Child Care Benefit (Rates and Hardship) Determination 2000

as amended

made under subsection 82 (3) of the

A New Tax System (Family Assistance) Act 1999

This compilation was prepared on 21 November 2008 taking into account amendments up to Child Care Benefit (Rates and Hardship) Amendment Determination 2007 (No. 1) (F2007L04268).

Prepared by the Department of Education, Employment and Workplace Relations.
Part 1  Preliminary

1 Citation

This Determination may be cited as the Child Care Benefit (Rates and Hardship) 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.

income support payment means any payment referred to in subparagraph (a) (ii) of clause 7 of Schedule 2 to the Act.
(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 Hardship

#### 4 Kinds of hardship

(1) When a person experiences an event which substantially reduces his or her ability to pay child care fees, this is a specified kind of hardship for the purposes of subparagraph 76 (1) (b) (ii) and paragraph 81 (2) (c) of the Act.

(2) The event referred to in subsection (1) may include, but is not limited to:
   - (a) loss of employment or the failure of a business;
   - (b) destruction of, or severe damage to, a person’s home, necessitating relocation of the family or the need to place a child in care or to increase child care;
   - (c) significant additional expenditure or a significant reduction in income arising from an event such as a death or serious illness in the family.

(3) Subject to subsection 4 (4), when a person has ceased to receive an income support payment and as a consequence:
   - (a) the person incurs significant additional expenditure associated with commencing new employment; or
   - (b) the person experiences a significant reduction in income, this is a specified kind of hardship for the purposes of subparagraph 76 (1) (b) (ii) and paragraph 81 (2) (c) of the Act.

(3) Subsection 4 (3) does not apply in a case where a person has ceased to receive an income support payment because of the application of an assets test.

(4) For the avoidance of doubt, for the purposes of subparagraph 76 (1) (b) (ii) and paragraph 81 (2) (c) of the Act, kinds of hardship do not include hardship arising from:
   - (a) foreseeable expenditure such as routine home repairs or maintenance;
   - (b) non-essential expenditure such as home improvements;
   - (c) ongoing low income;
   - (d) an increase in fees charged by an approved child care service.
Part 3  Limit on making determinations

5 Interpretation of this Part

In this Part:

hardship event means the event which gave rise to a hardship determination in respect of a person.

hardship determination means:

(a) the giving of a certificate by an approved child care service under subsection 76 (1) of the Act for a reason set out in subparagraph 76 (1) (b) (ii), or

(b) a determination by the Secretary under subsection 81 (2) of the Act.

period of hardship determination means:

(a) any period specified in a certificate by an approved child care service under subsection 76 (1) of the Act for a reason set out in subparagraph 76 (1) (b) (ii); and

(b) any period specified in a determination by the Secretary under subsection 81 (2) of the Act.

6 52 week limit on determinations

The total period of hardship determination in respect of one hardship event may not exceed 52 weeks.

7 Limit in income support cases

(1) Where a hardship determination is made in respect of a person who is experiencing the kind of hardship specified in subsection 4(3) of this determination (person who has ceased to receive income support), the initial determination must be made for a period of 3 weeks commencing on:

(a) if the day that income support payments ceased to be payable was a Monday, that day; or

(b) if paragraph (a) does not apply, the first Monday following the day on which income support payments ceased to be payable.

(2) Subject to subsection (3), 1 or more further hardship determinations may be made for the person in relation to the same event that caused the hardship for which the initial determination was made if:

(a) the period for which the initial determination, or any further hardship determination, applies has ended; and

(b) each further determination applies only for 1 week.

(3) The total period of hardship determination under this section may not exceed 6 weeks.
8 Further limit relating to Secretary’s hardship determinations

(1) In considering the period to be specified in a hardship determination under subsection 81 (2) of the Act, the Secretary must consider how long the person in respect of whom the determination is made reasonably needs to recover from or adjust to the hardship event.

(2) For the purposes of subsection (1):
   (a) recovery from or adjustment to a hardship event means adaptation to the person’s new circumstances, and does not mean a return to the circumstances that existed before the hardship event occurred; and
   (b) the Secretary must consider all the person’s circumstances, including his or her ability to reduce other items of household expenditure in order to pay child care fees, and whether the general expenditure of the person is reasonable having regard to the level of housing and other costs in the area in which the person lives.

(3) The total period of hardship determination in respect of a hardship event must not exceed the period that the Secretary considers necessary under subsection (1).

(4) This section is subject to section 6 (52 week limit on determinations).

(5) This section does not apply in a case to which section 7 applies (limit in income support cases).

Part 4 Further rules relating to the giving of certificates under section 76 of the Act

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

When an approved child care service gives a certificate under section 76 of the Act (child care benefit rate certified by an approved child care service), the certificate must contain a description of the circumstances that led to the giving of the certificate, including:

(a) where the certificate is given under subsection 76 (1) of the Act for a reason set out in subparagraph 76 (1) (b) (i), or is given under subsection 76 (2) of the Act (child at risk of serious abuse or neglect), the reasons that the service considers that the child is at risk; and

(b) where the certificate is given under subsection 76 (1) of the Act for a reason set out in subparagraph 76 (1) (b) (ii) (person experiencing hardship), the details of the hardship that the person is experiencing.
Notes to the Child Care Benefit (Rates and Hardship) Determination 2000

Note 1

The Child Care Benefit (Rates and Hardship) Determination 2000 in force under subsection 82 (3) of the A New Tax System (Family Assistance) Act 1999 as shown in this compilation is amended as indicated in the Tables below.

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Note 2

Section 4 of the Child Care Benefit (Rates and Hardship) Amendment Determination 2007 (No. 1) provided:

4 Application

(1) The amendments made by this Determination apply to a hardship determination made for a session of care provided by an approved child care service to a child 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.