



## **Family Assistance (Clean Energy Advances in Certain Circumstances) Determination 2012**

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

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I, JENNY MACKLIN, Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform make this Determination under subsections 105(7), 108(1B) and 108(3) of the *A New Tax System (Family Assistance) Act 1999*.

Dated

28<sup>th</sup> June

2012

J Macklin

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

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## Part 1 Preliminary

### 1 Name of Determination

This Determination is the *Family Assistance (Clean Energy Advances in Certain Circumstances) Determination 2012*.

### 2 Commencement

This Determination commences on 1 July 2012.

### 3 Purpose

This Determination specifies:

- (a) a method for working out the amount of clean energy advances for the purposes of subsection 105(6) of the Family Assistance Act; and
- (b) the circumstances in which individuals are entitled to further payments of clean energy advances for the purposes of subsections 108(1A) and 108(2) of the Family Assistance Act; and
- (c) a method for working out the amount of further clean energy advances for the purposes of subsections 108(1A) and 108(2) of the Family Assistance Act.

### 4 Interpretation

- (1) In this Determination:

*clean energy advance* means an advance to which an individual is entitled under section 103 or 108 of the Family Assistance Act.

*CEA determination daily rate* has the meaning given by subsection 5(2) of this Determination.

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

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

- (2) A term used in this Determination in relation to payment of family tax benefit to an individual has the same meaning as in the Family Assistance Act and the *A New Tax System (Family Assistance) (Administration) Act 1999*.

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## Part 2 Amount of clean energy advance

### 5 Amount of clean energy advance under subsection 105(6) of Family Assistance Act

- (1) For paragraph 105(6)(e) of the Family Assistance Act, the amount of the individual's clean energy advance is the amount of clean energy advance the individual would have been entitled to under section 105 of the Family Assistance Act if subsection 105(6) of that Act were taken to not apply and the individual's clean energy daily rate for a day under section 106 of that Act were taken to be the CEA determination daily rate worked out under subsection (2) of this section.

*CEA determination daily rate*

- (2) An individual's *CEA determination daily rate* for a day is worked out as follows:

*Method statement*

- |         |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Step 1. | Work out the individual's clean energy daily rate that would have applied for that day under section 106 of the Family Assistance Act if subsection 105(6) of that Act were taken to not apply.                                                                                                                                                                                                                                            |
| Step 2. | Work out the former partner's clean energy daily rate for the latest day (the <i>previous decision day</i> ) before the individual and the former partner ceased to be a couple that the former partner was entitled to:<br><br>(a) a clean energy advance under section 103 of the Family Assistance Act; or<br><br>(b) a further payment of clean energy advance under section 108 of that Act.                                          |
| Step 3. | For each FTB child (a <i>previous FTB child</i> ) of the former partner (who was not disregarded under section 106 of the Family Assistance Act) on the previous decision day, the percentage under this step is:<br><br>(a) if the former partner does not have a shared care percentage for the child on the previous decision day – 100%;<br><br>(b) otherwise – the shared care percentage for the child on the previous decision day. |
| Step 4. | Work out the <i>total previous child percentage</i> by adding the percentages at step 3 for each previous FTB child.                                                                                                                                                                                                                                                                                                                       |
| Step 5. | Work out the <i>previous daily amount</i> for each previous FTB child by multiplying the rate at step 2 by the percentage for that child at step 3(a) or 3(b) and dividing by the total previous child percentage at step 4.                                                                                                                                                                                                               |

Step 6.	<p>For each FTB child (a <i>same FTB child</i>) of the individual (who would not have been disregarded under section 106 of the Family Assistance Act) on that day who is also a previous FTB child, the <i>same child percentage</i> is the sum of the following percentages:</p> <p>(a) if the individual does not have a shared care percentage for the child on that day – 100%;</p> <p>(b) if the individual has a shared care percentage for the child on the day – the individual’s shared care percentage for the child on that day;</p> <p>(c) if the former partner has a shared care percentage for the child on that day – the former partner’s shared care percentage for the child on that day.</p>
Step 7.	<p>For each same FTB child, multiply the previous daily amount for the child at step 5 by the individual’s percentage for the child at step 6(a) or 6(b) and divide by the same child percentage at step 6: the result is the <i>child adjustment amount</i> for the child.</p>
Step 8.	<p>Work out the <i>daily adjustment amount</i> by adding the child adjustment amounts for each same FTB child.</p>
Step 9.	<p>Reduce the rate at step 1 by the daily adjustment amount (but not below nil) and round to the nearest cent (rounding 0.5 cents upwards): the result is the individual’s <i>CEA determination daily rate</i> for that day.</p>

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## Part 3      Top-up payments of clean energy advance

### 6      Top-up payments of clean energy advance under subsection 108(2) of Family Assistance Act

- (1) For subsection 108(2) of the Family Assistance Act, an individual is entitled to a further payment of clean energy advance if the amount of the original payment is less than the amount of the clean energy advance that would have been paid to the individual if the decision day had been on or after 1 July 2013.
- (2) The amount of the individual's further payment of clean energy advance is equal to the amount of the shortfall in subsection (1).

### 7      Top-up payments of clean energy advance under subsection 108(1A) of Family Assistance Act

#### *Entitlement to top-up payment – first circumstance*

- (1) For subsection 108(1A) of the Family Assistance Act, an individual is entitled to a further payment of clean energy advance if:
  - (a) paragraphs 108(1A)(a), (b), (c) and (d) of that Act apply to the individual; and
  - (b) on the trigger day mentioned in paragraph 108(1A)(d) of that Act, the individual is not partnered with another individual (the **former partner**) who was the individual's partner on the decision day mentioned in paragraph 108(1A)(b) of that Act; and
  - (c) an FTB child of the individual (who is not disregarded under section 106 of that Act) on the decision day is an FTB child of the former partner (who would not have been disregarded under section 106 of that Act) on the trigger day.

#### *Amount of top-up payment – first circumstance*

- (2) The amount of the individual's further clean energy advance under subsection (1) is worked out as follows:

#### *Method statement*

- Step 1. Work out the amount of clean energy advance that would have been paid to the individual if the decision day had been on or after 1 July 2013.
- Step 2. Work out the sum of the original payment to the individual under section 103 of the Family Assistance Act and any further payments to the individual under section 108 of that Act before the individual ceased to be partnered with the former partner: the result is the individual's **previous CEA amount**.
- Step 3. Work out the individual's **total adjustment amount** (see subsection (3)).

- Step 4. Reduce the individual's previous CEA amount at step 2 by the individual's total adjustment amount at step 3: the result is the individual's *adjusted CEA amount*.
- Step 5. Reduce the amount at step 1 by the individual's adjusted CEA amount at step 4 (but not below nil): the result is the amount of the individual's further clean energy advance.

(3) For the purposes of subsection (2), an individual's *total adjustment amount* is worked out as follows:

*Method statement*

- Step 1. Work out the individual's clean energy daily rate for the latest day (the *previous decision day*) before the individual and the former partner ceased to be a couple that the individual was entitled to:
- (a) a clean energy advance under section 103 of the Family Assistance Act; or
  - (b) a further payment of clean energy advance under section 108 of that Act.
- Step 2. For each FTB child (a *previous FTB child*) of the individual (who was not disregarded under section 106 of the Family Assistance Act) on the previous decision day, the percentage under this step is:
- (a) if the individual does not have a shared care percentage for the child on the previous decision day – 100%;
  - (b) otherwise – the shared care percentage for the child on the previous decision day.
- Step 3. Work out the *total previous child percentage* by adding the percentages at step 2 for each previous FTB child.
- Step 4. Work out the *previous daily amount* for each previous FTB child by multiplying the rate at step 1 by the percentage for that child at step 2(a) or 2(b) and dividing by the total previous child percentage at step 3.
- Step 5. For any day (an *adjustment day*), between the trigger day and 30 June 2013, that an FTB child of the former partner (a *same FTB child*) (who would not have been disregarded under section 106 of the Family Assistance Act on that day) is also a previous FTB child, the *same child percentage* for the child is the sum of the following percentages:
- (a) if the former partner does not have a shared care percentage for the child on that adjustment day – 100%;

	(b) if the former partner has a shared care percentage for the child on that adjustment day – the former partner’s shared care percentage for the child on that adjustment day;
	(c) if the individual has a shared care percentage for the child on that adjustment day – the individual’s shared care percentage for the child on that adjustment day.
Step 6.	For each same FTB child on an adjustment day, multiply the previous daily amount for the child at step 4 by the former partner’s percentage for the child on that adjustment day at step 5(a) or 5(b) and divide by the same child percentage on that adjustment day at step 5: the result is the <b>child adjustment amount</b> for the child on that adjustment day.
Step 7.	Work out the sum of the child adjustment amounts at step 6 for each same FTB child on an adjustment day and round to the nearest cent (rounding 0.5 cents upwards): the result is the individual’s <b>adjustment amount</b> on that adjustment day.
Step 8.	Work out the sum of the individual’s adjustment amounts at step 7 for each adjustment day: the result is the individual’s <b>total adjustment amount</b> .

*Entitlement to top-up payment – second circumstance*

- (4) Subject to subsection (6), for subsection 108(1A) of the Family Assistance Act, an individual is entitled to a further payment of clean energy advance if:
- (a) paragraphs 108(1A)(a), (b), (c) and (d) of that Act apply to the individual; and
  - (b) the amount of the individual’s clean energy advance under section 103 of that Act was worked out by applying subsection 105(5) of that Act because of a determination under section 28 of that Act; and
  - (c) on the trigger day mentioned in paragraph 108(1A)(d) of that Act, the individual is partnered with the individual (the **CEA partner**) who was the individual’s partner on the decision day mentioned in paragraph 108(1A)(b) of that Act; and
  - (d) on each day after the trigger day and before 1 July 2013 the individual is partnered with the CEA partner; and
  - (e) on the trigger day, one of the following applies:
    - (i) a determination under section 28 of that Act is in effect for a different percentage to the percentage that applied on the decision day; or
    - (ii) a determination under section 28 of that Act is not in effect.

*Entitlement to top-up payment – third circumstance*

- (5) Subject to subsection (6), for subsection 108(1A) of the Family Assistance Act, an individual is entitled to a further payment of clean energy advance if:
- (a) paragraphs 108(1A)(a), (b), (c) and (d) of that Act apply to the individual; and



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- (b) the amount of the individual's clean energy advance under section 103 of that Act was not worked out by applying subsection 105(5) of that Act; and
  - (c) on the trigger day mentioned in paragraph 108(1A)(d) of that Act, the individual is partnered with another individual (the *CEA partner*) who was the individual's partner on the decision day mentioned in paragraph 108(1A)(b) of that Act; and
  - (d) on each day after the trigger day and before 1 July 2013 the individual is partnered with the CEA partner; and
  - (e) on the trigger day, one of the following applies:
    - (i) the individual is not entitled to family tax benefit and the CEA partner is entitled to family tax benefit; or
    - (ii) the individual and the CEA partner are each entitled to family tax benefit because of a determination under section 28 of that Act.

*Only one member of a couple entitled to top-up payment – second or third circumstance*

- (6) For entitlement under subsection (4) or (5):
  - (a) only one member of the couple is entitled; and
  - (b) the member who is entitled is the one determined by the Secretary to be entitled.

*Amount of top-up payment – second or third circumstance*

- (7) The amount of the individual's further clean energy advance under subsection (4) or (5) is worked out as follows:

*Method statement*

- Step 1. Work out the amount of clean energy advance that would have been paid to the individual if the decision day had been on or after 1 July 2013.
- Step 2. Work out the amount of clean energy advance that would have been paid to the CEA partner if the decision day had been on or after 1 July 2013.
- Step 3. Work out the sum of the amounts under steps 1 and 2: the result is the ***combined notional CEA amount***.
- Step 4. Work out the sum of the original payment to the individual under section 103 of the Family Assistance Act and any further payments to the individual under section 108 of that Act: the result is the ***individual's previous CEA amount***.
- Step 5. Work out the sum of the original payment to the CEA partner under section 103 of the Family Assistance Act and any further payments to the CEA partner under section 108 of that Act: the result is the ***CEA partner's previous CEA amount***.

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- Step 6. Work out the sum of the amounts under steps 4 and 5: the result is the *combined previous CEA amount*.
- Step 7. Reduce the combined notional CEA amount at step 3 by the combined previous CEA amount at step 6 (but not below nil): the result is the amount of the individual's further clean energy advance.