

Legislation (Deferral of Sunsetting—Child Care Benefit Instruments) Certificate 2016

EXPLANATORY STATEMENT

Issued by the Attorney-General in compliance with section 15G of the *Legislation Act 2003*

INTRODUCTION

This certificate was made under paragraph 51(1)(c) of the *Legislation Act 2003* (the LA) and is a legislative instrument for the purposes of the LA.

A certificate issued by the Attorney-General under subsection 51(1) of the LA is not subject to disallowance. As such, a statement of compatibility with human rights is not required (*Human Rights (Parliamentary Scrutiny) Act 2011*, section 9).

OUTLINE

The purpose of the sunsetting provisions of the LA is to ensure that legislative instruments are kept up to date and only remain in force for so long as they are needed.

Paragraph 51(1)(c) enables the Attorney-General to issue a certificate to defer the sunsetting day for an instrument for a period of either six or 12 months. The instrument will then cease to be in force on the day specified in the certificate instead of the scheduled sunsetting day.

This allows instruments to continue to be in force for a further but limited period of time when they would otherwise sunset. This removes the administrative burden of remaking instruments which would have a limited duration prior to their repeal and potential replacement.

PROCESS BEFORE CERTIFICATE WAS MADE

Regulatory impact analysis

Certificates of deferral of sunsetting are machinery of government instruments, and are therefore not subject to the regulatory impact assessment requirements set out by the Office of Best Practice Regulation (OBPR). The OBPR reference for this standing exemption is ID19633.

Consultation before making

Before this certificate was issued, the Attorney-General considered the general obligation to consult imposed by section 17 of the LA. Consultation involved the Minister for Education and Training advising the Attorney-General of the reasons in support of issuing the Certificate. The Certificate is consistent with the policy intent of the sunsetting arrangements and does not significantly alter existing arrangements. Accordingly, further consultation was unnecessary.

Statutory preconditions relevant to this certificate

If the Attorney-General is satisfied that the statutory conditions in section 51 of the LA are met, an instrument's sunset day can be deferred for either six or 12 months by means of a certificate made under that section. In terms of process, the LA requires:

- a) the responsible rule maker to apply to the Attorney-General in writing
- b) the Attorney-General to be satisfied that the instrument meets the statutory conditions, and
- c) the Attorney-General to issue a certificate that includes a statement of reasons for the issue of the certificate.

The certificate issued by the Attorney-General must be laid before each House of Parliament no later than six sitting days after it is made. It is a legislative instrument and must be registered on the Federal Register of Legislation, but is not subject to disallowance (*Legislation (Exemptions and Other Matters) Regulation 2015*, section 10, item 19).

More information

The detail of the certificate is provided in [Attachment A](#).

The instruments which are the subject of this certificate, and which will now sunset at a later day as specified in this certificate, are available on the Federal Register of Legislation.

Further information about the operation of any of those instruments may also be requested from the Department of Education and Training.

NOTES ON THE CERTIFICATE

Section 1 Name of certificate

This section provides that the Certificate is named the *Legislation (Deferral of Sunsetting—Child Care Benefit Instruments) Certificate 2016*. The Certificate may be cited by that name.

Section 2 Commencement

This section provides for the Certificate to commence on the day after it is registered.

Section 3 Authority

This section provides that the Certificate is made under paragraph 51(1)(c) of the *Legislation Act 2003*.

Section 4 Definitions

This section defines ‘Act’ to mean the *Legislation Act 2003*, for the purposes of the Certificate.

Section 5 Statement of reasons for issue of certificate

This section provides the statement of reasons as required by paragraph 51(2)(a) of the Act.

The statement of reasons explains the reasons for which the Attorney-General is satisfied that each of the instruments would (apart from the operation of Part 4 of Chapter 3 of the Act) be likely to cease to be in force within 12 months after their respective sunseting days, as required by subparagraph 51(1)(b)(i) of the Act.

Section 6 Deferral of sunseting of the instrument

This section provides that the 15 legislative instruments listed under that section, for which the sunseting day is either 1 October 2016 or 1 April 2017, are taken to cease to be in force under section 51 of the Act on 1 October 2017.

Section 7 Repeal

This section provides that the certificate is repealed on 2 October 2017.