EXPLANATORY STATEMENT

A New Tax System (Family Assistance) (Child Care Benefit — Eligible Hours of Care) Determination 2006

Summary

This Determination is made under section 57A of the A New Tax System (Family Assistance) Act 1999 (the Family Assistance Act). It is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The purpose of this Determination is to set out the method by which hours of care are to be calculated towards the weekly limit for the purposes of child care benefit (CCB). This Determination reproduces the method of calculation provided in the Child Care Benefit (Eligible Hours of Care) Determination 2000, but increases the number of hours of CCB that may be accessed by parents without meeting the work/training/study test from 20 hours to 24 hours. This change is part of the Government’s welfare to work reforms, which aim to help parents to enter or return to the paid workforce.

Background

The Family Assistance Act introduced CCB, which is a payment towards a family’s child care costs. A person can be eligible for CCB for a limited number of hours of child care in a week (the minimum number of hours is currently 20). Section 57A of the Family Assistance Act provides that the Minister must determine how hours of care are to be counted towards the weekly limit.

The change introduced by this Determination is consequential on the amendments to the Family Assistance Act made by the Family and Community Services Legislation Amendment (Welfare to Work) Act 2005, which changes the minimum threshold of hours from 20 to 24 hours. It is beneficial to individuals who can now access up to 24 hours of CCB without satisfying the work/training/study test in the Family Assistance Act.

The Department has not undertaken consultations with respect to this Determination because it does not have a significant impact on business or restrict competition and because it gives effect to a decision in terms announced in the 2005-2006 Budget that alters the obligations and/or entitlements of individuals and not child care services.

The Office of Regulatory Review (ORR) has advised that a Regulation Impact Statement is not required for this Determination (ORR RIS ID: 8397).

Explanation of the sections

Name of Determination

Section 1 states the name of this Determination.
Commencement

Section 2 states that this Determination commences on 3 July 2006.

Revocation

Section 3 revokes the Child Care Benefit (Eligible Hours of Care) Determination 2000 (the revoked determination), which is replaced by this Determination.

References to revoked Determination

Section 4 is a deeming provision. It provides that a reference in an instrument (other than a legislative instrument) to the revoked determination or a provision of the revoked determination is taken to be a reference to this determination or corresponding provision of this Determination. As an example, this provision has the effect that any contract or funding agreement, which incorporates the revoked determination as a term, will now incorporate this Determination.

Interpretation

Section 5 contains interpretation provisions.

Eligible Hours of Care

Section 6 sets out the order of priority for counting hours of child care towards the weekly limit. The same order applies regardless of the amount of the weekly limit. As different types of child care attract different rates under Schedule 2 of the Family Assistance Act, the effect of the order of priority in section 5 is that the hours with the highest rate are counted first, followed by the next highest, and so on, until the lowest rate is reached.

As a rule, the order of priority is that non-standard hours in-home care follow non-standard hours family day care and part-time in-home care follow part-time family day care.

The difference between section 6 of this Determination and section 4 of the revoked determination is that the limits of hours are revised from ‘20, 50 or more than 50’ to ‘24, 50 or more than 50’.