

EXPLANATORY STATEMENT

A New Tax System (Family Assistance) (Child Care Benefit — Recognised Work or Work Related Commitments) Determination 2006

Summary

This Determination is made under subsection 15(2) of the **A New Tax System (Family Assistance) Act 1999** (the Family Assistance Act). It is a legislative instrument for the purposes of the **Legislative Instruments Act 2003**.

The purpose of this Determination is to specify the classes of persons who are taken to have recognised work or work related commitments under section 15 of the Family Assistance Act. This Determination revokes the Child Care Benefit (Recognised Work or Work Related Commitments) Determination 2000 and remakes it with limited changes that give effect, in part, to the Government's welfare to work reforms.

The main change introduced by this Determination is that recipients of newstart allowance and youth allowance under the **Social Security Act 1991** who are not full-time students will no longer automatically be entitled up to 50 hours of child care benefit (CCB) per week. Other changes involve drafting refinements and do not give rise to substantive change.

Background

The Family Assistance Act introduced CCB, which is a payment towards a family's child care costs. A factor which may affect a person's eligibility for CCB is the requirement to satisfy the 'work/training/study test' set out in subsection 14(1) of the Family Assistance Act. One way in which this test may be satisfied is if a person has 'recognised work or work related commitments'. Section 15 of the Family Assistance Act specifies when a person has recognised work or work related commitments, and subsection 15(2) provides that the Minister may determine that individuals included in a specified class are taken to have such commitments.

The Department has not undertaken consultations with respect to this Determination because it does not have a significant impact on business or restrict competition and because it gives effect to a decision in terms announced in the 2005-2006 Budget that alters the obligations and/or entitlements of individuals and not child care services.

The Office of Regulatory Review (ORR) has advised that a Regulation Impact Statement is not required for this Determination (ORR RIS ID: 8397).

Explanation of the sections

Name of Determination

Section 1 states the name of this Determination.

Commencement

Section 2 states that this Determination commences on 3 July 2006.

Revocation

Section 3 revokes the Child Care Benefit (Recognised Work or Work Related Commitments) Determination 2000 (the revoked determination), which is replaced by this Determination.

References to revoked Determination

Section 4 is a deeming provision. It provides that a reference in an instrument (other than a legislative instrument) to the revoked determination or a provision of the revoked determination is taken to be a reference to this determination or corresponding provision of this determination. As an example, this provision has the effect that any contract or funding agreement, which incorporates the revoked determination as a term, will now incorporate this Determination.

Interpretation

Section 5 contains interpretation provisions.

Individuals taken to have recognised work or work related commitments

Section 6 provides that individuals who fall within any of the classes specified in the Schedule are taken to have recognised work or work related commitments for the purposes of section 15 of the Family Assistance Act.

Delegation

Section 7 contains a provision allowing the Secretary to delegate the Secretary's powers under this Determination to an APS employee in the Department or the Commonwealth Services Delivery Agency (Centrelink).

Explanation of Schedule 1

Schedule 1 sets out the classes of individual who are taken to have recognised work or work related commitments for the purposes of the Family Assistance Act. Generally, the classes cover the following categories:

- Individuals who are setting up a business;
- Individuals who are unemployed and actively looking for work;

- Individuals who are undertaking voluntary work;
- Individuals who are about to start a job, or a course of education;
- Individuals who are looking after a disabled person;
- Individuals who are parental leave, annual leave, sick leave, long service leave or another kind of paid leave;
- Self-employed individuals who are unable to work due to illness or injury, or who are on leave similar to annual leave, long service leave or parental leave;
- Individuals who are taking respite from caring for a disabled person;
- Individuals who are on vacation from a course of study or training.

As noted in the Background section above, the most significant substantive change to the Schedule is the removal of the class of individuals in receipt of newstart allowance or youth allowance under the Social Security Act. The effect of this is that newstart allowees and youth allowees who are not full-time students will no longer be automatically entitled to up to 50 hours of CCB per week. They will otherwise have to meet the work/training/study test in order to qualify for up to 50 hours.

Those individuals who are full-time students receiving newstart allowance or youth allowance will still be able to access the higher threshold of CCB by virtue of their inclusion in item 15 of Schedule 1 of this Determination. That is, although these allowees will no longer fall within two classes in the Schedule, they will not be adversely affected by the change.

Other amendments largely involve drafting improvements. New item 15 (which is the equivalent of item 14 of the revoked determination) has been refined to clarify that students who have completed their studies and are on vacation do not automatically qualify for up to 50 hours of CCB by virtue of their inclusion in this class. That is, they must fit another class (such as being unemployed and looking for work) or otherwise meet the work/training/study test in order to qualify for up to 50 hours of CCB.