Child Care Benefit (Hours of Eligibility Rules) Determination 2000

as amended

made under section 57B of the

A New Tax System (Family Assistance) Act 1999

This compilation was prepared on 10 October 2008
taking into account amendments up to Child Care Benefit (Hours of Eligibility Rules) Amendment Determination 2008 (No. 1) (F2008L02401).

Prepared by the Department of Education, Employment and Workplace Relations.
Contents

Part 1 Preliminary

1 Citation 3
2 Commencement 3
3 Interpretation 3

Part 2 Hours of eligibility

4 Exceptional circumstances 4
5 Work related commitments 4
6 Rules relating to the giving of certificates by an approved child care service 5
7 Sole provider 6
Part 1 Preliminary

1 Citation

This determination may be cited as the Child Care Benefit (Hours of Eligibility Rules) Determination 2000.

2 Commencement

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.

(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.
Part 2  
Hours of Eligibility

4 Exceptional circumstances

For the purposes of Subdivision G of Division 4 of Part 3 of the Act:
(a)  **exceptional circumstances** may include, but are not limited to:
   (i)  serious illness, hospitalisation or short-term incapacity of a person or a member of the person’s family;
   (ii) attendance at a funeral or bereavement service, or resolution of the estate of a deceased family member, requiring long distance travel;
   (iii) a need to provide short-term care for a member of the person’s family;
   (iv) helping at an emergency or disaster such as a flood or bush fire; and
   (v) attendance at court as a party to proceedings, a juror or a witness; and
(b)  exceptional circumstances should not be taken to exist merely because some effects of an exceptional circumstance, or of the events leading to an exceptional circumstance, are likely to continue indefinitely.

5 Work related commitments

(1) For the purposes of Subdivision G of Division 4 of Part 3 of the Act, **work related commitments** means:
   (a) paid work (as an employee or a self-employed person);
   (b) actively setting up a business that has not yet started to operate;
   (c) actively looking for work;
   (d) undertaking unpaid voluntary work:
      (i) which provides work experience that gives or increases skills which could normally be expected to enhance people’s prospects of obtaining paid employment; or
      (ii) for 15 or more hours per week;
   (e) undertaking a course of education or training for the purpose of improving the person’s work skills and/or employment prospects, and for this purpose time spent studying outside hours of formal instruction or training is not part of a person’s work related commitments.

(2) For the purposes of subsection (1):
(a) a person’s work related commitments include time taken to travel between the child care service and the person’s place of work, study or training; and

(b) if a person has work related commitments requiring evening or night attendances, that person’s work related commitments include time spent sleeping during the day, up to a combined maximum of 10 hours a day for the person and his or her partner (if any).

6 Rules relating to the giving of certificates by an approved child care service

When an approved child care service gives a certificate under subsection 54(10) or 55(6) of the Act (child at risk of serious abuse or neglect), the certificate must specify the reasons that the service considers that the child is at risk, and

(a) in a case where the certificate is given under section 54 (limit of 50 hours), whether the certificate is given under paragraph 54(10)(a) (claimant is an individual) or 54(10)(b) (claimant is an approved child care service); or

(b) in a case where the certificate is given under section 55 (limit of more than 50 hours), whether the certificate is given under paragraph 55(6)(a) (claimant is an individual) or 55(6)(b) (claimant is an approved child care service).

7 Sole provider

(1) The following matters are relevant for making a determination under section 57 of the Act (sole provider) in respect of an approved child care service.

(2) For paragraph 57(1)(a) of the Act, the service must be located:

(a) in a town in a remote or rural area; or

(b) on the outskirts of an urban area.

(3) For paragraph 57(1)(b) of the Act, the Secretary must take the following matters into account:

(a) the number of children using the service who are:

(i) FTB children of persons who are eligible for child care benefit and who satisfy the work/training/study test; or

(ii) regular care children of persons who are eligible for child care benefit and who satisfy the work/training/study test;

(b) the number of children using the service who are:

(i) FTB children of persons who are eligible for child care benefit and who do not satisfy the work/training/study test; or
(ii) regular care children of persons who are eligible for the child care benefit and who do not satisfy the work/training/study test;

(c) the hours per week of child care provided to the children referred to in paragraphs (a) and (b);

(d) the measures that would be taken by the service to attract additional children to fill the hours and child care places that would be available if the determination were not made;

(e) other measures taken to maintain or improve the viability of the service;

(f) the existing charging practices of the service and the likely impact (if any) on those practices of the determination not being made;

(g) financial statements for the current and previous financial years, including:
   (i) profit statements; and
   (ii) estimates of future income, expenditure and profits, if the determination were not made;

(h) any information that is available to the Secretary about the demand for child care places in the area, including:
   (i) the service’s existing and recent utilisation rates;
   (ii) patterns and trends of utilisation;
   (iii) waiting lists; and
   (iv) projections of expected utilisation if the determination were not made.

*Note* The term *satisfies the work/training/study test* has the meaning given by subsection 14 (1) of the Act.

(4) The determination may not be in force for more than two years.

(5) For the avoidance of doubt, when a determination has expired, a service may apply for a further determination by completing a new application, and these rules apply to a new application as if no earlier determination had been made.
Notes to the Child Care Benefit (Hours of Eligibility Rules) Determination 2000

Note 1
The Child Care Benefit (Hours of Eligibility Rules) Determination 2000 in force under section 57B of the A New Tax System (Family Assistance) Act 1999 as shown in this compilation is amended as indicated in the Tables below.

Table of Instruments

<table>
<thead>
<tr>
<th>Title</th>
<th>FRLI registration number</th>
<th>Date of notification in Gazette or FRLI registration</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Care Benefit (Hours of Eligibility Rules) Determination 2000</td>
<td>F2007B00426</td>
<td>2 June 2000 (Gazette S 294)</td>
<td>1 July 2000</td>
<td></td>
</tr>
<tr>
<td>Child Care Benefit (Hours of Eligibility Rules) Amendment Determination 2008 (No. 1)</td>
<td>F2008L02401</td>
<td>7 July 2008</td>
<td>1 July 2008</td>
<td>(section 4 and Schedule 2)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8 July 2008 (sections 1, 2, 3 and Schedule 1)</td>
</tr>
</tbody>
</table>

Table of Amendments

<table>
<thead>
<tr>
<th>Provision affected</th>
<th>How affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>S. 7 (3)</td>
<td>am. 2008 F2008L02401</td>
</tr>
<tr>
<td>S. 7 (3) (a)</td>
<td>rs. 2008 F2008L02401</td>
</tr>
<tr>
<td>S. 7 (3) (b)</td>
<td>rs. 2008 F2008L02401</td>
</tr>
</tbody>
</table>