Child Care Benefit (Allocation of Child Care Places) Amendment Determination 2011 (No. 1)¹

A New Tax System (Family Assistance) (Administration) Act 1999

I, KATE ELLIS, Minister for Employment Participation and Childcare, make this Determination under section 206 of the A New Tax System (Family Assistance) (Administration) Act 1999.

Dated 12 September 2011

Kate Ellis
Minister for Employment Participation and Childcare

1 Name of Determination
This Determination is the Child Care Benefit (Allocation of Child Care Places) Amendment Determination 2011 (No. 1).

2 Commencement
This Determination commences on the day after it is registered.

3 Amendment of Child Care Benefit (Allocation of Child Care Places) Determination 2000
Schedule 1 amends the Child Care Benefit (Allocation of Child Care Places) Determination 2000.
Schedule 1 Amendments

(section 3)

[1] Subsection 3(1)

*omit*

*parent* means the individual in whose care the child is, or that individual’s partner;

[2] Section 3A

*Substitute*

3A Application

This determination applies to:

(a) the allocation of child care places to an approved child care service that is an approved in-home care service or an approved occasional care service; and

(b) the reduction of the number of child care places allocated to an approved in-home care service.

[3] Section 5

*omit*

the following provisions of this determination.

*insert*

this Part and Part 3.

[4] Before subsection 7(1)

*insert*

*Determination of number of places for an area*

[5] Subsections 7(3), 7(4) and 7(5)

*substitute*

(3) In making the determination under subsection (1) in relation to child care places that may be allocated to approved occasional care services, the Secretary must take into account the following matters:
(a) the relative needs of different areas of Australia for this kind of places; and

(b) the relative needs for this kind of places, of people in each area who have work, training or study commitments.

(4) In making the determination under subsection (1) in relation to child care places that may be allocated to approved in-home care services, the Secretary must take into account the relative needs of different areas of Australia for this kind of places.

**Determination of number of places for an approved child care service**

(5) In working out the number of places to be allocated to an approved occasional care service, other than a service to which subsection 6(1) applies, the Secretary must take into account:

(a) the number of child care places for occasional care services (if any) determined under subsection (1) that may be allocated in the area in which the service operates, including any division of that number mentioned in subsection (2); and

(b) the needs for this kind of places of the people who are using or are likely to use the service, relative to the needs of the people who are using, or are likely to use, another occasional care service in the same area; and

(c) the service’s ability to provide child care that best meets the needs of people who have work, training or study commitments; and

(d) where:

(i) the service is an approved child care service; or

(ii) the service’s operator is or has previously been an operator of an approved child care service; or

(iii) the operator of the service was previously a party to the childcare assistance agreement, the service’s or operator’s past conduct as a provider of child care, including compliance with any relevant Commonwealth, State or Territory requirements in relation to the provision of child care and the management of child care services.

(6) For subsection (5), the Secretary may also take into account any other matter that the Secretary considers relevant to deciding the number of places (if any) to be allocated to an approved occasional care service.

(7) In working out the number of places to be allocated to an approved in-home care service, other than a service to which subsection 6(1) applies, the Secretary must take into account:
(a) the number of child care places (if any) determined under subsection (1) for in-home care services that may be allocated in the area in which the service operates, including any division of that number mentioned in subsection (2); and

(b) the needs for this kind of places of the people who are using or are likely to use the service relative to the needs of the people who are using or are likely to use another in-home care service in the same area; and

(c) the service’s ability to provide child care that best meets the needs of children to whom paragraph 10(1B)(a) of the Child Care Benefit (Eligibility of Childcare Services for Approval and Continued Approval) Determination 2000 applies; and

(d) where:
   (i) the service is an approved child care service; or
   (ii) the service’s operator is or has been previously an operator of an approved child care service; or
   (iii) the operator of the service was previously a party to a childcare assistance agreement,

   the service’s or operator’s past conduct as a provider of child care, including compliance with any relevant Commonwealth, State or Territory requirements in relation to the provision of child care and the management of child care services.

(8) For subsection (7), the Secretary may also take into account any other matter that the Secretary considers relevant to deciding the number of places (if any) to be allocated to an approved in-home care service.

(9) When child care places are allocated in accordance with subsection (5) or (7), the number of child care places specified in a determination under subsection (1) as available for allocation to approved child care services of a particular kind in a particular area must not be exceeded by more than 15 per cent.

(10) The Secretary may make an allocation of places to an approved child care service at the time and in the manner that the Secretary considers appropriate.

[6] After section 8

insert
Part 2A  Reduction of child care places allocated to an approved in-home care service

8A  Application of Part 2A
This Part applies to the reduction, under subsection 207A (1) of the Act, of the number of child care places allocated to an approved in-home care service.

8B  Working out the number of provided places
(1) Before reducing the number of child care places allocated to an approved in-home care service, the Secretary must first work out the number of places the service provides.

(2) For subsection (1), the Secretary must not consider a place as being provided by the service if the place has been unoccupied continuously for 6 months immediately before the Secretary gives a notice under subsection 207A (2) of the Act.

Note  A notice under subsection 207A (2) of the Act is a notice given to an approved child care service, before a reduction decision is made, of a proposal to reduce the service’s allocation of child care places.

8C  Time limit for submissions
For paragraph 207A (2) (c) of the Act, the written submissions (if any) must be made within 28 days after the notice is given to the service or within a longer period (if any) specified by the Secretary in the notice.

8D  Giving notice of a proposed reduction
Section 224A of the Act applies to a notice under subsection 207A (2) of the Act in the same way as it applies to a notice of a decision of an officer under Part 8 of the Act.

Note