Child Care Benefit (Absence From Care – Permitted Circumstances) Determination 2000

as amended

made under section 11 of the

A New Tax System (Family Assistance) Act 1999

This compilation was prepared on 1 April 2008
taking into account amendments up to Child Care Benefit (Absence From Care — Permitted Circumstances) Amendment Determination 2007 (No. 1)

Prepared by the Public Law Branch,
Department of Families, Housing, Community Services and Indigenous Affairs, Canberra
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Part 1 Preliminary

1 Citation [see Note 1]

This Determination may be cited as the Child Care Benefit (Absence From Care – Permitted Circumstances) Determination 2000.

2 Commencement [see Note 1]

This Determination commences on 1 July 2000, immediately after the commencement of Part 2 of Schedule 1 to the A New Tax System (Family Assistance and Related Measures) Act 2000.

3 Interpretation

(1) In this Determination:

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

claimant means:

(a) in a case where an individual is a fee reduction claimant or a past period claimant within the meaning of section 52 of the Act, that individual; or

(b) in a case where an approved child care service is a fee reduction claimant within the meaning of section 52 of the Act, the individual in whose care the child last was before the week in which the absence occurred,

and any reference to the claimant includes the claimant’s partner (if any);

parenting order means a parenting order within the meaning of section 64B of the Family Law Act 1975.

period of local emergency means a period determined by the Secretary in respect of which an event has occurred which:
(a) is affecting a widespread area and having a severe impact on the lives of a significant number of the inhabitants of the area, and has effects which prevent children from attending an approved child care service, or make attendance hazardous; or

(b) prevents the provision of child care in most approved child care services of a particular kind in the area;

**public holiday**, for an approved child care service, means:

(a) a public holiday observed in the State or Territory where the service is operated; or

(b) another day on which the service is closed, for example a religious holiday, if the service deems the day to be a public holiday and prepares and retains a written statement recording the date of, and reason for, the deemed public holiday.

(2) Unless the contrary intention appears, expressions used in this instrument shall have the same meanings as in the primary legislation, and for this purpose “the primary legislation” means the Act and the *A New Tax System (Family Assistance) (Administration) Act 1999*.

4 **Delegation**

The Secretary may, in writing, delegate to an officer of the agency all or any of the powers of the Secretary under this determination and for the purposes of this section “agency” means the Department or the Commonwealth Services Delivery Agency.
Part 2 Permitted circumstances

5 Permitted circumstances — care provided by an approved child care service (other than an approved occasional care service)

(1) For subparagraph 10 (3) (c) (iv) of the Act, the following circumstances are permitted circumstances:

(a) the absence is due to the service or the claimant not allowing the child to attend the session of care because of an outbreak of an infectious disease at the service for which the child has not been immunised and the service holds a written statement given by the service or the claimant explaining why the child is absent;

(b) the absence is due to the claimant having a rostered day off or a day off as part of a rotating shift and the service holds a written statement from the claimant's employer confirming that the claimant has rostered days off or works rotating shifts;

(c) the absence is due to the school attended by the child, or the child’s brother or sister, being closed (other than because of a public holiday or school holidays);

(d) the absence is due to a court order, a registered parenting plan, a parenting plan or a parenting order:

   (i) that is in force in relation to the child; and

   (ii) that requires the child to spend time with a person other than the claimant; and

   (iii) a copy of which is held by the service;

(e) the absence is due to the service being closed because of a period of local emergency;

(f) the absence is due to the child being unable to travel to the service because of a period of local emergency;

(g) the absence is due to the claimant deciding the child should not attend the service because of a period of local emergency;
(h) the absence from a session of care on more than 30 of the 42 days that have elapsed in the same financial year in which a session of care is taken to have been provided under subsection 10(2) of the Act to the child was due to any of the following circumstances:

(i) the illness of the child and a medical certificate covering the illness was obtained from a medical practitioner and given to the service;

(ii) a circumstance mentioned in paragraph (b) or (d).

(2) A circumstance mentioned in paragraph (1)(h) is only a permitted circumstance if not more than 19 days have elapsed in the same financial year in which a session of care is taken to have been provided under subsection 10(3) of the Act because of that paragraph.

6 Permitted circumstances – occasional care

Where the session of care from which the child was absent has been booked and paid for by the claimant, this is a permitted circumstance for the purposes of paragraph 10A(2)(b) of the Act (absence from care of approved occasional care service).
Notes

Note 1

The Child Care Benefit (Absence From Care – Permitted Circumstances) Determination 2000 (in force under section 11 of the A New Tax System (Family Assistance) Act 1999) as shown in this compilation is amended as indicated in the Tables below.

Under the Legislative Instruments Act 2003, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments.

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**Table of Amendments**

ad. = added or inserted      am. = amended      rep. = repealed      rs. = repealed and substituted

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Table A Application, saving or transitional provisions

Child Care Benefit (Absence From Care – Permitted Circumstances) Amendment Determination 2007 (No. 1)

4 Application

(1) This Determination applies to a child’s absence from all of a session of care that would otherwise have been provided to the child by an approved child care service during a week falling wholly after the application day for the service.

(2) In this section:

application day has the meaning given by subitem 91 (1) of Schedule 1 to the Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Act 2007.