EXPLANATORY STATEMENT

Family Assistance (Exemption from Immunisation Requirements) Amendment Determination 2008 (No. 1)

Summary

This Determination is made under subsection 7(1) of the *A New Tax System (Family Assistance) Act 1999* (the Family Assistance Act).

This Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The purpose of this Determination is to amend the *Family Assistance (Exemption from Immunisation Requirements) Determination 2003* (the Exemption from Immunisation Requirements Determination) which specifies classes of FTB children who are exempt from the immunisation requirements under section 6 of the Family Assistance Act. Meeting these requirements is a condition of eligibility for child care benefit (CCB).

The Exemption from Immunisation Requirements Determination is amended as a consequence of the introduction of a ‘regular care child’ concept into the family assistance law by the *Child Support Legislation Amendment (Reform of the Child Support Scheme – New Formula and Other Measures) Act 2006* (the Amending Act) with effect from 1 July 2008. ‘Family assistance law’ is defined in section 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* as including, among others, that Act and the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act).

As a consequence of the amendments, the same exemption from the immunisation requirements also applies to regular care children. The amendments made by this Determination commence on 1 July 2008.

Background

Currently, to be eligible for CCB for a child, the child must be an ‘FTB child’ of the individual or the individual’s partner.

The ‘FTB child’ is currently defined in sections 22 to 29 of the Family Assistance Act. If a child is in the care of more than one individual, the child is not an FTB child of an individual if the child is in the individual’s care for less than 10% of the time.

Amendments that were made to the family assistance law by the Amending Act have altered, from 1 July 2008, the concept of an ‘FTB child’ relevant to eligibility for family assistance including for family tax benefit (FTB) and CCB.

As a consequence of the changes made by the Amending Act, a child in respect of whom an individual has at least 35% of care is an FTB child of that individual (subsection 22(7) of the Family Assistance Act, as amended refers) and a child in respect of
whom an individual has 14% to 34% of care is a ‘regular care child’ of the individual (subsection 3(1) of the Family Assistance Act, as amended refers).

Amendments were made by the Amending Act to the CCB eligibility provisions so that, from 1 July 2008, eligibility for CCB arises for both categories of children, FTB children and regular care children.

The Exemption from Immunisation Requirements Determination includes references to an FTB child only. As a consequence of the changes to the CCB eligibility provisions, amendments to the Exemption from Immunisation Requirements Determination are made to ensure that a ‘regular care child’ is afforded the same treatment as an ‘FTB child’ under that Determination.

Consultation

The amendments made by this Determination were not consulted given that they are consequential on the amendments made by the Amending Act (as announced in the 2006-2007 Budget) and which commenced on 1 July 2008.

Regulatory Impact Analysis

This instrument does not require a Regulation Impact Statement (RIS) and /or a Business Cost Calculator Figure. This instrument is not regulatory in nature, will not impact on business activity, and will have no, or minimal, compliance costs or competition impact. It is not expected that any compliance costs will be incurred by business as a result of this instrument.

Explanation of Amendments

Name of the Determination

Section 1 states the name of this Determination.

Commencement

Section 2 states that this Determination commences on 1 July 2008.

This determination does not disadvantage the rights and liabilities of persons for the purposes of subsection 12(2) of the Legislative Instruments Act 2003. The delay in registering this determination was due to an administrative oversight by the Department.

Amendment of the Family Assistance (Exemption from Immunisation Requirements) Determination 2003

Section 3 states that Schedule 1 amends the Exemption from Immunisation Requirements Determination.
Explanation of the items in Schedule 1

Item 1 – Subsection 4(1)

Subsection 4(1) provides for exemption from the immunisation requirement of an FTB child of an individual or the individual’s partner if an officer of the Church of Christ, Scientist declares in writing that the individual or the individual’s partner is a practicing member of that Church.

Item 1 substitutes a new subsection 4(1) which provides for the exemption in these circumstances of both an ‘FTB child’ and a ‘regular care child.’

A stylistic amendment is made in new subsection 4(1) substituting the reference to a ‘person’ with the reference to an ‘individual’, for consistency with the style of the family assistance law.