

Child Care Subsidy Amendment (Coronavirus Response Measures No. 2) Minister’s Rules 2020

I, Dan Tehan, Minister for Education, make the following rules.

Dated 5 April 2020

Dan Tehan

Minister for Education

Contents

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

Schedule 1—Amendments 2

Child Care Subsidy Minister’s Rules 2017 2

1 Name

 This instrument is the *Child Care Subsidy Amendment (Coronavirus Response Measures No. 2) Minister’s Rules 2020*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. |  |
| 2. Schedule 1, other than item 2 | The day after this instrument is registered. |  |
| 3. Schedule 1, item 2 | 23 March 2020 | 23 March 2020. |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under the *A New Tax System (Family Assistance) Act 1999*.

4 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Child Care Subsidy Minister’s Rules 2017

1 Subsection 4(1)

Insert:

***business continuity payment*** means a payment under section 205A of the Family Assistance Administration Act.

2 Subsections 54A(3) and (4)

Repeal the subsections, substitute:

Condition

 (3) A condition is that the child did not attend the session of care in the following circumstances:

1. the service is closed because a health agency has advised or required the service to close as a result of the COVID‑19 pandemic;
2. the service is not closed.

 (3A) In addition, if the session of care was provided by a FDC service or an IHC service that is not closed, it is a condition that the Secretary has not, since 2 July 2018, made a decision under Division 4 of Part 8 of the Family Assistance Administration Act (other than a decision under section 197AA or section 197C), or given a notice under section 199A of that Act, in relation to the service or the approved child care provider of the service.

Period

 (4) Where paragraph (3)(a) applies, the period is the period:

 (a) beginning on the day the child care service closes as a result of the advice or requirement referred to in paragraph (3)(a); and

 (b) ending on the earlier of:

 (i) the last day in the period that the health agency advises or requires the child care service to be closed; and

 (ii) 30 June 2020.

 (4A) Where paragraph (3)(b) applies, the period is the period beginning on 23 March 2020 and ending on 30 June 2020.

3 Before section 57

Insert:

Division 1—General

57AA Application

 This Division applies to a business continuity payment to a provider in relation to a service for a period to which Division 2 does not apply.

4 After section 60

Insert:

Division 2—Coronavirus response business continuity payments

60A Application

 This Division applies to a business continuity payment to a provider in relation a service and a report under subsection 204B(1) of the Family Assistance Administration Act for a week occurring in the period beginning on 6 April 2020 and ending on 28 June 2020.

60B Definition

 In this Division:

***reference fortnight*** means:

 (a) in relation to an OSHC service that provides only vacation care—the fortnight starting on the first Monday of the school holidays between school Term 3 and Term 4 in 2019 in the State or Territory in which the service is located; and

 (b) in relation to any other kind of service—the fortnight starting 17 February 2020.

60C Circumstances in which a business continuity payment may be made

 For paragraph 205A(1)(c) of the Family Assistance Administration Act, if a provider fails to give a report under subsection 204B(1) of that Act in relation to a service by the time required under that section, a business continuity payment may be made if the Secretary is satisfied that the failure is due to circumstances which:

 (a) are beyond the control of the provider; and

 (b) prevent the service from giving the report by the required time.

Note: The time required for a report is set out in paragraph 204B(2)(d) of the Family Assistance Administration Act.

60D Method of determining payment amount

 (1) For paragraph 205A(2)(a) of the Family Assistance Administration Act, the amount of a business continuity payment is the sum of the weekly payments as worked out under sections 60E and 60F of these Rules for each week in the period specified in the notice given to the approved provider under subsection 205A(4) of that Act.

Rounding up or down

 (2) If the amount of a business continuity payment under subsection (1) is not a multiple of $100, the amount is to be rounded to the nearest multiple of $100 (rounding up an amount that is a multiple of $50 but not $100).

60E Base weekly amount where service received a fee reduction amount during reference fortnight

 (1) Where an approved service has, during the reference fortnight, been paid one or more fee reduction amounts under section 67EB of the Family Assistance Administration Act, the amount of the business continuity payment for each week to which it relates is the sum of reference hourly fees for all sessions of care provided by the service during the reference fortnight, divided by two.

Note: For the definition of ***fee reduction amount***, see section 67EB of the Family Assistance Administration Act.

 (2) For subsection (1), the ***reference hourly fee*** for a session of care is 50 per cent of the lower of:

 (a) the hourly session fee for the session; and

 (b) the CCS hourly rate cap for the session.

Note: The ***CCS hourly rate cap*** for a session of care is set out in the table at subitem 2(3) of Schedule 2 to the Family Assistance Act.

 (3) Despite subsection (1), the amount of business continuity payment in relation to a service for a week is nil if:

 (a) the Secretary is satisfied that the provider has failed to comply with any requirements on the payment of business continuity payments set out in the *Early Childhood Education and Care Relief Package Payment Conditions* document, as published by the Department from time to time; or

Note: In 2020, the *Early Childhood Education and Care Relief Package Payment Conditions* document was available on the Department’s website at [www.dese.gov.au](http://www.dese.gov.au).

 (b) the provider receives fees in relation to sessions of care provided to children during the week by services of the provider; or

 (c) the service is closed for a reason other than because a health agency has advised or required the service to close because of the COVID-19 pandemic; or

 (d) there are no children enrolled for care by the service during the week.

60F Supplementary amounts

 The amount of business continuity payment under this section is the amount worked out in accordance with the *Early Childhood Education and Care Relief Package Payment Conditions* document, as published by the Department from time to time.

Note: In 2020, the *Early Childhood Education and Care Relief Package Payment Conditions* document was available on the Department’s website at [www.dese.gov.au](http://www.dese.gov.au).