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**A New Tax System (Family Assistance)
Bill 1999**

No. , 1999

(Family and Community Services)

**A Bill for an Act to implement A New Tax System
by providing assistance to families, and for related
purposes**

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1 **A Bill for an Act to implement A New Tax System**
2 **by providing assistance to families, and for related**
3 **purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act may be cited as the *A New Tax System (Family*
9 *Assistance) Act 1999*.

Section 2

1 **2 Commencement**

- 2 (1) This Act commences, or is taken to have commenced:
- 3 (a) after all the provisions listed in subsection (2) have
- 4 commenced; and
- 5 (b) on the last day on which any of those provisions commenced.
- 6 (2) These are the provisions:
- 7 (a) section 1-2 of the *A New Tax System (Goods and Services*
- 8 *Tax) Act 1999*;
- 9 (b) section 2 of the *A New Tax System (Goods and Services Tax*
- 10 *Imposition—Excise) Act 1999*;
- 11 (c) section 2 of the *A New Tax System (Goods and Services Tax*
- 12 *Imposition—Customs) Act 1999*;
- 13 (d) section 2 of the *A New Tax System (Goods and Services Tax*
- 14 *Imposition—General) Act 1999*;
- 15 (e) section 2 of the *A New Tax System (Goods and Services Tax*
- 16 *Administration) Act 1999*.

1

2 **Part 2—Interpretation**

3 **Division 1—Definitions**

4 **3 Definitions**

5 (1) In this Act, unless the contrary intention appears:

6 **absence**, in relation to care provided for a child by an approved
7 child care service, does not include any period of absence:

8 (a) before the service has started providing care for the child; or

9 (b) after the service has stopped providing care for the child
10 (otherwise than temporarily).

11 **adjusted taxable income** has the meaning given by Schedule 3.

12 **aged care resident** has the same meaning as in the *Social Security*
13 *Act 1991*.

14 **amount of rent paid or payable** has the same meaning as in the
15 *Social Security Act 1991*.

16 **approved care organisation** means an organisation approved by
17 the Secretary under section 20.

18 **Australian Immunisation Handbook** means the latest edition of
19 the Australian Immunisation Handbook published by the
20 Australian Government Publishing Service.

21 **Australian resident** has the same meaning as in the *Social Security*
22 *Act 1991*.

23 **authorised party**, in relation to the adoption of a child, means a
24 person or agency that, under the law of the State, Territory or
25 foreign country whose courts have jurisdiction in respect of the
26 adoption, is authorised to conduct negotiations or arrangements for
27 the adoption of children.

28 **base FTB child rate**, in relation to an FTB child of an individual
29 whose Part A rate of family tax benefit is being worked out using

Section 3

1 Part 2 of Schedule 1, has the meaning given by clause 8 of that
2 Schedule.

3 **base rate**, in relation to an individual whose Part A rate of family
4 tax benefit is being worked out using Part 2 of Schedule 1, has the
5 meaning given by clause 4 of that Schedule.

6 **benefit received by an individual** has a meaning affected by
7 paragraph 19(2)(b).

8 **capitalised maintenance income**, in relation to an individual,
9 means maintenance income of the individual:

- 10 (a) that is neither a periodic amount nor a benefit provided on a
11 periodic basis; and
12 (b) the amount or value of which exceeds \$1,500.

13 **child care benefit** means the benefit for which a person is eligible
14 under Division 4 of Part 3.

15 **child support** means financial support under the *Child Support*
16 *(Assessment) Act 1989* and includes financial support:

- 17 (a) by way of lump sum payment; or
18 (b) by way of transfer or settlement of property.

19 **conscientious objection**, in relation to the immunisation of a child,
20 has the meaning given by section 5.

21 **CPC rate** has the same meaning as in the *Social Security Act 1991*.

22 **current figure**, as at a particular time and in relation to an amount
23 that is to be indexed or adjusted under Schedule 4, means:

- 24 (a) if the amount has not yet been indexed or adjusted under
25 Schedule 4 before that time—the amount; and
26 (b) if the amount has been indexed or adjusted under Schedule 4
27 before that time—the amount most recently substituted for
28 the amount under Schedule 4 before that time.

29 **disability expenses maintenance** has the meaning given by
30 subsection 19(3).

31 **family assistance** means:

Section 3

- 1 (a) family tax benefit; or
2 (b) maternity allowance; or
3 (c) maternity immunisation allowance; or
4 (d) child care benefit.

5 ***family law order*** means:

- 6 (a) a parenting order within the meaning of section 64B of the
7 *Family Law Act 1975*; or
8 (b) a family violence order within the meaning of section 60D of
9 that Act; or
10 (c) a State child order registered under section 70D of that Act;
11 or
12 (d) an overseas child order registered under section 70G of that
13 Act.

14 ***family member***, in relation to an individual, means:

- 15 (a) the partner, father or mother of the individual; or
16 (b) a sister, brother or child (including an adopted child) of the
17 individual.

18 ***family tax benefit*** means the benefit for which a person is eligible
19 under Division 1 of Part 3.

20 ***FTB advance rate***, in relation to an individual whose Part A rate of
21 family tax benefit is being worked out using Part 2 of Schedule 1,
22 means half the amount that would be the FTB child rate under
23 clause 26 of that Schedule if:

- 24 (a) the person's Part A rate were to be worked out using Part 3
25 of that Schedule; and
26 (b) clause 27 of that Schedule did not apply.

27 ***FTB child*** has the meaning given by Subdivision A of Division 1
28 of Part 3.

29 ***illness separated couple*** has the same meaning as in the *Social*
30 *Security Act 1991*.

31 ***immunised***, in relation to a child, means the child is immunised in
32 accordance with:

Section 3

- 1 (a) a standard vaccination schedule determined under section 4;
2 or
3 (b) a catch up vaccination schedule determined under section 4.

4 ***Income Tax Assessment Act*** means the *Income Tax Assessment*
5 *Act 1997*.

6 ***income year*** has the same meaning as in the Income Tax
7 Assessment Act.

8 ***index number*** has the same meaning as in the *Social Security Act*
9 *1991*.

10 ***ineligible homeowner*** has the same meaning as in the *Social*
11 *Security Act 1991*.

12 ***lower income threshold*** for child care benefit has the meaning
13 given by subclause 6(2) of Schedule 2.

14 ***maintenance*** includes child support.

15 ***maintenance agreement*** means a written agreement (whether
16 made within or outside Australia) that provides for the
17 maintenance of a person (whether or not it also makes provision in
18 relation to other matters), and includes such an agreement that
19 varies an earlier maintenance agreement.

20 ***maintenance income***, in relation to an individual, means:

- 21 (a) child maintenance—that is, the amount of a payment or the
22 value of a benefit that is received by the individual for the
23 maintenance of an FTB child of the individual and is
24 received from:
25 (i) a parent of the child; or
26 (ii) the partner or former partner of a parent of the child; or
27 (b) partner maintenance—that is, the amount of a payment or the
28 value of a benefit that is received by the individual for the
29 individual's own maintenance and is received from the
30 individual's partner or former partner; or
31 (c) direct child maintenance—that is, the amount of a payment
32 or the value of a benefit that is received by an FTB child of

Section 3

1 the individual for the child's own maintenance and is
2 received from:

- 3 (i) a parent of the child; or
4 (ii) the partner or former partner of a parent of the child;
5 but does not include disability expenses maintenance.

6 **maternity allowance** means the allowance for which an individual
7 is eligible under Division 2 of Part 3.

8 **maternity immunisation allowance** means the allowance for which
9 an individual is eligible under Division 3 of Part 3.

10 **medical practitioner** means a person registered or licensed as a
11 medical practitioner under a State or Territory law that provides for
12 the registration or licensing of medical practitioners.

13 **meets the immunisation requirements** has the meaning given by
14 section 6.

15 **member of a couple** has the same meaning as in the *Social Security*
16 *Act 1991*.

17 **non-standard hours family day care** means hours of care provided
18 by a family day care service at times that are identified in the
19 service's conditions of approval as being non-standard hours of the
20 service.

21 **partner** has the same meaning as in the *Social Security Act 1991*.

22 **part-time family day care** means standard hours family day care
23 provided by a family day care service for a child in a week during
24 which the service provides a total of less than 50 hours of standard
25 hours family day care for the child.

26 **payment or benefit received from an individual** has a meaning
27 affected by paragraph 19(2)(c).

28 **prescribed educational scheme** has the same meaning as in the
29 *Social Security Act 1991*.

30 **principal home** has the same meaning as in the *Social Security Act*
31 *1991*.

Section 3

- 1 ***received from*** has a meaning affected by paragraph 19(2)(a).
- 2 ***receiving***, in relation to a social security payment, has the same
3 meaning as in the *Social Security Act 1991*.
- 4 ***recognised immunisation provider*** has the same meaning as in
5 section 46A of the *Health Insurance Act 1973*.
- 6 ***recognised study commitments*** has the meaning given by section
7 17.
- 8 ***recognised training commitments*** has the meaning given by
9 section 16.
- 10 ***recognised work or work related commitments*** has the meaning
11 given by section 15.
- 12 ***registered parenting plan*** means a parenting plan registered under
13 section 63E of the *Family Law Act 1975*.
- 14 ***rent*** has the same meaning as in the *Social Security Act 1991*.
- 15 ***rent assistance child*** has the meaning given by subclause 12(2) of
16 Schedule 1.
- 17 ***respite care couple*** has the same meaning as in the *Social Security*
18 *Act 1991*.
- 19 ***satisfies the work/training/study test*** has the meaning given by
20 section 14.
- 21 ***school child*** has the meaning given by section 18.
- 22 ***school holiday session*** means a session of care provided by an
23 outside school hours care service during school holidays.
- 24 ***service pension*** has the same meaning as in the *Social Security Act*
25 *1991*.
- 26 ***session of care*** has the meaning given by a determination in force
27 under section 9.

Section 3

1 **social security benefit** has the same meaning as in the *Social*
2 *Security Act 1991*.

3 **social security payment** has the same meaning as in the *Social*
4 *Security Act 1991*.

5 **social security pension** has the same meaning as in the *Social*
6 *Security Act 1991*.

7 **standard advance period** means:

- 8 (a) a period that starts on 1 January and ends on the following 30
9 June; or
10 (b) a period that starts on 1 July and ends on the following 31
11 December.

12 **standard hours family day care** means hours of care provided by a
13 family day care service at times that are identified in the service's
14 conditions of approval as being standard hours of care.

15 **stillborn child** means a child:

- 16 (a) who weighs at least 400 grams at delivery or whose period of
17 gestation was at least 20 weeks; and
18 (b) who has not breathed since delivery; and
19 (c) whose heart has not beaten since delivery.

20 **taxable income** has the same meaning as in the Income Tax
21 Assessment Act.

22 **temporarily separated couple** has the same meaning as in the
23 *Social Security Act 1991*.

24 **undertaking full-time study** has the same meaning as in the *Social*
25 *Security Act 1991*.

26 **upper income threshold** for child care benefit has the meaning
27 given by subclause 6(3) of Schedule 2.

28 **week concerned** for an hour of care is the week (beginning on a
29 Monday) in which the hour occurs.

Part 2 Interpretation
Division 1 Definitions

Section 3

- 1 **youth allowance** means a payment under Part 2.11 of the *Social*
2 *Security Act 1991*.
- 3 (2) Expressions used in this Act that are defined in the *A New Tax*
4 *System (Family Assistance) (Administration) Act 1999* have the
5 same meaning as in that Act.

1

2 **Division 2—Immunisation rules**

3 **4 Minister’s power to make determinations for the purposes of the**
4 **definition of *immunised***

- 5 (1) The Minister must, for the purpose of the definition of *immunised*
6 in section 3, determine:
- 7 (a) one or more standard vaccination schedules for the
8 immunisation of children; and
 - 9 (b) one or more catch up vaccination schedules for the
10 immunisation of children who have not been immunised in
11 accordance with a standard vaccination schedule.
- 12 (2) A determination under this section is a disallowable instrument for
13 the purposes of section 46A of the *Acts Interpretation Act 1901*.

14 **5 Meaning of *conscientious objection***

15 An individual has a *conscientious objection* to a child being
16 immunised if the individual’s objection is based on a personal,
17 philosophical, religious or medical belief involving a conviction
18 that vaccination under the latest edition of the standard vaccination
19 schedule should not take place.

20 **6 Immunisation requirements**

- 21 (1) This section states when the child of an individual (the *adult*)
22 meets the immunisation requirements for the purposes of
23 determining whether the adult is eligible for:
- 24 (a) maternity immunisation allowance under Division 3 of Part
25 3; or
 - 26 (b) child care benefit under Division 4 of Part 3.

27 *Child immunised*

- 28 (2) The child meets the immunisation requirements if the child has
29 been immunised.

Section 6

1

Conscientious objection

2

- (3) The child meets the immunisation requirements if a recognised immunisation provider has certified in writing that he or she has discussed with the adult the benefits and risks of immunising the child and the adult has declared in writing that he or she has a conscientious objection to the child being immunised.

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- (4) The child meets the immunisation requirements if:

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(a) the child is an FTB child of another individual (whether or not the child is also an FTB child of the adult); and

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(b) a recognised immunisation provider has certified in writing that he or she has discussed with the other individual the benefits and risks of immunising the child and the other individual has declared in writing that he or she has a conscientious objection to the child being immunised.

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Medical contraindication

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- (5) The child meets the immunisation requirements if a recognised immunisation provider has certified in writing that the immunisation of the child would be medically contraindicated under the specifications set out in the Australian Immunisation Handbook.

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Natural immunity

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- (6) The child meets the immunisation requirements if a medical practitioner has certified in writing that the child does not require immunisation because the child has contracted a disease or diseases and as a result has developed a natural immunity.

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25

26

Child is in an exempt class of children

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- (7) The child meets the immunisation requirements if the child is in a class exempted from the requirement to be immunised by a determination under subsection 7(1).

28

29

1 *Other circumstances*

2 (8) The child meets the immunisation requirements if a determination
3 in force under subsection 7(2) provides that the child meets the
4 immunisation requirements.

5 **7 Minister may make determinations in relation to the immunisation**
6 **requirements**

7 *Exemption from immunisation requirements*

8 (1) The Minister may determine that children included in a specified
9 class are exempt from the requirement to be immunised.

10 *Meeting the immunisation requirements*

11 (2) The Minister may determine that children included in a specified
12 class meet the immunisation requirements in circumstances
13 specified in the determination.

14 *Disallowable instrument*

15 (3) A determination under this section is a disallowable instrument for
16 the purposes of section 46A of the *Acts Interpretation Act 1901*.

1

2 **Division 3—Various interpretative provisions**

3 **8 Extended meaning of *Australian resident*—hardship and special**
4 **circumstances**

- 5 (1) The Secretary may determine that an individual who is not an
6 Australian resident is taken to be an *Australian resident* for the
7 purposes of Division 4 of Part 3 (eligibility for child care benefit).
- 8 (2) The Secretary may make a determination under subsection (1) if
9 the Secretary is satisfied that:
- 10 (a) hardship would be caused to the individual if the individual
11 were not treated as an Australian resident; or
- 12 (b) because of the special circumstances of the particular case,
13 the individual should be treated as an Australian resident.
- 14 (3) In making a determination under subsection (1), the Secretary must
15 comply with any guidelines in force under subsection (4) in
16 relation to the making of such determinations.
- 17 (4) The Minister may make guidelines relating to the making of
18 determinations under subsection (1).
- 19 (5) Guidelines under subsection (4) are disallowable instruments for
20 the purposes of section 46A of the *Acts Interpretation Act 1901*.

21 **9 Session of care**

- 22 (1) The Minister must determine what constitutes a *session of care* for
23 the purposes of this Act.
- 24 (2) A determination under subsection (1) may also deal with how a
25 session of care that starts on one day and ends on another day is to
26 be treated for the purposes of this Act.
- 27 (3) A determination under this section is a disallowable instrument for
28 the purposes of section 46A of the *Acts Interpretation Act 1901*.

1 **10 Effect of absence of child from care of approved child care**
2 **service**

3 *Absence from part of a session*

- 4 (1) For the purposes of this Act, if a child is absent from part only of a
5 session of care provided by an approved child care service, the
6 service is taken to have provided that part of the session of care to
7 the child.

8 *Absence from all of a session provided by an occasional care*
9 *service*

- 10 (2) For the purposes of this Act, if:
11 (a) a child is absent from all of a session of care that would
12 otherwise have been provided to the child by an occasional
13 care service; and
14 (b) the absence occurs in circumstances specified in a
15 determination under subsection 11(1) as permitted
16 circumstances for the purpose of this subsection;
17 the service is taken to have provided the session of care to the
18 child.

19 *Absence from all of a session provided by other services*

- 20 (3) For the purposes of this Act, if:
21 (a) a child is absent from all of a session of care that would
22 otherwise have been provided to the child by an approved
23 child care service (except an occasional care service); and
24 (b) one of the following applies:
25 (i) the absence is due to the illness of the child, the
26 individual in whose care the child is, that individual's
27 partner, or another individual with whom the child lives
28 and a medical certificate covering that illness is
29 obtained from a medical practitioner and given to the
30 service;
31 (ii) the absence is due to the child's attendance at a
32 pre-school;

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- 1 (iii) the absence is due to alternative care arrangements
2 being made for the child because the child does not have
3 to be at school on a pupil-free day;
- 4 (iv) the absence occurs in circumstances specified in a
5 determination under subsection 11(1) as permitted
6 circumstances for the purpose of this subparagraph;
- 7 (v) the absence occurs on a permitted absence day (see
8 subsection (4));
- 9 the service is taken to have provided the session of care to the
10 child.

11 *Permitted absence days*

- 12 (4) For the purposes of subparagraph (3)(b)(v), a *permitted absence*
13 *day* is a day that meets the following requirements:
- 14 (a) the child is absent from all of one or more sessions of care
15 provided by the approved child care service on the day (even
16 if the child is not absent from some or all of another session
17 or sessions of care provided by the service or another service
18 on the day);
- 19 (b) the child's absence from all of the one or more sessions of
20 care is not covered by subparagraph (3)(b)(i), (ii), (iii) or (iv);
- 21 (c) before the day, not more than 30 permitted absence days in
22 relation to the service and the child have elapsed in the same
23 calendar year.

24 **11 Minister may make determinations in relation to the absence of**
25 **child from child care**

26 *Absences from care in permitted circumstances*

- 27 (1) The Minister may determine that specified circumstances are
28 permitted circumstances for the purpose of subsection 10(2) or
29 subparagraph 10(3)(b)(iv).

30 *Disallowable instrument*

- 31 (2) A determination under this section is a disallowable instrument for
32 the purposes of section 46A of the *Acts Interpretation Act 1901*.

1 **12 Effect of absence of child from care of registered carer**

2 For the purposes of Subdivision D of Division 4 of Part 3, and of
3 the application of Subdivision B of Division 4 of Part 4 in relation
4 to that Subdivision, if a child is absent from all or part of a period
5 of care that would otherwise have been provided to the child by a
6 registered carer, the carer is taken to have provided care to the
7 child during the period of absence.

8 **13 School holidays**

9 The Secretary may, by notice given to an outside school hours care
10 service, determine that a specified day or days that are not school
11 holidays in the State or Territory in which the service is located are
12 taken to be school holidays for the purposes of the definition of
13 *school holiday session* in section 3.

14 **14 Meaning of *satisfies the work/training/study test***

- 15 (1) An individual *satisfies the work/training/study test* if:
- 16 (a) the individual has recognised work or work related
17 commitments; or
- 18 (b) the individual has recognised training commitments; or
- 19 (c) the individual has recognised study commitments.
- 20 (2) The Minister may determine that individuals included in a
21 specified class are exempt from the requirements of paragraphs
22 (1)(a), (b) and (c).
- 23 (3) An individual covered by a determination under subsection (2) is
24 taken to satisfy the work/training/study test while the determination
25 is in force.
- 26 (4) A determination under this section is a disallowable instrument for
27 the purposes of section 46A of the *Acts Interpretation Act 1901*.

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1 **15 Work/training/study test—recognised work or work related**
2 **commitments**

- 3 (1) An individual has *recognised work or work related commitments*
4 if the individual:
5 (a) is in paid work (whether or not the individual performs the
6 work as an employee); or
7 (b) receives a carer payment under Part 2.5 of the *Social Security*
8 *Act 1991*; or
9 (c) receives carer allowance for a disabled adult (within the
10 meaning of section 952 of the *Social Security Act 1991*)
11 under Part 2.19 of that Act.
- 12 (2) The Minister may determine that individuals included in a
13 specified class are individuals who are taken to have recognised
14 work or work related commitments for the purposes of this section.
- 15 (3) A determination under this section is a disallowable instrument for
16 the purposes of section 46A of the *Acts Interpretation Act 1901*.

17 **16 Work/training/study test—recognised training commitments**

18 An individual has *recognised training commitments* if the
19 individual is undertaking a training course for the purpose of
20 improving his or her work skills and/or employment prospects.

21 **17 Work/training/study test—recognised study commitments**

22 An individual has *recognised study commitments* if the individual:
23 (a) receives youth allowance and is undertaking full-time study;
24 or
25 (b) receives austudy payment under the *Social Security Act 1991*;
26 or
27 (c) receives a pensioner education supplement under the *Social*
28 *Security Act 1991*; or
29 (d) receives assistance under the scheme known as the
30 ABSTUDY scheme; or

- 1 (e) is undertaking any other course of education for the purposes
2 of improving his or her work skills and/or employment
3 prospects.

4 **18 Meaning of *school child***

- 5 (1) A child is a ***school child*** for the purposes of this Act if the child is
6 attending primary or secondary school, or is on a break from
7 school (for example, school holidays) and will be attending
8 primary or secondary school after that break.
- 9 (2) The Minister may determine that children in a specified class are to
10 be treated as though they were attending primary or secondary
11 school for the purposes of this Act.
- 12 (3) The Minister may determine that children in a specified class are to
13 be treated as though they were not attending primary or secondary
14 school for the purposes of this Act.
- 15 (4) A determination under subsection (2) or (3) is a disallowable
16 instrument for the purposes of section 46A of the *Acts*
17 *Interpretation Act 1901*.

18 **19 Maintenance income**

- 19 (1) For the purposes of the definition of ***capitalised maintenance***
20 ***income*** in section 3, an amount is a ***periodic amount*** if it is:
21 (a) the amount of one payment in a series of related payments,
22 even if the payments are irregular in time and amount; or
23 (b) the amount of a payment making up for arrears in such a
24 series.
- 25 (2) For the purposes of the definitions of ***maintenance income*** and
26 ***disability expenses maintenance*** in section 3:
27 (a) a payment received under subsection 76(1) of the *Child*
28 *Support (Registration and Collection) Act 1988* in relation to
29 a registered maintenance liability (within the meaning of that
30 Act) is taken to be ***received from*** the individual who is the
31 payer (within the meaning of that Act) in relation to the
32 liability; and

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- 1 (b) a reference to a *benefit received by an individual* includes a
2 reference to a benefit received by the individual because of a
3 payment made to, or a benefit conferred on, another
4 individual (including a payment made or benefit conferred
5 under a liability owed to the other individual); and
6 (c) a reference to a *payment or benefit received from an*
7 *individual* includes a reference to a payment or benefit
8 received:
9 (i) directly or indirectly from the individual; and
10 (ii) out of any assets of, under the control of, or held for the
11 benefit of, the individual; and
12 (iii) from the individual under or as a result of a court order,
13 a court registered or approved maintenance agreement
14 or otherwise.
- 15 (3) A payment or benefit is *disability expenses maintenance* of an
16 individual if:
17 (a) the payment or benefit is provided for expenses arising
18 directly from:
19 (i) a physical, intellectual or psychiatric disability; or
20 (ii) a learning difficulty;
21 of an FTB child of the individual; and
22 (b) the disability or difficulty is likely to be permanent or to last
23 for an extended period; and
24 (c) the payment or benefit is received:
25 (i) by the individual for the maintenance of the FTB child;
26 or
27 (ii) by the FTB child for the child's own maintenance; and
28 (d) the payment or benefit is received from:
29 (i) a parent of the child; or
30 (ii) the partner or former partner of a parent of the child.

1

2 **Division 4—Approved care organisations**

3 **20 Approval of organisations providing residential care services to**
4 **young people**

5 (1) The Secretary may approve an organisation that co-ordinates or
6 provides residential care services to young people in Australia as
7 an approved care organisation for the purposes of this Act.

8 *Revocation*

9 (2) The Secretary may revoke an approval under subsection (1).

Section 21

1

2 **Part 3—Eligibility for family assistance**

3 **Division 1—Eligibility for family tax benefit**

4 **Subdivision A—Eligibility of individuals for family tax benefit**
5 **in normal circumstances**

6 **21 When an individual is eligible for family tax benefit in normal**
7 **circumstances**

- 8 (1) An individual is eligible for family tax benefit if:
- 9 (a) the individual has at least 1 FTB child (see section 22 and
10 later provisions); and
- 11 (b) the individual is an Australian resident; and
- 12 (c) the individual's rate of family tax benefit, worked out under
13 Division 1 of Part 4, is greater than nil.
- 14 (2) However, the individual is not eligible for family tax benefit if
15 another provision of this Subdivision so provides.

16 **22 When an individual is an FTB child of another individual**

- 17 (1) An individual is an *FTB child* of another individual (the *adult*) in
18 any of the cases set out in this section.

19 *Individual aged under 18*

- 20 (2) The individual is an *FTB child* of the adult if:
- 21 (a) the individual is aged under 18; and
- 22 (b) the adult is legally responsible (whether alone or jointly with
23 someone else) for the day-to-day care, welfare and
24 development of the individual; and
- 25 (c) the individual is in the adult's care; and
- 26 (d) the individual is an Australian resident or is living with the
27 adult.
- 28 (3) The individual is an *FTB child* of the adult if:

- 1 (a) the individual is aged under 18; and
2 (b) a family law order or registered parenting plan is in force in
3 relation to the individual; and
4 (c) under the order or plan, the adult is someone with whom the
5 individual is supposed to live or someone with whom the
6 individual is supposed to have contact; and
7 (d) the individual is in the adult's care; and
8 (e) the individual is an Australian resident or is living with the
9 adult.

10 While the individual is an FTB child of the adult under this
11 subsection, the individual cannot be an FTB child of anyone else.

- 12 (4) The individual is an **FTB child** of the adult if:
13 (a) the individual is aged under 18; and
14 (b) the individual is in the adult's care; and
15 (c) the individual is not in the care of anyone with the legal
16 responsibility for the day-to-day care, welfare and
17 development of the individual; and
18 (d) the individual is an Australian resident or is living with the
19 adult.

20 *Individual aged 18*

- 21 (5) The individual is an **FTB child** of the adult if:
22 (a) the individual is aged 18 and the calendar year in which the
23 individual turned 18 has not ended; and
24 (b) the individual is in the adult's care; and
25 (c) the individual is an Australian resident or is living with the
26 adult.

27 *Exceptions*

- 28 (6) However, the individual cannot be an FTB child of the adult in the
29 cases set out in this table:
30

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When the individual is not an FTB child of the adult at a particular time		
	If the individual is aged:	then the individual cannot be an FTB child of the adult if:
1	5 or more and less than 16	(a) the individual is not undertaking full-time study and the individual has adjusted taxable income, for the income year in which the particular time occurs, that equals or exceeds the cut-out amount (see subsection (7)); or (b) the adult is the individual's partner
2	16 or more	(a) the individual is not undertaking full-time study; or (b) the individual has adjusted taxable income, for the income year in which the particular time occurs, that equals or exceeds the cut-out amount (see subsection (7)); or (c) the adult is the individual's partner
3	any age	the individual, or someone on behalf of the individual, is at the particular time receiving: (a) a social security pension; or (b) a social security benefit; or (c) payments under a program included in the programs known as Labour Market Programs; or (d) payments under a prescribed educational scheme

1 *Definition*

2 (7) In subsection (6):

3 *cut-out amount* means the sum of:

- 4 (a) the amount specified in column 2 of item 2 of the table in
5 clause 30 of Schedule 1 divided by 0.3; and
6 (b) the amount specified in clause 33 of that Schedule.

1 **23 Effect of FTB child ceasing to be in individual's care without**
2 **consent**

- 3 (1) This section applies if:
- 4 (a) an individual is an FTB child of another individual (the
 - 5 **adult**) under subsection 22(2) or (3); and
 - 6 (b) an event occurs in relation to the child without the adult's
 - 7 consent that prevents the child being in the adult's care; and
 - 8 (c) the adult takes reasonable steps to have the child again in the
 - 9 adult's care.

10 *When the child remains an FTB child of the adult*

- 11 (2) The child is an FTB child of the adult for that part of the qualifying
- 12 period (see subsection (5)) for which the child would have been an
- 13 FTB child of the adult under subsection 22(2) or (3) if the child
- 14 had not ceased to be in the adult's care.

15 *When the child is an FTB child of another individual*

- 16 (3) If the child would have been an FTB child of any other individual
- 17 under subsection 22(2) or (3) during any part of the qualifying
- 18 period if the event had not occurred, the child is an FTB child of
- 19 the other individual.
- 20 (4) Except as provided in subsection (2) or (3), the child cannot (in
- 21 spite of section 22) be an FTB child of any individual during the
- 22 qualifying period.

23 *Definition of qualifying period*

- 24 (5) In this section:

25 **qualifying period** means the period beginning when the child

26 ceases to be in the adult's care and ending at the earliest of the

27 following times:

- 28 (a) if the child again comes into the adult's care at a later time—
- 29 that later time;
- 30 (b) after 14 weeks pass since the child ceased to be in the adult's
- 31 care;

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- 1 (c) if:
2 (i) the adult is a parent of the child; and
3 (ii) no family law order or registered parenting plan is in
4 force in relation to the child; and
5 (iii) the child comes into the care of the other parent at a
6 later time;
7 that later time.

8 **24 Effect of certain absences of FTB child etc. from Australia**

9 *Absence from Australia of FTB child*

- 10 (1) If:
11 (a) either:
12 (i) an FTB child leaves Australia; or
13 (ii) a child born outside Australia is an FTB child at birth;
14 and
15 (b) the child continues to be absent from Australia for more than
16 3 years;
17 the child is not, during that absence from Australia, an FTB child at
18 any time after the period of 3 years beginning on the first day of
19 the child's absence from Australia.
- 20 (2) If:
21 (a) an FTB child who has been absent from Australia for more
22 than 26 weeks, but less than 3 years, comes to Australia; and
23 (b) the child leaves Australia less than 26 weeks later;
24 for the purposes of subsection (1), the child is taken not to have
25 come to Australia.
- 26 (3) If:
27 (a) a child is not an FTB child because of the application of
28 subsection (1) or a previous application of this subsection;
29 and
30 (b) the child comes to Australia; and
31 (c) the child leaves Australia less than 26 weeks after coming to
32 Australia;

1 the child is not an FTB child at any time during the absence from
2 Australia referred to in paragraph (c).

3 *Maximum period of eligibility for family tax benefit while*
4 *individual overseas*

5 (4) If an individual leaves Australia, the maximum period for which
6 the individual can be eligible for family tax benefit during that
7 absence from Australia is the period of 3 years beginning on the
8 first day of that absence.

9 (5) If:

10 (a) an individual who has been absent from Australia for more
11 than 26 weeks, but less than 3 years, returns to Australia; and

12 (b) the child leaves Australia again less than 26 weeks later;
13 the child is taken not to have returned to Australia for the purposes
14 of subsection (4).

15 (6) If:

16 (a) an individual is eligible for family tax benefit while the
17 individual is absent from Australia; and

18 (b) the individual then ceases to be eligible for family tax benefit
19 because of the application of subsection (4) or a previous
20 application of this subsection; and

21 (c) the individual returns to Australia; and

22 (d) the individual leaves Australia again less than 26 weeks after
23 returning to Australia;

24 the individual is not eligible for family tax benefit at any time
25 during the absence from Australia referred to in paragraph (d).

26 **25 Effect of FTB child being in individual's care for less than 10%**
27 **of a period**

28 If:

29 (a) the Secretary is satisfied there has been, or will be, a pattern
30 of care for an individual (the *child*) for a period in which the
31 child was, or will be, an FTB child of 2 or more other
32 individuals at different times during the period; and

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- 1 (b) one of those other individuals (the *adult*) makes a claim
2 under Part 3 of the *A New Tax System (Family Assistance)*
3 *(Administration) Act 1999* for payment of family tax benefit
4 in respect of the child for some or all of that period; and
5 (c) the Secretary is satisfied the child was, or will be, in the
6 adult's care for less than 10% of that period;
7 then:
8 (d) the adult is not eligible for family tax benefit in respect of the
9 child for any part of that period; and
10 (e) the Secretary may determine that another one of those
11 individuals is eligible for family tax benefit in respect of the
12 child for the part (if any) of that period during which the
13 adult would have been eligible for family tax benefit in
14 respect of the child apart from this section.

26 Only 1 member of a couple eligible for family tax benefit

- 15
16 (1) For any period when 2 individuals who are members of a couple
17 would otherwise be eligible at the same time for family tax benefit
18 in respect of one or more FTB children, only one member is
19 eligible.
20 (2) The member who is eligible is the one determined by the Secretary
21 to be eligible, having regard to:
22 (a) whether one member of the couple is the primary carer for
23 the child or children; and
24 (b) whether the members have made a written agreement
25 nominating one of them as the member who can make a
26 claim under Part 3 of the *A New Tax System (Family*
27 *Assistance) (Administration) Act 1999* for payment of family
28 tax benefit in respect of the child or children.

27 Extension of meaning of FTB child in a blended family case

- 29
30 If:
31 (a) 2 individuals are members of the same couple; and

- 1 (b) either or both of the individuals have a child (the *qualifying*
2 *child*) from another relationship (whether before or after the
3 2 individuals became members of that couple);
4 each qualifying child that is an FTB child of one member of the
5 couple while the 2 individuals are members of that couple is taken
6 also to be an FTB child of the other member of the couple.

7 **28 Eligibility for family tax benefit of members of a couple in a**
8 **blended family**

- 9 (1) If the Secretary is satisfied that:
10 (a) 2 individuals who are members of the same couple (*person A*
11 and *person B*) would each be eligible for family tax benefit
12 for 2 or more FTB children during a period but for subsection
13 26(1); and
14 (b) at least one of the children is a child of a previous
15 relationship of person A; and
16 (c) at least one of the other children is:
17 (i) a child of the relationship between person A and person
18 B; or
19 (ii) a child of a previous relationship of person B;
20 the Secretary may:
21 (d) determine that person A and person B are both eligible for
22 family tax benefit for the children for the period; and
23 (e) determine person A's and person B's percentage of the
24 family tax benefit for the children, such that each of those
25 percentages is a multiple of 5%.
- 26 (2) The Secretary cannot make a determination under subsection (1)
27 for a past period if person A or person B has been paid family tax
28 benefit for the period.
- 29 (3) For the purposes of this section:
30 (a) an FTB child of an individual is a *child of a previous*
31 *relationship* of an individual who is a member of a couple if
32 the child is an immediate child of that individual but not of
33 the individual's partner; and

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- 1 (b) a child is a *child of the relationship of 2 individuals* who are
2 members of a couple if the child is an immediate child of
3 both members of the couple; and
4 (c) an FTB child of an individual is an *immediate child* of the
5 individual if:
6 (i) the child is the natural or adopted child of the
7 individual; or
8 (ii) the individual is legally responsible for the child.

9 **29 Eligibility for family tax benefit of separated members of a**
10 **couple for period before separation**

11 If the Secretary is satisfied that:

- 12 (a) 2 individuals are not members of the same couple (*person A*
13 and *person B*); and
14 (b) during a period in the past when person A and person B were
15 members of the same couple, they had an FTB child or
16 children; and
17 (c) but for subsection 26(1), person A and person B would both
18 be eligible for family tax benefit for the FTB child or
19 children for that period;
20 the Secretary may:
21 (d) determine that person A and person B are both eligible for
22 family tax benefit for the child or children for that period;
23 and
24 (e) determine person A's and person B's percentage of the
25 family tax benefit for the child or children for that period,
26 such that each of those percentages is a multiple of 5%.

27 **30 Only 1 individual eligible for family tax benefit at the same time**

- 28 (1) If, apart from this section, 2 or more individuals (none of whom are
29 members of the same couple and none of whom are living
30 together) would, at the same time, be eligible for family tax benefit
31 in respect of an FTB child, only one individual is eligible.

- 1 (2) The individual who is eligible is the one determined by the
2 Secretary to be eligible, having regard to the living arrangements
3 for the child.

4 **Subdivision B—Eligibility of individuals for family tax benefit**
5 **where death occurs**

6 **31 Continued eligibility for family tax benefit if an FTB child dies**

- 7 (1) This section applies if:
8 (a) an individual is eligible for family tax benefit (except under
9 section 33) in respect of one or more FTB children; and
10 (b) one of the FTB children dies; and
11 (c) in a case where the individual is eligible for family tax
12 benefit in respect of more than one FTB child immediately
13 before the child died—the individual’s rate of family tax
14 benefit would decrease as a result of the child’s death.

15 *Individual remains eligible for family tax benefit for 14 weeks after*
16 *the death of the child*

- 17 (2) The individual is eligible for family tax benefit, at a rate worked
18 out under section 64, for each day in the period of 14 weeks
19 beginning on the day the child died. This subsection has effect
20 subject to subsection (3) of this section and to section 32.

21 *14 weeks reduced if child aged 18 and calendar year ends*

- 22 (3) If:
23 (a) the period of 14 weeks beginning on the day the child died
24 starts in one calendar year and ends in the next; and
25 (b) either:
26 (i) the child was aged 18 on the day the child died; or
27 (ii) the child would have been aged 18 in the first of those
28 calendar years if the child had not died;
29 the period for which the individual is eligible for family tax benefit
30 under subsection (2) does not include any day in the second of
31 those calendar years.

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1 *Eligibility during the period to which subsection (2) applies is sole*
2 *eligibility*

3 (4) Except as mentioned in subsection (2), the individual is not eligible
4 for family tax benefit in respect of any FTB children of the
5 individual during the period to which subsection (2) applies.

6 **32 Eligibility for a single amount of family tax benefit if an FTB**
7 **child dies**

8 *Instalment case*

9 (1) If:

10 (a) the individual to whom section 31 applies was, immediately
11 before the child concerned died, entitled to be paid family tax
12 benefit by instalment; and

13 (b) the individual, on any day (the *request day*) during the period
14 (the *section 31 accrual period*) for which the individual is
15 eligible for family tax benefit under that section, makes a
16 claim, under Part 3 of the *A New Tax System (Family*
17 *Assistance) (Administration) Act 1999*, for payment of family
18 tax benefit because of the death of a person, stating that the
19 individual wishes to become eligible for a single amount of
20 family tax benefit under this subsection;

21 then:

22 (c) the individual is eligible for a single amount of family tax
23 benefit worked out under subsection 65(1); and

24 (d) the period for which the individual is eligible for family tax
25 benefit under subsection 31(2) does not include the lump sum
26 period mentioned in subsection 65(1).

27 *Other cases*

28 (2) If:

29 (a) the individual to whom section 31 applies was, immediately
30 before the child concerned died, not entitled to be paid family
31 tax benefit by instalment; and

32 (b) the period of 14 weeks beginning on the day the child died
33 extends over 2 income years;

- 1 then:
2 (c) the individual is eligible for a single amount of family tax
3 benefit for the period falling in the second of those income
4 years worked out under subsection 65(3); and
5 (d) the period for which the individual is eligible for family tax
6 benefit under subsection 31(2) does not include the period
7 falling in the second of those income years.

8 **33 Eligibility for family tax benefit if an eligible individual dies**

9 *Eligibility other than because of the death of an FTB child*

- 10 (1) If:
11 (a) an individual is eligible for an amount (the *subject amount*)
12 of family tax benefit (except because of section 31 or 32
13 applying in relation to the death of an FTB child); and
14 (b) the individual dies; and
15 (c) before the individual died, the subject amount had not been
16 paid to the individual (whether or not a claim under Part 3 of
17 the *A New Tax System (Family Assistance) (Administration)*
18 *Act 1999* had been made); and
19 (d) another individual makes a claim under that Part for payment
20 of family tax benefit because of the death of a person, stating
21 that he or she wishes to become eligible for the subject
22 amount; and
23 (e) the Secretary considers that the other individual ought to be
24 eligible for the subject amount;
25 the other individual is eligible for the subject amount and no-one
26 else is, or can become, eligible for or entitled to be paid that
27 amount.

28 *Eligibility because of the death of an FTB child*

- 29 (2) If:
30 (a) an individual dies; and
31 (b) either:
32 (i) before the individual's death, the individual was eligible
33 for an amount (the *subject amount*) of family tax

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- 1 benefit under section 31 or 32 in relation to the death of
2 an FTB child and the subject amount had not been paid
3 to the individual (whether or not a claim under Part 3 of
4 the *A New Tax System (Family Assistance)*
5 *(Administration) Act 1999* had been made); or
6 (ii) the individual died at the same time as the FTB child
7 and would have been so eligible for the subject amount
8 if the individual had not died; and
9 (c) another individual makes a claim under that Part for payment
10 of family tax benefit because of the death of a person, stating
11 that the individual wishes to become eligible for the subject
12 amount; and
13 (d) the Secretary considers that the other individual ought to be
14 eligible for the subject amount;
15 the other individual is eligible for the subject amount and no-one
16 else is, or can become, eligible for or entitled to be paid that
17 amount.

18 **Subdivision C—Eligibility of approved care organisations for**
19 **family tax benefit**

20 **34 When an approved care organisation is eligible for family tax**
21 **benefit**

- 22 (1) An approved care organisation is eligible for family tax benefit in
23 respect of an individual if:
24 (a) either:
25 (i) the individual is aged under 18; or
26 (ii) the individual is aged 18 and the calendar year in which
27 the individual turned 18 has not ended; and
28 (b) the individual is a client of the organisation; and
29 (c) the individual is an Australian resident.
30 (2) However, an approved care organisation is not eligible for family
31 tax benefit in respect of an individual in the cases set out in section
32 35.

Expanded meaning of client of an organisation

- (3) For the purposes of paragraph (1)(b), if:
- (a) an organisation that is not an approved care organisation is providing residential care services to young people in Australia; and
 - (b) an approved care organisation is co-ordinating the provision of those services;
- the young people are taken to be clients of the approved care organisation.

35 When an approved care organisation is not eligible for family tax benefit

- (1) An approved care organisation is not eligible for family tax benefit in respect of an individual in the cases set out in this table:

When an approved care organisation is not eligible for family tax benefit at a particular time		
	If the individual is aged:	then the approved care organisation is not eligible for family tax benefit in respect of the individual if:
1	5 or more and less than 16	(a) the individual is not undertaking full-time study; and (b) the individual has adjusted taxable income, for the income year in which the particular time occurs, that equals or exceeds the cut-out amount (see subsection (3))
2	16 or more	(a) the individual is not undertaking full-time study; or (b) the individual has adjusted taxable income, for the income year in which the particular time occurs, that equals or exceeds the cut-out amount (see subsection (3))

Section 35

When an approved care organisation is not eligible for family tax benefit at a particular time

	If the individual is aged:	then the approved care organisation is not eligible for family tax benefit in respect of the individual if:
3	any age	the individual, or someone on behalf of the individual, is at the particular time receiving: (a) a social security pension; or (b) a social security benefit; or (c) payments under a program included in the programs known as Labour Market Programs; or (d) payments under a prescribed educational scheme

- 1 (2) An approved care organisation is also not eligible for family tax
2 benefit in respect of an individual if anyone else is eligible for
3 family tax benefit in respect of the individual.

4 *Definition*

- 5 (3) In subsection (1):

6 **cut-out amount** means the sum of:

- 7 (a) the amount specified in column 2 of item 2 of the table in
8 clause 30 of Schedule 1 divided by 0.3; and
9 (b) the amount specified in clause 33 of that Schedule.

1

2 **Division 2—Eligibility for maternity allowance**

3 **Subdivision A—Eligibility of individuals for maternity**
4 **allowance in normal circumstances**

5 **36 When an individual is eligible for maternity allowance in normal**
6 **circumstances**

7 (1) An individual is eligible for maternity allowance in respect of a
8 child in any of the 4 cases set out in this section.

9 *Parent of child*

10 (2) First, an individual is eligible for maternity allowance in respect of
11 a child if:

12 (a) the individual is a parent of the child; and

13 (b) the individual is eligible for family tax benefit in respect of
14 the child at any time within the period of 13 weeks starting
15 on the day of the child's birth and the individual's Part A rate
16 at that time is greater than nil.

17 *Child entrusted to care of individual*

18 (3) Second, an individual is eligible for maternity allowance in respect
19 of a child if:

20 (a) the individual is not a parent of the child; and

21 (b) the child is entrusted to the care of the individual or the
22 individual's partner within the period of 13 weeks starting on
23 the day of the child's birth; and

24 (c) the child continues, or is likely to continue, in that care for
25 not less than 13 weeks; and

26 (d) the individual is eligible for family tax benefit in respect of
27 the child at any time within the period of 13 weeks starting
28 on the day of the child's birth and the individual's Part A rate
29 at that time is greater than nil.

Section 37

1

Stillborn child

2

(4) Third, an individual is eligible for maternity allowance in respect of a child if:

3

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(a) the child is a stillborn child; and

5

(b) the individual would have been eligible for family tax benefit in respect of the child, at any time within the period of 13 weeks starting on the day of the child's birth, if the child had not been a stillborn child and the individual's Part A rate at that time would have been greater than nil.

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Adoption

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(5) Fourth, an individual is eligible for maternity allowance in respect of a child if:

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(a) as part of the process for the adoption of the child by the individual, the child is entrusted to the care of the individual by an authorised party; and

14

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16

(b) the child is not more than 26 weeks of age at the time the child is entrusted to the care of the individual; and

17

18

(c) the individual is eligible for family tax benefit in respect of the child at any time within the period of 13 weeks starting on the day the child is entrusted to the care of the individual and the individual's Part A rate at that time is greater than nil.

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37 Only one individual eligible for maternity allowance in respect of a child

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(1) Only one individual is eligible for maternity allowance in respect of a child.

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(2) If 2 or more individuals would otherwise be eligible for maternity allowance in respect of the same child, the individual who is eligible is the one determined by the Secretary to be eligible.

28

29

1 **Subdivision B—Eligibility of individuals for maternity**
2 **allowance where death occurs**

3 **38 What happens if an individual eligible for maternity allowance**
4 **dies**

5 If:

- 6 (a) an individual is eligible for maternity allowance (the *subject*
7 *allowance*) in respect of a child; and
8 (b) the individual dies; and
9 (c) before the individual died, the subject allowance had not
10 been paid to the individual (whether or not a claim under Part
11 3 of the *A New Tax System (Family Assistance)*
12 *(Administration) Act 1999* had been made); and
13 (d) another individual makes a claim under that Part for payment
14 of maternity allowance because of the death of a person,
15 stating that he or she wishes to become eligible for the
16 subject allowance; and
17 (e) the Secretary considers that the other individual ought to be
18 eligible for the subject allowance;

19 the other individual is eligible for the subject allowance and no-one
20 else is, or can become, eligible for or entitled to be paid that
21 allowance.

Section 39

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2 **Division 3—Eligibility for maternity immunisation**
3 **allowance**

3

4 **Subdivision A—Eligibility of individuals for maternity**
5 **immunisation allowance in normal circumstances**

4

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6 **39 When an individual is eligible for maternity immunisation**
7 **allowance in normal circumstances**

6

7

- 8 (1) An individual is eligible for maternity immunisation allowance in
9 respect of a child in any of the 3 cases set out in this section.

8

9

10 *Child alive within 18 months of birth*

10

- 11 (2) First, an individual is eligible for maternity immunisation
12 allowance in respect of a child who is alive at the end of 18 months
13 after the date of the child's birth if:

11

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- 14 (a) the Secretary is satisfied that the child meets the
15 immunisation requirements set out in section 6 on any day
16 before the child turns 2; and

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16

- 17 (b) on the later of the following days (the *qualifying day*):

17

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- 18 (i) the day the child turned 18 months;
19 (ii) the earliest day to which paragraph (a) applies;
20 one of the following applies:
21 (iii) the child is an FTB child of the individual and maternity
22 allowance has been paid in respect of the child;
23 (iv) the individual is eligible for family tax benefit in respect
24 of the child and the individual's Part A rate is greater
25 than nil;
26 (v) the Secretary is satisfied there is a pattern of care for the
27 child for a period, that started before the qualifying day
28 and that will end after that day, in which the child was,
29 or will be, an FTB child of the individual.

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1 *Stillborn child*

2 (3) Second, an individual is eligible for maternity immunisation
3 allowance in respect of a child that is a stillborn child if the
4 individual is entitled to maternity allowance in respect of the child.

5 *Child dies within 2 years of birth*

6 (4) Third, an individual is eligible for maternity immunisation
7 allowance in respect of a child who is born alive but dies within 2
8 years if one of the following applies:
9 (a) the child was an FTB child of the individual on the day of the
10 child's death and someone has been paid or is entitled to be
11 paid maternity allowance in respect of the child;
12 (b) on the day of the child's death, the individual was eligible for
13 family tax benefit in respect of the child and the individual's
14 Part A rate was greater than nil;
15 (c) the Secretary is satisfied that, on the day of the child's death,
16 there was a pattern of care for the child for a period, that
17 started before that day and that would have ended after that
18 day if the child had not died, in which the child was, or
19 would have been, an FTB child of the individual.

20 **Subdivision B—Eligibility of individuals for maternity**
21 **immunisation allowance where death occurs**

22 **40 What happens if an individual eligible for maternity**
23 **immunisation allowance dies**

24 If:

25 (a) an individual is eligible for maternity immunisation
26 allowance (the *subject allowance*) in respect of a child; and
27 (b) the individual dies; and
28 (c) before the individual died, the subject allowance had not
29 been paid to the individual (whether or not a claim under Part
30 3 of the *A New Tax System (Family Assistance)*
31 *(Administration) Act 1999* had been made); and

Part 3 Eligibility for family assistance

Division 3 Eligibility for maternity immunisation allowance

Section 40

- 1 (d) another individual makes a claim under that Part for payment
2 of maternity immunisation allowance because of the death of
3 a person, stating that he or she wishes to become eligible for
4 the subject allowance; and
5 (e) the Secretary considers that the other individual ought to be
6 eligible for the subject allowance;
7 the other individual is eligible for the subject allowance and no-one
8 else is, or can become, eligible for or entitled to be paid that
9 allowance.

1

2 **Division 4—Eligibility for child care benefit**

3 **Subdivision A—Eligibility for child care benefit by instalment**
4 **for care provided by approved child care service in**
5 **normal circumstances**

6 **41 When an individual is conditionally eligible for child care benefit**
7 **by instalment to an approved child care service**

- 8 (1) An individual is conditionally eligible for child care benefit by
9 instalment to an approved child care service if:
- 10 (a) the individual, or the individual's partner, has an FTB child;
11 and
 - 12 (b) the individual, or the individual's partner, is:
 - 13 (i) an Australian resident; or
 - 14 (ii) undertaking a course of study in Australia and receiving
15 financial assistance directly from the Commonwealth
16 for the purpose of undertaking that study; and
 - 17 (c) the service is not providing a session of care to the child for
18 which the service is eligible for child care benefit under
19 section 45; and
 - 20 (d) a determination is not in force under Part 3 of the *A New Tax*
21 *System (Family Assistance) (Administration) Act 1999* that
22 the service is conditionally eligible for child care benefit by
23 instalment in respect of the child.

24 *Secretary may determine that child is an FTB child*

- 25 (2) The Secretary may determine that, because of special
26 circumstances, a child who is not an FTB child of an individual is
27 taken to be an FTB child of the individual for the purposes of
28 paragraph (1)(a).

29 *Section subject to Subdivision E*

- 30 (3) This section is subject to Subdivision E (which deals with limits on
31 eligibility).

Section 42

1 **42 When an individual is eligible for child care benefit by instalment**
2 **to an approved child care service**

- 3 (1) An individual is eligible for child care benefit by instalment to an
4 approved child care service if:
- 5 (a) during the whole or part of an instalment period (see
6 subsection (4)), a determination is in force under Part 3 of the
7 *A New Tax System (Family Assistance) (Administration) Act*
8 1999 that the individual is conditionally eligible for child
9 care benefit by instalment to the service in respect of a child;
10 and
 - 11 (b) during the next instalment period, the service gives the
12 Secretary, in accordance with a form and in a manner
13 approved by the Secretary:
 - 14 (i) a statement of an amount of child care benefit in respect
15 of the instalment period as mentioned in subsection (2);
16 and
 - 17 (ii) details of the basis on which the statement of the
18 amount was made; and
 - 19 (iii) any other information required by the Secretary; and
 - 20 (c) the Secretary is satisfied that the amount of child care benefit
21 set out in the statement under subparagraph (b)(i) was
22 correctly calculated on the basis detailed under subparagraph
23 (b)(ii).

24 *Statement under paragraph (1)(b)*

- 25 (2) The statement under paragraph (1)(b) must set out the amount of
26 child care benefit the service considers the individual would be
27 entitled to be paid, in respect of the sessions of care covered by
28 subsection (3), on the assumption that the individual had instead
29 made a claim under Part 3 of the *A New Tax System (Family*
30 *Assistance) (Administration) Act 1999* on the basis of eligibility
31 under Subdivision B of this Division, and in applying that
32 Subdivision for that purpose:
 - 33 (a) subparagraph 43(1)(d)(ii) (which relates to immunisation
34 requirements) is to be disregarded; and

1 (b) the CCB % that is to be used in calculating the individual's
2 rate of child care benefit under Schedule 2 is the CCB %
3 specified in the determination.

4 (3) For the purposes of subsection (2), the sessions of care are those
5 provided by the service to the child:

6 (a) while the determination was in force during the instalment
7 period; and

8 (b) to which Subdivision E (which deals with limits on
9 eligibility) does not apply.

10 *Instalment period*

11 (4) In this section:

12 *instalment period* means:

13 (a) if paragraph (b) does not apply—a quarter beginning on any
14 1 January, 1 April, 1 July or 1 October; or

15 (b) if the approved child care service is covered by a
16 determination under subsection (5)—the period specified in
17 the determination.

18 (5) The Secretary may determine that a specified period, that is not a
19 quarter, is the instalment period for the purposes of this section for
20 approved child care services of a particular kind. Such a
21 determination does not come into force until the end of the
22 instalment period in which it is made.

23 **Subdivision B—Eligibility for child care benefit for past**
24 **periods for care provided by approved child care**
25 **service in normal circumstances**

26 **43 When an individual is eligible for child care benefit**

27 (1) An individual is eligible for child care benefit in respect of a
28 session of care provided to a child by an approved child care
29 service if:

30 (a) the child is an FTB child of the individual, or of the
31 individual's partner, during the session; and

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Section 43

- 1 (b) the care is provided in Australia; and
2 (c) the individual, or the individual's partner, has incurred a
3 liability to pay for the session (whether or not the liability has
4 been discharged); and
5 (d) when a claim by the individual for payment of child care
6 benefit in respect of the session is determined in accordance
7 with Part 3 of the *A New Tax System (Family Assistance)*
8 (*Administration*) Act 1999:
9 (i) the individual, or the individual's partner, is an
10 Australian resident or is undertaking a course of study
11 in Australia and receiving financial assistance directly
12 from the Commonwealth for the purpose of undertaking
13 that course; and
14 (ii) where the child is aged under 7 at that time and the
15 session is not a school holiday session—the child meets
16 the immunisation requirements set out in section 6; and
17 (e) the session starts on or after the commencement of this Act;
18 and
19 (f) a determination is not in force during the session under Part 3
20 of the *A New Tax System (Family Assistance)*
21 (*Administration*) Act 1999 that the individual is conditionally
22 eligible for child care benefit by instalment to the approved
23 child care service.

24 *Secretary may determine that child is an FTB child*

- 25 (2) The Secretary may determine that, because of special
26 circumstances, a child who is not an FTB child of an individual is
27 taken to be an FTB child of the individual for the purposes of
28 paragraph (1)(a).

29 *Exceptions*

- 30 (3) This section is subject to section 44 and Subdivision E (which limit
31 eligibility).

1 **44 Individual not eligible for child care benefit if service eligible**
2 **under Subdivision C**

3 *General rule*

- 4 (1) An individual is not eligible for child care benefit under this
5 Subdivision in respect of a session of care provided to a child if the
6 approved child care service providing the session of care is eligible
7 for child care benefit under Subdivision C in respect of the same
8 session of care.

9 *Exception*

- 10 (2) Subsection (1) does not apply to a session of care if the session is
11 covered by a determination under subsection (3).

12 *Ministerial determination*

- 13 (3) The Minister may determine that subsection (1) does not apply in
14 specified circumstances to sessions of care provided by approved
15 child care services.

16 *Disallowable instrument*

- 17 (4) A determination under this section is a disallowable instrument for
18 the purposes of section 46A of the *Acts Interpretation Act 1901*.

19 **Subdivision C—Eligibility for child care benefit for care**
20 **provided by approved child care service in special**
21 **circumstances**

22 **45 When an approved child care service is eligible for child care**
23 **benefit for an initial 13 week period**

- 24 (1) An approved child care service is eligible for child care benefit for
25 a session of care provided by the service to a child if:
26 (a) at the time the care is provided, the service believes the child
27 is at risk of serious abuse or neglect; or
28 (b) the child is in an individual's care immediately before the
29 session is provided and, at the time the care is provided, the

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Division 4 Eligibility for child care benefit

Section 45

1 service believes the individual is experiencing hardship of a
2 kind specified in a determination in force under subsection
3 48(1).

4 *Exceptions*

5 (2) However, the service is not so eligible for child care benefit for the
6 session of care if:

7 (a) the session is provided after 13 special-circumstances-rate
8 weeks (see subsection (3)) have passed, whether or not in a
9 continuous period, in the same calendar year as that in which
10 the session is provided; or

11 (b) when the session is provided, a determination is in force
12 under Part 3 of the *A New Tax System (Family Assistance)*
13 *(Administration) Act 1999* that an individual is conditionally
14 eligible for child care benefit by instalment to the approved
15 child care service in respect of the child.

16 *Special-circumstances-rate week*

17 (3) For the purposes of paragraph (2)(a), a *special-circumstances-rate*
18 *week* is a week in which the service provided at least one session
19 of care for the child that satisfied the following conditions:

20 (a) either:

21 (i) the service was eligible for child care benefit under this
22 section; or

23 (ii) an individual was eligible for child care benefit by
24 instalment to the service under section 42;
25 for the session in respect of the child;

26 (b) during the session, a certificate was in force under section 71
27 (which sets the rate of child care benefit in special
28 circumstances) in relation to the child and the service.

29 *Section subject to Subdivision E*

30 (4) This section is subject to Subdivision E (which deals with limits on
31 eligibility).

1 **46 When an approved child care service is conditionally eligible for**
2 **child care benefit by instalment**

- 3 (1) An approved child care service is conditionally eligible for child
4 care benefit by instalment at a particular time if:
- 5 (a) 13 special-circumstances-rate weeks (within the meaning of
6 subsection 45(3)) in respect of the service and the child have
7 passed in the calendar year in which the time occurs; and
 - 8 (b) either:
 - 9 (i) the child is at risk of serious abuse or neglect at the
10 time; or
 - 11 (ii) the child was in an individual's care immediately before
12 the time and the individual is at the time experiencing
13 hardship of a kind specified in a determination in force
14 under subsection 48(1); and
 - 15 (c) a determination is not in force under subsection 48(2) that
16 has the effect that the service is not able to be conditionally
17 eligible under this section at the time in respect of the child;
18 and
 - 19 (d) a determination is not in force under Part 3 of the *A New Tax*
20 *System (Family Assistance) (Administration) Act 1999* that an
21 individual is conditionally eligible for child care benefit by
22 instalment to the service in respect of the child.

23 *Section subject to Subdivision E*

- 24 (2) This section is subject to Subdivision E (which deals with limits on
25 eligibility).

26 **47 When an approved child care service is eligible for child care**
27 **benefit by instalment**

- 28 (1) An approved child care service is eligible for child care benefit by
29 instalment if:
- 30 (a) during the whole or part of an instalment period (see
31 subsection (2)), a determination is in force under Part 3 of the
32 *A New Tax System (Family Assistance) (Administration) Act*

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Division 4 Eligibility for child care benefit

Section 47

- 1 1999 that the service is conditionally eligible for child care
2 benefit by instalment in respect of a child; and
3 (b) during the next instalment period, the service gives the
4 Secretary, in accordance with a form and in a manner
5 approved by the Secretary:
6 (i) a statement that the service provided sessions of care of
7 a specified number of hours to the child while the
8 determination was in force; and
9 (ii) a statement of the total amount of child care benefit that
10 would be applicable for all of those hours under
11 Division 4 of Part 4, assuming the service were eligible
12 for child care benefit under this section; and
13 (iii) details of the basis on which the amount in
14 subparagraph (ii) was calculated; and
15 (iv) any other information required by the Secretary; and
16 (c) the Secretary is satisfied that the amount stated under
17 subparagraph (b)(ii) was correctly calculated on the basis
18 detailed under subparagraph (b)(iii).

19 *Instalment period*

20 (2) In this section:

21 *instalment period* means:

- 22 (a) if paragraph (b) does not apply—a quarter beginning on any
23 1 January, 1 April, 1 July or 1 October; or
24 (b) if the approved child care service is covered by a
25 determination under subsection (3)—the period specified in
26 the determination.
- 27 (3) The Secretary may determine that a specified period, that is not a
28 quarter, is the instalment period for the purposes of this section for
29 approved child care services of a particular kind. Such a
30 determination does not come into force until after the end of the
31 instalment period in which it is made.

1 *Section subject to Subdivision E*

- 2 (4) This section is subject to Subdivision E (which deals with limits on
3 eligibility).

4 **48 Minister's determinations**

5 *Hardship*

- 6 (1) The Minister may specify kinds of hardship for the purposes of
7 paragraph 45(1)(b) and subparagraph 46(1)(b)(ii).

8 *Limit on eligibility under section 46*

- 9 (2) The Minister may determine that, in specified circumstances after a
10 specified period or specified periods of conditional eligibility of
11 approved child care services for child care benefit by instalment in
12 respect of a child under section 46, the services are not able to be
13 conditionally eligible under that section for any further period in
14 respect of the child.

15 *Disallowable instrument*

- 16 (3) A determination under this section is a disallowable instrument for
17 the purposes of section 46A of the *Acts Interpretation Act 1901*.

18 **Subdivision D—Eligibility for child care benefit for past**
19 **periods of care provided by registered carers**

20 **49 When an individual is eligible for child care benefit**

- 21 (1) An individual is eligible for child care benefit for a period of care
22 provided to a child by a registered carer if:
23 (a) the child is an FTB child of the individual, or the individual's
24 partner, during the period; and
25 (b) the care is provided in Australia; and
26 (c) the child is not an FTB child of the registered carer or of the
27 partner of the carer; and

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Division 4 Eligibility for child care benefit

Section 49

- 1 (d) the individual, or the individual's partner, is liable to pay for
2 the care and the care has been paid for; and
- 3 (e) the individual, and the individual's partner, satisfy the
4 work/training/study test at some time during the week,
5 beginning on a Monday, in which the care is provided; and
- 6 (f) when a claim by the individual for payment of child care
7 benefit in respect of the period is determined in accordance
8 with Part 3 of the *A New Tax System (Family Assistance)*
9 *(Administration) Act 1999*:
- 10 (i) the individual, or the individual's partner, is an
11 Australian resident or is undertaking a course of study
12 in Australia and receiving financial assistance directly
13 from the Commonwealth for the purpose of undertaking
14 that course; and
- 15 (ii) where the child is aged under 7 at that time and the
16 individual has previously made a claim for payment of
17 the child care benefit under that Part in respect of a
18 period of care provided by the registered carer to the
19 child—the child meets the immunisation requirements
20 set out in section 6; and
- 21 (g) the care starts at or after the commencement of this Act.

22 *Secretary may determine that a child is an FTB child*

- 23 (2) The Secretary may determine that, because of special
24 circumstances, a child who is not an FTB child of an individual is
25 taken to be an FTB child of the individual for the purposes of this
26 section.

27 *Section subject to Subdivision E*

- 28 (3) This section is subject to Subdivision E (which deals with limits on
29 eligibility).

1 **Subdivision E—Limitations on eligibility for child care benefit**

2 **50 No multiple eligibility for same care**

- 3 (1) If, apart from this section, more than one individual would be
4 eligible for child care benefit in respect of the same session, or
5 period, of care for the same child under Subdivision A, B or D, the
6 only individual who is eligible is the one whom the Secretary
7 determines to be eligible.

8 *Determination to be in accordance with any Ministerial guidelines*

- 9 (2) The Secretary must make the determination under subsection (1) in
10 accordance with any guidelines in force under subsection (3).

11 *Ministerial guidelines*

- 12 (3) The Minister may make guidelines in accordance with which the
13 Secretary is to make determinations under subsection (1).

14 *Disallowable instruments*

- 15 (4) The guidelines are disallowable instruments for the purposes of
16 section 46A of the *Acts Interpretation Act 1901*.

17 **51 Person not eligible for child care benefit if child in care under a**
18 **welfare law or child in exempt class of children**

- 19 (1) A person is not eligible, or conditionally eligible, for child care
20 benefit as mentioned in Subdivision A, B, C or D if the child
21 concerned:
22 (a) is under the care (however described) of a person under:
23 (i) a child welfare law of a State or Territory; or
24 (ii) a law of a State or Territory that is taken to be a child
25 welfare law of the State or Territory in a determination
26 under subsection (2); or
27 (b) is a member of a class specified in a determination under
28 subsection (3).

Section 52

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Child welfare law

2

- (2) The Minister may determine that a specified law of a State or Territory is taken to be a child welfare law of the State or Territory for the purposes of subparagraph (1)(a)(ii).

3

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Exempt class of children

6

- (3) The Minister may determine that children included in a specified class are children in respect of which no-one is eligible for child care benefit under this Division.

7

8

9

Disallowable instrument

10

- (4) A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

11

12

52 When eligibility for child care benefit for care provided by an approved child care service is limited to 20 hours per week

13

14

15

- (1) This section applies if:

16

- (a) either:

17

- (i) an individual would otherwise be eligible under Subdivision A for child care benefit by instalment to an approved child care service or under Subdivision B for child care benefit; or

18

19

20

21

- (ii) an approved child care service would otherwise be eligible under Subdivision C for child care benefit, or for child care benefit by instalment;

22

23

24

for one or more sessions of care provided to a child in a week beginning on any Monday; and

25

26

- (b) the total length of the one or more sessions exceeds 20 hours.

27

20 hour limit for week

28

- (2) Subject to this section, the individual or approved child care service is only eligible for those sessions or parts of sessions for which the Secretary determines the individual or approved child

29

30

1 care service to be eligible, such that the total number of hours in
2 those sessions or parts is 20.

3 *Exception—work/training/study test satisfied*

4 (3) This section does not apply if the responsible person (see
5 subsection (7)) and that person's partner (if any) satisfy the
6 work/training/study test at some time in the week.

7 *Exception—carer allowance payable*

8 (4) This section does not apply if carer allowance under section 953 of
9 the *Social Security Act 1991* is payable to the responsible person or
10 that person's partner (if any) for some or all of the week:

11 (a) in respect of an FTB child of the responsible person or that
12 person's partner; and

13 (b) pursuant to a claim under that Act that was determined before
14 the week.

15 *Exception—disabled person*

16 (5) This section does not apply if, at some time in the week, both:

17 (a) the child is an FTB child of the responsible person and that
18 person is a disabled person (see subsection 53(1)); and

19 (b) the responsible person's partner (if any) is also a disabled
20 person.

21 *Exception—determination in force under section 53*

22 (6) This section does not apply if a determination is in force under
23 section 53 (other than subsection 53(1)) during the week in relation
24 to the service, the child or the service and the child, as the case
25 requires.

26 *Responsible person*

27 (7) In this section:

28 *responsible person* means:

Part 3 Eligibility for family assistance

Division 4 Eligibility for child care benefit

Section 53

- 1 (a) if subparagraph (1)(a)(i) applies—the individual mentioned
2 in that subparagraph; or
3 (b) if subparagraph (1)(a)(ii) applies—the person in whose care
4 the child mentioned in paragraph (1)(a) last was before the
5 first session of care in the week.

6 **53 Determinations for the purposes of section 52**

7 *Minister may determine when a person is a disabled person*

- 8 (1) The Minister may determine when a person is a disabled person for
9 the purposes of subsection 52(5).

10 *Determination that exceptional circumstances exist*

- 11 (2) If the Secretary considers that a child needs or needed more than
12 20 hours of care in each of one or more weeks because the
13 Secretary is satisfied exceptional circumstances exist or existed,
14 the Secretary may make a determination to that effect. The
15 determination must specify the period of one or more weeks, and is
16 in force during that period.

17 *Determination that service is sole provider in area*

- 18 (3) If the Minister considers that:
19 (a) an approved child care service is the sole provider in an area
20 of the kind of care the service provides; and
21 (b) the service would be likely to close if the Minister were not
22 to make a determination that would be in force for a period of
23 one or more weeks under this subsection in relation to the
24 service;
25 the Minister may make a determination to that effect.
- 26 (4) The determination under subsection (3):
27 (a) may be expressed to be subject to conditions, and
28 (b) must specify the period of one or more weeks; and
29 (c) is in force during the period specified.

1 *Determination by service that child at risk*

- 2 (5) If an approved child care service considers that a child is or has
3 been at risk of serious abuse or neglect, and needs or needed more
4 than 20 hours of care, in each of one or more weeks, the service
5 may make a determination (the **current determination**) in writing
6 to that effect.
- 7 (6) The current determination must specify the period of one or more
8 weeks, and is in force during that period, other than any part that
9 occurs after:
- 10 (a) the end of the calendar year in which it comes into force; or
11 (b) the time when the total of:
- 12 (i) the period during which the current determination has
13 been in force; and
- 14 (ii) all periods during which any previous determinations
15 under subsection (5) by the service in relation to the
16 child were in force during the calendar year in which the
17 current determination comes into force;
18 exceeds 13 weeks.

19 *Determination by Secretary that child at risk*

- 20 (7) If:
- 21 (a) a determination or determinations by an approved child care
22 service under subsection (5) have been in force in relation to
23 a child for a total of 13 weeks during a calendar year
24 (whether or not throughout a continuous period); and
- 25 (b) the Secretary considers that the child is or has been at risk of
26 serious abuse or neglect, and needs or needed more than 20
27 hours of care, in each of one or more weeks in a period
28 beginning at any time after those 13 weeks;
- 29 the Secretary may make a determination to that effect. The
30 determination must specify the period of one or more weeks, and is
31 in force during the period specified, other than at any time after the
32 end of the calendar year.

Section 54

1 **54 When eligibility for child care benefit for care provided by an**
2 **approved child care service limited to 50 hours per week**

3 (1) This section applies if:

4 (a) either:

5 (i) an individual would otherwise be eligible under
6 Subdivision A for child care benefit by instalment to an
7 approved child care service or under Subdivision B for
8 child care benefit; or

9 (ii) an approved child care service would otherwise be
10 eligible under Subdivision C for child care benefit, or
11 for child care benefit by instalment;

12 for one or more sessions of care provided to a child in a week
13 beginning on any Monday; and

14 (b) the total length of the one or more sessions exceeds 50 hours;
15 and

16 (c) section 52 does not apply to the week.

17 *50 hour limit for week*

18 (2) Subject to this section, the individual or approved child care
19 service is only eligible for those sessions or parts of sessions for
20 which the Secretary determines the individual or approved child
21 care service to be eligible, such that the total number of hours in
22 those sessions or parts is 50.

23 *Exception—determination in force under section 55*

24 (3) This section does not apply if a determination is in force under
25 section 55 during the week in relation to the service, the child or
26 the service and the child, as the case requires.

27 **55 Determinations for the purposes of section 54**

28 *Determination about work related commitments*

29 (1) If the Secretary considers that the responsible person (see
30 subsection (6)) in relation to a child needs or needed care for the
31 child for more than 50 hours in each of one or more weeks because

1 of work related commitments of the responsible person, the
2 Secretary may make a determination to that effect. The
3 determination must specify the period of one or more weeks, and is
4 in force during that period.

5 *Determination that exceptional circumstances exist*

6 (2) If the Secretary considers that a child needs or needed more than
7 50 hours of care in each of one or more weeks because the
8 Secretary is satisfied exceptional circumstances exist or existed,
9 the Secretary may make a determination to that effect. The
10 determination must specify the period of one or more weeks, and is
11 in force during that period.

12 *Determination by service that child at risk*

13 (3) If an approved child care service considers that a child is or has
14 been at risk of serious abuse or neglect, and needs or needed more
15 than 50 hours of care, in each of one or more weeks, the service
16 may make a determination (the *current determination*) in writing
17 to that effect.

18 (4) The current determination must specify the period of one or more
19 weeks, and is in force during that period, other than any part that
20 occurs after:

21 (a) the end of the calendar year in which it comes into force; or

22 (b) the time when the total of:

23 (i) the period during which the current determination has
24 been in force; and

25 (ii) all periods during which any previous determinations
26 under subsection (3) by the service in relation to the
27 child were in force during the calendar year in which the
28 current determination comes into force;

29 exceeds 13 weeks.

30 *Determination by Secretary that child at risk*

31 (5) If:

Part 3 Eligibility for family assistance

Division 4 Eligibility for child care benefit

Section 56

- 1 (a) a determination or determinations by an approved child care
2 service under subsection (3) have been in force in relation to
3 a child for a total of 13 weeks during a calendar year
4 (whether or not throughout a continuous period); and
5 (b) the Secretary considers that the child is or has been at risk of
6 serious abuse or neglect, and needs or needed more than 50
7 hours of care, in each of one or more weeks in a period
8 beginning at any time after those 13 weeks;
9 the Secretary may make a determination to that effect. The
10 determination must specify the period of one or more weeks, and is
11 in force during the period specified, other than at any time after the
12 end of the calendar year.

13 *Responsible person*

- 14 (6) In this section:

15 *responsible person* means:

- 16 (a) if subparagraph 54(1)(a)(i) applies—the individual
17 mentioned in that subparagraph; or
18 (b) if subparagraph 54(1)(a)(ii) applies—the person in whose
19 care the child mentioned in paragraph 54(1)(a) last was
20 before the first session of care in the week.

21 **56 Rules about the making of determinations under sections 52 to 55**

22 *Determinations to be made in accordance with rules*

- 23 (1) A determination by the Minister, the Secretary or an approved
24 child care service under section 52, 53, 54 or 55 must be made in
25 accordance with rules in force under subsection (2).

26 *Minister may determine rules*

- 27 (2) The Minister may determine rules relating to the making of
28 determinations under section 52, 53, 54 or 55.

1 *Disallowable instrument*

- 2 (3) A determination under subsection 53(1) or subsection (2) of this
3 section is a disallowable instrument for the purposes of section
4 46A of the *Acts Interpretation Act 1901*.

5 **Subdivision F—Eligibility for child care benefit where death**
6 **occurs**

7 **57 Eligibility for child care benefit if an eligible individual dies**

8 If:

- 9 (a) an individual is eligible for an amount of child care benefit
10 (the *subject amount*) under Subdivision B or D; and
11 (b) the individual dies; and
12 (c) before the individual died, the subject amount had not been
13 paid to the individual (whether or not a claim under Part 3 of
14 the *A New Tax System (Family Assistance) (Administration)*
15 *Act 1999* had been made); and
16 (d) another individual makes a claim under that Part for payment
17 of child care benefit because of the death of a person, stating
18 that he or she wishes to become eligible for the subject
19 amount; and
20 (e) the Secretary considers that the other individual ought to be
21 eligible for the subject amount;

22 the other individual is eligible for the subject amount and no-one
23 else is, or can become, eligible for or entitled to be paid that
24 amount.

1

2 **Part 4—Rate of family assistance**

3 **Division 1—Family tax benefit**

4 **58 Rate of family tax benefit**

5 *Annual rate of family tax benefit for individuals*

- 6 (1) Subject to sections 60 to 63, an individual's annual rate of family
7 tax benefit is to be calculated in accordance with the Rate
8 Calculator in Schedule 1.

9 *Annual rate of family tax benefit to approved care organisation*

- 10 (2) An approved care organisation's annual rate of family tax benefit
11 for an individual is \$956.30 per year.

12 *Daily rate of family tax benefit*

- 13 (3) The daily rate of family tax benefit is the annual rate divided by
14 365 and rounded to the nearest cent (rounding 0.5 cents upwards).
15 If the daily rate before rounding is above nil and below half a cent,
16 round up to 1 cent.

17 **59 Secretary may make determination where individual is FTB child**
18 **of 2 people who are not members of the same couple**

- 19 (1) If the Secretary is satisfied that:
20 (a) an individual is an FTB child of an individual (*person A*);
21 and
22 (b) the FTB child is also an FTB child of another individual who
23 is not person A's partner; and
24 (c) person A and the other individual are living together;
25 the Secretary may determine the percentage that is to be person A's
26 percentage of family tax benefit for the child. The percentage is to
27 be a multiple of 5%.

- 1 (2) If the FTB child is one of 3 or more FTB children who were born
2 during the same multiple birth, the Secretary may specify in the
3 determination under subsection (1) the manner in which multiple
4 birth allowance under Division 2 of Part 5 of Schedule 1 is to be
5 dealt with.
- 6 (3) Without limiting subsection (2), the Secretary may specify that the
7 whole of the multiple birth allowance is to be paid to one of the 2
8 individuals involved.

9 **60 Sharing family tax benefit between members of a couple in a**
10 **blended family**

11 If the Secretary determines under section 28 an individual's
12 percentage (the *specified percentage*) of the family tax benefit for
13 FTB children of the individual, the individual's annual rate of
14 family tax benefit is the specified percentage of the rate that would
15 otherwise apply.

16 **61 Sharing family tax benefit between separated members of a**
17 **couple for period before separation**

18 If the Secretary determines under section 29 an individual's
19 percentage (the *specified percentage*) of the family tax benefit for
20 an FTB child or children of the individual for a period, the
21 individual's annual rate of family tax benefit for that period is the
22 specified percentage of the rate that would otherwise apply for the
23 period.

24 **62 Effect on individual's rate of the individual's absence from**
25 **Australia**

26 *Absence from Australia of recipient*

- 27 (1) Subsection (4) modifies the operation of Schedule 1 in working out
28 an individual's rate of family tax benefit for a period during which
29 the individual is an absent overseas recipient.
- 30 (2) If an individual leaves Australia, the individual is an *absent*
31 *overseas recipient* for any period that occurs:

Part 4 Rate of family assistance

Division 1 Family tax benefit

Section 62

- 1 (a) during that absence from Australia; and
2 (b) after the end of the period of 26 weeks beginning on the first
3 day of that absence.
- 4 (3) If:
5 (a) an individual is eligible for family tax benefit while the
6 individual is absent from Australia; and
7 (b) the individual then becomes an absent overseas recipient
8 because of the application of subsection (2) or a previous
9 application of this subsection; and
10 (c) the individual returns to Australia; and
11 (d) the individual leaves Australia again less than 26 weeks after
12 returning to Australia;
13 the individual is an *absent overseas recipient* for any period that
14 occurs during the absence from Australia referred to in paragraph
15 (d).
- 16 (4) For the purposes of working out an individual's rate of family tax
17 benefit for a period during which the individual is an absent
18 overseas recipient, Schedule 1 applies with the modifications set
19 out in the following table:
20

Modifications for absent overseas recipient		
	Provision of Schedule 1	Modification
1	Clause 7	the individual's standard rate is the rate that would be the individual's standard rate if the individual's Part A rate were being worked out using Part 3 of the Schedule (see clause 26)
2	Clause 3	no amount is to be added by way of rent assistance
3	Part 4	the individual's Part B rate is nil

1 **63 Effect on family tax benefit rate of FTB child's absence from**
2 **Australia**

3 *Absence from Australia of FTB child*

4 (1) Subsection (4) modifies the operation of Schedule 1 in working out
5 an individual's rate of family tax benefit for a period during which:

- 6 (a) an FTB child of the individual is an absent overseas FTB
7 child; and
8 (b) the individual is not an absent overseas recipient.

9 (2) If:

10 (a) either:

11 (i) an FTB child leaves Australia; or

12 (ii) a child born outside Australia is an FTB child at birth;
13 and

14 (b) the child continues to be absent from Australia for more than
15 26 weeks;

16 the child is an ***absent overseas FTB child*** for any period that
17 occurs:

18 (c) during that absence from Australia; and

19 (d) after the end of the period of 26 weeks beginning on the first
20 day of the child's absence from Australia.

21 (3) If:

22 (a) an FTB child is an absent overseas FTB child because of the
23 application of subsection (2) or a previous application of this
24 subsection; and

25 (b) the child comes to Australia; and

26 (c) the child leaves Australia less than 26 weeks after coming to
27 Australia;

28 the child is an ***absent overseas FTB child*** for any period that
29 occurs during the absence from Australia referred to in paragraph
30 (c).

31 (4) For the purposes of working out an individual's rate of family tax
32 benefit for a period during which:

Part 4 Rate of family assistance

Division 1 Family tax benefit

Section 64

- 1 (a) an FTB child of the individual is an absent overseas FTB
2 child; and
3 (b) the individual is not an absent overseas recipient;
4 Schedule 1 applies with the modifications set out in the following
5 table:
6

Modifications for absent overseas FTB child		
	Provision of Schedule 1	Modification
1	clause 7	FTB child rate for the child is the base FTB child rate
2	clause 30	disregard the child

7 **64 Calculation of rate of family tax benefit for death of FTB child**

8 The rate of family tax benefit for each day in the period to which
9 subsection 31(2) applies is worked out:

- 10 (a) by applying the Rate Calculator in Schedule 1 on the
11 assumption that the child who died did not die and is an FTB
12 child of the individual during that period; and
13 (b) by having regard to the actual circumstances during that
14 period of any other child who is, from time to time, an FTB
15 child of the individual.

16 **65 Calculation of single amount for death of FTB child**

17 *Instalment case*

- 18 (1) The single amount of family tax benefit an individual is eligible for
19 under subsection 32(1) is worked out as follows:

20 *Method statement*

21 *Step 1.* Work out the rate of family tax benefit for which the
22 individual would be eligible under this Act (other than
23 under section 31) for the period (the ***lump sum period***)
24 beginning on the request day (see subsection 32(1)) and
25 ending at the end of the section 31 accrual period (see

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subsection 32(1)) by applying the Rate Calculator in Schedule 1 on the following assumptions:

- (a) that the child who died did not die and is an FTB child of the individual for each day in the lump sum period;
- (b) if on the request day the individual had any other children who were FTB children—that each of those children is an FTB child of the individual for each day in the lump sum period, other than an excluded day (see subsection (2)) in relation to the child;
- (c) if the lump sum period extends over 2 income years—that the individual’s adjusted taxable income for the lump sum period is the same as the individual’s adjusted taxable income for the first of those income years.

Step 2. If paragraph (b) of step 1 applies, work out the rate of family tax benefit for which the individual would be eligible under this Act (other than under section 31) for the lump sum period by applying the Rate Calculator in Schedule 1 on the following assumptions:

- (a) that each child mentioned in that paragraph is an FTB child of the individual for each day in that period, other than an excluded day (see subsection (2)) in relation to the child;
- (b) if paragraph (c) of step 1 applies—the assumption in that paragraph.

Step 3. The single amount is the step 1 amount less the step 2 amount (if any).

Part 4 Rate of family assistance

Division 1 Family tax benefit

Section 65

- 1 (2) For the purposes of the method statement in subsection (1), a day
2 in the lump sum period is an *excluded day* in relation to the child
3 if:
4 (a) the lump sum period starts in one calendar year and ends in
5 the next; and
6 (b) the child turns 18 during the first of those calendar years; and
7 (c) the day occurs in the second of the calendar years.

8 *Other cases*

- 9 (3) The single amount of family tax benefit an individual is eligible for
10 under subsection 32(2) is worked out:
11 (a) by applying the method statement in subsection (1) of this
12 section (disregarding paragraph (c) of step 1, and paragraph
13 (b) of step 2, of the statement) as if a reference to the request
14 day in that statement were a reference to the first day of the
15 second of those income years (see subsection 32(2)); and
16 (b) on the assumption that the individual's adjusted taxable
17 income for the period falling in the second of those income
18 years is the same as the individual's adjusted taxable income
19 for the first of those income years.

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2 **Division 2—Maternity allowance**

3 **66 Amount of maternity allowance**

4 The amount of maternity allowance in respect of a child is the
5 greater of the following amounts:

- 6 (a) \$780;
- 7 (b) 2.4 times the amount stated in column 3 of item 1 in Table C
8 in point 1068B-C2 in Module C of the PP (Partnered) Rate
9 Calculator in section 1068B of the *Social Security Act 1991*.

Section 67

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2 **Division 3—Maternity immunisation allowance**

3 **67 Amount of maternity immunisation allowance**

4 The amount of maternity immunisation allowance in respect of a
5 child is the greater of the following amounts:

- 6 (a) \$208;
- 7 (b) 0.6 times the amount stated in column 3 of item 1 in Table C
8 in point 1068B-C2 in Module C of the PP (Partnered) Rate
9 Calculator in section 1068B of the *Social Security Act 1991*.

10 **68 When the maternity immunisation allowance is shared**

11 *General rule*

- 12 (1) Subject to subsection (2), if, apart from this section, 2 or more
13 individuals would otherwise be eligible for maternity immunisation
14 allowance under subsection 39(2) or (4) in respect of the same
15 child, each individual is instead eligible only for such percentage
16 of the allowance that the Secretary determines (such that the sum
17 of the percentages equals 100%).

18 *Exception—determination of family tax benefit percentage*

- 19 (2) However, if:
- 20 (a) apart from this section, 2 individuals would otherwise be
21 eligible for maternity immunisation allowance under
22 subsection 39(2) or (4) in respect of the same child; and
- 23 (b) the Secretary, under subsection 59(1), has determined each
24 individual's percentage of family tax benefit for the child;
- 25 each individual is instead eligible only for a percentage of the
26 allowance equal to the percentage of family tax benefit that the
27 Secretary determined in relation to the individual.

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2 **Division 4—Child care benefit**

3 **Subdivision A—Care provided by approved child care service**

4 **69 Application of Subdivision to parts of sessions of care**

5 If an individual is eligible for child care benefit for only part of a
6 session of care, this Subdivision applies to the individual's rate of
7 child care benefit for that part of the session as if a reference in this
8 Subdivision to a session of care included a reference to a part of a
9 session of care.

10 **70 Rate of child care benefit for care provided by approved child**
11 **care service**

12 *Care provided by approved child care service—individual eligible*

13 (1) Subject to section 71, an individual's rate of child care benefit for a
14 session of care provided by an approved child care service is
15 worked out using Schedule 2. Section 72 imposes a limit on the
16 amount of child care benefit that may be paid for care provided to a
17 child in a week.

18 *Care provided by approved child care service—service eligible*

19 (2) If an approved child care service is eligible for child care benefit
20 for a session of care it provides to a child, the rate of child care
21 benefit for the session is worked out using section 71. Section 72
22 imposes a limit on the amount of child care benefit that may be
23 paid for care provided to a child in a week.

24 *Hourly rate may be applied to part of hour*

25 (3) To avoid doubt, an hourly rate of child care benefit may be applied
26 to a part of an hour of a session of care. That part of the hour
27 attracts the appropriate proportion of the amount for a full hour.

Section 71

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71 Rate of child care benefit in special circumstances

- (1) If:
 - (a) an individual is eligible for child care benefit for care provided to a child by an approved child care service; and
 - (b) the service is satisfied that:
 - (i) the child is at risk of serious abuse or neglect; or
 - (ii) the individual is experiencing hardship of a kind specified in a determination in force under subsection 48(1);

the service may certify in writing that the hourly rate of child care benefit for sessions of care it provides to the child while the certificate is in force is to be higher than the rate that would otherwise apply. The certificate must specify the higher rate and the period for which that rate applies.
- (2) If an approved child care service providing care to a child is eligible for child care benefit for care provided to the child, the service must certify in writing the hourly rate of child care benefit for the sessions of care it provides to the child while the certificate is in force. The certificate must specify the period for which that rate applies.
- (3) The period specified in a certificate under subsection (1) or (2):
 - (a) must be a number of complete weeks; and
 - (b) may start before or after the certificate is given; and
 - (c) must not be such that the total of that period, and the period specified in each other certificate (if any) given by the service under this section in relation to the child and the same calendar year, exceeds 13 weeks.
- (4) If:
 - (a) an approved child care service gives a certificate under subsection (1) or (2); and
 - (b) the total of the period specified in the certificate, and the period specified in each other certificate (if any) by the service under subsection (1) or (2) in relation to the child and the same calendar year, equals 13 weeks; and

- 1 (c) either:
2 (i) the service is eligible for child care benefit for care
3 provided for the child; or
4 (ii) the Secretary is satisfied that the child is at risk of
5 serious abuse or neglect; or
6 (iii) the Secretary is satisfied that an individual who is
7 eligible for child care benefit for the care provided to
8 the child is experiencing hardship of a kind specified in
9 a determination in force under subsection 48(1);
10 the Secretary may determine that the hourly rate of child care
11 benefit for sessions of care the service provides to the child while
12 the determination is in force is to be higher than the rate that would
13 otherwise apply. The determination must specify the higher rate
14 and the period for which that rate applies.
- 15 (5) The period specified in the determination:
16 (a) must be a number of complete weeks; and
17 (b) may start before or after the determination is made.
- 18 (6) If a certificate is given under subsection (1) or (2), or a
19 determination is made under subsection (4), the hourly rate of child
20 care benefit for sessions of care provided by the approved child
21 care service to the child during the period for which the certificate
22 or determination applies is the rate specified in the certificate or
23 determination. Section 72 imposes a limit on the amount of child
24 care benefit that may be paid for care provided to a child in a week.
- 25 (7) A certificate under subsection (1) or (2), or a determination under
26 subsection (4), is to be made in accordance with rules in force
27 under subsection (8).
- 28 (8) The Minister may, by determination, make rules relating to the
29 giving of certificates under subsection (1) or (2) and the making of
30 determinations under subsection (4).
- 31 (9) A determination under subsection (8) is a disallowable instrument
32 for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Section 72

1 **72 Weekly limit on benefit for care provided by approved child care**
2 **service**

- 3 (1) The total amount of child care benefit for care provided by an
4 approved child care service to a child in a week is not to exceed the
5 total of:
- 6 (a) the amount charged by the service for sessions of care
7 provided to the child in that week for which an individual is
8 eligible for child care benefit; and
9 (b) if the service is eligible for child care benefit for a session of
10 care provided to the child in that week—the amount that
11 would have been charged by the service for sessions of care
12 provided to the child in that week if the service had not been
13 eligible for that child care benefit.
- 14 (2) For the purposes of subsection (1), a week begins on a Monday.

15 **Subdivision B—Care provided by registered carer**

16 **73 Rate of child care benefit for care provided by registered carer**

- 17 (1) The hourly rate of child care benefit for care provided to a child by
18 a registered carer is the minimum hourly amount per hour. The
19 *minimum hourly amount* is the amount specified in the numerator
20 in the formula in clause 12 of Schedule 2. Section 74 imposes a
21 limit on the amount of child care benefit that may be paid for care
22 provided to a child in a week.
- 23 (2) To avoid doubt, the hourly rate may be applied to a part of an hour.
24 That part of the hour attracts the appropriate proportion of the
25 amount for a full hour.

26 **74 Weekly limit on benefit for care provided by registered carer**

- 27 (1) The total amount of child care benefit for care provided to a child
28 by a registered carer or carers in a week is not to exceed:
- 29 Minimum hourly amount \times 50
30 where:

Section 74

1 *minimum hourly amount* is the amount specified in the numerator
2 in the formula in clause 12 of Schedule 2.

3 (2) For the purposes of subsection (1), a week begins on a Monday.

Part 4 Rate of family assistance

Division 5 Indexation

Section 75

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2 **Division 5—Indexation**

3 **75 Indexation of amounts used in rate calculations**

4 Schedule 4 provides for the indexation of certain amounts used in
5 working out rates of family assistance.

1 **Schedule 1—Family Tax Benefit Rate**
2 **Calculator**

3 Note: See subsection 58(1).

4 **Part 1—Overall rate calculation process**
5

6 **1 Overall rate calculation process**

- 7 (1) To work out an individual's annual rate of family tax benefit, add:
8 (a) the individual's Part A rate calculated under Part 2 (clauses 3
9 to 24) or Part 3 (clauses 25 to 28); and
10 (b) the individual's Part B rate calculated under Part 4 (clauses
11 29 to 33).

- 12 (2) To work out the individual's Part A rate:
13 (a) use Part 2 (clauses 3 to 24) if the individual's adjusted
14 taxable income does not exceed the individual's higher
15 income free area; or
16 (b) use Part 3 (clauses 25 to 28) if the individual's adjusted
17 taxable income exceeds the individual's higher income free
18 area.

19 Use Schedule 3 to work out the individual's adjusted taxable
20 income. Use clause 2 to work out the individual's higher income
21 free area.

22 **2 Higher income free area**

23 For the purposes of this Part, an individual's higher income free
24 area is worked out using the following table. An individual's
25 higher income free area is the basic amount in column 1 plus an
26 additional amount in column 2 for each FTB child of the individual
27 (after the first).
28

Schedule 1 Family Tax Benefit Rate Calculator
Part 1 Overall rate calculation process

Clause 2

Higher income free area		
	Column 1	Column 2
	Basic amount	Additional amount
1	\$73,000	\$3,000

1

2 **Part 2—Part A rate (Method 1)**

3 **Division 1—Overall rate calculation process**

4 **3 Method of calculating Part A rate**

5 Subject to clauses 5 and 6, if the individual's Part A rate is to be
6 calculated using this Part, it is calculated as follows:

7

Method statement

8

Step 1. Add the following amounts:

9

(a) the individual's standard rate under Division 2 of
10 this Part (clauses 7 to 11);

11

(b) the individual's large family supplement (if any)
12 under Division 1 of Part 5 (clauses 34 and 35);

13

(c) the individual's multiple birth allowance (if any)
14 under Division 2 of Part 5 (clauses 36 to 38);

15

(d) the individual's rent assistance (if any) under
16 Division 3 of this Part (clauses 12 to 16).

17

The result is the individual's *maximum rate*.

18

Step 2. Apply the income test in Division 4 of this Part (clauses
19 17 to 19) to work out any reduction for adjusted taxable
20 income. Take any reduction away from the individual's
21 maximum rate: the result is the individual's *income*
22 *tested rate*.

23

Step 3. Apply the maintenance income test in Division 5 of this
24 Part (clauses 20 to 24) to work out any reduction for
25 maintenance income. Take any reduction away from the

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 1 Overall rate calculation process

Clause 4

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individual's income tested rate: the result is the individual's *income and maintenance tested rate*.

Step 4. The individual's *Part A rate* is:

- (a) the individual's income and maintenance tested rate if it is equal to or greater than the individual's base rate (see clause 4); or
- (b) the individual's base rate (see clause 4) if it is more than the individual's income and maintenance tested rate.

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4 Base rate

The individual's *base rate* is the rate that would be the individual's maximum rate under clause 25 if the individual's Part A rate were worked out using Part 3.

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5 Family tax benefit advance to individual

If family tax benefit advance is paid to an individual, the individual's Part A rate during the individual's family tax benefit advance period is to be reduced by the FTB advance rate.

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6 Family tax benefit advance to partner

If:

- (a) an individual is a member of a couple at a particular time in a standard advance period; and
- (b) either:
 - (i) the individual's partner dies at that time; or
 - (ii) the individual's partner's family tax benefit is terminated at that time; and
- (c) family tax benefit advance was paid to the individual's partner during that standard advance period;

the individual's Part A rate during the partner's family tax benefit advance period is to be reduced by the FTB advance rate.

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2 **Division 2—Standard rate**3 **7 Standard rate**

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Subject to clauses 8 to 11, an individual's standard rate is worked out using the following table. Work out which category applies to each FTB child of the individual. The FTB child rate is the corresponding amount in column 2. The standard rate is the sum of the FTB child rates.

Standard rates		
(Part A—Method 1)		
	Column 1	Column 2
	Category of FTB child	Standard rate
1	FTB child who is under 13 years of age	\$2,920.00
2	FTB child who has reached 13, but is under 16, years of age	\$3,697.45
3	FTB child who has reached 16, but is under 19, years of age	\$956.30

10

8 Base FTB child rate

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For the purposes of this Division, the *base FTB child rate* for an FTB child of an individual is the rate that would be the FTB child rate under subclause 26(2) if:

- (a) the individual's Part A rate were being worked out under Part 3; and
- (b) clause 27 did not apply.

17

9 FTB child rate—recipient of other periodic payments

18

19

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21

The FTB child rate for an FTB child of an individual is the base FTB child rate (see clause 8) if:

- (a) the individual or the individual's partner is receiving a periodic payment under a law of the Commonwealth and the

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 2 Standard rate

Clause 10

- 1 law provides for an increase in the rate of payment by
2 reference to an FTB child of the individual; or
3 (b) the individual or the individual's partner is receiving a
4 periodic payment under a scheme administered by the
5 Commonwealth and the scheme provides for an increase in
6 the rate of payment by reference to an FTB child of the
7 individual.

8 **10 Effect of maintenance rights**

- 9 The FTB child rate for an FTB child of an individual is the base
10 FTB child rate (see clause 8) if:
11 (a) the individual or the individual's partner is entitled to claim
12 or apply for maintenance for the child; and
13 (b) the Secretary considers that it is reasonable for the individual
14 or partner to take action to obtain maintenance; and
15 (c) the individual or partner does not take action that the
16 Secretary considers reasonable to obtain maintenance.

17 **11 Sharing family tax benefit (determination under subsection**
18 **59(1))**

- 19 If the Secretary has determined under subsection 59(1) the
20 percentage (the *specified percentage*) that is to be the individual's
21 percentage of family tax benefit for an FTB child of the individual,
22 the FTB child rate for the child, in working out the individual's
23 standard rate, is the specified percentage of the FTB child rate that
24 would otherwise apply to the child.

1

2 **Division 3—Rent assistance**

3 **12 Rent assistance children**

- 4 (1) An individual's eligibility for, and rate of, rent assistance is
5 affected by whether an FTB child of the individual is a rent
6 assistance child of the individual.
- 7 (2) An FTB child of an individual is a *rent assistance child* of the
8 individual if the FTB child rate for the child:
9 (a) exceeds the base FTB child rate (see clause 8); or
10 (b) would exceed the base FTB child rate but for clause 11.

11 **13 Eligibility for rent assistance**

- 12 (1) An amount by way of rent assistance for a period is to be added in
13 working out an individual's maximum rate if:
14 (a) the individual has at least one rent assistance child; and
15 (b) either:
16 (i) the individual is entitled to be paid family tax benefit for
17 the period by instalment under Part 3 of the *A New Tax*
18 *System (Family Assistance) (Administration) Act 1999*;
19 or
20 (ii) the individual is entitled to be paid family tax benefit for
21 the period, the period is a past period and the Secretary
22 determines that it is appropriate to include rent
23 assistance for that period; and
24 (c) the individual is not an ineligible homeowner; and
25 (d) the individual is not an aged care resident; and
26 (e) the individual pays, or is liable to pay, rent (other than
27 Government rent); and
28 (f) the rent is payable at a rate of more than:
29 (i) if the individual is not a member of a couple—
30 \$2,485.65 per year; or

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 3 Rent assistance

Clause 14

- 1 (ii) if the individual is a member of a couple (other than an
2 illness separated couple, a respite care couple or a
3 temporarily separated couple)—\$3,675.55 per year; or
4 (iii) if the individual is a member of an illness separated
5 couple, a respite care couple or a temporarily separated
6 couple—\$2,485.65 per year; and
7 (g) if the individual is outside Australia:
8 (i) the person was paying rent (other than Government
9 rent) for accommodation in Australia immediately
10 before the individual left Australia; and
11 (ii) the person continues to pay rent for the same
12 accommodation while outside Australia.
- 13 (2) A determination under subparagraph (1)(b)(ii) is to be made in
14 accordance with guidelines in force under subclause (3).
- 15 (3) The Minister may, by determination in writing, make guidelines
16 relating to the making of determinations under subparagraph
17 (1)(b)(ii).
- 18 (4) A determination under subclause (3) is a disallowable instrument
19 for the purposes of section 46A of the *Acts Interpretation Act 1901*.

20 **14 Rate of rent assistance**

21 The rate of rent assistance is worked out using the following table.
22 Work out the individual's family situation and calculate Rate A for
23 the individual using the corresponding formula in column 2. This
24 will be the individual's rate of rent assistance but only up to the
25 individual's maximum rent assistance rate. The individual's
26 maximum rent assistance rate is Rate B worked out using column
27 3.

28

Clause 15

Rent assistance				
(Part A—Method 1)				
	Column 1	Column 2	Column 3	
	Family situation	Rate A	Rate B	
			Column 3A	Column 3B
			1 or 2 rent assistance children	3 or more rent assistance children
1	Not member of a couple	$\frac{(\text{Annual rent} - \$2,485.65)}{4} \times 3$	\$2,310.45	\$2,606.10
2	Member of a couple (other than an illness separated couple, a respite care couple or a temporarily separated couple)	$\frac{(\text{Annual rent} - \$3,675.55)}{4} \times 3$	\$2,310.45	\$2,606.10
3	Member of an illness separated couple, a respite care couple or a temporarily separated couple	$\frac{(\text{Annual rent} - \$2,485.65)}{4} \times 3$	\$2,310.45	\$2,606.10

1 **15 Annual rent**

2 *Annual rent* in the table in clause 14 is the annual rate of rent paid
 3 or payable by the individual whose rate is being calculated.

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 3 Rent assistance

Clause 16

1 **16 Rent paid by a member of a couple**

2 If an individual is a member of a couple and is living with his or
3 her partner in their home, any rent paid or payable by the partner is
4 to be treated as paid or payable by the individual.

1

2 **Division 4—Income test**

3 **17 Application of income test to pension and benefit recipients and**
4 **their partners**

5 If the individual, or the individual's partner, is receiving a social
6 security pension, a social security benefit or a service pension:

- 7 (a) the individual's income excess is nil; and
8 (b) the individual's income tested rate is the same as the
9 individual's maximum rate.

10 **18 Income test**

11 This is how to work out an individual's reduction for adjusted
12 taxable income if clause 17 does not apply to the individual:

13 *Method statement*

14 *Step 1.* Work out the individual's *income free area* using clause
15 19.

16 *Step 2.* Work out whether the individual's adjusted taxable
17 income exceeds the individual's income free area.

18 *Step 3.* If the individual's adjusted taxable income does not
19 exceed the individual's income free area, the individual's
20 *income excess* is nil.

21 *Step 4.* If the individual's adjusted taxable income exceeds the
22 individual's income free area, the individual's *income*
23 *excess* is the individual's adjusted taxable income less the
24 individual's income free area.

25 *Step 5.* The individual's *reduction for adjusted taxable income*
26 is 30% of the income excess.

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 4 Income test

Clause 19

1 **19 Income free area**

2 An individual's *income free area* is \$28,200.

1

2 **Division 5—Maintenance income test**

3 **20 Effect of maintenance income on family tax benefit rate**

4 This is how to work out an individual's reduction for maintenance
5 income:

6

Method statement

7

Step 1. Work out the annual rate of the individual's ***maintenance income***. In doing so:

8

9

(a) disregard any maintenance income for an FTB child for whom the FTB child rate under clause 7 does not exceed the base FTB child rate (see clause 8); and

10

11

12

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14

(b) disregard the operation of clause 11 (sharing of family tax benefit) in applying paragraph (a).

15

16

Step 2. Work out the individual's ***maintenance income free area*** using clauses 22 and 23.

17

18

Step 3. Work out whether the individual's maintenance income exceeds the individual's maintenance income free area.

19

20

21

22

Step 4. If the individual's maintenance income does not exceed the individual's maintenance income free area, the individual's ***maintenance income excess*** is nil and there is no reduction for maintenance income.

23

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25

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Step 5. If the individual's maintenance income exceeds the individual's maintenance income free area, the individual's ***maintenance income excess*** is the individual's maintenance income less the individual's maintenance income free area.

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 5 Maintenance income test

Clause 21

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Step 6. The individual's *reduction for maintenance income* is half the maintenance income excess.

3

21 Maintenance income of members of couple to be added

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The annual rate of the maintenance income of an individual who is a member of a couple is the sum of the rates that, apart from this clause, would be the respective annual rates of each of the members of the couple.

8

22 How to calculate an individual's maintenance income free area

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An individual's *maintenance income free area* is worked out using the following table. Work out which family situation in the table applies to the individual. The maintenance income free area is the corresponding amount in column 2 plus an additional corresponding amount in column 3 for each FTB child after the first (other than a child for whom maintenance income is disregarded under step 1 of the method statement in clause 20).

Maintenance income free area			
(Part A—Method 1)			
	Column 1	Column 2	Column 3
	Individual's family situation	Basic amount	Additional amount
1	Not a member of a couple	\$952.65	\$317.55
2	Partnered (both the individual and the partner have maintenance income)	\$1,905.30	\$317.55
3	Partnered (only one has maintenance income)	\$952.65	\$317.55

1 **23 Only maintenance actually received taken into account in**
2 **applying clause 22**

3 In determining whether or not item 2 or 3 of the table in clause 22
4 applies to an individual, clause 21 is to be disregarded. This has the
5 effect of taking into account only maintenance income that the
6 individual actually receives rather than any maintenance income
7 that the individual is taken to receive because of maintenance
8 income received by the individual's partner.

9 **24 Apportionment of capitalised maintenance income**

- 10 (1) The object of this clause is to spread capitalised maintenance
11 income so that it is taken into account over the whole of the period
12 in respect of which it is received.
- 13 (2) If an individual receives capitalised maintenance income, the
14 maintenance income of the individual that is attributable to the
15 capitalised maintenance income during any period (the *relevant*
16 *period*) in the capitalisation period is the amount worked out using
17 the formula:

18 Capitalised maintenance income $\times \frac{\text{Relevant period}}{\text{Capitalisation period}}$

19 *Capitalisation period—court order or registered or approved*
20 *maintenance agreement*

- 21 (3) If:
- 22 (a) the capitalised maintenance income is received under or as a
23 result of:
- 24 (i) the order of a court; or
- 25 (ii) a maintenance agreement registered in, or approved by,
26 a court under the *Family Law Act 1975* or the law of a
27 State or Territory; and

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 5 Maintenance income test

Clause 24

- 1 (b) the order or agreement specified the period in relation to
2 which the capitalised maintenance income was to be
3 provided; and
4 (c) the length of the period could be ascertained with reasonable
5 certainty when the order was made or the agreement was so
6 registered or approved;
7 the **capitalisation period** is, subject to subclause (6), the period
8 specified in the order or agreement.

9 *Capitalisation period—FTB child under 18*

- 10 (4) If:
11 (a) the capitalised maintenance income relates to the
12 maintenance of an FTB child of the individual; and
13 (b) the child has not turned 18 on the day on which the income is
14 received; and
15 (c) subclause (3) does not apply to the capitalised maintenance
16 income;
17 the **capitalisation period** is, subject to subclause (6), the period that
18 starts on the day on which the income is received and ends on the
19 day immediately before the day on which the child turns 18.

20 *Capitalisation period—partner under 65*

- 21 (5) If:
22 (a) the capitalised maintenance income relates to the
23 maintenance of the individual by the individual's partner or
24 former partner; and
25 (b) the individual has not turned 65 on the day on which the
26 income is received; and
27 (c) subclause (3) does not apply to the capitalised maintenance
28 income;
29 the **capitalisation period** is, subject to subclause (6), the period that
30 starts on the day on which the income is received and ends on the
31 day immediately before the day on which the individual turns 65.

1 *Capitalisation period—other cases*

2 (6) If:

3 (a) the Secretary considers:

4 (i) in a case falling within subclause (3) where the period
5 referred to in that subclause was specified in an order of
6 a court that was made by consent or in a maintenance
7 agreement—that the period is not appropriate in the
8 circumstances of the case; or

9 (ii) in a case falling within subclause (4) or (5)—that the
10 period referred to in that subclause is not appropriate in
11 the circumstances of the case; or

12 (b) no capitalisation period is applicable in relation to the
13 capitalised maintenance income under subclause (3), (4) or
14 (5);

15 the *capitalisation period* is such period as the Secretary considers
16 appropriate in the circumstances of the case.

Schedule 1 Family Tax Benefit Rate Calculator

Part 3 Part A rate (Method 2)

Division 1 Overall rate calculation process

Clause 25

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2 **Part 3—Part A rate (Method 2)**

3 **Division 1—Overall rate calculation process**

4 **25 Method of calculating Part A rate**

5 If the individual's Part A rate is to be calculated using this Part, it
6 is calculated as follows:

7

Method statement

8

Step 1. Add the following amounts:

9

(a) the individual's standard rate under Division 2 of
10 this Part (clauses 26 and 27);

11

(b) the individual's large family supplement (if any)
12 under Division 1 of Part 5 (clauses 34 and 35);

13

(c) the individual's multiple birth allowance (if any)
14 under Division 2 of Part 5 (clauses 36 to 38);

15

The result is the individual's *maximum rate*.

16

Step 2. Apply the income test in Division 3 of this Part (clause
17 28) to work out any reduction for adjusted taxable
18 income. Take any reduction away from the individual's
19 maximum rate: the result is the individual's *Part A rate*.

1

2 **Division 2—Standard rate**

3 **26 Standard rate**

4 (1) Subject to clause 27, an individual's *standard rate* is the total
5 obtained by adding the FTB child rates for each of the individual's
6 FTB children.

7 (2) The *FTB child rate* for the purpose of subclause (1) is \$956.30.

8 **27 Sharing family tax benefit (determination under subsection**
9 **59(1))**

10 If the Secretary has determined under subsection 59(1) the
11 percentage (the *specified percentage*) that is to be an individual's
12 percentage of family tax benefit for an FTB child of the individual,
13 the FTB child rate for the child, in working out the individual's
14 standard rate under clause 26, is the specified percentage of the
15 FTB child rate that would otherwise apply to the child.

Clause 28

1

2 **Division 3—Income test**

3 **28 Income test**

4 This is how to work out an individual's reduction for adjusted
5 taxable income:

6 *Method statement*

7 *Step 1.* Work out the individual's **higher income free area** using
8 clause 2.

9 *Step 2.* Work out whether the individual's adjusted taxable
10 income exceeds the individual's higher income free area.

11 *Step 3.* If the individual's adjusted taxable income does not
12 exceed the individual's higher income free area, the
13 individual's **income excess** is nil.

14 *Step 4.* If the individual's adjusted taxable income exceeds the
15 individual's higher income free area, the individual's
16 **income excess** is the individual's adjusted taxable
17 income less the individual's higher income free area.

18 *Step 5.* The individual's **reduction for income** is 30% of the
19 income excess.

1

2 **Part 4—Part B rate**

3 **Division 1—Overall rate calculation process**

4 **29 Method of calculating Part B rate**

5 (1) The individual's Part B rate is the individual's standard rate
6 worked out using Division 2 (clauses 30 and 31) if the individual is
7 not a member of a couple.

8 (2) The individual's Part B rate is worked out using the following
9 method statement if the individual is a member of a couple:

10

Method statement

11

Step 1. Work out the individual's **standard rate** using Division 2
12 (clauses 30 and 31).

13

Step 2. Work out the individual's **reduction for adjusted taxable
14 income** using Division 3 (clauses 32 and 33).

15

Step 3. The individual's Part B rate is the standard rate less the
16 reduction for adjusted taxable income.

Schedule 1 Family Tax Benefit Rate Calculator

Part 4 Part B rate

Division 2 Standard rate

Clause 30

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Division 2—Standard rate

3

30 Standard rate

4

Subject to clause 31, an individual's standard rate is worked out using the following table. Work out which family situation applies to the individual. The standard rate is the corresponding amount in column 2.

5

6

7

8

Standard rates		
(Part B)		
	Column 1	Column 2
	Family situation	Standard rate
1	youngest FTB child is under 5 years of age	\$2,569.60
2	youngest FTB child is 5 years of age or over	\$1,781.20

9

31 Sharing family tax benefit (determination under subsection 59(1))

10

11

(1) If:

12

(a) the Secretary has determined under subsection 59(1) the percentage (the *specified percentage*) that is to be an individual's percentage of family tax benefit for an FTB child of the individual; and

13

14

15

16

(b) the child is the individual's only FTB child;

17

the individual's standard rate is the specified percentage of the standard rate that would otherwise apply.

18

19

(2) If:

20

(a) the Secretary has determined under subsection 59(1) the percentage that is to be an individual's percentage of family tax benefit for an FTB child of the individual; and

21

22

23

(b) the child is not the individual's only FTB child;

24

the individual's standard rate is to be worked out as follows:

Clause 31

- 1 (c) for each of the individual's FTB children who are not
2 covered by a determination under subsection 59(1), work out
3 the rate that would be the individual's standard rate under
4 clause 30 if that child were the individual's only FTB child;
- 5 (d) for each of the individual's FTB children who are covered by
6 a determination under subsection 59(1), work out the rate that
7 would be the individual's standard rate under clause 30 if:
8 (i) that child were the individual's only FTB child; and
9 (ii) subclause (1) of this clause applied to the child;
- 10 (e) the individual's standard rate is the highest of the rates
11 obtained under paragraphs (c) and (d).

Clause 32

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2 **Division 3—Income test**

3 **32 Income test**

4 This is how to work out an individual's reduction for adjusted
5 taxable income:

6 *Method statement*

7 *Step 1.* Work out the individual's *income free area* using clause
8 33.

9 *Step 2.* Work out whether the individual's adjusted taxable
10 income exceeds the individual's income free area.

11 *Step 3.* If the individual's adjusted taxable income does not
12 exceed the individual's income free area, the individual's
13 *income excess* is nil.

14 *Step 4.* If the individual's adjusted taxable income exceeds the
15 individual's income free area, the individual's *income*
16 *excess* is the individual's adjusted taxable income less the
17 individual's income free area.

18 *Step 5.* The individual's *reduction for income* is 30% of the
19 income excess.

20 **33 Income free area**

21 An individual's income free area is \$1,616.

1

2 **Part 5—Common provisions**

3 **Division 1—Large family supplement**

4 **34 Eligibility for large family supplement**

5 An amount by way of large family supplement is to be added in
6 working out an individual's maximum rate under clause 3 or 25 if
7 the individual has 4 or more FTB children.

8 **35 Rate of large family supplement**

9 The amount of the large family supplement is worked out using the
10 formula:

11
$$\$204.40 \times \left(\text{Number of FTB children of the individual} - 3 \right)$$

Clause 36

1

2 **Division 2—Multiple birth allowance**

3 **36 Eligibility for multiple birth allowance**

4 An amount by way of multiple birth allowance is to be added in
5 working out an individual's maximum rate under clause 3 or 25 if:

- 6 (a) the individual has 3 or more FTB children; and
7 (b) at least 3 of those children were born during the same
8 multiple birth and are under the age of 6 years.

9 **37 Rate of multiple birth allowance**

10 The amount of the multiple birth allowance is:

- 11 (a) if the number of the FTB children born during the same
12 multiple birth is 3—\$2,467.40; and
13 (b) if the number of the FTB children born during the same
14 multiple birth is 4 or more—\$3,292.30.

15 **38 Sharing multiple birth allowance between 2 people**
16 **(determination under subsection 59(1))**

17 If:

- 18 (a) the Secretary has determined under subsection 59(1) the
19 percentage that is to be an individual's percentage of family
20 tax benefit for an FTB child of the individual; and
21 (b) the child is one of at least 3 children who were born during
22 the same multiple birth;

23 multiple birth allowance under this Division in respect of the
24 multiple birth is to be dealt with in accordance with the
25 determination (see subsection 59(2)).

1
2 **Schedule 2—Child care benefit rate calculator**

3 Note: See subsection 70(1).

4 **Part 1—Overall rate calculation process**
5

6 **1 Method of calculating rate of child care benefit**

- 7 (1) If an individual's rate of child care benefit for a session of care
8 provided to a child is to be worked out using this Schedule, the
9 individual's hourly rate of child care benefit for the session is
10 worked out in accordance with the following method statement:

11 *Method statement*

12 *Step 1.* Use Part 2 (clause 4) to work out the standard hourly rate
13 for the session.

14 *Step 2.* Work out the individual's adjustment percentage using
15 clause 2.

16 *Step 3.* Work out that percentage of the standard hourly rate: the
17 result is the *individual's rate of child care benefit* for the
18 care.

- 19 (2) If the individual is eligible for child care benefit for only part of a
20 session of care, this Schedule applies to the individual's rate of
21 child care benefit for that part of the session as if a reference in this
22 Schedule to a session of care included a reference to a part of a
23 session of care.

24 **2 Adjustment percentage**

- 25 (1) An individual's *adjustment percentage* for the purposes of step 2
26 in the method statement in clause 1 is:

27 $\text{CCB \%} \times \text{Schooling \%} \times \text{Part-time \%}$

- 28 (2) In subclause (1):

Schedule 2 Child care benefit rate calculator
Part 1 Overall rate calculation process

Clause 3

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CCB % is:

Multiple child % × Taxable income %

schooling % is:

- (a) 85% if the child is a school child; and
- (b) 100% if the child is not a school child.

part-time % means:

- (a) 110% if:
 - (i) the care is provided by a centre based long day care service; and
 - (ii) the child is not a school child; and
 - (iii) the total number of hours in sessions of care that are provided to the child by one or more approved child care services, and for which the family incurs liability to pay, in the week concerned is less than 34; and
- (b) 100% in any other case.

(3) In subclause (2):

multiple child % is worked out using Part 3 (clause 5).

taxable income % is worked out using Part 4 (clauses 6 to 12).

3 Number of children in care of a particular kind

- (1) An individual's multiple child % and taxable income % are affected by the number of children the individual has in care of a particular kind.
- (2) For the purposes of applying this Schedule to work out an individual's rate of child care benefit for a session of care of a particular kind, the number of children in care of that kind is worked out in accordance with the following method statement:

Method statement

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Step 1. Work out what kind of care was provided. For this purpose, the kinds of care are:

- (a) care other than care provided by an occasional care service; and
- (b) care provided by an occasional care service;

Step 2. Work out, in relation to the individual, how many children are in sessions of care of that kind in the week concerned for which the individual is eligible for child care benefit. That number is the ***number of children in care of that kind*** in relation to the individual and that kind of care.

Clause 4

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Part 2—Standard hourly rate

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4 Standard hourly rate—basic meaning

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- (1) The *standard hourly rate* for a session of care provided to a child is worked out using the following table and rounding the result to the nearest cent (rounding 0.5 cents upwards):

Standard hourly rates		
	Kind of care provided in hour	Standard hourly rate
1	Care other than part-time family day care or non-standard hours family day care	\$2.40
2	Part-time family day care	The lesser of: (a) one and a third times the item 1 rate; and (b) the ceiling rate worked out under subclause (2)
3	Non-standard hours family day care	one and a third times the item 1 rate

9
10
11

- (2) For the purposes of item 2 of the table in subclause (1), the *ceiling rate* is:

$$\frac{50 \times \text{Item 1 rate}}{\text{Number of eligible hours}}$$

12

where:

13
14

item 1 rate is the item 1 standard hourly rate in the table in subclause (1).

15
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number of eligible hours is the total number of hours in sessions of care of the kind referred to in item 2 of the table in subclause (1) that are provided to the child in the week concerned and for which the individual is eligible for child care benefit.

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Part 3—Multiple child %

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5 Multiple child %

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The multiple child % for an individual's child care benefit for a session of care of a particular kind provided to a child is worked out in accordance with the following method statement:

8

Method statement

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11

Step 1. Use clause 3 to work out the number of children the individual has in care of that kind: the result is the ***number of children***.

12
13

Step 2. Use clause 11 to work out the individual's maximum weekly benefit: the result is the ***multiple child rate***.

14
15
16
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Step 3. Work out what would be the individual's maximum weekly benefit under clause 11 if the individual had only one child in care of that kind and multiply it by the number of children: the result is the ***single child rate***.

18
19
20

Step 4. Divide the multiple child rate by the single child rate and express the result as a percentage: the result is the ***multiple child %***.

Clause 6

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Part 4—Taxable income %

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6 Income thresholds

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6

(1) There are 2 income thresholds that are relevant for working out an individual's taxable income %.

7

(2) The *lower income threshold* is \$28,200.

8

(3) The *upper income threshold* is \$66,000.

9

7 Method of calculating taxable income %

10
11

An individual's *taxable income %* for a session of care provided to a child in an income year is:

12

(a) 100% if:

13

(i) the individual's adjusted taxable income for the income year does not exceed the lower income threshold; or

14

15

(ii) the individual or the individual's partner is receiving a social security benefit, a social security pension or a service pension; and

16

17

18

(b) worked out using clause 8 if paragraph (a) does not apply.

19

8 Taxable income % if adjusted taxable income exceeds lower income threshold and if neither individual nor partner on income support

20

21

22

(1) If an individual's taxable income % for a session of care provided to a child in an income year is to be worked out using this clause, it is to be worked out in accordance with the following method statement:

23

24

25

26

Method statement

27

Step 1. Use clause 9 to work out the individual's income threshold.

28

Clause 9

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- Step 2.* Take the individual's income threshold from the individual's adjusted taxable income for the income year: the result is the individual's *income excess*.
- Step 3.* Divide the income excess by 52 to convert it into a weekly amount: the result is the *weekly income excess*.
- Step 4.* Use clause 10 to work out the individual's taper % and then work out that percentage of the weekly income excess: the result is the *weekly taper amount*.
- Step 5.* Divide the weekly taper amount by the individual's maximum weekly benefit worked out under clause 11 and express the result as a percentage.
- Step 6.* Take the percentage obtained in step 5 from 100% and round to 2 decimal places: the result is the *provisional taxable income %*.
- Step 7.* Use clause 12 to work out the minimum taxable income %.
- Step 8.* The individual's *taxable income %* is:
- (a) the individual's provisional taxable income % if it is equal to or greater than the minimum taxable income %; or
 - (b) the minimum taxable income % if it is greater than the individual's provisional taxable %.

23 **9 Income threshold**

24 An individual's *income threshold* for a session of care of a
25 particular kind provided to a child in an income year is worked out
26 using the following table:
27

Schedule 2 Child care benefit rate calculator

Part 4 Taxable income %

Clause 10

Weekly threshold			
	Number of children in care of that kind	Adjusted taxable income for income year exceeds upper income threshold?	Threshold
1	1	no	Lower income threshold
2	1	yes	Lower income threshold
3	2 or more	no	Lower income threshold
4	2 or more	yes	Upper income threshold

1 **10 Taper %**

2 The *taper* % for an individual for a session of care of a particular
3 kind provided to a child in an income year is worked out using the
4 following table:

5

Taper %			
	Number of children in care of that kind	Adjusted taxable income for income year exceeds upper income threshold?	Taper %
1	1	No	10%
2	1	Yes	10%
3	2	No	15%
4	2	Yes	25%
5	3 or more	No	15%
6	3 or more	Yes	35%

6 **11 Maximum weekly benefit**

7 The *maximum weekly benefit* for an individual for a session of
8 care of a particular kind provided to a child in an income year is
9 worked out using the following table:

10

Maximum Weekly Benefit Table

	Number of children in care of that kind	Adjusted taxable income for income year exceeds upper income threshold?	Maximum weekly benefit (MWB)
1	1	no	Standard hourly rate × 50
2	1	yes	Standard hourly rate × 50
3	2	no	$\left(\text{Standard hourly rate} \times 100 \right) + \11
4	2	yes	$\left(\text{Item 3 MWB} \right) - \left(\text{Individual's weekly taper amount} \right)$
5	3	no	$\left(\text{Standard hourly rate} \times 150 \right) + \32
6	3	yes	$\left(\text{Item 5 MWB} \right) - \left(\text{Individual's weekly taper amount} \right)$
7	4 or more	no	$\left(\text{Item 5 MWB} \right) + \left(\text{Item 1 MWB for each child after the third} \right)$
8	4 or more	yes	$\left(\text{Item 7 MWB} \right) - \left(\text{Individual's weekly taper amount} \right)$

1 (2) In the table in subclause (1):

2 **MWB** means maximum weekly benefit.

3 **standard hourly rate** is the amount specified in item 1 of the table
 4 in subclause 4(1); and

5 **weekly taper amount** for an individual is the amount that would be
 6 worked out for the individual under step 4 of the method statement
 7 in subclause 8(1) if the individual's adjusted taxable income for the
 8 income year were the upper income threshold.

Schedule 2 Child care benefit rate calculator

Part 4 Taxable income %

Clause 12

1 **12 Minimum taxable income %**

2 The *minimum taxable income %* is the percentage worked out in
3 accordance with the following formula and rounded to 2 decimal
4 places:

5
$$\frac{\$0.402}{\text{Standard hourly rate}}$$

6 where:

7 *standard hourly rate* is the amount specified in item 1 of the table
8 in subclause 4(1).

Schedule 3—Adjusted taxable income

Note: See section 3.

1 Adjusted taxable income relevant to family tax benefit and child care benefit

An individual's adjusted taxable income is relevant to the rate of family tax benefit and child care benefit.

2 Adjusted taxable income

For the purposes of this Act, an individual's *adjusted taxable income* for a particular income year is the sum of the following amounts (*income components*):

- (a) the individual's taxable income for that year;
- (b) the individual's adjusted fringe benefits total for that year;
- (c) the individual's target foreign income for that year;
- (d) the individual's net rental property loss for that year; and
- (e) the individual's tax free pension or benefit for that year;

less the amount of the individual's deductible child maintenance expenditure for that year.

3 Adjusted taxable income of members of couple

- (1) For the purposes of this Act (other than Part 4 of Schedule 1), if an individual is a member of a couple, the individual's adjusted taxable income for an income year includes the adjusted taxable income for that year of the individual's partner.
- (2) For the purposes of Part 4 of Schedule 1, an individual's adjusted taxable income for an income year is:
 - (a) the individual's adjusted taxable income for that year; or
 - (b) the adjusted taxable income for that year of the individual's partner if it is less than the individual's adjusted taxable income for that year.

Clause 4

1 **4 Adjusted fringe benefits total**

2 An individual's *adjusted fringe benefits total* for an income year is
3 the amount worked out using the formula:

4 Reportable fringe benefits total \times $\left(1 - \text{FBT rate}\right)$

5 where:

6 **FBT rate** is the rate of tax set by the *Fringe Benefits Tax Act 1986*
7 for the FBT year (as defined in the *Fringe Benefits Tax Assessment*
8 *Act 1986*) beginning on the 1 April just before the start of the
9 income year.

10 **reportable fringe benefits total** is the amount that the Secretary is
11 satisfied is the individual's reportable fringe benefits total (as
12 defined in the *Fringe Benefits Tax Assessment Act 1986*) for the
13 income year.

14 **5 Target foreign income**

15 (1) An individual's *target foreign income* for an income year is the
16 amount of the individual's foreign income (as defined in section
17 10A of the *Social Security Act 1991*) for the income year that is
18 not:

19 (a) taxable income; or

20 (b) received in the form of a fringe benefit (as defined in the
21 *Fringe Benefits Tax Assessment Act 1986*, as it applies of its
22 own force or because of the *Fringe Benefits Tax (Application*
23 *to the Commonwealth) Act 1986*) in relation to the individual
24 as an employee (as defined in the *Fringe Benefits Tax*
25 *Assessment Act 1986*) and a year of tax.

26 (2) If it is necessary, for the purposes of this Schedule, to work out an
27 amount of foreign income expressed in a foreign currency received
28 in an income year, the amount in Australian currency is to be
29 worked out using the market exchange rate for 1 July in that
30 income year.

- 1 (3) If there is no market exchange rate for 1 July in the income year
 2 (for example, because of a national public holiday), the market
 3 exchange rate to be used is the market exchange rate that applied
 4 on the last working day immediately before that 1 July.
- 5 (4) For the purposes of this clause, the market exchange rate of a
 6 foreign currency is the on-demand airmail buying rate for that
 7 currency available at the Commonwealth Bank of Australia.

8 **6 Net rental property loss**

- 9 The *net rental property* loss of an individual for an income year is:
- 10 (a) if the expenses incurred by the individual on rental property
 11 during that year exceed the individual's gross rental property
 12 income for that year—the amount by which those expenses
 13 exceed that gross rental property income; or
- 14 (b) if the expenses incurred by the individual on rental property
 15 during that year do not exceed the individual's gross rental
 16 property income for that year—nil.

17 **7 Tax free pension or benefit**

- 18 For the purposes of this Schedule, the following payments received
 19 in an income year are tax free pensions or benefits for that year:
- 20 (a) a disability support pension under Part 2.3 of the *Social*
 21 *Security Act 1991*;
- 22 (b) a wife pension under Part 2.4 of the *Social Security Act 1991*;
- 23 (c) a carer payment under Part 2.5 of the *Social Security Act*
 24 *1991*;
- 25 (d) a pension under Part II of the *Veterans' Entitlements Act*
 26 *1986* payable to a veteran;
- 27 (e) an invalidity service pension under Division 4 of Part III of
 28 the *Veterans' Entitlements Act 1986*;
- 29 (f) a partner service pension under Division 5 of Part III of the
 30 *Veterans' Entitlements Act 1986*;
- 31 (g) a pension under Part II of the *Veterans' Entitlements Act*
 32 *1986* payable to the widow or widower of a deceased
 33 veteran;

Clause 8

- 1 (h) income support supplement under Part IIIA of the *Veterans'*
2 *Entitlements Act 1986*;
3 to the extent to which the payment:
4 (i) is exempt from income tax; and
5 (j) is not a payment by way of bereavement payment,
6 pharmaceutical allowance, rent assistance or remote area
7 allowance.

8 **8 Deductible child maintenance expenditure**

9 *Deductible child maintenance expenditure*

- 10 (1) For the purposes of this Schedule, if an individual incurs an
11 amount of child maintenance expenditure during an income year,
12 50% of the amount of the expenditure is the *individual's*
13 *deductible child maintenance expenditure* in respect of that year.

14 *Child maintenance expenditure*

- 15 (2) For the purposes of this clause, an individual incurs *child*
16 *maintenance expenditure* if:
17 (a) the individual (the *payer*), or if the payer is a member of a
18 couple—the payer's partner, pays a payment (either one-off
19 or periodic) or provides benefits; and
20 (b) the payment or benefits are paid or provided in respect of the
21 payer's, or the partner's (if any), natural or adopted child;
22 and
23 (c) the payment or benefits are paid or provided to another
24 individual other than the payer, or the partner (if any), for the
25 maintenance of the child.

26 *Amount of child maintenance expenditure*

- 27 (3) For the purposes of this clause, if an individual incurs child
28 maintenance expenditure, the amount of the child maintenance
29 expenditure incurred by the individual is the amount of the
30 payment paid or the value of the benefits to the individual who
31 provided them.

Value of a benefit provided

- 1
2 (4) For the purposes of subclause (3), the **value of a benefit**, in relation
3 to the individual providing the benefit, has the meaning set out in
4 subclauses (5) and (6).

*Value of benefit where provider is a party to a child support
agreement*

- 5
6
7 (5) If:
8 (a) an individual providing a benefit is a party to a child support
9 agreement under the *Child Support (Assessment) Act 1989*;
10 and
11 (b) the agreement contains:
12 (i) provisions under which the individual is providing child
13 support to an individual for a child otherwise than in the
14 form of a periodic payment; and
15 (ii) a statement of the annual value of a specified amount
16 that the child support has; and
17 (c) the individual provides the support;
18 the value of the benefit provided by the individual is the specified
19 amount.

*Value of benefit where provider is not a party to a child support
agreement*

- 20
21
22 (6) If an individual providing a benefit is not a party to a child support
23 agreement under the *Child Support (Assessment) Act 1989*, the
24 value of the benefit provided by the individual is the cost of the
25 benefit to the individual.

Schedule 4 Indexation and adjustment of amounts
Part 1 Preliminary

Clause 1

1
2 **Schedule 4—Indexation and adjustment of**
3 **amounts**

4 Note: See section 75.

5 **Part 1—Preliminary**
6

7 **1 Analysis of Schedule**

8 This Schedule provides for:

- 9 (a) the indexation, in line with CPI (Consumer Price Index)
10 increases, of the amounts in column 1 of the table at the end
11 of clause 3; and
12 (c) the adjustment of other amounts in line with the increases in
13 the amounts indexed under the *Social Security Act 1991*.

14 **2 Indexed and adjusted amounts**

15 The following table sets out:

- 16 (a) each monetary amount that is to be indexed or adjusted under
17 this Schedule; and
18 (b) the abbreviation used in this Schedule for referring to that
19 amount; and
20 (c) the provision or provisions in which that amount is to be
21 found.
22

Indexed and adjusted amounts

	Column 1	Column 2	Column 3
	Description of amount	Abbreviation	Provisions in which amount specified
1	FTB child rate for child under 13 years of age (Part A—Method 1)	FTB under 13 child rate (A1)	[Schedule 1—clause 7—table—item 1]

Clause 2

Indexed and adjusted amounts		
Column 1	Column 2	Column 3
Description of amount	Abbreviation	Provisions in which amount specified
2	FTB child rate for child who has reached 13, but is under 16, years of age (Part A—Method 1)	FTB 13-15 child rate (A1) [Schedule 1—clause 7—table—item 2]
3	FTB child rate for child who has reached 16, but is under 19, years of age (Part A—Method 1)	FTB 16-18 child rate (A1) [Schedule 1—clause 7—table—item 3]
4	Maximum rent assistance for family tax benefit (Part A—Method 1)	FTB RA maximum (A1) [Schedule 1—clause 14—table—column 3—all amounts]
5	Rent threshold rate for rent assistance for FTB (Part A—Method 1)	FTB RA rent threshold (A1) [Schedule 1—subparagraphs 13(1)(f)(i), (ii) and (iii)] [Schedule 1—clause 14—table—column 2—all amounts]
6	FTB child rate (Part A—Method 2)	FTB child rate (A2) [Schedule 1—subclause 26(2)]
7	Large family supplement formula component for family tax benefit (Part A)	FTB LFS (A) [Schedule 1—clause 35—the amount in the formula]
8	Multiple birth allowance for family tax benefit (Part A)	FTB MBA (A) [Schedule 1—clause 37—paragraphs (a) and (b)]
9	Standard rate of family tax benefit (Part B)	FTB standard rate (B) [Schedule 1—clause 30—table—column 2—all amounts]
10	Rate of family tax benefit payable to an approved care organisation	FTB ACO rate [subsection 58(2)]

Schedule 4 Indexation and adjustment of amounts
Part 1 Preliminary

Clause 2

Indexed and adjusted amounts			
	Column 1	Column 2	Column 3
	Description of amount	Abbreviation	Provisions in which amount specified
11	Basic higher income free area for family tax benefit (Part A)	FTB basic HIFA (A)	[Schedule 1—clause 2—table—column 1]
12	Additional higher income free area for family tax benefit (Part A)	FTB additional HIFA (A)	[Schedule 1—clause 2—table—column 2]
13	Income free area for family tax benefit (Part A—Method 1)	FTB free area (A1)	[Schedule 1—clause 19]
14	Income free area for family tax benefit (Part B)	FTB free area (B)	[Schedule 1—clause 33]
15	Standard basic maintenance income free area for family tax benefit (Part A—Method 1)	FTB basic MIFA (A1)	[Schedule 1—clause 22—table—column 2—items 1 and 3]
16	Double basic maintenance income free area for family tax benefit (Part A—Method 1)	FTB double basic MIFA (A1)	[Schedule 1—clause 22—table—column 2—item 2]
17	Additional maintenance income free area for family tax benefit (Part A—Method 1)	FTB additional MIFA (A1)	[Schedule 1—clause 22—table—column 3—all amounts]
18	Standard hourly rate of child care benefit for care other than part-time family day care or non-standard hours family day care	CCB standard hourly rate	[Schedule 2—subclause 4(1)—table—item 1]
19	Lower income threshold for child care benefit	CCB lower income threshold	[Schedule 2—subclause 6(2)]
20	Upper income threshold for child care benefit	CCB upper income threshold	[Schedule 2—subclause 6(3)]
21	Minimum hourly rate for child care benefit	CCB minimum hourly rate	[Schedule 2—clause 12—the numerator in the formula]

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Part 2—Indexation

3 CPI Indexation Table

(1) An amount referred to in the following table is to be indexed under this Part on each indexation day for the amount, using the reference quarter and base quarter for the amount and indexation day and rounding off to the nearest multiple of the rounding amount:

CPI indexation					
	Column 1	Column 2	Column 3	Column 4	Column 5
	Amount	Indexation day(s)	Reference quarter (most recent before indexation day)	Base quarter	Rounding base
1	FTB under 13 child rate (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
2	FTB 13-15 child rate (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65

Schedule 4 Indexation and adjustment of amounts
Part 2 Indexation

Clause 3

CPI indexation					
	Column 1	Column 2	Column 3	Column 4	Column 5
	Amount	Indexation day(s)	Reference quarter (most recent before indexation day)	Base quarter	Rounding base
3	FTB 16-18 child rate (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
4	FTB RA maximum (A1)	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$7.30
5	FTB RA rent threshold (A1)	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$7.30
6	FTB child rate (A2)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65

Clause 3

CPI indexation					
	Column 1	Column 2	Column 3	Column 4	Column 5
	Amount	Indexation day(s)	Reference quarter (most recent before indexation day)	Base quarter	Rounding base
7	FTB LFS (A)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
8	FTB MBA (A)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
9	FTB standard rate (B)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65

Schedule 4 Indexation and adjustment of amounts
Part 2 Indexation

Clause 3

CPI indexation					
	Column 1	Column 2	Column 3	Column 4	Column 5
	Amount	Indexation day(s)	Reference quarter (most recent before indexation day)	Base quarter	Rounding base
10	FTB ACO rate	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
11	FTB basic HIFA (A)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$73.00
12	FTB additional HIFA (A)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$73.00

Clause 3

CPI indexation					
	Column 1	Column 2	Column 3	Column 4	Column 5
	Amount	Indexation day(s)	Reference quarter (most recent before indexation day)	Base quarter	Rounding base
13	FTB free area (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$73.00
14	FTB free area (B)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$73.00
15	FTB basic MIFA (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$10.95

Schedule 4 Indexation and adjustment of amounts
Part 2 Indexation

Clause 3

CPI indexation					
	Column 1	Column 2	Column 3	Column 4	Column 5
	Amount	Indexation day(s)	Reference quarter (most recent before indexation day)	Base quarter	Rounding base
16	FTB double basic MIFA (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$21.90
17	FTB additional MIFA (A1)	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$3.65
18	CCB standard hourly rate	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$0.01

Clause 3

CPI indexation					
	Column 1	Column 2	Column 3	Column 4	Column 5
	Amount	Indexation day(s)	Reference quarter (most recent before indexation day)	Base quarter	Rounding base
19	CCB lower income threshold	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$73.00
20	CCB upper income threshold	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$1.00
21	CCB minimum hourly rate	1 July	December	highest December quarter before reference quarter (but not earlier than December quarter 1999)	\$0.001

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Highest quarter

(2) A reference in the table in subclause (1) to the highest of a group of quarters is a reference to the quarter in that group that has the highest index number.

Clause 4

1 **4 Indexation of amounts**

- 2 (1) If an amount is to be indexed under this Part on an indexation day,
3 this Act has effect as if the indexed amount were substituted for
4 that amount on that day.
- 5 (2) This is how to work out the indexed amount for an amount that is
6 to be indexed under this Part on an indexation day:

7 *Method statement*

- 8 *Step 1.* Use clause 5 to work out the indexation factor for the
9 amount on the indexation day.
- 10 *Step 2.* Work out the current figure for the amount immediately
11 before the indexation day.
- 12 *Step 3.* Multiply the current figure by the indexation factor: the
13 result is the *provisional indexed amount*.
- 14 *Step 4.* Use clause 6 to round off the provisional indexed
15 amount: the result is the indexed amount. (The indexed
16 amount may be increased under clause 7 in certain cases.)

17 **5 Indexation factor**

- 18 (1) Subject to subclauses (2) and (3), the indexation factor for an
19 amount that is to be indexed under this Part on an indexation day
20 is:

21
$$\frac{\text{Index number for most recent reference quarter}}{\text{Index number for base quarter}}$$

22 worked out to 3 decimal places.

- 23 (2) If an indexation factor worked out under subclause (1) would, if it
24 were worked out to 4 decimal places, end in a number that is
25 greater than 4, the indexation factor is to be increased by 0.001.

Clause 6

- 1 (3) If an indexation factor worked out under subclauses (1) and (2)
2 would be less than 1, the indexation factor is to be increased to 1.
- 3 (4) Subject to subclause (5), if at any time (whether before or after the
4 commencement of this clause), the Australian Statistician publishes
5 an index number for a quarter in substitution for an index number
6 previously published by the Australian Statistician for that quarter,
7 the publication of the later index number is to be disregarded for
8 the purposes of this clause.
- 9 (5) If at any time (whether before or after the commencement of this
10 clause) the Australian Statistician changes the reference base for
11 the Consumer Price Index, regard is to be had, for the purposes of
12 applying this clause after the change takes place, only to index
13 numbers published in terms of the new reference base.

14 **6 Rounding off indexed amounts**

- 15 (1) If a provisional indexed amount is a multiple of the rounding base,
16 the provisional indexed amount becomes the indexed amount.
- 17 (2) If a provisional indexed amount is not a multiple of the rounding
18 base, the indexed amount is the provisional indexed amount
19 rounded up or down to the nearest multiple of the rounding base.
- 20 (3) If a provisional indexed amount is not a multiple of the rounding
21 base but is a multiple of half the rounding base, the indexed
22 amount is the provisional indexed amount rounded up to the
23 nearest multiple of the rounding base.

Clause 7

1

2
3

Part 3—Adjustment of other rates

4

7 Adjustment of FTB child rates

5
6
7

- (1) Subject to subclause (2), this Act has effect as if, on 1 July each year, the amount worked out in accordance with the following formula were substituted for the FTB under 13 child rate:

8

$\text{CPC rate} \times 16.6\%$

9
10
11
12

- (2) Subclause (1) does not apply if the amount worked out in accordance with the formula in that subclause does not exceed the FTB under 13 child rate (as indexed under clause 4) that would apply on the 1 July concerned apart from this clause.

13
14
15

- (3) Subject to subclause (4), this Act has effect as if, on 1 July each year, the amount worked out in accordance with the following formula were substituted for the FTB 13-15 child rate:

16

$\text{CPC rate} \times 21.6\%$

17
18
19
20

- (4) Subclause (3) does not apply if the amount worked out in accordance with the formula in that subclause does not exceed the FTB 13-15 child rate (as indexed under clause 4) that would apply on the 1 July concerned apart from this clause.

21
22
23
24

- (5) If the amount worked out under subclause (1) or (3) is not a multiple of \$3.65, the amount to be substituted under that subclause is to be increased to the next highest amount that is a multiple of \$3.65.

1
2 **Part 4—Transitional indexation provision**
3

4 **8 Transitional indexation of amounts used to calculate family**
5 **assistance rates**

- 6 (1) If the Secretary determines in writing, for the purposes of this Act,
7 a higher amount in substitution for an amount set out in the
8 following table, the higher amount is taken, from the
9 commencement of this clause, to be substituted for the amount so
10 set out.
11

Transitional Indexation Table		
	Provision	Amount specified in
1	section 58	subsection (2)
2	Schedule 1 (clause 7)	table
3	Schedule 1 (clause 13)	subparagraph (1)(f)(i), (ii) or (iii)
4	Schedule 1 (clause 14)	table
5	Schedule 1 (clause 22)	column 2 or 3 in table
6	Schedule 1 (clause 26)	subclause (2)
7	Schedule 1 (clause 30)	table column 2
8	Schedule 1 (clause 35)	formula
9	Schedule 1 (clause 37)	paragraph (a) or (b)
10	Schedule 2 (clause 4)	item 1 in table in subclause (1)
11	Schedule 2 (clause 6)	subclause (2)
12	Schedule 2 (clause 6)	subclause (3)
13	Schedule 2 (clause 12)	amount in the numerator in the formula

- 12 (2) A determination under subclause (1) is a disallowable instrument
13 for the purposes of section 46A of the *Acts Interpretation Act 1901*.

