



Child Care Subsidy Amendment (Coronavirus Response Measures No. 7) Minister's Rules 2021

I, Alan Tudge, Minister for Education and Youth, make the following rules.

Dated 28 October 2021

Alan Tudge
Minister for Education and Youth

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1 Name

This instrument is the *Child Care Subsidy Amendment (Coronavirus Response Measures No. 7) Minister's Rules 2021*.

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. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Section 4 (definitions of *in a COVID-19 hotspot* and *in a restricted COVID-19 hotspot*)

After “an approved child care service”, insert “or an individual’s principal place of residence”.

2 Subsection 5B(2) (note)

Omit “Note:”, substitute “Note 1.”.

3 At the end of subsection 5B(2)

Add:

Note 2: Part 3 of Schedule 3 sets out matters in relation to allowable absences for services in COVID-19 hotspots.

4 Paragraph 2.1(4)(c) of Schedule 3

Repeal the paragraph, substitute:

(c) subclause (5), (6), (7), (8), (9) or (10) applies to the session of care.

5 At the end of clause 2.1 of Schedule 3

Add:

(7) This subclause applies if:

- (a) the session of care occurs on a day that the Secretary has determined, under subsection 67CC(1) of the Family Assistance Administration Act, that an individual is eligible for CCS by fee reduction for the child; and
- (b) the individual, or the individual’s partner, has incurred a liability to pay for the session of care under a complying written arrangement; and
- (c) the individual’s principal place of residence is in a COVID-19 hotspot; and
- (d) either of the following apply:
 - (i) the individual’s principal place of residence has been in the COVID-19 hotspot for eight or more continuous days;
 - (ii) the individual’s principal place of residence is in a restricted COVID-19 hotspot.

(8) This subclause applies to a session of care provided by a service on a day in a BCP fortnight (within the meaning of Division 1 of Part 4 of this Schedule) if the provider and the service meets the eligibility criteria in clause 4.5 of this Schedule for the fortnight (other than the requirement to comply with subclause 4.8(2)).

(9) This subclause applies to a session of care on a day between 10 October 2021 and 30 November 2021 if, on that day:

- (a) if the service is an outside school hours care service (other than such a service that provides vacation care only)—the service is in a local government area where not all primary public school children are permitted

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- to be at school on-site and full-time due to local government area wide directions or advice relating to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located; or
- (b) if the service is not a service mentioned in paragraph (a)—the service is in a local government area where not all children are permitted to attend child care due to local government area wide directions or advice relating to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located.
- (10) This subclause applies to a session of care on a day between 10 October 2021 and 30 November 2021 if, on that day:
- (a) if the service is an outside school hours care service (other than such a service that provides vacation care only)—the individual’s principal place of residence is in a local government area where not all primary public school children are permitted to be at school on-site and full-time due to local government area wide directions or advice relating to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located; or
- (b) if the service is not a service mentioned in paragraph (a)—the individual’s principal place of residence is in a local government area where not all children are permitted to attend child care due to local government area wide directions or advice relation to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located.

6 Before subclause 3.1(3) of Schedule 3

Insert:

- (2A) It is a condition that subclause (3), (4) or (5) applies to the day.

7 Subclause 3.1(3) of Schedule 3

Repeal the subclause, substitute:

- (3) This subclause applies if on a day which is on or after 23 June 2021 either:
- (a) the child care service is in a COVID-19 hotspot and has been or will be in that particular COVID-19 hotspot for a period of more than 7 continuous days; or
- (b) all of the following apply:
- (i) the Secretary has determined, under subsection 67CC(1) of the Family Assistance Administration Act, that an individual is eligible for CCS by fee reduction for the child;
- (ii) the individual, or the individual’s partner, has incurred a liability to pay for the session of care under a complying written arrangement;
- (iii) the individual’s principal place of residence is in a COVID-19 hotspot and has been or will be in that particular COVID-19 hotspot for a period of more than 7 continuous days.
- (4) This subclause applies to a day between 10 October 2021 and 30 November 2021 if, on that day:
- (a) if the service is an outside school hours care service (other than such a service that provides vacation care only)—the service in a local government area where not all primary public school children are permitted

- to be at school on-site and full-time due to local government area wide directions or advice relating to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located, and those directions or that advice is in effect for 7 continuous days or more; or
- (b) if the service is not a service mentioned in paragraph (a)—the service is in a local government area on a day when not all children are permitted to attend child care due to local government area wide directions or advice relation to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located, and those directions or that advice is in effect for 7 continuous days or more.
- (5) This subclause applies to a day between 10 October 2021 and 30 November 2021 if, on that day:
- (a) if the service is an outside school hours care service (other than such a service that provides vacation care only)—the individual’s principal place of residence is in a local government area where not all primary public school children are permitted to be at school on-site and full-time due to local government area wide directions or advice relating to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located, and those directions or that advice is in effect for 7 continuous days or more; or
- (b) if the service is not a service mentioned in paragraph (a)—the individual’s principal place of residence is in a local government area where not all children are permitted to attend child care due to local government area wide directions or advice relation to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located, and those directions or that advice is in effect for 7 continuous days or more.

8 After clause 3.1 of Schedule 3

Insert:

3.2 Allowable absences after last day of attendance for services in COVID-19 hotspots

- (1) For the purposes of subsection 10(2A) of the Family Assistance Act, this clause sets out circumstances in which subparagraph 10(2)(b)(iii) of that Act does not apply.
- (2) The circumstance is:
- (a) the child care service mentioned in subsection 10(2) of that Act is in a COVID-19 hotspot on the day mentioned in that subsection; and
- (b) the service, on that day, has been, or will be, in that COVID-19 hotspot for a period of more than 7 continuous days; and
- (c) the day is on or after 12 July 2021.
- (3) The circumstance is:
- (a) the Secretary has determined, under subsection 67CC(1) of the Family Assistance Administration Act, that an individual is eligible for CCS by fee reduction for a child; and

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- (b) the individual, or the individual's partner, has incurred, under a complying written arrangement, a liability to pay for a session of care for the child on a day; and
 - (c) the individual's principal place of residence is in a COVID-19 hotspot on that day; and
 - (d) the individual's principal place of residence, on that day, has been, or will be, in that COVID-19 hotspot for a period of more than 7 continuous days; and
 - (e) the day is on or after 12 July 2021.
- (4) The circumstance is:
- (a) either:
 - (i) subclause (2) has previously applied in relation to a child care service and a COVID-19 hotspot; or
 - (ii) subclause (3) has previously applied in relation to an individual's principal place of residence and a COVID-19 hotspot; and
 - (b) it is a day during the period of 28 days after the last day the service or individual's principal place of residence was in the COVID-19 hotspot.

9 Clause 4.2 of Schedule 3 (paragraphs (b) and (c) of the definition of *start day*)

Repeal the paragraphs, substitute:

- (b) if subparagraph 4.5(3)(a)(i) applies, or previously applied, to the service—the first day the service was in the restricted COVID-19 hotspot;
- (c) if subparagraph 4.5(3)(a)(ii) applies, or previously applied, to the service—the day that is 28 days after the first day the service was in the COVID-19 hotspot.

10 Subclause 4.5(3) of Schedule 3

Repeal the subclause, substitute:

- (3) On a day in the BCP fortnight that is on or after 23 August 2021, the service must:
 - (a) for all services—be in a COVID-19 hotspot and either of the following apply:
 - (i) if the COVID-19 hotspot is a restricted COVID-19 hotspot—the period of time the service has been or will be in that restricted COVID 19 hotspot is more than 7 continuous days;
 - (ii) otherwise—the period of time the service has been or will be in that COVID 19 hotspot is more than 28 continuous days; or
 - (b) for a service that is an outside school hours service (not including such a service that provides vacation care only):
 - (i) have previously been a service to which subparagraph (a)(i) or (ii) applies; and
 - (ii) be located in a local government area for which not all primary public school children are permitted to be at school on-site and full-time due to local government area wide directions or advice relating to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located; and

- (iii) the directions or advice referred to in subparagraph (ii) must have been in effect since immediately after subparagraph (a)(i) or (ii) applied to the service; or
- (c) for a service that is not a service described by paragraph (b):
 - (i) have previously been a service to which subparagraph (a)(i) or (ii) applies; and
 - (ii) be located in a local government area for which not all children are permitted to attend child care due to local government area wide directions or advice relating to the COVID-19 pandemic issued by the State or Territory government in which the local government area is located; and
 - (iii) the directions or advice referred to in subparagraph (ii) must have been in effect since immediately after subparagraph (a)(i) or (ii) applied to the service.

11 At the end of clause 4.6 of Schedule 3

Add:

- (4) Despite subclause (2), if:
 - (a) the service provides vacation care; and
 - (b) the first day of school holidays for public schools in the State or Territory in which the service is located is on or after 23 August 2021 and falls within the BCP fortnight;the amount of a COVID-19 viability support payment in relation to the service for that fortnight is 40 per cent of the amount worked out under subsection (5).
- (5) The amount is the sum of the reference hourly fees for all sessions of care provided by the service during the period of 14 days beginning the first Monday of the most recent school holidays for public schools in the State or Territory in which the service is located for which the service was not in a COVID-19 hotspot on any day during those school holidays.

12 At the end of Schedule 3

Add:

Part 5—Maintaining enrolments for children in child care services in COVID-19 hotspots

5.1 Circumstance in which enrolments do not cease

- (1) For the purposes of subsection 200B(1A) of the Family Assistance Administration Act, if:
 - (a) a service is in a COVID-19 hotspot for a period beginning on or after 23 June 2021; and
 - (b) that period has been, or will be, at least 10 continuous weeks; any week covered wholly or partly by that period is to be disregarded.
- (2) For the purposes of subsection 200B(1A) of the Family Assistance Administration Act, if:

- (a) the Secretary has determined, under subsection 67CC(1) of that Act, that an individual is eligible for CCS by fee reduction for a child; and
 - (b) the individual, or the individual's partner, has, for a period beginning on or after 23 June 2021, incurred, under a complying written arrangement, a liability to pay for sessions of care provided to the child during that period; and
 - (c) the individual's principal place of residence has been, or will be, in a COVID-19 hotspot for that period; and
 - (d) that period has been, or will be, at least 10 continuous weeks;
- any week covered wholly or partly by that period is to be disregarded.