Child Care Benefit (Children in respect of whom no-one is eligible) Amendment Determination 2017

A New Tax System (Family Assistance) Act 1999

I, Simon Birmingham, Minister for Education and Training, make this Determination under subsection 49(3) of the A New Tax System (Family Assistance) Act 1999.

Dated: 19 February 2017

Simon Birmingham
Minister for Education and Training
1 Name

This Determination is the *Child Care Benefit (Children in respect of whom no-one is eligible) Amendment Determination 2017*.

2 Commencement

This Determination commences on 13 March 2017.

3 Authority

This Determination is made under subsection 49(3) of the *A New Tax System (Family Assistance) Act 1999*.

4 Application

To avoid doubt, the amendments made by this Determination apply in relation to eligibility for sessions of care that occur on and from commencement.

5 Amendments

The *Child Care Benefit (Children in respect of whom no-one is eligible) Determination 2015* is amended as set out in Schedule 1.
Schedule 1

1 Section 4

Replace paragraph (c) of the definition of eligible disability child with:

“(c) documentary evidence of the diagnosis has been provided to the approved family day care service providing care to the child in accordance with the timeframes stated in section 10 of this Determination; and”.

2 Section 4

Insert new definition after definition of eligible ISP child:

“engaged in activities means:

(a) the individual is engaged in an activity on the care day that is part of a formal timetable of activities provided by the RTO, and where participation in that activity can only reasonably occur at a set time on the care day; and

(b) without limitation, engagement in activities could involve attending a lecture (in person, or online) or undertaking an exam, which is only scheduled at a set time on the day during which the session of care occurs, however does not include engagement in activities where the activities are outside of the individual’s formal timetable, such as where the individual is engaged in homework, group activity, viewing a pre-recorded lecture or assessment work, or where the activity is engaged in on a day that is not the day during which the session of care occurs and during a time that would not usually overlap or conflict with the session of care.”

3 Section 4

Replace paragraph (b) of the definition of remote area child with:

“(b) documentary evidence of the child’s residence has been provided to the approved family day care
service providing care to the child in accordance with the timeframes stated in section 10 of this Determination.”

4 Section 5

Replace the section with:

“5 Children in respect of whom no-one is eligible

(1) For subsection 49(3) of the Family Assistance Act, it is determined that children included in the classes of children specified in sections 6, 7, 8 or 9 are children in respect of whom no-one is eligible for child care benefit under Division 4 of Part 3 of the Family Assistance Act.
(2) For the avoidance of doubt, the determination in subsection (1) applies in respect of the session of care specified in sections 6, 7, 8 or 9 (as the case may be).”

5 Subparagraph 8(2)(c)(ii)

Add after “provided”:

“in accordance with the timeframes stated in section 10 of this Determination”.

6 Subparagraph 8(2)(d)(iii)

Add after “provided”:

“in accordance with the timeframes stated in section 10 of this Determination”.

7 Section 8

At the end of the section add:

“(3) In this section:"
**Documentary evidence** means evidence in written form which contains sufficient information to support that an exemption exists, as below:

(a) Where paragraph (2)(c) applies, an employment contract or a payslip, showing usual hours of work—but where the contract or payslip does not show usual hours of work, a letter signed by the relevant employer is required stating usual hours of work; or

(b) Where paragraph (2)(d) applies, a copy of an enrolment form detailing the times that the individual is usually required to study—but where the form does not provide such details, it must be supplemented with additional documentary evidence, such as an official course timetable.”

8 New sections 9 and 10

After section 8 add:

“9 Session of care provided to a child who is 14 years of age or older or who attends secondary school

(1) Subject to subsection (2), a child is included in the class of children specified in this section in respect of a session of care provided to the child if:

(a) the session of care is provided by an approved family day care service; and

(b) at least one of the following apply:

(i) the child is 14 years of age or older; or

(ii) the child is attending secondary school.

(2) A child is not included in the class of children specified in this section in respect of a session of care provided to the child if the child is 14 years of age or older or is attending secondary school, but has not yet turned 18, and the following circumstances apply:

(a) the child needs to be cared for by the approved family day care service because:

(i) the child cannot reasonably be left alone in the circumstances; and
(ii) no individual over the age of 18 can provide suitable care to the child in the circumstances; and

(iii) documentary evidence has been provided to the service of the matters in subparagraphs (a)(i) and (ii) by the individual, who is otherwise eligible for child care benefit for the session of care, in accordance with the timeframes stated in section 10 of this Determination; and

(iv) an exemption listed in subsection (3) applies.

(3) The exemptions referred to in subparagraph (2)(a)(iv) are that:

(a) the child is an eligible disability child or an eligible ISP child; or

(b) the child resides in an area which is:

(i) designated as ‘remote Australia’ or ‘very remote Australia’ as described in the Australian Statistical Geography Standard (ASGC) Volume 5 – Remoteness Structure, July 2011 (cat. no. 1270.0.55.005, published by the Australian Bureau of Statistics); and

(ii) documentary evidence has been provided to the service of the child’s residential address in accordance with the timeframes stated in section 10 of this Determination; or

(c) the child has not yet turned 16 years of age, and each individual, for whom the child is an FTB child or a regular care child, and who would otherwise care for the child on the day on which the session of care is provided:

(i) is required to work for at least 5 hours on the day on which the session of care is provided in paid work which is not for an approved family day care service; and

(ii) documentary evidence has been provided to the service setting out the requirement for the individual to usually work at the time the session of care is provided in accordance with the timeframes stated in section 10 of this Determination.

(4) To avoid doubt, when a service is eligible in relation to a child in accordance with section 47 of the Family
Assistance Act, a requirement to provide the documentary evidence to the service in this section is taken to be a requirement for the service to hold the relevant documentary evidence (whether obtained or prepared by the service or provided by another person who is able to provide reliable evidence of the relevant matter), within the timeframes stated in section 10 of this Determination.

(5) In this section:

**Documentary evidence** means evidence in written form which contains sufficient information to support that each matter in paragraph (2)(a) is met, as below:

(a) for subparagraphs (2)(a)(i), (ii) and (iii)—a statutory declaration containing a statement from the individual of the reasons that the child could not reasonably have been left alone in the circumstances and why there was no individual over the age of 18 who could have provided suitable care to the child in those circumstances;

(b) where paragraph (3)(a) applies—the additional requirements for documentary evidence are the same as those that apply in relation to an eligible disability child or an eligible ISP child for the purposes of paragraph 8(2)(a);

(c) where paragraph (3)(b) applies—a copy of an individual’s (in relation to whom the child is an FTB child or a regular care child and who resides with the child on the day on which the relevant session of care is provided) current driver’s licence, or a recent utility bill sent to the address where the individual and child reside, or a statutory declaration stating the child’s residential address;

(d) where paragraph (3)(c) applies—an employment contract or a payslip, showing usual hours of work—but where the contract or payslip does not show usual hours of work, a letter signed by the relevant employer is required stating usual hours of work.
10 Timeframes in which documentary evidence must be provided

(1) In this Determination, where a requirement exists to provide documentary evidence to a service, the timeframes in which that documentary evidence must be provided are:

(a) where paragraph 219N(5)(a) of the A New Tax System (Family Assistance) (Administration) Act 1999 applies to the obligation to provide an attendance report for the child and the circumstance exists in the week referred to in that provision—within 7 days after the day on which the enrolment was confirmed; or

(b) where paragraph 219N(5)(b) of the A New Tax System (Family Assistance) (Administration) Act 1999 applies to the obligation to provide an attendance report for the child and the circumstance exists in the week referred to in that provision—no later than the end of the second week immediately following that week.

(2) Documentary evidence only needs to be provided once in relation to each matter to be evidenced.

(3) To avoid doubt, when a service is eligible in accordance with section 47 of the Family Assistance Act, the timeframes in subsection (1) apply, but are to be taken as timeframes by when the service must hold the relevant documentary evidence.”