

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

A New Tax System (Family Assistance) Act 1999

Child Care Subsidy Amendment (Early Childhood Education and Care Worker Retention Payment Engagement Program and Other Measures) Minister's Rules 2024

AUTHORITY

The *Child Care Subsidy Amendment (Early Childhood Education and Care Worker Retention Payment Engagement Program and Other Measures) Minister's Rules 2024* (Amendment Rules) are made under subsection 85GB(1) of the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act) as construed in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (Acts Interpretation Act).

Under subsection 33(3) of the Acts Interpretation Act, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke and amend or vary any such instrument.

PURPOSE AND OPERATION

The *Child Care Subsidy Minister's Rules 2017* (the Principal Rules) prescribe matters that are required or permitted (or which are otherwise necessary or convenient) for the purposes of the Family Assistance Act or the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Assistance Administration Act).

The Amendment Rules amend the Principal Rules to have the effect that:

- the Early Childhood Education and Care Worker Retention Payment Engagement Program (Engagement Program) is prescribed in the Principal Rules for the purposes of the special appropriation in the Family Assistance Administration Act for the 2024-25 financial year.
- Special Benefit recipients will no longer be required to demonstrate that they would have qualified for another income support payment except for the residency requirement.
- Child Care Subsidy (CCS) will be payable for absences caused by child care service closures on public holidays where the service is also closed on an adjacent weekday.
- child care providers that are subject to equivalent requirements under State or Territory child care laws will not be subject to the additional conditions of approval that apply to certain providers under the Principal Rules.

The Amendment Rules also remove a redundant subheading and correct a minor numbering error.

Special appropriation for Engagement Program

The Amendment Rules amend the Principal Rules to have the effect that the Engagement Program is prescribed in the Principal Rules for the purposes of the special appropriation in the Family Assistance Administration Act for the 2024-25 financial year.

The Engagement Program will provide up to \$10 million in funding in 2024-25 for up to 10 Early Childhood Education and Care (ECEC) peak bodies, employer organisations and employee representative organisations to provide support and advice to eligible ECEC providers of Child Care Subsidy (CCS) approved services to prepare and apply for the ECEC Worker Retention Payment.

Recipients of the funding under the Engagement Program will include ECEC peak bodies and other key organisations who can provide additional support to ECEC services in their application for the ECEC Worker Retention Payment. Recipients of the funding under the Engagement Program will need to demonstrate an understanding of the eligibility requirements of the ECEC Worker Retention Payment, have good coverage and engagement across the ECEC sector and be able to provide sector wide support.

The ECEC Worker Retention Payment will support a wage increase for the ECEC sector of 15% above the modern award rates over 2 years. The ECEC Worker Retention Payment is intended to ensure ECEC workers are fairly remunerated, to help attract and retain ECEC workers, and to ensure that ECEC remains accessible and affordable to families.

Eligible ECEC providers of CCS approved services opt-in by applying for the ECEC Worker Retention Payment. The ECEC Worker Retention Payment will be issued to eligible providers through a grant agreement and delivered via the CCS System. ECEC providers must pass the payment on to eligible ECEC workers. Applications for the ECEC Worker Retention Payment opened on 8 October 2024.

Sector feedback indicates that some ECEC providers require assistance and specialist advice to prepare their applications so they will meet the terms and conditions of the grant agreement. Some small to medium enterprises and not for profit community providers lack the specialised expertise required to prepare and implement an eligible workplace instrument which must be in place to be eligible for the ECEC Worker Retention Payment.

Services offered by recipients of funding under the Engagement Program will include the provision of specialist workplace relations assistance to ECEC providers of CCS approved services to help prepare and implement an eligible workplace instrument and ensure that employees understand the impact of a workplace instrument. Other services will include the development of sector specific resources and educational activities for services and their staff and providing targeted advice and support to services to assist them to prepare and apply for the ECEC Worker Retention Payment.

Recipients of funding under the Engagement Program will work closely with the Department of Education (the Department) throughout the life of the grant agreement to ensure the

services offered under the grant agreement meet the terms and conditions of the agreement and meet the needs of providers of ECEC services in preparing and submitting their applications for the ECEC Worker Retention Payment grant.

Special Benefit recipients

Currently, Special Benefit recipients may receive an activity test result of 36 subsidised hours per fortnight, or eligibility for the Additional Child Care Subsidy (transition to work). However, they may only receive these entitlements if they meet the additional requirement that they would have qualified for one of the other specified income support payments except for the residency requirement in relation to that payment under the *Social Security Act 1991* (Social Security Act). The Amendment Rules remove the additional requirement for Special Benefit recipients, which will reduce administrative complexity for families as they will no longer need to demonstrate that they would have been eligible to receive one of the specified income support payments but for the residency requirement.

CCS eligibility for absences due to public holidays

Since March 2020, subsection 8(4C) prohibited providers from collecting CCS for closures on public holidays where services are also closed on adjacent weekdays. The effect of this provision is that providers who 'shut down', for example, over the Christmas period cannot claim CCS for public holidays. Item 10 reduces the complexity and provides eligibility for sessions of care for public holidays where a service is closed for two or more adjacent weekdays where one of those days is not a public holiday.

Certain child care providers not subject to additional conditions for approval

To be approved under the family assistance law, a provider must have in place any approvals or licences required to operate the service under the law of the State or Territory in which the service is situated.

This means most providers must be approved under the *Education and Care Services National Law* (the National Law) as applied in the State or Territory. The National Law, among other things, makes provision for the monitoring of the quality of child care services. However, the National Law does not apply to some providers.

The Principal Rules prescribe additional conditions for continued approval for those providers that are not subject to the National Law. These include quality and safety measures that must be complied with by these providers in respect of their services to be approved under the family assistance law. These measures require demonstrating a commitment to high quality child care, notifying of serious incidents and managing work health and safety matters, amongst other things.

However, some providers subject to these additional quality and safety requirements in the Principal Rules must also comply with quality and safety requirements under other State or Territory laws, which already require the quality and safety standards set out in the Principal Rules. The Amendment Rules amend the Principal Rules to ensure that these providers are

not also required to comply with the additional quality and safety conditions in the Principal Rules.

IMPACT ANALYSIS

The Office of Impact Analysis has advised that no Impact Analysis is required for the Amendment Rules because they are unlikely to have more than a minor impact (reference numbers: OIA23-05403; OIA24-07631).

COMMENCEMENT

The Amendment Rules commence the day after this instrument is registered, with the exception of Parts 4 and 5 of Schedule 1. Part 4 of Schedule 1 commences on 1 January 2025 and Part 5 commences immediately after the commencement of the *Child Care Subsidy Amendment (Parent Pathways and Other Measures) Minister's Rules 2024*. This means that Part 5 of Schedule 1 will commence retrospectively. Subsection 12(1A) of the *Legislation Act 2003* states that a legislative instrument may provide that a provision of the instrument commences before the instrument is registered. However, subsection 12(2) has the effect that a retrospective commencement will not apply in relation to a person if it will disadvantage or impose liabilities on a person. Part 5 of Schedule 1 makes technical amendments to remove a redundant subheading and to fix a numbering error. Accordingly, the amendments made by Part 5 of Schedule 1 will not affect any person's rights so as to disadvantage the person, or impose a liability on a person.

CONSULTATION

The Department consulted with the Department of Social Services on the simplification of requirements for Special Benefit recipients.

The Department has consulted with States and Territories regarding the amendments to section 49.

Engagement Program

The Department has consulted broadly with the ECEC sector through the ECEC supported bargaining process as part of Fair Work Commission proceedings and consideration of submissions received in response to the Australian Competition and Consumer Commission and Productivity Commission inquiries into ECEC.

Consultation has also been undertaken with relevant Commonwealth departments, such as the Department of Employment and Workplace Relations, concerning alignment of the ECEC Worker Retention Payment with workplace relations requirements including recent reforms resulting from the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, and the Department of Finance in relation to costs.

The Department did not undertake specific consultation on the amendments to the Principal Rules relating to the special appropriation for ECEC Worker Retention Payment

Engagement Program. However throughout the development of the ECEC Worker Retention Payment extensive consultation occurred with key stakeholders in the ECEC sector, including service providers, educators, unions, ECEC peak bodies and advocacy organisations which identified the need for the development of the ECEC Worker Retention Payment Engagement Program.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Child Care Subsidy Amendment (Early Childhood Education and Care Worker Retention Payment Engagement Program) Minister's Rules 2024

The *Child Care Subsidy Amendment (Early Childhood Education and Care Worker Retention Payment Engagement Program and Other Measures) Minister's Rules 2024* (the Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Child Care Subsidy Minister's Rules 2017* (the Principal Rules) prescribe matters that are required or permitted (or which are otherwise necessary or convenient) for the purposes of the Family Assistance Act or the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Assistance Administration Act).

The Amendment Rules amend the Principal Rules to have the effect that:

- the Early Childhood Education and Care Worker Retention Payment Engagement Program (Engagement Program) is prescribed in the Principal Rules for the purposes of the special appropriation in the Family Assistance Administration Act for the 2024-25 financial year.
- Special Benefit recipients will no longer be required to demonstrate that they would have qualified for another income support payment except for the residency requirement.
- Child Care Subsidy (CCS) will be payable for absences caused by child care service closures on public holidays where the service is also closed on an adjacent weekday.
- child care providers that are subject to equivalent requirements under State or Territory child care laws will not be subject to the additional conditions of approval that apply to certain providers under the Principal Rules.

The Amendment Rules also remove a redundant subheading and correct a minor numbering error.

Special appropriation for Engagement Program

The Amendment Rules amend the Principal Rules to have the effect that the Engagement Program is prescribed in the Principal Rules for the purposes of the special appropriation in the Family Assistance Administration Act for the 2024-25 financial year.

The Engagement Program will provide up to \$10 million in funding in 2024-25 for up to 10 Early Childhood Education and Care (ECEC) peak bodies, employer organisations and

employee representative organisations to provide support and advice to eligible ECEC providers of Child Care Subsidy (CCS) approved services to prepare and apply for the ECEC Worker Retention Payment.

Recipients of the funding under the Engagement Program will include ECEC peak bodies and other key organisations who can provide additional support to ECEC services in their application for the ECEC Worker Retention Payment. Recipients of the funding under the Engagement Program will need to demonstrate an understanding of the eligibility requirements of the ECEC Worker Retention Payment, have good coverage and engagement across the ECEC sector and be able to provide sector wide support.

The ECEC Worker Retention Payment will support a wage increase for the ECEC sector of 15% above the modern award rates over 2 years. The ECEC Worker Retention Payment is intended to ensure ECEC workers are fairly remunerated, to help attract and retain ECEC workers, and to ensure that ECEC remains accessible and affordable to families.

Eligible ECEC providers of CCS approved services opt-in by applying for the ECEC Worker Retention Payment. The ECEC Worker Retention Payment will be issued to eligible providers through a grant agreement and delivered via the CCS System. ECEC providers must pass the payment on to eligible ECEC workers. Applications for the ECEC Worker Retention Payment opened on 8 October 2024.

Sector feedback indicates that some ECEC providers require assistance and specialist advice to prepare their applications so they will meet the terms and conditions of the grant agreement. Some small to medium enterprises and not for profit community providers lack the specialised expertise required to prepare and implement an eligible workplace instrument which must be in place to be eligible for the ECEC Worker Retention Payment.

Services offered by recipients of funding under the Engagement Program will include the provision of specialist workplace relations assistance to ECEC providers of CCS approved services to help prepare and implement an eligible workplace instrument and ensure that employees understand the impact of a workplace instrument. Other services will include the development of sector specific resources and educational activities for services and their staff and providing targeted advice and support to services to assist them to prepare and apply for the ECEC Worker Retention Payment.

Recipients of funding under the Engagement Program will work closely with the Department of Education (the Department) throughout the life of the grant agreement to ensure the services offered under the grant agreement meet the terms and conditions of the agreement and meet the needs of providers of ECEC services in preparing and submitting their applications for the ECEC Worker Retention Payment grant.

Special Benefit recipients

Currently, Special Benefit recipients may receive an activity test result of 36 subsidised hours per fortnight, or eligibility for the Additional Child Care Subsidy (transition to work).

However, they may only receive these entitlements if they meet the additional requirement that they would have qualified for one of the other specified income support payments except for the residency requirement in relation to that payment under the *Social Security Act 1991* (Social Security Act). The Amendment Rules remove the additional requirement for Special Benefit recipients, which will reduce administrative complexity for families as they will no longer need to demonstrate that they would have been eligible to receive one of the specified income support payments but for the residency requirement.

CCS eligibility for absences due to public holidays

Since March 2020, subsection 8(4C) prohibited providers from collecting CCS for closures on public holidays where services are also closed on adjacent weekdays. The effect of this provision is that providers who 'shut down', for example, over the Christmas period cannot claim CCS for public holidays. Item 10 reduces the complexity and provides eligibility for sessions of care for public holidays where a service is closed for 2 or more adjacent weekdays where one of those days is not a public holiday.

Certain child care providers not subject to additional conditions for approval

To be approved under the family assistance law, a provider must have in place any approvals or licences required to operate the service under the law of the State or Territory in which the service is situated.

This means most providers must be approved under the *Education and Care Services National Law* (the National Law) as applied in the State or Territory. The National Law, among other things, makes provision for the monitoring of the quality of child care services. However, the National Law does not apply to some providers.

The Principal Rules prescribe additional conditions for continued approval for those providers that are not subject to the National Law. These include quality and safety measures that must be complied with by these providers in respect of their services to be approved under the family assistance law. These measures require demonstrating a commitment to high quality child care, notifying of serious incidents and managing work health and safety matters, amongst other things.

However, some providers subject to these additional quality and safety requirements in the Principal Rules must also comply with quality and safety requirements under other State or Territory laws, which already require the quality and safety standards set out in the Principal Rules. The Amendment Rules amend the Principal Rules to ensure that these providers are not also required to comply with the additional quality and safety conditions in the Principal Rules.

Human rights implications

The Instrument engages the following rights:

- the rights of parents and children under the *Convention on the Rights of the Child* (CRC), particularly Article 18;
- the right to the enjoyment of just and favourable conditions of work under Article 7 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

Rights of parents and children

Article 18(2) of the CRC requires States Parties to provide appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and ensure the development of institutions, facilities and services for the care of children.

This Instrument ensures that the existing special appropriation in the Family Assistance Administration Act will support eligible ECEC providers to prepare and apply for the ECEC Worker Retention Payment.

The ECEC Worker Retention Payment will support grants to ECEC providers to fund remuneration increases for ECEC workers employed by these providers. The ECEC Worker Retention Payment Grant Opportunity Guidelines will impose conditions on ECEC providers to pass on all funding to ECEC workers in the form of a remuneration increase, constrain fees charged to families and ensure a workplace instrument is in place.

By supporting providers to apply for the ECEC Worker Retention Payment, the Engagement Program will make it easier for parents and children in Australia to access high quality and affordable ECEC.

Right to the enjoyment of just and favourable working conditions

Article 7 of the ICESCR requires State Parties to recognise the right of everyone to the enjoyment of just and favourable working conditions. It also specifically recognises the right to fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work. The International Labour Organization's *Equal Remuneration Convention 1950* (No. 100) also recognises the principle of equal remuneration.

The Instrument facilitates funding under the Engagement Program to promote the uptake of the ECEC Worker Retention Payment enabling ECEC providers to provide a remuneration increase for ECEC workers from 1 December 2024. This directly addresses the pay inequity faced by ECEC workers and takes decisive action to support their retention and professional growth.

The ECEC Worker Retention Payment Grant Opportunity Guidelines will require, as one eligibility criterion for funding, that providers have a legally enforceable workplace instrument. This will provide a mechanism for workers to legally enforce their rights and entitlements.

Finally, funding to be provided under the Engagement Program relying on the special appropriation will promote the uptake of the ECEC Worker Retention Payment which will address workforce shortages: that is, the ECEC Worker Retention Payment will assist with the retention of existing workers and make the sector more attractive to prospective workers. This will complement existing initiatives to create a more sustainable ECEC workforce.

Conclusion

The Instrument is compatible with human rights because it promotes the protection of human rights.

Minister for Education, Jason Clare

**CHILD CARE SUBSIDY AMENDMENT (EARLY CHILDHOOD EDUCATION AND CARE WORKER
RETENTION PAYMENT ENGAGEMENT PROGRAM AND OTHER MEASURES) MINISTER'S
RULES 2024**

EXPLANATION OF PROVISIONS

Section 1: Name

1. This is a formal provision specifying the name of the Amendment Rules.

Section 2: Commencement

2. This item provides that the Amendment Rules commence the day after registration, except for Parts 4 and 5 of Schedule 1. Part 4 of Schedule 1 commences on 1 January 2025 and Part 5 commences immediately after the commencement of the *Child Care Subsidy Amendment (Parent Pathways and Other Measures) Minister's Rules 2024*. This means that Part 5 of Schedule 1 will commence retrospectively. Subsection 12(1A) of the *Legislation Act 2003* states that a legislative instrument may provide that a provision of the instrument commences before the instrument is registered. However, subsection 12(2) has the effect that a retrospective commencement will not apply in relation to a person if it will disadvantage or impose liabilities on a person. Part 5 of Schedule 1 makes technical amendments to remove a redundant subheading and to fix a numbering error. Accordingly, the amendments made by Part 5 of Schedule 1 will not affect any person's rights so as to disadvantage the person or impose a liability on a person.

Section 3: Authority

3. This section provides that the Amendment Rules are made under the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act). Subsection 85GB(1) allows the Minister to make rules required or permitted to be prescribed by the Family Assistance Act or the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Assistance Administration Act), or necessary or convenient to be prescribed for carrying out or giving effect to certain provisions of the Family Assistance Act and the Family Assistance Administration Act.

Section 4: Schedules

4. This section provides that the *Child Care Subsidy Minister's Rules 2017* (Principal Rules) are amended or repealed as set out in the applicable items in the Schedules to the Amendment Rules.

SCHEDULE 1 – Amendments

Part 1—Early Childhood Education and Care Worker Retention Payment Engagement Program

Item 1 – After subsection 78(1A)

5. Subsection 233(1) of the Family Assistance Administration Act provides that payments under the Act are to be made out of the Consolidated Revenue Fund, and are appropriated accordingly. Subsection 233(1) does not apply to a payment of an amount under a funding agreement entered into under section 85GA of the Family Assistance Act, unless the payment is for a purpose prescribed in the Minister’s rules (see subsection 233(2) of the Family Assistance Administration Act).
6. Section 85GA of the Family Assistance Act provides that the Secretary may, on behalf of the Commonwealth, enter into, vary and administer written agreements with a person under which the Commonwealth makes one or more grants of money to the person for certain purposes relating to child care. Under the Early Childhood Education and Care Worker Retention Payment Engagement Program (Engagement Program), the Secretary will enter into written agreements relying on section 85GA. The Program is for purposes relating to child care. In particular, the Program will help ensure the effective implementation of the Early Childhood Education and Care (ECEC) Worker Retention Program, which is itself directed at enabling the supply of a high-quality ECEC workforce and the affordability and supply of ECEC services.
7. For the purpose of subsection 233(2) of the Family Assistance Administration Act, item 1 inserts a new subsection 78(1B) into the Principal Rules to prescribe payments made for the purposes of an agreement entered into pursuant to section 85GA under the Early Childhood Education and Care Worker Retention Payment Engagement Program.

Item 2 – Subsection 78(10)

8. Subsection 233(3) of the Family Assistance Administration Act provides that the Minister’s rules must prescribe the total amount that may be paid in respect of a financial year under subsection 233(1) because of subsection 233(2).
9. The Minister’s rules must prescribe the total amount for the financial year before the start of the year and may be varied at any time before the financial year ends (see subsection 233(4) of the Family Assistance Administration Act).
10. Item 2 amends subsection 78(10) of the Principal Rules to increase the total amount prescribed for the 2024-25 financial year to \$755 million.

Item 3 – After subsection 78(11A)

11. Subsection 233(5) of the Family Assistance Administration Act provides that the Minister’s rules may prescribe the total amount that may be paid in respect of a

financial year under subsection 233(1) because of subsection 233(2) for a purpose prescribed by the Minister's rules made for subsection 233(2).

12. Item 3 inserts new subsection 78(11B) into the Principal Rules to prescribe the total amount of \$10 million that may be paid for the purpose of an agreement entered into under the Early Childhood Education and Care Worker Retention Payment Engagement Program specified in new subsection 78(1B).

Part 2—Special Benefit

Items 4, 5 and 6 – Paragraph 13(1)(b), paragraph and 13(1)(d) and subsection 13(17)

13. The Principal Rules prescribe additional eligibility requirements that an individual must meet to be eligible for ACCS (transition to work) under s 85CK(1) of the Family Assistance Act.
14. Currently, an individual in receipt of a Special Benefit under the Social Security Act may receive an activity test result of 36 subsidised hours per fortnight, or eligibility for the ACCS (transition to work). However, they may only receive these subsidies if they would qualify for one of the other specified income support payments (parenting payment or jobseeker payment) but for a residency requirement in relation to that payment under the Social Security Act. In other words, Special Benefit recipients only receive an activity test of 36 subsidised hours per fortnight, or eligibility for the ACCS (transition to work) if they would qualify for another specified income support payment but cannot due to not meeting the residency requirement.
15. Item 6 repeals subsection 13(17) of the Principal Rules to remove the requirement for an individual to qualify for one of the other specified income support payments (parenting payment or jobseeker payment) but for a residency requirement in relation to that payment under the Social Security Act. This measure will benefit families by reducing administrative complexity as an individual will no longer be required to demonstrate they would have been eligible to receive one of the specified income support payments but for the residency requirement.
16. Item 5 repeals paragraph 13(1)(d) of the Principal Rules to remove the reference to the requirement in subsection 13(17) that Special Benefit recipients must have been eligible for a parenting payment or jobseeker payment but for the residency requirement. The measure removes this additional eligibility requirement, which will reduce administrative complexity for these parents as they will no longer be

required to demonstrate they would have been eligible to receive one of the specified income support payments but for the residency requirement.

17. Item 4 is a consequential amendment to reflect the repeal of paragraph 13(1)(d).

Items 7 and 8 – Paragraph 39(2)(d) and subsection 39(3)

18. The number of subsidised hours of care an individual is entitled to depends on the individual's activity test result.
19. An individual's activity test result is determined under Part 5 of Schedule 2 to the Family Assistance Act. A 'Minister's rule result' is the result prescribed by, or worked out under, the Principal Rules.
20. Section 39 of the Principal Rules prescribes different Minister's rule results for individuals in receipt of certain social security payments under the Social Security Act, depending on the circumstances of the individual. A Minister's rule result of 36 applies for an individual for a CCS fortnight, in relation to any child, if, on the first day of the fortnight, the individual receives specified benefits, including the Special Benefit, if the individual is required to undertake qualifying activities.
21. A recipient of the Special Benefit is only entitled to the Minister's rule result if the individual would qualify for one of the other specified benefits but for a residency requirement in relation to that benefit under the Social Security Act.
22. Item 8 repeals subsection 39(3) of the Principal Rules to remove this restriction relating to the Special Benefit, as this creates unnecessary administrative burden for families. Item 7 removes the reference to subsection 39(3).

Part 3—Public Holidays

Items 9 and 10 – Subparagraph 8(4B)(b)(i) and Subsection 8(4C)

23. Section 8 of the Principal Rules prescribes circumstances where there is no CCS eligibility for a session of care.
24. Paragraph 8(1)(g) and subsection 8(4B) of the Principal Rules provide that CCS is not payable for a session of care that was not provided because a service is closed, unless an exception applies. An applicable exception is where the service was closed because it was a public holiday. However, this does not apply to a public holiday described in subsection 8(4C).
25. Item 10 repeals subsection 8(4C) of the Principal Rules, which applied to public holidays occurring in a period of 2 or more consecutive weekdays in which a service was closed where at least one of the days is not a public holiday.
26. Item 10 reduces complexity and provides eligibility for sessions of care for public holidays where a service is closed for 2 or more weekdays where one of those days is not a public holiday.
27. Item 9 is a technical consequential amendment which removes reference to the subsection 8(4C), which item 10 repeals.

Part 4—Certain child care providers not subject to additional conditions

Item 11 – After subsection 49(1)

28. The Education and Care Services National Law (National Law) (as applied in the State or Territory in which the service operates) sets a national standard for children's education and care across Australia to ensure the quality of care and safety of children. Providers approved for the purposes of the National Law are required to comply with this standard.
29. Section 49 of the Principal Rules specifies additional conditions for approval to ensure that providers outside the scope of the National Law are still required to maintain particular quality and safety standards for the purposes of approval under the family assistance law.
30. However, some providers approved under the Family Assistance Administration Act and outside the scope of the National Law are subject to quality and safety requirements under other State or Territory laws. The Amendment Rules amend the Principal Rules to ensure that these providers are not also required to comply with the additional quality and safety conditions in the Principal Rules.
31. Item 11 inserts new subsection 49(1A) to specify that providers of certain services are not subject to the requirements in section 49 of the Principal Rules. These services include:
 - a 'State regulated education and care service' within the meaning of the *Children (Education and Care Services) Supplementary Provisions Act 2011* (NSW)
 - a 'Queensland education and care service' within the meaning of the *Education and Care Services Act 2013* (Qld)
 - an 'early childhood service' within the meaning of the *Education and Early Childhood Services (Registration and Standards) Act 2011* (SA)
 - a 'child care service' within the meaning of the *Child Care Act 2001* (Tas)
 - a 'children's service' within the meaning of the *Children's Services Act 1996* (Vic)
 - a 'child care service' within the meaning of the *Child Care Services Act 2007* (WA) and
 - a 'childcare service' within the meaning of the *Children and Young People Act 2008* (ACT).
32. This amendment is required to clarify the applicable regulatory requirements for identified providers.

Part 5—Technical amendments

Item 12 – After subsection 16A(3B) – subheading

33. This amendment removes a redundant subheading.

Item 13 – Subsection 54B(2)

34. This amendment is required to rectify a numbering error.