

EXPLANATORY STATEMENT

A New Tax System (Family Assistance) (Administration) (Child care benefit — when enrolment ceases (number of weeks)) Specification 2007

Summary

This Specification is made under subsection 219AD(3) of the **A New Tax System (Family Assistance)(Administration) Act 1999** (the Family Assistance Administration Act).

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

The purpose of this Specification is to specify the number of weeks of a child's absence from care (when no sessions of care are reported by the service as provided to the child) which constitute cessation of the child's enrolment for the purposes of the family assistance law.

Background

The new Child Care Management System (CCMS) introduced by the **Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Act 2007** (the CCMS Act) will apply to an approved child care service from the service's 'application day' determined in accordance with item 91 of the CCMS Act.

Under subsection 219A(1) of the Family Assistance Administration Act an approved child care service must notify the Secretary of the enrolment of a child by an individual for care by the service.

Subsection 219AD(3) provides that the enrolment of a child for care by an approved child care service is taken to have ceased if no session of care to the child, over a number of weeks specified by the Secretary, is reported to the Secretary under section 219N.

If an enrolment has ceased and the service starts providing care to the child again, this is a new enrolment that the service has to notify under subsection 219A(1). Under section 219R an approved child care service may, in a notice under subsection 219A(1), elect to receive the payment of an enrolment advance in relation to the enrolment.

If the enrolment for which an enrolment advance was paid ceases, the enrolment advance amount is recoverable from the service via an offset under section 219RC.

Subsection 219AD(4) provides for the Secretary to specify different periods (weeks) in relation to different kinds of services or types of care for the purposes of determining whether an enrolment has ceased under 219AD(3).

The different kinds of services are defined in subsection 3(1) of the Family Assistance Administration Act.

For the purposes of this Specification, types of care are distinguished by whether or not an enrolment advance was paid to the service under section 219RA of the Family Assistance Administration Act for the enrolment.

This Determination arises in the context of the introduction of the CCMS, which has been extensively consulted with the child care sector.

A Preliminary Assessment of the impact of this proposal has been undertaken in accordance with the procedure established by the Office of Best Practice Regulation; this proposal will not affect child care services.

Explanation of sections

Name of Specification

Section 1 states the name of this Specification.

Commencement

Section 2 states that the Specification commences on the day after it is registered.

The Note to Section 2 alerts the readers to items 91 and 93 of the CCMS Act, relating to the application of the amendments made by this Determination to an enrolment of a child on or after the service's 'application day'.

Number of weeks

Section 3 specifies the number of weeks after which the enrolment of a child for care by an approved child care service is taken to have ceased if no session of care to the child is reported to the Secretary for these weeks under section 219N.

Paragraphs 3(a) to (c) specify different periods (in whole weeks) in relation to different kinds of services or types of care.

Subparagraph 3(a)(i) specifies that for an enrolment of a child for care by an approved centre based long day care service, an approved family day care service or an approved in-home care service and for which an enrolment advance was paid to the service, the relevant period is 6 weeks. Subparagraph 3(a)(ii) states that In any other case, for example in which no enrolment advance was paid, the relevant period is 26 weeks.

Paragraph 3(b) specifies the relevant period for the enrolment of a child for care by an approved occasional care service is 26 weeks.

Subparagraph 3(c)(i) specifies that for an enrolment of a child for care by an approved outside school hours care service which is not a school holiday session and an enrolment advance was paid, the relevant period is 10 weeks. Subparagraph 3(c)(ii) states that In any other enrolment of a child for care by an approved outside school hours care service, the relevant period is 26 weeks.

The Note to section 3 directs the reader to subsection 3(1) of the Family Assistance Administration Act for the definitions of 'approved centre based long day care service', an 'approved family day care service', an 'approved in-home care service', an approved occasional care service' and 'approved outside school hours care service'. The Note also directs the reader to subsection 3(2) of the ***A New Tax System (Family Assistance) Act 1999*** for the definition of 'school holiday session'.