

EXPLANATORY STATEMENT

Family Tax Benefit (Order of Reduction) Determination 2013

Summary

The *Family Tax Benefit (Order of Reduction) Determination 2013* is made under subclause 29(2A) of Schedule 1 to the *A New Tax System (Family Assistance) Act 1999* (the Family Assistance Act).

The Determination determines a method for working out the extent to which Part B rates calculated under subclause 29(2) of Schedule 1 to the Family Assistance Act are attributable to the amounts referred to in step 1 of the method statement in that subclause.

Background

Prior to 1 July 2013, Family Tax Benefit (FTB) Part B had two components: the standard rate and the FTB Part B supplement. Where the Part B rate was to be reduced based on an individual's adjusted taxable income, the method statement in subclause 29(2) of Schedule 1 to the Family Assistance Act provided for the reduction to be effected by taking away so much of the individual's standard rate, and then so much (if any) of the individual's FTB Part B supplement, as equals the reduction.

Part 2 of Schedule 2 to the *Clean Energy (Household Assistance Amendments) Act 2011*, which applies from 1 July 2013, introduced a third component to FTB Part B: the clean energy supplement (Part B). Those amendments also remove the wording in subclause 29(2) of Schedule 1 to the Family Assistance Act, which provided for the order in which components are reduced, and instead introduced an instrument making power to determine a method for attributing the reduced FTB Part B rate to the various components. The instrument making power is contained in subclause 29(2A) of Schedule 1 to the Family Assistance Act. This Determination determines the method for the purposes of subclause 29(2A).

Consultation

The Department of Families, Housing, Community Services and Indigenous Affairs has consulted with the Department of Human Services on this Determination.

Regulatory Impact Analysis

The Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

The measures in this legislative instrument affect entitlements to government payments and do not impose compliance costs on businesses, and do not require or encourage business to alter their behaviour.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Prior to 1 July 2013, Family Tax Benefit (FTB) Part B had two components: the standard rate and the FTB Part B supplement. Where the Part B rate was to be reduced based on an individual's adjusted taxable income, the method statement in subclause 29(2) of Schedule 1 to the Family Assistance Act provided for the reduction to be effected by taking away so much of the individual's standard rate, and then so much (if any) of the individual's FTB Part B supplement, as equals the reduction.

Part 2 of Schedule 2 to the *Clean Energy (Household Assistance Amendments) Act 2011*, which applies from 1 July 2013, introduced a third component to FTB Part B: the clean energy supplement (Part B). Those amendments also remove the wording in subclause 29(2) of Schedule 1 to the Family Assistance Act, which provided for the order in which components are reduced, and instead introduced an instrument making power to determine a method for attributing the reduced FTB Part B rate to the various components. The instrument making power is contained in subclause 29(2A) of Schedule 1 to the Family Assistance Act. This Determination determines the method for the purposes of subclause 29(2A).

Where the FTB Part B rate is to be reduced, the reduction is first applied to the standard rate. If further reduction is required after the standard rate has been reduced to nil, the individual's clean energy supplement (Part B) and then the individual's FTB Part B supplement are reduced.

This Legislative Instrument does not change the total amount of an individual's entitlement to FTB Part B, which will continue to be determined under current eligibility and income testing rules.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Explanation of the Provisions

Part 1 Preliminary

Section 1 Name of Determination

Section 1 states the name of the Determination.

Section 2 Commencement

Section 2 provides for the commencement of the Determination.

Section 3 Purpose

Section 3 states the purpose of the Determination.

Section 4 Interpretation

Section 4 contains definitions of key terms used in the Determination.

Section 5 Method for working out components of Part B rate

Where an individual's FTB Part B rate is reduced due to income, this section determines, for the purposes of subclause 29(2A) of Schedule 1 to the Family Assistance Act, the method for attributing the reduced FTB Part B rate to the various components of the FTB Part B rate.

This section provides for the reduction to be first applied to the individual's standard rate that is calculated under Division 2 of Part 4 of Schedule 1 to the Family Assistance Act.

If further reduction is required after the individual's standard rate has been reduced to nil, the individual's clean energy supplement (Part B) and then the individual's FTB Part B supplement are reduced.

The wording used in this section reflects wording used in section 1210 of the Social Security Act, which provides for the order in which components of social security payments are reduced where the rate of payment is reduced due to the income or assets tests or due to compensation payments received.