



Child Care Subsidy (What Constitutes a Session of Care) Determination 2018

I, Simon Birmingham, Minister for Education and Training, make this instrument under section 9 of the *A New Tax System (Family Assistance) Act 1999*.

Dated 21 June 2018

Simon Birmingham
Minister for Education and Training

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1 Name

This instrument is the *Child Care Subsidy (What Constitutes a Session of Care) Determination 2018*.

2 Commencement

This instrument commences on 2 July 2018.

3 Authority

This instrument is made under section 9 of the Act.

4 Revocation

The *Child Care Benefit (Session of Care) Determination 2016* is revoked.

Note: Item 8 of Schedule 4 to the *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017* ensures that, notwithstanding its revocation, the *Child Care Benefit (Session of Care) Determination 2016* continues in force in relation to child care benefit or child care rebate for which a person was eligible, and in relation to sessions of care that occurred, before 2 July 2018.

5 Definition

In this instrument:

Act means the *A New Tax System (Family Assistance) Act 1999*.

6 What constitutes a session of care

- (1) A session of care is the minimum period of time in respect of which an approved provider imposes a liability on an individual by charging a fee for providing child care by an approved child care service.
- (2) To avoid doubt, a genuine legal liability must arise in respect of the fee referred to in subsection (1) under an arrangement which requires an individual to pay the fee irrespective of any payment made by the Secretary under the family assistance law to discharge some or all of that liability (except where an approved provider is eligible for ACCS (child wellbeing)).
- (3) A session of care:
 - (a) may start on one day and end on the next day; and
 - (b) may be of any length up to, but not exceeding, 12 hours.

Note: Section 8 of the *Child Care Subsidy Minister's Rules 2017* sets out circumstances in which there is no eligibility for a session of care, including where during any part of the session, the child is attending school, or engaged in a formal schooling program (including a home schooling or distance education program). As a result, sessions of before and after school care should not be reported to overlap with the child's school hours.

- (4) A session of care that starts on one day (the first day) and ends on the next day is to be treated as having occurred on the first day.