the same, and then the main income earner is the claimant and the low income earner is their partner). If the individual is single, they are the main income earner.

New subsection 84G(3) provides that the annual rate of single income family supplement is nil if the main income earner's taxable income (rounded down to the nearest dollar) is \$68,000 or less, or \$150,000 or more.

New subsection 84G(4) sets out the method statement that applies where the main income earner's taxable income (rounded down to the nearest dollar) is more than \$68,000 and less than \$150,000.

Step 1 requires the working out of the main income earner's taxable income (rounded down to the nearest dollar). Step 2 provides that the main income earner's taxable income is reduced by \$68,000 and, in step 3, this amount is multiplied by 0.025.

Step 4 provides that, if the amount in step 3 is less than or equal to \$300, this is the individual's provisional component. Step 5 provides that, if the amount in step 3 is greater than \$300, the provisional component is \$300 if the main income earner's taxable income exceeds \$80,000 but does not exceed \$120,000, or, if their taxable income exceeds \$120,000, the provisional component is \$300 less \$0.01 for each dollar of the excess.

Step 6 provides that, if the individual is not a member of a couple, the annual rate of single income family supplement is the provisional component. Step 7 provides that, if the individual is a member of a couple, then the annual rate is the provisional component less any reduction under step 8.

Step 8 provides that, if the low income earner's taxable income (rounded down to the nearest dollar) is greater than \$16,000, the provisional component is reduced by \$0.15 for each dollar of the excess.

Example

George and Mildred have one qualifying child. George has taxable income of \$76,000 and is the main income earner, and Mildred has taxable income of \$17,000 and is, therefore, the low income earner.

Step 1 – main income earner = \$76,000

Step 2 – \$76,000 - \$68,000 = \$8,000

Step 3 – \$8,000 x 0.025 = \$200

Step 4 – provisional component = \$200

Step 8 – as the low income earner's taxable income of \$17,000 is greater than \$16,000 by \$1,000, this reduces the provisional component by:

\$1,000 x \$0.15 = \$150

Step 7 – annual rate is the provisional component of \$200 less reduction under step 8 of \$150 = \$50

If George's taxable income is \$90,000 and Mildred's is \$15,000:

Step 1 – main income earner = \$90,000

Step 2 – \$90,000 - \$68,000 = \$22,000

Step 3 – \$8,000 x 0.025 = \$550

Step 5(a) – main income earner's taxable income exceeds \$80,000 but does not exceed \$120,000, therefore, provisional component = \$300

Step 7 – as Mildred's income is less than \$16,000, there is no reduction under step 8 for the low income earner.

Therefore, the annual rate is \$300

If George's taxable income is \$125,000 and he is not a member of a couple:

Step 1 – main income earner = \$125,000

Step 2 – \$125,000 - \$68,000 = \$57,000

Step 3 – \$57,000 x 0.025 = \$1425

Step 5(b) – main income earner's taxable income of \$125,000 exceeds \$120,000 by \$5,000.

\$5,000 x \$0.01 = \$50

\$300 - \$50 = \$250

Provisional component = \$250

Step 6 – the annual rate is the provisional component = \$250

New subsection 84G(5) provides that the daily rate of single income family supplement is the annual rate divided by 365, then rounded to the nearest cent (rounding 0.5 cents upwards). If the daily rate is above nil but below half a cent, then this is rounded up to 1 cent.

New **section 84GA** is similar to section 60 of the Family Assistance Act, and provides that, if a percentage is determined under new section 57GC for members of a couple in a blended family, each individual's annual rate of single income family supplement is that percentage of the rate that would otherwise apply.

New **section 84GB** is similar to section 61 of the Family Assistance Act, and provides that, if a percentage is determined under new section 57GD for separated members of a couple for the period before separation, each individual's annual rate of single income family supplement is that percentage of the rate that would otherwise apply.

Amendments to the Family Assistance Administration Act

Items 6, 7, 8 and 9 make amendments to definitions in subsection 3(1). The definitions that are amended are ***TFN claim person***, ***TFN determination person*** and ***TFN substitution person***. These changes are consequential to the amendments being made by this Schedule.

Item 10 inserts a new Division 4E into Part 3 of the Family Assistance Administration Act.

New Subdivision A of Division 4E of Part 3 sets out the requirements for making a claim for single income family supplement. New **section 65K** sets out the need for a claim. New subsection 65K(2) provides that, if there is a determination in force that an individual is entitled to FTB by instalment (section 16), FTB for a past period (section 17), or a single payment because of the death of an FTB child (section 18), and, if the individual's rate of FTB takes into account at least one FTB child of the individual, then the individual is not required to make a claim for single income family supplement. New subsection 65K(1) provides that, if the individual does not come within new subsection 65K(2), they must make a claim to become entitled to be paid single income family supplement. The claim must be made in accordance with new Division 4E.

New **section 65KA** sets out how to make a claim for single income family supplement. This provision is similar to section 7 for FTB. Where required, an individual may make a claim for single income family supplement for a past period or for a single payment (because of the death of the qualifying child) or in substitution because of the death of another individual (who was eligible to be paid single income family supplement for part or all of a past period and had not been paid before their death).

New subsection 65KA(2) sets out what must be included for a claim for single income family supplement to be effective. This includes that the tax file number requirement in either new section 65KB or 65KC must be met for a new claim for single income family supplement.

New **section 65KB** sets out the details of the tax file number requirement that is required by new paragraph 65KA(2)(b), which relates to claims for single income family supplement for a past period. For single income family supplement, each TFN claim person is subject to the tax file number requirement in new section 65KB. This provision is similar to section 8 (FTB), section 38A (baby bonus and maternity immunisation allowance) and section 49E (child care benefit).

The tax file number requirement in new section 65KB can be satisfied in several ways, including: providing a statement of the TFN claim person's tax file number (this option is only available to the claimant, but the actual statement can include the claimant and their partner's (if any) tax file number); making a statement that the TFN claim person does not know their tax file number, has asked the Commissioner of Taxation to tell them the number, and authorises the release of this information to the Secretary; or making a statement that the application for a tax file number is pending and authorising the Commissioner of Taxation to tell the Secretary the result of this application and the individual's tax file number, if applicable.

New subsection 65KB(7) provides that a statement of a TFN claim person's tax file number may not be required if the statement relates to an individual who is, or was, the claimant's partner, and if the claimant cannot obtain the person's tax file number or a statement as set out in new subsection 65KB(4) or (5).

New **section 65KC** sets out the details of the TFN requirement that is required by new paragraph 65KA(2)(c), which relates to claims for single income family supplement in substitution because of the death of another individual. For single income family supplement, each TFN substitution person is subject to the tax file number requirement in new section 65KC. This provision is similar to section 8A (FTB), section 38B (baby bonus and maternity immunisation allowance) and section 49F (child care benefit).

New subsections 65KC(1) to (6) provide the same tax file number requirements as new subsections 65KB(1) to (6) provide for claims for single income family supplement for a past period in normal circumstances, but they apply in relation to a TFN substitution person who was the deceased individual and any partner of the deceased individual during the period in respect of which the single income family supplement is claimed.

New subsections 65KC(7) and (8) contain discretions which allow the Secretary to exempt a TFN substitution person from the tax file number requirement in new section 65KC if the claimant does not know the TFN substitution person's tax file number, or cannot obtain a statement as set out under new subsection 65KC(4) or (5).

New **section 65KD** sets out restrictions on claims for single income family supplement for a past period. New subsection 65KD(1) provides that a claim is not effective if the claimant has previously made a claim for any of the past period.

New subsection 65KD(2) provides that, for a claim to be effective, the period claimed must fall wholly within one income year, and, if the period does fall wholly within one income year, the claim must be made before the end of the second income year after the income year that is the subject of the claim.

New subsection 65KD(3) provides that a claim for single income family supplement for a past period cannot be made in the income year in which the past period occurs.

New **section 65KE** sets out the restrictions on claims for single income family supplement by single payment/in substitution because of the death of another individual. New subsection 65KE(1) provides that 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 on the same basis. New subsection 65KE(2) provides that a claim for payment of single income family supplement by single payment/in substitution because of death of another individual, where eligibility is based on new section 57GF or 57GG of the Family Assistance Act, must, for the claim to be effective, be made before the end of the income year after the income year in which the person died.

Under new **section 65KF**, a claim for single income family supplement can be withdrawn or varied, in a manner determined by the Secretary, before it is determined. A claim that is withdrawn is taken not to have been made and, therefore, the Secretary does not have to make a determination.

New Subdivision B of Division 4E of Part 3 of the Family Assistance Administration Act provides for determination of claims and payment of single income family supplement.

New **section 65KG** provides that, if a claim is effective, it must be determined by the Secretary. If a claim is not effective, it is taken not to have been made.

New **sections 65KH, 65KI and 65KJ** provide that a determination of a claim for single income family supplement cannot be made in certain circumstances.

New section 65KH provides that, where an individual makes a claim for single income family supplement for a past period in an income year, the claim can only be determined if the claimant and an individual they were partnered with during the past period have lodged a tax return for that income year if required, and if assessments have been made under the *Income Tax Assessment Act 1936*. If a claimant had two different partners during the relevant income year and only one of the partners has had their tax assessment made for the income year, the claim for the past period during which that partner was a member of a couple with the claimant can be determined, but the claim for the past period during which the other partner was a member of a couple with the claimant cannot be determined until the other partner has their tax assessment made.

Example

Sara was partnered with John from 1 July to 1 September 2012 and with Mo from 4 May to 30 June 2013. In determining Sara's past period claims for single income family supplement for 1 July to 1 September 2012, 2 September 2012 to 3 May 2013, and 4 May to 30 June 2013, it is ascertained that she and Mo have tax assessments for the 2012-13 income year, but John does not. Therefore, Sara's claims can be determined for the period 2 September to 3 May (based on Sara's taxable income) and for the period 4 May to 30 June (based on Sara and Mo's taxable incomes), but not yet for the period 1 July to 1 September.

New section 65KI provides that a claim for single income family supplement for a past period in an income year is taken never to have been made if the claimant and/or their partner (during the past period in the relevant income year) are required to lodge tax return(s) for that year, but do not lodge the tax return(s) before the end of the second income year following the relevant income year.

If a claimant had two different partners during the relevant income year and the claimant lodged a required tax return within the two-year time limit but only one of the partners has lodged a required tax return within the two-year time limit, the following would apply under new section 65KI. The claim for the past period during which the partner who did not lodge a required tax return was a member of a couple with the claimant would be deemed never to have been made, because the partner in that period did not lodge a required tax return within the two-year time limit. The claims for the other past periods in the income year will not be affected by new section 65KI, because the relevant tax returns were lodged within the two-year time limit.

New subsection 65KJ(1) provides that, where a TFN claim person makes a statement under either new subsection 65KB(4) or 65KC(4) (that the TFN claim person does not know their TFN etc.), the Secretary can only determine the claim if, within 28 days of the claim, the Commissioner for Taxation tells the Secretary the person's tax file number or 28 days pass without the Commissioner telling the Secretary that the person does not have a tax file number.

Similarly, new subsection 65KJ(2) provides that, if a TFN claim person makes a statement under either new subsection 65KB(5) or 65KC(5), the Secretary can only determine the claim if, within 28 days of the claim, the Commissioner for Taxation tells the Secretary the person's tax file number, or 28 days pass without the Commissioner telling the Secretary that the person has not applied for a tax file number, or the application has been refused by the Commissioner or withdrawn by the person.

New subsection 65KJ(3) provides that, if, after the 28 days, the Secretary cannot determine the claim because of either new subsection 65KJ(1) or (2), the claim is taken never to have been made.

New **sections 65KK, 65KL and 65KM** set out when a determination must be made that an individual is entitled or not entitled to single income family supplement.

New section 65KK sets out when a claim for single income family supplement for a past period must be determined. This section provides that the Secretary must determine that a claimant is entitled to be paid single income family supplement for a past period if there is a claim that is for a past period, and the Secretary is satisfied that the claimant is eligible for the whole of the period based on the eligibility requirements in new Subdivision A of Division 6 of Part 3 of the Family Assistance Act (eligibility in normal circumstances) or, where the qualifying child dies, for part of the period in accordance with new section 57GE of the Family Assistance Act.

New section 65KL sets out when a claimant must be determined as entitled where there has been a claim for single income family supplement by single payment or in substitution because of the death of another individual. In these circumstances, if a claim is made and the Secretary is satisfied that the claimant is eligible for the supplement based on the eligibility requirements in new section 57GF (eligibility for single amount if qualifying child dies) or new section 57GG (eligibility because an eligible individual dies) of the Family Assistance Act, the claimant must be determined as entitled.

New section 65KM provides that, if the Secretary is not satisfied under new section 65KK or 65KL, then the Secretary must determine that the claimant is not entitled to be paid the supplement for the past period or because of the death of the other individual.

New **section 65KN** provides that a determination made under new Division 4E of Part 3 of the Family Assistance Administration Act comes into force when it is made and remains in force at all times afterwards.

New **section 65KO** provides that the Secretary must give notice to the claimant of a determination under new Subdivision B of Division 4E of Part 3. The notice must include whether the claimant is entitled to be paid single income family supplement and, if entitled, the amount of the entitlement and how it is to be paid. The notice must also state that the claimant can seek review of the decision under Part 5 of the Family Assistance Administration Act. New subsection 65KO(2) provides that the determination will be effective even if the notice requirements as set out in new subsection 65KO(1) are not complied with.

Subsection (1) of new **section 65KP** sets out when payment of single income family supplement is to be made when a claim is not required because the claimant has an entitlement determination for FTB in force and the rate of FTB payable under the determination takes into account at least one FTB child of the individual. In these circumstances, the Secretary must pay any amount of single income family supplement the individual is eligible for to the individual in such manner as the Secretary considers appropriate, on the earliest day that is reasonably practicable for the amount to be paid.

The note after new subsection 65KP(1) mentions that new subsection 65K(2) sets out when a claim for single income family supplement is not required.

New subsection 65KP(2) provides that, if the individual and/or their partner(s) during a period in the relevant income year are required to lodge an income tax return for that income year, the amount of single income family supplement cannot be paid unless assessments have been made under the *Income Tax Assessment Act 1936* for each person. As with new section 65KH, if the individual had two different partners during the relevant income year and only one of the partners has had their tax assessment made for the income year, payment can be made for the past period during which that partner was a member of a couple with the individual and for the period the individual was not a member of a couple, but payment cannot be made for the past period during which the other partner was a member of a couple with the individual until the other partner has their tax assessment made.

New subsection 65KP(3) provides that, if the individual and/or their partner(s) during a period in the relevant income year are required to lodge an income tax return for that income year, and they and/or their partner(s) have not lodged by the end of the second income year immediately following the past period income year, then the amount of single income family supplement is not to be paid to the individual. As with new section 65KI, if the individual had two different partners during the relevant income year, and the individual lodged a required tax return within the two-year time limit but only one of the partners has lodged a required tax return within the two-year time limit, payment can be made for the past period during which that partner was a member of a couple with the individual and for the period the individual was not a member of a couple, but payment cannot be made for the past period during which the other partner was a member of a couple with the individual, because the other partner did not lodge the required tax return within the two-year time limit.

New subsection 65KP(4) provides that the payment provisions in new section 65KP are also subject to overpayment and debt recovery provisions in Part 4, the payments to payment nominee provisions in Division 3 of Part 8B and sections 225 and 226.

New **section 65KQ** sets out when the payment must be made if the individual has made a claim for single income family supplement. If it is determined that the claimant is entitled to the supplement for a past period or 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.

The payment provisions in new section 65KQ are also subject to overpayment and debt recovery provisions in Part 4, the payments to payment nominee provisions in Division 3 of Part 8B and sections 225 and 226.

Under new section 65KB, a claimant is subject to certain tax file number requirements before a claim can be determined. Similar requirements apply under new **section 65KR** if a determination is in force under which a claimant is entitled to be paid single income family supplement for a past period. These tax file number requirements apply in relation to a TFN determination person, which will be defined in subsection 3(1) as being the claimant or the claimant's partner(s) during the past period, due to the amendment in **item 7**.

New **section 65KS** sets out the circumstances in which a past period determination will be varied if there is a failure to provide a tax file number.

New subsection 65KS(1) provides that, if the Secretary makes a request under new subsection 65KR(1) and the claimant does not comply within 28 days, then the Secretary may vary the determination such that the claimant is not entitled to be paid single income family supplement for any day in the past period.

Under new subsection 65KS(2), the Secretary may determine that a variation because of the application of new subsection 65KS(1) does not apply. The claimant may remain entitled to single income family supplement, despite failing to provide a requested tax file number, if the reason is that the claimant cannot obtain from a relevant partner (whether previous or current), the partner's tax file number or a statement under new subsection 65KR(3) or (4).

New subsections 65KS(3) and (4) set out the rules that apply if the Secretary makes a request under new subsection 65KR(1), and the claimant provides a statement of the kind set out in new subsection 65KR(3) or 65KR(4), but the Commissioner of Taxation tells the Secretary that the person has no tax file number, has not applied for a tax file number, has had their application refused, or has withdrawn their application. In this case, the Secretary may vary the determination such that the claimant is not entitled to be paid single income family supplement for any day in the past period.

Similarly, new subsections 65KS(5) and (6) set out the rules that apply if a TFN claim person has made a statement of the kind set out in new subsection 65KB(4) or (5), but the Commissioner of Taxation tells the Secretary that the person has no tax file number, has not applied for a tax file number, has had their application refused, or has withdrawn their application. In this case, the Secretary may vary the determination such that the claimant is not entitled to be paid single income family supplement for any day in the past period.

New subsection 65KS(8) provides that, if the Secretary varies the determination such that the person was not entitled to the single income family supplement and then finds out the tax file number of the TFN determination person or the TFN claim person, then the Secretary must vary the determination to undo the effect of the variation made under new subsection 65KS(7).

New **section 65KT** provides that the Secretary must give notice of a variation made under Subdivision B of Division 4E of Part 3 to the claimant. The notice must state the effect of the variation and that the claimant can seek review of the decision under Part 5 of the Family Assistance Administration Act. New subsection 65KT(2) provides that the determination will be effective even if the notice requirements as set out in new subsection 65KT(1) are not complied with.

Item 11 inserts the reference to single income family supplement into the list of inalienable payments in subsection 66(1).

Item 12 amends paragraph 71(1)(a) such that, if an amount of single income family supplement is paid to a person and they were not entitled to the amount paid, then the amount paid is a debt due to the Commonwealth by the person.

Item 13 inserts a new paragraph 93A(6)(aa), which provides that single income family supplement is included as a family assistance payment for the purpose of section 93A, which relates to recovery of amounts from financial institutions.

Item 14 inserts into paragraph 111(2)(a) the reference to new subsection 65KA(2), such that a person cannot apply to the Social Security Appeals Tribunal for review of a decision as to the form of the claim for single income family supplement.

Item 15 inserts a new subsection 154A(8), which provides that, if the tax file number of an individual or partner(s) is provided to the Secretary under new Division 4E of Part 3, then section 154A applies as if a reference to adjusted taxable income is a reference to the taxable income of the individual or their partner(s).

Item 16 amends the definition of *relevant benefit* in section 219TA, which is a definition that applies to Part 8B (nominees). The amendment means that single income family supplement is a relevant benefit for the purpose of Part 8B.

Item 17 is an application provision setting out that this Schedule applies in relation to the 2012-13 income year and later income years.

Schedule 9 – Aged care amendments

Summary

This Schedule amends the *Aged Care Act 1997* (the Aged Care Act) to provide additional support to aged care homes to compensate them for the increased costs that they will incur on behalf of residents from the introduction of a price on carbon.

Background

To align with the Household Assistance Package, from 1 July 2012, the *Support for Aged Care Homes* measure will provide an additional \$132.1 million over five years to aged care homes to compensate them for the increased costs that they will incur on behalf of residents from the introduction of a price on carbon.

In an aged care home, some of the cost impact of a carbon price is borne by the aged care home, which pays for some of its residents' living costs, including electricity bills. Nevertheless, residents of aged care homes do incur incidental expenses, and so will experience some of the cost impact of a carbon price. It is, therefore, important that they receive some portion of the increase to help with costs of additional day-to-day expenses.

Broadly, under the Household Assistance Package, pensioners will receive up to \$338 per annum through the Clean Energy Advance (a lump sum to be provided before commencement of carbon pricing) and, from 20 March 2013, fortnightly or quarterly payments of Clean Energy Supplement. Similar assistance will also be provided to self-funded retirees who hold a Commonwealth Seniors Health Card.

The amendments are to ensure that some of the compensation that eligible residents of aged care homes will receive as part of the package is passed on to aged care homes. The amendments increase the maximum standard resident contribution (a daily fee charged to cover living expenses), payable by most eligible residents of aged care homes, from 84 per cent to 85 per cent of the total basic age pension amount. This is an increase from the projected daily rate as of 1 July 2012 of \$42.08 per day to the projected daily rate as at 1 July 2012 of \$42.58 per day.

Through this measure, aged care homes will receive over half of the Household Assistance Package that eligible residents receive through the increased standard resident contribution. This equates to approximately \$3.50 per week per resident. Pensioners living in aged care homes will retain almost half of the assistance they receive through the Household Assistance Package to help meet their incidental expenses – a higher proportion than they would normally receive through routine pension increases. This equates to approximately \$3.00 per week.

The Aged Care Act provides that the standard resident contribution is 84 per cent (rising as a result of these amendments to 85 per cent) of the basic age pension amount unless the care recipient is:

- a protected resident – applies to people in care on 19 September 2009 who did not get the benefit of the 2009 pension increase;
- a non-standard resident (certain pre-2008 reform residents) – applies to certain people who entered care prior to 20 March 2008;
- a phased resident – applies to people who entered care on or after 20 September 2009 who did not get the benefit of the 2009 pension increase.

To implement the policy intent in relation to carbon compensation across other applicable categories of care recipient, further amendments are included in this Schedule to provide for proportional increased standard resident contributions for protected, phased and non-standard residents from 1 July 2012.

Non-pensioner residents of aged care homes who do not hold a Commonwealth Seniors Health Card will not receive assistance through the Household Assistance Package. To ensure these residents are not disadvantaged through the higher charges implemented by these amendments, a new Government aged care supplement, equal to one per cent of the basic pension, will be payable in respect of these residents where they are in care prior to 1 July 2012. This will effectively mean the standard resident contribution for these residents will not increase. The new supplement will be implemented through aged care delegated legislation (the Aged Care Principles).

Explanation of the changes

Context and summary of the changes

Section 58-2 of the Aged Care Act provides that the maximum daily amount of resident fees payable by a care recipient is the amount worked out in accordance with the resident fee calculator in section 58-2. The calculator requires the addition of a number of different payments and types of supplement. One of the amounts included in the calculation is the 'standard resident contribution'. Under the Aged Care Act, all residents in aged care can be asked to pay a standard resident contribution to cover living expenses such as meals, cleaning, laundry, heating and cooling.

For most care recipients, the general rule regarding the standard resident contribution provided under section 58-3 is applicable. However, due to arrangements introduced as part of the 2009 Secure and Sustainable Pension Reforms, there are three classes of resident for whom the maximum basic daily fee is not currently 84 per cent of the basic age pension amount:

- for protected residents (people who were in permanent care on 19 September 2009, including part-payment pensioners whose pension, on 20 September 2009, did not increase by more than the corresponding increase in the standard resident contribution, and self-funded retirees), the maximum rate is 76.7 per cent of the basic age pension amount;
- for non-standard residents (certain people who entered care prior to 20 March 2008, including self-funded retirees, pensioners who agreed to pay a bond referred to in paragraph 58-3C(1)(c)(ii), 58-3C(1)(e)(ii) or 58-3C(1)(e)(iii), and residents who chose not to disclose their financial information to Centrelink), the maximum rate equivalent to 95.5 per cent of the basic age pension amount; and
- for phased residents (people who enter permanent care between 20 September 2009 and 19 March 2013, whose pension did not increase by more than the corresponding increase in the standard resident contribution, and who, therefore, did not benefit from the changed pension arrangements of 20 September 2009), the maximum rate will increase to 81 per cent of the basic age pension amount from 20 September 2011, rising to 84 per cent over time.

In summary, this Schedule amends the Aged Care Act such that:

- from 1 July 2012, the standard resident contribution will increase to 85 per cent of the basic age pension amount (rather than 84 per cent);
- for a protected resident, the standard resident contribution will increase to 77.5 per cent of the basic age pension amount;
- for non-standard residents (certain pre-2008 reform residents), the standard resident contribution will increase to 96.5 per cent of the basic age pension amount; and
- for phased residents, the applicable percentage rate has been determined for the various periods required (being a percentage of the basic age pension amount) and is detailed below.

Amendments to the Aged Care Act

Currently, sections 58-3, 58-3B, 58-3C and 58-4 of the Aged Care Act describe different calculations for the standard resident contribution, depending on the circumstances of the individual, including whether the person is a pre or post-September 2009 resident or one of certain pre-2008 reform residents, and whether or not they are receiving an income support payment. These sections have been amended as follows:

Item 1 amends subsection 58-3(1) such that (from 1 July 2012) the standard resident contribution for a care recipient is the amount obtained by rounding down to the nearest cent an amount equal to 85 per cent of the basic age pension amount (worked out on a daily basis).

Item 2 repeals subsection 58-3B(3) and replaces it with a provision stating that 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 per cent of the basic age pension amount (worked out on a per day basis).

The repealed subsection expresses the standard resident contribution for this type of resident as a dollar figure as indexed on and after 20 September 2009. This item converts the rate to a percentage to make the legislation less complex. This is necessary as it is impossible to calculate in advance the dollar amount to replace the current figure of \$33.41 (given indexation will occur twice – on 20 September 2011 and 20 March 2012) before the new arrangements take effect on 1 July 2012.

If a person is a protected resident, they will continue to pay a standard resident contribution equivalent to their pre-20 September 2009 rate, as indexed in line with the indexation arrangements for the basic rate of the pension and adjusted for the introduction of the Household Assistance Package.

Item 3 repeals subsection 58-3C(3) and replaces it with a provision requiring that the standard resident contribution for non-standard residents (certain pre-2008 reform residents) is the amount obtained by rounding down to the nearest cent an amount equal to 96.5 per cent of the basic age pension amount (worked out on a per day basis).

The repealed subsection expresses the standard resident contribution for this type of resident as a dollar figure as indexed on and after 20 September 2009. In line with other provisions under section 58-3, this item converts the rate to a percentage for consistency and to make the legislation less complex.

Item 4 repeals items 5 and 6 of subsection 58-4(5) to provide that, for phased residents, the applicable percentage rate for the various periods (being a percentage of the basic age pension amount) is as follows (noting that only items 5-7 introduce new arrangements):

Standard resident contribution—phased residents		
Item	If the relevant period is ...	the applicable percentage is ...
1	20 March 2010 to 19 September 2010 (inclusive)	78
2	20 September 2010 to 19 March 2011 (inclusive)	79
3	20 March 2011 to 19 September 2011 (inclusive)	80
4	20 September 2011 to 19 March 2012 (inclusive)	81
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

Under the phased resident arrangements introduced in 2009, phased residents pay a standard resident contribution starting at an amount equal to the protected rate for the first six months (until 20 March 2010). This was to be phased up to an amount equal to 84 per cent of the basic age pension over the period from 20 March 2010 to 20 March 2013. This phasing period ensures that those residents who did not benefit from the increase to the basic age pension, and who enter care from 20 September 2009, will not have a significant jump in the amount they could be asked to pay as a standard resident contribution.

This policy is retained under the amended percentages and time periods shown above. The amendments simply allow for some of the carbon compensation arrangements to be passed to the aged care home through a proportional increase in the standard resident contribution for these residents. In line with previous policy, the general rule for standard resident contribution will apply to these residents post 19 March 2013 when they too will pay 85 per cent of the basic aged pension in accordance with subsection 58-3(1).

Item 5 provides that 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 in respect of a day that is on or after 1 July 2012.

Schedule 10 – Other amendments

Summary

This Schedule will amend certain Acts to provide further consequential amendments relating to the various clean energy payments provided for in this Bill. Notably, the amendments ensure that the payments will not count as income for social security, family assistance and veterans' entitlements purposes, and will be tax-exempt. The amendments will also ensure that, where an individual is subject to income management, deductions will be made from any clean energy advances or quarterly supplements. The amendments also make various amendments of an administrative nature to the Social Security Administration Act where the amendments are common to a number of payments.

Background

In broad terms, this Schedule provides for certain amendments to various pieces of legislation to ensure that the various clean energy-related payments are tax-exempt and not to be treated as income for welfare-related purposes, and to ensure that lump sum clean energy advances or quarterly supplements will be income managed for those people who are subject to income management.

Various new payments are created by this Bill, including the clean energy advance (Schedules 1 and 2), low income supplement (Schedule 6) and the essential medical equipment payment (Schedule 7). Where common amendments are required to support the administration of these new payments, the amendments are made in this Schedule. Other amendments of an administrative nature are made in the main Schedules for the new payments.

The amendments made by this Schedule commence on 14 May 2012, subject to commencement of the new *Clean Energy Act 2011*.

Explanation of the changes

Amendments to the Family Assistance Act

Item 1 adds to paragraph (j) of clause 7 of Schedule 3 to the Family Assistance Act a reference to clean energy supplement. The effect will be that the clean energy supplement component of the relevant payment will not come within the defined term ***tax free pension or benefit*** and, therefore, will not be adjusted taxable income for family assistance purposes.

Amendments to the Income Tax Assessment Act 1997

Items 2 and 3 make consequential amendments to the table in section 11-15 of the *Income Tax Assessment Act 1997*, inserting references to the clean energy advance and single income family supplement under the Family Assistance Act, and to clean energy payments, including advances, under the Social Security Act, the Veterans' Entitlements Act, the Military Rehabilitation and Compensation Act and the Farm Household Support Act.

Items 4 and 5 similarly insert into section 52-10 reference to clean energy payments under the Social Security Act to provide that such payments are exempt from income tax.

Items 6, 7, 8 and 9 amend section 52-15 to provide that so much of a social security payment that is included by way of clean energy supplement is exempt from income tax.

Item 10 inserts into the table in section 52-40, which lists the provisions of the Social Security Act under which social security payments are made that are exempt from income tax, reference to a clean energy payment under Part 2.18A.

Item 11 inserts new paragraph (b) after paragraph 52-65(1)(a) to provide that clean energy payments under the Veterans' Entitlements Act are excluded from the table in that section (because they are covered at new subsection (1G), inserted at **item 12** below).

Item 12 adds new subsection (1G) before subsection 52-65(2) to provide that clean energy payments under the Veterans' Entitlements Act are exempt from income tax.

Item 13 adds a new paragraph (e) to the definition of supplementary amounts of a veterans' affairs payment in section 52-70, to include reference to so much of the payment as is included by way of clean energy supplement.

Item 14 inserts references to Part IIIE and clean energy payment into the table in section 52-75, which lists the provisions of the Veteran's Entitlements Act under which veterans' affairs payments are made that are wholly or partly exempt from income tax.

Item 15 inserts reference to a clean energy payment under the Military Rehabilitation and Compensation Act into the table in section 52-114 as exempt from income tax.

Item 16 amends subsection 52-150(1) to specify that a clean energy advance or single income family supplement payment to families is exempt from income tax.

Item 17 inserts reference to a clean energy advance under the Farm Household Support Act into the table in section 53-10 as exempt from income tax.

Amendments to the Social Security Act

The clean energy advance payment to families will not be counted as **income** for social security purposes. Subsection 8(8) of the Social Security Act lists payments that are not income for social security purposes. **Item 18** adds a reference to a clean energy advance under the Family Assistance Act into paragraph 8(8)(jaa). The single income family supplement is excluded from being income because it is a form of ‘family assistance’, which is already referred to within that paragraph.

Items 19 and 20 insert new paragraphs (yha) and (znb) into subsection 8(8) to provide that a clean energy payment under either the Veterans’ Entitlements Act or the Military Rehabilitation and Compensation Act is not to be treated as income for the purposes of the Social Security Act.

Item 21 inserts new **section 1224A** into Part 5.2 of Chapter 5 of the Social Security Act. This new provision sets out when a low income supplement or a social security essential medical equipment payment is a debt. In broad terms, a debt would only arise where some or all of the payment was incorrectly paid because a relevant individual knowingly made a false or misleading statement or knowingly provided false or misleading information.

Where an individual is paid a low income supplement or an essential medical equipment payment because of a determination made under Part 3 of the Social Security Administration Act, the determination is later changed, revoked, set aside or superseded by another determination, a reason for the determination needing to be changed was that a relevant individual knowingly made a false or misleading statement or knowingly provided false or misleading information, and, apart from that statement or information, the payment would not have been paid, then the amount of the payment made is a debt. The relevant rules are in new subsection 1224A(1).

New subsection 1224A(2) provides that, in this case, the amount of the payment is a debt due to the Commonwealth by the individual.

New subsection 1224A(3) states that, with the exception of section 1224AA of the Social Security Act (relating to misdirected cheques), other provisions in relation to the raising of social security debts do not apply to the low income supplement or essential medical equipment payment.

Items 22 and 23 amend paragraph 1231(1AA)(b) of the Social Security Act.

Paragraph (b) provides that, when the Secretary makes a determination regarding what amount, if any, is to be deducted from a person's payments in repayment of an existing debt, the Secretary is not to reduce an individual's payment covered by the paragraph (including a reduction to nil) unless the person has requested the Secretary to do so. These items insert references to the low income supplement and the essential medical equipment payment into this paragraph, so that the same rules apply to these payments.

Amendments to the Social Security Administration Act

Item 24 adds two new paragraphs to subsection 47(1). Subsection 47(1) defines a ***lump sum benefit*** for the purposes of that section, which deals with how such benefits are to be paid, and applies various other needed provisions, such as the nominee provisions. New paragraph (k) includes the clean energy advance under the Social Security Act, and new paragraph (l) includes the low income supplement and the essential medical equipment payment under the Social Security Act, as lump sum benefits.

Item 25 inserts new **sections 47D and 47DAA**. New section 47D provides for payment of the clean energy advance to the individual in a single lump sum, and in such manner as the Secretary considers appropriate. However, new subsection (2) provides that the Secretary must not pay the advance if the Secretary is aware that the individual has died.

New section 47DAA provides for payment of the low income supplement or essential medical equipment payment under the Social Security Act to the individual in a single lump sum, and in such manner as the Secretary considers appropriate.

Item 26 inserts a new paragraph into section 123A after paragraph (c) of the definition of ***relevant payment***. Section 123A provides the definitions for Part 3A – Nominees. The Secretary may appoint a nominee for a person in respect of a relevant payment. New paragraph (ca) includes a clean energy payment, to allow a nominee to be appointed in respect of such a payment, particularly the quarterly clean energy supplement.

Items 27 and 28 make amendments to Part 3B of the Social Security Administration Act, dealing with income management of a number of the new clean energy payments.

Item 27 amends section 123TC to insert a definition of ***clean energy income-managed payment***, to mean a clean energy advance under the 1991 Act (that is, the Social Security Act), the Veterans' Entitlements Act for service pension or the Family Assistance Act, or a quarterly clean energy supplement under the 1991 Act (that is, the Social Security Act) or the Veterans' Entitlements Act.

Item 28 inserts new Subdivision DE after Subdivision DD of Division 5 of Part 3B, providing for deductions from clean energy income-managed payments that may be payable to a person who is subject to income management. New **section 123XPJ** provides that, if a clean energy income-managed payment is payable to a person who is subject to income management, 100 per cent of the payment is the **deductible portion**. This means that the full amount of these payments is to be deducted and credited to the Income Management Record and to the person's income management account.

An income managed individual's clean energy supplement that is paid as a distinct component of the person's rate of social security payment will be income managed by virtue of being part of the individual's rate of payment. The low income supplement, the essential medical equipment payment and the single income family supplement will not be income managed.

Item 29 inserts reference to the low income supplement or the essential medical equipment payment into paragraph 129(3)(a). In common with pension bonus, subsection 129(3) limits the capacity of a person to apply for review of a decision in relation to these payments more than 13 weeks after notice is given to the person of the decision. Date of effect provisions under the social security law (see Division 9 of Part 3 of the Social Security Administration Act) generally limit the date of effect of decisions on review where a person seeks such review more than 13 weeks after being given notice of the decision. For instalment payments, the review decision will take effect on the day review was sought in this situation, limiting retrospectivity of the decision. To limit retrospective payments of these lump sum payments, the equivalent result is produced by requiring review to occur within 13 weeks after notification of the decision. Where the particular income year has not ended, a fresh claim for the low income supplement or essential medical equipment payment may still be made.

Item 30 inserts reference to the low income supplement or the essential medical equipment payment after subsection 238(1) to provide, in new subsection (1A), that the Secretary is not required to make deductions sought by the Commissioner of Taxation. It is not intended that these payments be paid to the Commissioner in satisfaction of a tax debt owed by the individual.

Amendments to the Veterans' Entitlements Act

Item 31 inserts reference to a clean energy advance under the Family Assistance Act into paragraph 5H(8)(paa) to provide that such payments are not income in relation to a person for the purposes of the Veterans' Entitlements Act. (The single income family supplement is excluded from being income because it is covered by the term 'family assistance'.)

Item 32 inserts new paragraph 5H(8)(zzaaaa) after paragraph 5H(8)(zza), referring to a clean energy payment under the Military Rehabilitation and Compensation Act to provide that such a payment is not income in relation to a person for the purposes of the Veterans' Entitlements Act.

Item 33 inserts new paragraph 5H(8)(zzah) after paragraph 5H(8)(zzag), referring to a clean energy payment under Part III E to provide that such payment is not income in relation to a person for the purposes of the Veterans' Entitlements Act.