Social Services Legislation Amendment (Energy Assistance Payment) Act 2019

No. 28, 2019

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

Note: An electronic version of this Act is available on the Federal Register of Legislation (https://www.legislation.gov.au/)
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Social Services Legislation Amendment (Energy Assistance Payment) Act 2019

No. 28, 2019

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

[Assented to 5 April 2019]

The Parliament of Australia enacts:

1 Short title

This Act is the Social Services Legislation Amendment (Energy Assistance Payment) Act 2019.
2 Commencement

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

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provisions</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<tr>
<td>1. The whole of this Act</td>
<td>The day after this Act receives the Royal Assent.</td>
<td>6 April 2019</td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Energy assistance payment

Part 1—Social security amendments

Social Security Act 1991

1 After paragraph 8(8)(yk)

Insert:

(yl) a one-off energy assistance payment under Part IIG of the Veterans’ Entitlements Act;

2 After Part 2.6

Insert:

Part 2.6A—2019 one-off energy assistance payment

302 One-off energy assistance payment

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

(a) a benefit mentioned in subsection (2) is payable to the person on 2 April 2019; and

(b) that benefit is so payable because of a claim the person made on or before 2 April 2019; and

(c) the person is residing in Australia on 2 April 2019.

(2) For the purposes of paragraph (1)(a), the benefits are the following:

(a) age pension;

(b) disability support pension;

(c) wife pension;

(d) carer payment;

(e) widow B pension;

(f) widow allowance;

(g) parenting payment;

(h) youth allowance;

(i) AUSTUDY payment;

(j) newstart allowance;
Schedule 1  Energy assistance payment
Part 1  Social security amendments

(k) sickness allowance;
(l) special benefit;
(m) partner allowance;
(n) double orphan pension;
(o) farm household allowance under the *Farm Household Support Act 2014*.

More than one entitlement under this section

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

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

(4) If a payment under Part IIIG of the Veterans’ Entitlements Act is paid to a person, no payment under this section can be paid to the person.

303 Amount of one-off energy assistance payment

The amount of a person’s one-off energy assistance payment under section 302 is worked out using the following table, having regard to the person’s situation on 2 April 2019.

<table>
<thead>
<tr>
<th>Energy assistance payment</th>
<th>Person’s situation on 2 April 2019</th>
<th>Amount of one-off energy assistance payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Not a member of a couple</td>
<td>$75</td>
</tr>
<tr>
<td>2</td>
<td>Partnered</td>
<td>$62.50</td>
</tr>
<tr>
<td>3</td>
<td>Member of an illness separated couple</td>
<td>$75</td>
</tr>
<tr>
<td>4</td>
<td>Member of a respite care couple</td>
<td>$75</td>
</tr>
<tr>
<td>5</td>
<td>Partnered (partner in gaol)</td>
<td>$75</td>
</tr>
</tbody>
</table>

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

4  *Social Services Legislation Amendment (Energy Assistance Payment) Act 2019*  No. 28, 2019
3 Subsection 1222(2) (after table item 4F)

Insert:

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Debit Type</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>4G 1223ABH</td>
<td>deductions</td>
<td>1231, 1234A</td>
</tr>
<tr>
<td></td>
<td>legal proceedings</td>
<td>1232</td>
</tr>
<tr>
<td></td>
<td>garnishee notice</td>
<td>1233</td>
</tr>
<tr>
<td></td>
<td>repayment by instalments</td>
<td>1234</td>
</tr>
</tbody>
</table>

4 After section 1223ABG

Insert:

1223ABH Debts in respect of 2019 one-off energy assistance payments

(1) If:

(a) after a one-off energy assistance payment under Part 2.6A is paid to a person, an underlying determination in relation to the person, at least so far as it relates to 2 April 2019 or to a period that includes that day, is or was (however described) changed, revoked, set aside, or superseded by another determination; and

(b) the decision to change, revoke, set aside or supersede the underlying determination is or was made for the reason, or for reasons including the reason, that the person knowingly made a false or misleading statement, or knowingly provided false information; and

(c) had the change, revocation, setting aside or superseding occurred on or before 2 April 2019, the one-off energy assistance payment would not have been paid;

the amount of the one-off energy assistance payment is a debt due to the Commonwealth by the person.

(2) For the purposes of this section, an underlying determination in relation to a person is a determination made under Part 3 of the Administration Act because of which a benefit mentioned in subsection 302(2) of this Act was payable to the person.

(3) Apart from section 1224AA, the other provisions of this Part under which debts arise do not apply in relation to one-off energy assistance payments under Part 2.6A.
Schedule 1  Energy assistance payment
Part 1  Social security amendments

Social Security (Administration) Act 1999

5  After section 12AC
   Insert:

12AD  2019 one-off energy assistance payment
   A claim is not required for a one-off energy assistance payment
   under Part 2.6A of the 1991 Act.

6  Subsection 47(1) (after paragraph (ge) of the definition of
    lump sum benefit)
   Insert:
   (gf) one-off energy assistance payment under Part 2.6A of the
        1991 Act; or

7  After section 47AC
   Insert:

47AD  Payment of 2019 one-off energy assistance payment
   If a person is qualified for a one-off energy assistance payment
   under Part 2.6A of the 1991 Act, the Secretary must pay the
   payment to the person in a single lump sum:
   (a) on the date that the Secretary considers to be the earliest date
       on which it is reasonably practicable for the payment to be
       made; and
   (b) in such manner as the Secretary considers appropriate.
Part 2—Veterans’ entitlements amendments

Veterans’ Entitlements Act 1986

8 After paragraph 5H(8)(zzaj)

Insert:

(zzak) a one-off energy assistance payment under Part IIIG;

9 After Part IIIF

Insert:

Part IIIG—2019 one-off energy assistance payment

67E One-off energy assistance payment—this Act

Service pension or income support supplement

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

(a) service pension or income support supplement is payable to the person on 2 April 2019; and

(b) service pension or income support supplement is so payable because of a claim the person made on or before 2 April 2019; and

(c) the person is residing in Australia on 2 April 2019.

(2) The amount of a person’s one-off energy assistance payment under subsection (1) is worked out using the following table, having regard to the person’s situation on 2 April 2019.

<table>
<thead>
<tr>
<th>Energy assistance payment</th>
<th>Person’s situation on 2 April 2019</th>
<th>Amount of one-off energy assistance payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Not a member of a couple</td>
<td>$75</td>
</tr>
<tr>
<td>2</td>
<td>Partnered</td>
<td>$62.50</td>
</tr>
<tr>
<td>3</td>
<td>Member of an illness separated couple</td>
<td>$75</td>
</tr>
</tbody>
</table>

No. 28, 2019 Social Services Legislation Amendment (Energy Assistance Payment) Act 2019
Schedule 1  Energy assistance payment
Part 2  Veterans’ entitlements amendments

<table>
<thead>
<tr>
<th>Item</th>
<th>Person’s situation on 2 April 2019</th>
<th>Amount of one-off energy assistance payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Member of a respite care couple</td>
<td>$75</td>
</tr>
</tbody>
</table>

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

Pension under Part II or IV or veteran payment

(3) A person is eligible for a one-off energy assistance payment if:
   (a) the person receives for 2 April 2019 a pension under Part II or IV at a rate determined under or by reference to section 22, 23, 24 or 27; and
   (b) the person’s rate of the pension is greater than nil for 2 April 2019; and
   (c) the person is residing in Australia on 2 April 2019.

(4) A person is eligible for a one-off energy assistance payment if:
   (a) the person receives for 2 April 2019 a pension under Part II or IV at a rate determined under or by reference to subsection 30(1); and
   (b) the person’s rate of the pension is greater than nil for 2 April 2019; and
   (c) the person is residing in Australia on 2 April 2019.

(5) For the purposes of subsections (3) and (4), a person is taken to receive a pension under Part II or IV at a rate greater than nil even if the person’s rate would be nil, or pension would not be payable, merely because the rate is reduced, or pension is not payable, under Division 4, 5 or 5A of Part II or section 74.

(6) A person is eligible for a one-off energy assistance payment if:
   (a) veteran payment is payable to the person on 2 April 2019; and
   (b) veteran payment is so payable because of a claim made on or before 2 April 2019; and
   (c) the person is residing in Australia on 2 April 2019.

(7) The amount of a person’s one-off energy assistance payment under subsection (3), (4) or (6) is $75.

8  Social Services Legislation Amendment (Energy Assistance Payment)  No. 28, 2019  Act 2019
67F One-off energy assistance payment—MRCA

Compensation for permanent impairment

(1) A person is eligible for a one-off energy assistance payment if:
   (a) the condition in subsection (2) is met; and
   (b) the person is residing in Australia on 2 April 2019.

(2) The condition is that either or both of the following apply:
   (a) weekly compensation under Part 2 of Chapter 4 of the MRCA:
       (i) is payable to the person for 2 April 2019; or
       (ii) would be payable to the person for 2 April 2019 apart from paragraph 398(3)(b) of the MRCA and offsetting described in subsection 13(4) of the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004;
   (b) before 2 April 2019 the person received lump sum compensation under Part 2 of Chapter 4 of the MRCA.

Special Rate Disability Pension

(3) A person is eligible for a one-off energy assistance payment if:
   (a) Special Rate Disability Pension under the MRCA:
       (i) is payable to the person for 2 April 2019; or
       (ii) would be payable to the person for 2 April 2019 apart from section 204, and paragraph 398(3)(b), of the MRCA; and
   (b) the person is residing in Australia on 2 April 2019.

Compensation for wholly dependent partners

(4) A person is eligible for a one-off energy assistance payment if:
   (a) the condition in subsection (5) is met; and
   (b) the person is residing in Australia on 2 April 2019.

(5) The condition is that either or both of the following apply:
   (a) weekly compensation under Division 2 of Part 2 of Chapter 5 of the MRCA either:
       (i) is payable to the person for 2 April 2019; or
(ii) would be payable to the person for 2 April 2019 apart from paragraph 398(3)(b) of the MRCA;

(b) before 2 April 2019 the person received lump sum compensation under Division 2 of Part 2 of Chapter 5 of the MRCA and subsection 388(6) of the MRCA has not applied to the person before 2 April 2019.

Amount of one-off energy assistance payment

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

67G One-off energy assistance payment—Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

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

(a) at any time, the person has received a payment of compensation under section 24 of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988; and

(b) the payment was made because of a claim the person made on or before 2 April 2019; and

(c) the person is residing in Australia on 2 April 2019.

Amount of one-off energy assistance payment

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

67H More than one entitlement

More than one entitlement under this Part

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

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

(2) If a payment under Part 2.6A of the Social Security Act is paid to a person, no payment under this Part can be paid to the person.
67J Claim not required for one-off energy assistance payment

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

67K Payment of one-off energy assistance payment

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

(a) on the date that the Commission considers to be the earliest date on which it is reasonably practicable for the payment to be made; and

(b) in such manner as the Commission considers appropriate.
Part 3—Taxation amendments

**Income Tax Assessment Act 1997**

10 After subsection 52-10(1AC)

Insert:

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

11 Section 52-40 (at the end of the cell at table item 20, column headed “Ordinary payment”)

Add “or 2.6A”.

12 After subsection 52-65(1GA)

Insert:

>(1H) One-off energy assistance payments under Part IIIG of the *Veterans’ Entitlements Act 1986* are exempt from income tax.

13 Section 52-75 (at the end of the cell at table item 8A, column headed “Ordinary payment”)

Add “or IIIG”.

[Minister’s second reading speech made in—
House of Representatives on 3 April 2019
Senate on 3 April 2019]