



A New Tax System (Family Assistance) Act 1999

No. 80, 1999



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

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A New Tax System (Family Assistance) Act 1999

No. 80, 1999

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

[Assented to 8 July 1999]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

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

Section 2

2 Commencement

- (1) This Act commences, or is taken to have commenced:
 - (a) after all the provisions listed in subsection (2) have commenced; and
 - (b) on the last day on which any of those provisions commenced.
- (2) These are the provisions:
 - (a) section 1-2 of the *A New Tax System (Goods and Services Tax) Act 1999*;
 - (b) section 2 of the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*;
 - (c) section 2 of the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*;
 - (d) section 2 of the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*;
 - (e) section 2 of the *A New Tax System (Goods and Services Tax Administration) Act 1999*.

Part 2—Interpretation

Division 1—Definitions

3 Definitions

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

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

- (a) before the service has started providing care for the child; or
- (b) after the service has stopped providing care for the child (otherwise than temporarily).

adjusted taxable income has the meaning given by Schedule 3.

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

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

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

Australian Immunisation Handbook means the latest edition of the Australian Immunisation Handbook published by the Australian Government Publishing Service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

family assistance means:

- (a) family tax benefit; or

- (b) maternity allowance; or
- (c) maternity immunisation allowance; or
- (d) child care benefit.

family law order means:

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

family member, in relation to an individual, means:

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

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

FTB advance rate, in relation to an individual whose Part A rate of family tax benefit is being worked out using Part 2 of Schedule 1, means half the amount that would be the FTB child rate for an FTB child who has not turned 18 under clause 26 of that Schedule if:

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

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

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

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

- (a) a standard vaccination schedule determined under section 4; or

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(b) a catch up vaccination schedule determined under section 4.

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

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

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

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

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

maintenance includes child support.

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

maintenance income, in relation to an individual, means:

- (a) child maintenance—that is, the amount of a payment or the value of a benefit that is received by the individual for the maintenance of an FTB child of the individual and is received from:
 - (i) a parent of the child; or
 - (ii) the partner or former partner of a parent of the child; or
- (b) partner maintenance—that is, the amount of a payment or the value of a benefit that is received by the individual for the individual's own maintenance and is received from the individual's partner or former partner; or
- (c) direct child maintenance—that is, the amount of a payment or the value of a benefit that is received by an FTB child of the individual for the child's own maintenance and is received from:
 - (i) a parent of the child; or

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

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

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

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

meets the immunisation requirements has the meaning given by section 6.

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

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

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

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

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

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

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

received from has a meaning affected by paragraph 19(2)(a).

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receiving, in relation to a social security payment, has the same meaning as in the *Social Security Act 1991*.

recognised immunisation provider has the same meaning as in section 46A of the *Health Insurance Act 1973*.

recognised study commitments has the meaning given by section 17.

recognised training commitments has the meaning given by section 16.

recognised work or work related commitments has the meaning given by section 15.

registered parenting plan means a parenting plan registered under section 63E of the *Family Law Act 1975*.

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

rent assistance child has the meaning given by subclause 12(2) of Schedule 1.

respite care couple has the same meaning as in the *Social Security Act 1991*.

satisfies the work/training/study test has the meaning given by section 14.

school child has the meaning given by section 18.

school holiday session means a session of care provided by an outside school hours care service during school holidays.

service pension has the same meaning as in the *Social Security Act 1991*.

session of care has the meaning given by a determination in force under section 9.

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

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

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

standard advance period means:

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

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

stillborn child means a child:

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

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

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

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

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

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

youth allowance means a payment under Part 2.11 of the *Social Security Act 1991*.

Part 2 Interpretation
Division 1 Definitions

Section 3

- (2) Expressions used in this Act that are defined in the *A New Tax System (Family Assistance) (Administration) Act 1999* have the same meaning as in that Act.

Division 2—Immunisation rules

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

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

5 Meaning of *conscientious objection*

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

6 Immunisation requirements

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

Child immunised

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

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Conscientious objection

- (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.
- (4) The child meets the immunisation requirements if:
 - (a) the child is an FTB child of another individual (whether or not the child is also an FTB child of the adult); and
 - (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.

Medical contraindication

- (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.

Natural immunity

- (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.

Child is in an exempt class of children

- (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).

Other circumstances

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

7 Minister may make determinations in relation to the immunisation requirements

Exemption from immunisation requirements

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

Meeting the immunisation requirements

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

Disallowable instrument

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

Division 3—Various interpretative provisions

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

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

9 Session of care

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

10 Effect of absence of child from care of approved child care service

Absence from part of a session

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

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

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

Absence from all of a session provided by other services

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

Part 2 Interpretation

Division 3 Various interpretative provisions

Section 11

- (iii) the absence is due to alternative care arrangements being made for the child because the child does not have to be at school on a pupil-free day;
- (iv) the absence occurs in circumstances specified in a determination under subsection 11(1) as permitted circumstances for the purpose of this subparagraph;
- (v) the absence occurs on a permitted absence day (see subsection (4));

the service is taken to have provided the session of care to the child.

Permitted absence days

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

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

Absences from care in permitted circumstances

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

Disallowable instrument

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

12 Effect of absence of child from care of registered carer

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

13 School holidays

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

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

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

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

- (1) An individual has *recognised work or work related commitments* if the individual:

Part 2 Interpretation

Division 3 Various interpretative provisions

Section 16

- (a) is in paid work (whether or not the individual performs the work as an employee); or
 - (b) receives a carer payment under Part 2.5 of the *Social Security Act 1991*; or
 - (c) receives carer allowance for a disabled adult (within the meaning of section 952 of the *Social Security Act 1991*) under Part 2.19 of that Act.
- (2) The Minister may determine that individuals included in a specified class are individuals who are taken to have recognised work or work related commitments for the purposes of this section.
- (3) A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

16 Work/training/study test—recognised training commitments

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

17 Work/training/study test—recognised study commitments

An individual has *recognised study commitments* if the individual:

- (a) receives youth allowance and is undertaking full-time study; or
- (b) receives austudy payment under the *Social Security Act 1991*; or
- (c) receives a pensioner education supplement under the *Social Security Act 1991*; or
- (d) receives assistance under the scheme known as the ABSTUDY scheme; or
- (e) is undertaking any other course of education for the purposes of improving his or her work skills and/or employment prospects.

18 Meaning of *school child*

- (1) A child is a *school child* for the purposes of this Act if the child is attending primary or secondary school, or is on a break from

school (for example, school holidays) and will be attending primary or secondary school after that break.

- (2) The Minister may determine that children in a specified class are to be treated as though they were attending primary or secondary school for the purposes of this Act.
- (3) The Minister may determine that children in a specified class are to be treated as though they were not attending primary or secondary school for the purposes of this Act.
- (4) A determination under subsection (2) or (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

19 Maintenance income

- (1) For the purposes of the definition of *capitalised maintenance income* in section 3, an amount is a *periodic amount* if it is:
 - (a) the amount of one payment in a series of related payments, even if the payments are irregular in time and amount; or
 - (b) the amount of a payment making up for arrears in such a series.
- (2) For the purposes of the definitions of *maintenance income* and *disability expenses maintenance* in section 3:
 - (a) a payment received under subsection 76(1) of the *Child Support (Registration and Collection) Act 1988* in relation to a registered maintenance liability (within the meaning of that Act) is taken to be *received from* the individual who is the payer (within the meaning of that Act) in relation to the liability; and
 - (b) a reference to a *benefit received by an individual* includes a reference to a benefit received by the individual because of a payment made to, or a benefit conferred on, another individual (including a payment made or benefit conferred under a liability owed to the other individual); and
 - (c) a reference to a *payment or benefit received from an individual* includes a reference to a payment or benefit received:

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- (i) directly or indirectly from the individual; and
 - (ii) out of any assets of, under the control of, or held for the benefit of, the individual; and
 - (iii) from the individual under or as a result of a court order, a court registered or approved maintenance agreement or otherwise.
- (3) A payment or benefit is *disability expenses maintenance* of an individual if:
- (a) the payment or benefit is provided for expenses arising directly from:
 - (i) a physical, intellectual or psychiatric disability; or
 - (ii) a learning difficulty;of an FTB child of the individual; and
 - (b) the disability or difficulty is likely to be permanent or to last for an extended period; and
 - (c) the payment or benefit is received:
 - (i) by the individual for the maintenance of the FTB child; or
 - (ii) by the FTB child for the child's own maintenance; and
 - (d) the payment or benefit is received from:
 - (i) a parent of the child; or
 - (ii) the partner or former partner of a parent of the child.

Division 4—Approved care organisations

20 Approval of organisations providing residential care services to young people

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

Revocation

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

Part 3—Eligibility for family assistance

Division 1—Eligibility for family tax benefit

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

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

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

22 When an individual is an FTB child of another individual

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

Individual aged under 18

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

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

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

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

Individual aged 18-20

- (5) The individual is an **FTB child** of the adult if:
 - (a) the individual has turned 18 but is aged under 21; and
 - (b) the individual is in the adult's care; and
 - (c) the individual is an Australian resident or is living with the adult.

Individual aged 21-24 undertaking full-time study

- (6) The individual is an **FTB child** of the adult if:
 - (a) the individual has turned 21 but is aged under 25; and
 - (b) the individual is in the adult's care; and
 - (c) the individual is an Australian resident or is living with the adult; and
 - (d) the individual is undertaking full-time study.

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Exceptions

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

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 (8)); or (b) the adult is the individual's partner
2	16 or more	(a) 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 (8)); or (b) 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

Definition

- (8) In subsection (7):

cut-out amount means the sum of:

- (a) the amount specified in column 2 of item 2 of the table in clause 30 of Schedule 1 divided by 0.3; and

- (b) the amount specified in clause 33 of that Schedule.

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

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

When the child remains an FTB child of the adult

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

When the child is an FTB child of another individual

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

Definition of qualifying period

- (5) In this section:

qualifying period means the period beginning when the child ceases to be in the adult's care and ending at the earliest of the following times:

- (a) if the child again comes into the adult's care at a later time—that later time;

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- (b) after 14 weeks pass since the child ceased to be in the adult's care;
- (c) if:
 - (i) the adult is a parent of the child; and
 - (ii) no family law order or registered parenting plan is in force in relation to the child; and
 - (iii) the child comes into the care of the other parent at a later time;that later time.

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

Absence from Australia of FTB child

- (1) If:
 - (a) either:
 - (i) an FTB child leaves Australia; or
 - (ii) a child born outside Australia is an FTB child at birth; and
 - (b) the child continues to be absent from Australia for more than 3 years;the child is not, during that absence from Australia, an FTB child at any time after the period of 3 years beginning on the first day of the child's absence from Australia.
- (2) If:
 - (a) an FTB child who has been absent from Australia for more than 26 weeks, but less than 3 years, comes to Australia; and
 - (b) the child leaves Australia less than 26 weeks later;for the purposes of subsection (1), the child is taken not to have come to Australia.
- (3) If:
 - (a) a child is not an FTB child because of the application of subsection (1) or a previous application of this subsection; and
 - (b) the child comes to Australia; and

(c) the child leaves Australia less than 26 weeks after coming to Australia;
the child is not an FTB child at any time during the absence from Australia referred to in paragraph (c).

Maximum period of eligibility for family tax benefit while individual overseas

- (4) If an individual leaves Australia, the maximum period for which the individual can be eligible for family tax benefit during that absence from Australia is the period of 3 years beginning on the first day of that absence.
- (5) If:
- (a) an individual who has been absent from Australia for more than 26 weeks, but less than 3 years, returns to Australia; and
 - (b) the child leaves Australia again less than 26 weeks later;
- the child is taken not to have returned to Australia for the purposes of subsection (4).
- (6) If:
- (a) an individual is eligible for family tax benefit while the individual is absent from Australia; and
 - (b) the individual then ceases to be eligible for family tax benefit because of the application of subsection (4) or a previous application of this subsection; and
 - (c) the individual returns to Australia; and
 - (d) the individual leaves Australia again less than 26 weeks after returning to Australia;
- the individual is not eligible for family tax benefit at any time during the absence from Australia referred to in paragraph (d).

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

- If:
- (a) the Secretary is satisfied there has been, or will be, a pattern of care for an individual (the *child*) for a period in which the

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child was, or will be, an FTB child of 2 or more other individuals at different times during the period; and

- (b) one of those other individuals (the *adult*) makes a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* for payment of family tax benefit in respect of the child for some or all of that period; and
- (c) the Secretary is satisfied the child was, or will be, in the adult's care for less than 10% of that period;

then:

- (d) the adult is not eligible for family tax benefit in respect of the child for any part of that period; and
- (e) the Secretary may determine that another one of those individuals is eligible for family tax benefit in respect of the child for the part (if any) of that period during which the adult would have been eligible for family tax benefit in respect of the child apart from this section.

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

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

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

If:

- (a) 2 individuals are members of the same couple; and

- (b) either or both of the individuals have a child (the *qualifying child*) from another relationship (whether before or after the 2 individuals became members of that couple);

each qualifying child that is an FTB child of one member of the couple while the 2 individuals are members of that couple is taken also to be an FTB child of the other member of the couple.

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

- (1) If the Secretary is satisfied that:
- (a) 2 individuals who are members of the same couple (*person A* and *person B*) would each be eligible for family tax benefit for 2 or more FTB children during a period but for subsection 26(1); and
 - (b) at least one of the children is a child of a previous relationship of person A; and
 - (c) at least one of the other children is:
 - (i) a child of the relationship between person A and person B; or
 - (ii) a child of a previous relationship of person B;
- the Secretary may:
- (d) determine that person A and person B are both eligible for family tax benefit for the children for the period; and
 - (e) determine person A's and person B's percentage of the family tax benefit for the children, such that each of those percentages is a multiple of 5%.
- (2) The Secretary cannot make a determination under subsection (1) for a past period if person A or person B has been paid family tax benefit for the period.
- (3) For the purposes of this section:
- (a) an FTB child of an individual is a *child of a previous relationship* of an individual who is a member of a couple if the child is an immediate child of that individual but not of the individual's partner; and

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

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

If the Secretary is satisfied that:

- (a) 2 individuals are not members of the same couple (*person A* and *person B*); and
- (b) during a period in the past when person A and person B were members of the same couple, they had an FTB child or children; and
- (c) but for subsection 26(1), person A and person B would both be eligible for family tax benefit for the FTB child or children for that period;

the Secretary may:

- (d) determine that person A and person B are both eligible for family tax benefit for the child or children for that period; and
- (e) determine person A's and person B's percentage of the family tax benefit for the child or children for that period, such that each of those percentages is a multiple of 5%.

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

- (1) If, apart from this section, 2 or more individuals (none of whom are members of the same couple and none of whom are living together) would, at the same time, be eligible for family tax benefit in respect of an FTB child, only one individual is eligible.
- (2) The individual who is eligible is the one determined by the Secretary to be eligible, having regard to the living arrangements for the child.

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

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

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

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

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

14 weeks reduced in certain circumstances

- (3) The period for which the individual is eligible for family tax benefit under subsection (2) does not include:
- (a) if the child was undertaking full-time study at the time the child died—any day on which the child would have been aged 25 if the child had not died; or
 - (b) in any other case—any day on which the child would have been aged 21 if the child had not died.

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

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

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

Instalment case

- (1) If:
- (a) the individual to whom section 31 applies was, immediately before the child concerned died, entitled to be paid family tax benefit by instalment; and
 - (b) the individual, on any day (the *request day*) during the period (the *section 31 accrual period*) for which the individual is eligible for family tax benefit under that section, makes a claim, under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999*, for payment of family tax benefit because of the death of a person, stating that the individual wishes to become eligible for a single amount of family tax benefit under this subsection;
- then:
- (c) the individual is eligible for a single amount of family tax benefit worked out under subsection 65(1); and
 - (d) the period for which the individual is eligible for family tax benefit under subsection 31(2) does not include the lump sum period mentioned in subsection 65(1).

Other cases

- (2) If:
- (a) the individual to whom section 31 applies was, immediately before the child concerned died, not entitled to be paid family tax benefit by instalment; and
 - (b) the period of 14 weeks beginning on the day the child died extends over 2 income years;
- then:
- (c) the individual is eligible for a single amount of family tax benefit for the period falling in the second of those income years worked out under subsection 65(3); and
 - (d) the period for which the individual is eligible for family tax benefit under subsection 31(2) does not include the period falling in the second of those income years.

33 Eligibility for family tax benefit if an eligible individual dies

Eligibility other than because of the death of an FTB child

- (1) If:
- (a) an individual is eligible for an amount (the *subject amount*) of family tax benefit (except because of section 31 or 32 applying in relation to the death of an FTB child); and
 - (b) the individual dies; and
 - (c) before the individual died, the subject amount had not been paid to the individual (whether or not a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* had been made); and
 - (d) another individual makes a claim under that Part for payment of family tax benefit because of the death of a person, stating that he or she wishes to become eligible for the subject amount; and
 - (e) the Secretary considers that the other individual ought to be eligible for the subject amount;

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

Eligibility because of the death of an FTB child

- (2) If:
- (a) an individual dies; and
 - (b) either:
 - (i) before the individual's death, the individual was eligible for an amount (the *subject amount*) of family tax benefit under section 31 or 32 in relation to the death of an FTB child and the subject amount had not been paid to the individual (whether or not a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* had been made); or
 - (ii) the individual died at the same time as the FTB child and would have been so eligible for the subject amount if the individual had not died; and

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- (c) another individual makes a claim under that Part for payment of family tax benefit because of the death of a person, stating that the individual wishes to become eligible for the subject amount; and
 - (d) the Secretary considers that the other individual ought to be eligible for the subject amount;
- the other individual is eligible for the subject amount and no-one else is, or can become, eligible for or entitled to be paid that amount.

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

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

- (1) An approved care organisation is eligible for family tax benefit in respect of an individual if:
 - (a) the individual:
 - (i) is aged under 21; or
 - (ii) is aged under 25 and is undertaking full-time study; and
 - (b) the individual is a client of the organisation; and
 - (c) the individual is an Australian resident.
- (2) However, an approved care organisation is not eligible for family tax benefit in respect of an individual in the cases set out in section 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	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))
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

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

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Definition

(3) In subsection (1):

cut-out amount means the sum of:

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

Division 2—Eligibility for maternity allowance

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

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

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

Parent of child

- (2) First, an individual is eligible for maternity allowance in respect of a child if:
- (a) the individual is a parent of the child; and
 - (b) 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 of the child's birth and the individual's Part A rate at that time is greater than nil.

Child entrusted to care of individual

- (3) Second, an individual is eligible for maternity allowance in respect of a child if:
- (a) the individual is not a parent of the child; and
 - (b) the child is entrusted to the care of the individual or the individual's partner within the period of 13 weeks starting on the day of the child's birth; and
 - (c) the child continues, or is likely to continue, in that care for not less than 13 weeks; and
 - (d) 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 of the child's birth and the individual's Part A rate at that time is greater than nil.

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Stillborn child

- (4) Third, an individual is eligible for maternity allowance in respect of a child if:
- (a) the child is a stillborn child; and
 - (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.

Adoption

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

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

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

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

38 What happens if an individual eligible for maternity allowance dies

If:

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

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

Division 3—Eligibility for maternity immunisation allowance

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

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

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

Child alive within 18 months of birth

- (2) First, an individual is eligible for maternity immunisation allowance in respect of a child who is alive at the end of 18 months after the date of the child's birth if:
- (a) the Secretary is satisfied that the child meets the immunisation requirements set out in section 6 on any day before the child turns 2; and
 - (b) on the later of the following days (the *qualifying day*):
 - (i) the day the child turned 18 months;
 - (ii) the earliest day to which paragraph (a) applies;one of the following applies:
 - (iii) the child is an FTB child of the individual and maternity allowance has been paid in respect of the child;
 - (iv) the individual is eligible for family tax benefit in respect of the child and the individual's Part A rate is greater than nil;
 - (v) the Secretary is satisfied there is a pattern of care for the child for a period, that started before the qualifying day and that will end after that day, in which the child was, or will be, an FTB child of the individual.

Stillborn child

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

Child dies within 2 years of birth

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

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

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

If:

- (a) an individual is eligible for maternity immunisation allowance (the *subject allowance*) in respect of a child; and
- (b) the individual dies; and
- (c) before the individual died, the subject allowance had not been paid to the individual (whether or not a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* had been made); and
- (d) another individual makes a claim under that Part for payment of maternity immunisation allowance because of the death of

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a person, stating that he or she wishes to become eligible for the subject allowance; and

- (e) the Secretary considers that the other individual ought to be eligible for the subject allowance;

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

Division 4—Eligibility for child care benefit

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

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

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

Secretary may determine that child is an FTB child

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

Section subject to Subdivision E

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

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

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

Statement under paragraph (1)(b)

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

- (b) the CCB % that is to be used in calculating the individual's rate of child care benefit under Schedule 2 is the CCB % specified in the determination.
- (3) For the purposes of subsection (2), the sessions of care are those provided by the service to the child:
 - (a) while the determination was in force during the instalment period; and
 - (b) to which Subdivision E (which deals with limits on eligibility) does not apply.

Instalment period

- (4) In this section:
 - instalment period* means:
 - (a) if paragraph (b) does not apply—a quarter beginning on any 1 January, 1 April, 1 July or 1 October; or
 - (b) if the approved child care service is covered by a determination under subsection (5)—the period specified in the determination.
 - (5) The Secretary may determine that a specified period, that is not a quarter, is the instalment period for the purposes of this section for approved child care services of a particular kind. Such a determination does not come into force until the end of the instalment period in which it is made.

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

43 When an individual is eligible for child care benefit

- (1) An individual is eligible for child care benefit in respect of a session of care provided to a child by an approved child care service if:
 - (a) the child is an FTB child of the individual, or of the individual's partner, during the session; and
 - (b) the care is provided in Australia; and

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

Secretary may determine that child is an FTB child

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

Exceptions

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

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

General rule

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

Exception

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

Ministerial determination

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

Disallowable instrument

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

Subdivision C—Eligibility for child care benefit for care provided by approved child care service in special circumstances

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

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

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

Exceptions

- (2) However, the service is not so eligible for child care benefit for the session of care if:
- (a) the session is provided after 13 special-circumstances-rate weeks (see subsection (3)) have passed, whether or not in a continuous period, in the same calendar year as that in which the session is provided; or
 - (b) when the session is provided, a determination is in force under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* that an individual is conditionally eligible for child care benefit by instalment to the approved child care service in respect of the child.

Special-circumstances-rate week

- (3) For the purposes of paragraph (2)(a), a ***special-circumstances-rate week*** is a week in which the service provided at least one session of care for the child that satisfied the following conditions:
- (a) either:
 - (i) the service was eligible for child care benefit under this section; or
 - (ii) an individual was eligible for child care benefit by instalment to the service under section 42; for the session in respect of the child;
 - (b) during the session, a certificate was in force under section 71 (which sets the rate of child care benefit in special circumstances) in relation to the child and the service.

Section subject to Subdivision E

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

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

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

Section subject to Subdivision E

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

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

- (1) An approved child care service is eligible for child care benefit by instalment if:
 - (a) during the whole or part of an instalment period (see subsection (2)), a determination is in force under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* that the service is conditionally eligible for child care benefit by instalment in respect of a child; and

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- (b) during the next instalment period, the service gives the Secretary, in accordance with a form and in a manner approved by the Secretary:
 - (i) a statement that the service provided sessions of care of a specified number of hours to the child while the determination was in force; and
 - (ii) a statement of the total amount of child care benefit that would be applicable for all of those hours under Division 4 of Part 4, assuming the service were eligible for child care benefit under this section; and
 - (iii) details of the basis on which the amount in subparagraph (ii) was calculated; and
 - (iv) any other information required by the Secretary; and
- (c) the Secretary is satisfied that the amount stated under subparagraph (b)(ii) was correctly calculated on the basis detailed under subparagraph (b)(iii).

Instalment period

- (2) In this section:

instalment period means:

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

Section subject to Subdivision E

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

48 Minister's determinations

Hardship

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

Limit on eligibility under section 46

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

Disallowable instrument

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

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

49 When an individual is eligible for child care benefit

- (1) An individual is eligible for child care benefit for a period of care provided to a child by a registered carer if:
 - (a) the child is an FTB child of the individual, or the individual's partner, during the period; and
 - (b) the care is provided in Australia; and
 - (c) the child is not an FTB child of the registered carer or of the partner of the carer; and
 - (d) the individual, or the individual's partner, is liable to pay for the care and the care has been paid for; and
 - (e) the individual, and the individual's partner, satisfy the work/training/study test at some time during the week, beginning on a Monday, in which the care is provided; and
 - (f) when a claim by the individual for payment of child care benefit in respect of the period is determined in accordance

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with Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999*:

- (i) the individual, or the individual's partner, is an Australian resident or is undertaking a course of study in Australia and receiving financial assistance directly from the Commonwealth for the purpose of undertaking that course; and
 - (ii) where the child is aged under 7 at that time and the individual has previously made a claim for payment of the child care benefit under that Part in respect of a period of care provided by the registered carer to the child—the child meets the immunisation requirements set out in section 6; and
- (g) the care starts at or after the commencement of this Act.

Secretary may determine that a child is an FTB child

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

Section subject to Subdivision E

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

Subdivision E—Limitations on eligibility for child care benefit

50 No multiple eligibility for same care

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

Determination to be in accordance with any Ministerial guidelines

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

Ministerial guidelines

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

Disallowable instruments

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

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

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

Child welfare law

- (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).

Exempt class of children

- (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.

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Disallowable instrument

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

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

- (1) This section applies if:
- (a) either:
 - (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
 - (ii) an approved child care service would otherwise be eligible under Subdivision C for child care benefit, or for child care benefit by instalment;for one or more sessions of care provided to a child in a week beginning on any Monday; and
 - (b) the total length of the one or more sessions exceeds 20 hours.

20 hour limit for week

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

Exception—work/training/study test satisfied

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

Exception—carer allowance payable

- (4) This section does not apply if carer allowance under section 953 of the *Social Security Act 1991* is payable to the responsible person or that person's partner (if any) for some or all of the week:
- (a) in respect of an FTB child of the responsible person or that person's partner; and
 - (b) pursuant to a claim under that Act that was determined before the week.

Exception—disabled person

- (5) This section does not apply if, at some time in the week, both:
- (a) the child is an FTB child of the responsible person and that person is a disabled person (see subsection 53(1)); and
 - (b) the responsible person's partner (if any) is also a disabled person.

Exception—determination in force under section 53

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

Responsible person

- (7) In this section:

responsible person means:

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

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53 Determinations for the purposes of section 52

Minister may determine when a person is a disabled person

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

Determination that exceptional circumstances exist

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

Determination that service is sole provider in area

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

Determination by service that child at risk

- (5) If an approved child care service considers that a child is or has been at risk of serious abuse or neglect, and needs or needed more than 20 hours of care, in each of one or more weeks, the service may make a determination (the **current determination**) in writing to that effect.

- (6) The current determination must specify the period of one or more weeks, and is in force during that period, other than any part that occurs after:
- (a) the end of the calendar year in which it comes into force; or
 - (b) the time when the total of:
 - (i) the period during which the current determination has been in force; and
 - (ii) all periods during which any previous determinations under subsection (5) by the service in relation to the child were in force during the calendar year in which the current determination comes into force;exceeds 13 weeks.

Determination by Secretary that child at risk

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

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

- (1) This section applies if:
- (a) either:
 - (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

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- (ii) an approved child care service would otherwise be eligible under Subdivision C for child care benefit, or for child care benefit by instalment;
for one or more sessions of care provided to a child in a week beginning on any Monday; and
- (b) the total length of the one or more sessions exceeds 50 hours; and
- (c) section 52 does not apply to the week.

50 hour limit for week

- (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 care service to be eligible, such that the total number of hours in those sessions or parts is 50.

Exception—determination in force under section 55

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

55 Determinations for the purposes of section 54

Determination about work related commitments

- (1) If the Secretary considers that the responsible person (see subsection (6)) in relation to a child needs or needed care for the child for more than 50 hours in each of one or more weeks because of work related commitments of the responsible person, the Secretary may make a determination to that effect. The determination must specify the period of one or more weeks, and is in force during that period.

Determination that exceptional circumstances exist

- (2) If the Secretary considers that a child needs or needed more than 50 hours of care in each of one or more weeks because the Secretary is satisfied exceptional circumstances exist or existed, the Secretary may make a determination to that effect. The

determination must specify the period of one or more weeks, and is in force during that period.

Determination by service that child at risk

- (3) If an approved child care service considers that a child is or has been at risk of serious abuse or neglect, and needs or needed more than 50 hours of care, in each of one or more weeks, the service may make a determination (the **current determination**) in writing to that effect.
- (4) The current determination must specify the period of one or more weeks, and is in force during that period, other than any part that occurs after:
 - (a) the end of the calendar year in which it comes into force; or
 - (b) the time when the total of:
 - (i) the period during which the current determination has been in force; and
 - (ii) all periods during which any previous determinations under subsection (3) by the service in relation to the child were in force during the calendar year in which the current determination comes into force;exceeds 13 weeks.

Determination by Secretary that child at risk

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

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Responsible person

(6) In this section:

responsible person means:

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

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

Determinations to be made in accordance with rules

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

Minister may determine rules

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

Disallowable instrument

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

Subdivision F—Eligibility for child care benefit where death occurs

57 Eligibility for child care benefit if an eligible individual dies

If:

- (a) an individual is eligible for an amount of child care benefit (the **subject amount**) under Subdivision B or D; and
- (b) the individual dies; and

- (c) before the individual died, the subject amount had not been paid to the individual (whether or not a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* had been made); and
 - (d) another individual makes a claim under that Part for payment of child care benefit because of the death of a person, stating that he or she wishes to become eligible for the subject amount; and
 - (e) the Secretary considers that the other individual ought to be eligible for the subject amount;
- the other individual is eligible for the subject amount and no-one else is, or can become, eligible for or entitled to be paid that amount.

Part 4—Rate of family assistance

Division 1—Family tax benefit

58 Rate of family tax benefit

Annual rate of family tax benefit for individuals

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

Annual rate of family tax benefit to approved care organisation

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

Daily rate of family tax benefit

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

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

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

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

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

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

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

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

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

Absence from Australia of recipient

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

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

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

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

- (1) Subsection (4) modifies the operation of Schedule 1 in working out an individual's rate of family tax benefit for a period during which:
- (a) an FTB child of the individual is an absent overseas FTB child; and
 - (b) the individual is not an absent overseas recipient.
- (2) If:
- (a) either:
 - (i) an FTB child leaves Australia; or
 - (ii) a child born outside Australia is an FTB child at birth; and
 - (b) the child continues to be absent from Australia for more than 26 weeks;
- the child is an ***absent overseas FTB child*** for any period that occurs:
- (c) during that absence from Australia; and
 - (d) after the end of the period of 26 weeks beginning on the first day of the child's absence from Australia.
- (3) If:
- (a) an FTB child is an absent overseas FTB child because of the application of subsection (2) or a previous application of this subsection; and
 - (b) the child comes to Australia; and
 - (c) the child leaves Australia less than 26 weeks after coming to Australia;
- the child is an ***absent overseas FTB child*** for any period that occurs during the absence from Australia referred to in paragraph (c).
- (4) For the purposes of working out an individual's rate of family tax benefit for a period during which:
- (a) an FTB child of the individual is an absent overseas FTB child; and

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(b) the individual is not an absent overseas recipient;
Schedule 1 applies with the modifications set out in the following table:

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

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

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

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

65 Calculation of single amount for death of FTB child

Instalment case

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

Method statement

Step 1. 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 period (the ***lump sum period***) beginning on the request day (see subsection 32(1)) and ending at the end of the section 31 accrual period (see 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).

- (2) For the purposes of the method statement in subsection (1), a day in the lump sum period is an *excluded day* in relation to the child if:

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- (a) where the child was undertaking full-time study at the time the child died—the child would have been aged 25 on that day if the child had not died; or
- (b) in any other case—the child would have been aged 21 on that day if the child had not died.

Other cases

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

Division 2—Maternity allowance

66 Amount of maternity allowance

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

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

Division 3—Maternity immunisation allowance

67 Amount of maternity immunisation allowance

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

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

68 When the maternity immunisation allowance is shared

General rule

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

Exception—determination of family tax benefit percentage

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

Division 4—Child care benefit**Subdivision A—Care provided by approved child care service****69 Application of Subdivision to parts of sessions of care**

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

70 Rate of child care benefit for care provided by approved child care service

Care provided by approved child care service—individual eligible

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

Care provided by approved child care service—service eligible

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

Hourly rate may be applied to part of hour

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

Section 71

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
 - (c) either:

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

Section 72

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

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

Subdivision B—Care provided by registered carer

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

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

74 Weekly limit on benefit for care provided by registered carer

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

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

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

Part 4 Rate of family assistance

Division 5 Indexation

Section 75

Division 5—Indexation

75 Indexation of amounts used in rate calculations

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

Schedule 1—Family Tax Benefit Rate Calculator

Note: See subsection 58(1).

Part 1—Overall rate calculation process

1 Overall rate calculation process

- (1) To work out an individual's annual rate of family tax benefit, add:
 - (a) the individual's Part A rate calculated under Part 2 (clauses 3 to 24) or Part 3 (clauses 25 to 28); and
 - (b) the individual's Part B rate calculated under Part 4 (clauses 29 to 33).
- (2) To work out the individual's Part A rate:
 - (a) use Part 2 (clauses 3 to 24) if the individual's adjusted taxable income does not exceed the individual's higher income free area; or
 - (b) use Part 3 (clauses 25 to 28) if the individual's adjusted taxable income exceeds the individual's higher income free area.

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

2 Higher income free area

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

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

Part 2—Part A rate (Method 1)

Division 1—Overall rate calculation process

3 Method of calculating Part A rate

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

Method statement

Step 1. Add the following amounts:

- (a) the individual's standard rate under Division 2 of this Part (clauses 7 to 11);
- (b) the individual's large family supplement (if any) under Division 1 of Part 5 (clauses 34 and 35);
- (c) the individual's multiple birth allowance (if any) under Division 2 of Part 5 (clauses 36 to 38);
- (d) the individual's rent assistance (if any) under Division 3 of this Part (clauses 12 to 16).

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

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

Step 3. Apply the maintenance income test in Division 5 of this Part (clauses 20 to 24) to work out any reduction for maintenance income. Take any reduction away from the individual's income tested rate: the result is the individual's *income and maintenance tested rate*.

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 1 Overall rate calculation process

Clause 4

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.

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.

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.

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.

Division 2—Standard rate

7 Standard rate

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 18, years of age	\$956.30
4 FTB child who has reached 18, but is under 25, years of age	\$1,306.70

8 Base FTB child rate

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.

9 FTB child rate—recipient of other periodic payments

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

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 2 Standard rate

Clause 10

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

10 Effect of maintenance rights

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 entitled to claim or apply for maintenance for the child; and
- (b) the Secretary considers that it is reasonable for the individual or partner to take action to obtain maintenance; and
- (c) the individual or partner does not take action that the Secretary considers reasonable to obtain maintenance.

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

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

Division 3—Rent assistance

12 Rent assistance children

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

13 Eligibility for rent assistance

- (1) An amount by way of rent assistance for a period is to be added in working out an individual's maximum rate if:
 - (a) the individual has at least one rent assistance child; and
 - (b) either:
 - (i) the individual is entitled to be paid family tax benefit for the period by instalment under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999*; or
 - (ii) the individual is entitled to be paid family tax benefit for the period, the period is a past period and the Secretary determines that it is appropriate to include rent assistance for that period; and
 - (c) the individual is not an ineligible homeowner; and
 - (d) the individual is not an aged care resident; and
 - (e) the individual pays, or is liable to pay, rent (other than Government rent); and
 - (f) the rent is payable at a rate of more than:
 - (i) if the individual is not a member of a couple—\$2,485.65 per year; or
 - (ii) if the individual is a member of a couple (other than an illness separated couple, a respite care couple or a temporarily separated couple)—\$3,675.55 per year; or

Schedule 1 Family Tax Benefit Rate Calculator

Part 2 Part A rate (Method 1)

Division 3 Rent assistance

Clause 14

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

14 Rate of rent assistance

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

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	

15 Annual rent

Annual rent in the table in clause 14 is the annual rate of rent paid 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

16 Rent paid by a member of a couple

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

Division 4—Income test

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

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

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

18 Income test

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

Method statement

- Step 1.* Work out the individual's **income free area** using clause 19.
- Step 2.* Work out whether the individual's adjusted taxable income exceeds the individual's income free area.
- Step 3.* If the individual's adjusted taxable income does not exceed the individual's income free area, the individual's **income excess** is nil.
- Step 4.* If the individual's adjusted taxable income exceeds the individual's income free area, the individual's **income excess** is the individual's adjusted taxable income less the individual's income free area.
- Step 5.* The individual's **reduction for adjusted taxable income** 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

19 Income free area

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

Division 5—Maintenance income test

20 Effect of maintenance income on family tax benefit rate

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

Method statement

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

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

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

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

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.

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

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

21 Maintenance income of members of couple to be added

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.

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

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

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

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

24 Apportionment of capitalised maintenance income

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

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

Capitalisation period—court order or registered or approved maintenance agreement

- (3) If:
 - (a) the capitalised maintenance income is received under or as a result of:
 - (i) the order of a court; or
 - (ii) a maintenance agreement registered in, or approved by, a court under the *Family Law Act 1975* or the law of a 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

- (b) the order or agreement specified the period in relation to which the capitalised maintenance income was to be provided; and
- (c) the length of the period could be ascertained with reasonable certainty when the order was made or the agreement was so registered or approved;

the *capitalisation period* is, subject to subclause (6), the period specified in the order or agreement.

Capitalisation period—FTB child under 18

- (4) If:
- (a) the capitalised maintenance income relates to the maintenance of an FTB child of the individual; and
 - (b) the child has not turned 18 on the day on which the income is received; and
 - (c) subclause (3) does not apply to the capitalised maintenance income;

the *capitalisation period* is, subject to subclause (6), the period that starts on the day on which the income is received and ends on the day immediately before the day on which the child turns 18.

Capitalisation period—partner under 65

- (5) If:
- (a) the capitalised maintenance income relates to the maintenance of the individual by the individual's partner or former partner; and
 - (b) the individual has not turned 65 on the day on which the income is received; and
 - (c) subclause (3) does not apply to the capitalised maintenance income;

the *capitalisation period* is, subject to subclause (6), the period that starts on the day on which the income is received and ends on the day immediately before the day on which the individual turns 65.

Capitalisation period—other cases

- (6) If:

(a) the Secretary considers:

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

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

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

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

Part 3—Part A rate (Method 2)

Division 1—Overall rate calculation process

25 Method of calculating Part A rate

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

Method statement

Step 1. Add the following amounts:

- (a) the individual's standard rate under Division 2 of this Part (clauses 26 and 27);
- (b) the individual's large family supplement (if any) under Division 1 of Part 5 (clauses 34 and 35);
- (c) the individual's multiple birth allowance (if any) under Division 2 of Part 5 (clauses 36 to 38);

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

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

Division 2—Standard rate

26 Standard rate

- (1) Subject to clause 27, an individual's *standard rate* is the total obtained by adding the FTB child rates for each of the individual's FTB children.
- (2) The *FTB child rate* for the purpose of subclause (1) is:
 - (a) for an FTB child who has not turned 18—\$956.30; or
 - (b) for an FTB child who has turned 18—\$1,306.70.

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

If 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, the FTB child rate for the child, in working out the individual's standard rate under clause 26, is the specified percentage of the FTB child rate that would otherwise apply to the child.

Division 3—Income test

28 Income test

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

Method statement

- Step 1.* Work out the individual's **higher income free area** using clause 2.
- Step 2.* Work out whether the individual's adjusted taxable income exceeds the individual's higher income free area.
- Step 3.* If the individual's adjusted taxable income does not exceed the individual's higher income free area, the individual's **income excess** is nil.
- Step 4.* If the individual's adjusted taxable income exceeds the individual's higher income free area, the individual's **income excess** is the individual's adjusted taxable income less the individual's higher income free area.
- Step 5.* The individual's **reduction for income** is 30% of the income excess.

Part 4—Part B rate

Division 1—Overall rate calculation process

29 Method of calculating Part B rate

- (1) The individual's Part B rate is the individual's standard rate worked out using Division 2 (clauses 30 and 31) if the individual is not a member of a couple.
- (2) The individual's Part B rate is worked out using the following method statement if the individual is a member of a couple:

Method statement

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

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

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

- (3) In applying this Part to an individual, disregard an FTB child who has turned 16 years of age unless:
 - (a) the child is undertaking full-time study; and
 - (b) the calendar year in which the child turned 18 has not ended.If disregarding the child means that neither item 1 nor item 2 in the table in clause 30 applies to the individual, the individual's standard rate is nil.

Division 2—Standard rate

30 Standard rate

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.

Standard rates (Part B)	
Column 1 Family situation	Column 2 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

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

- (1) If:
- (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
 - (b) the child is the individual's only FTB child;
- the individual's standard rate is the specified percentage of the standard rate that would otherwise apply.
- (2) If:
- (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
 - (b) the child is not the individual's only FTB child;
- the individual's standard rate is to be worked out as follows:

Clause 31

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

Division 3—Income test

32 Income test

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

Method statement

- Step 1.* Work out the individual's **income free area** using clause 33.
- Step 2.* Work out whether the individual's adjusted taxable income exceeds the individual's income free area.
- Step 3.* If the individual's adjusted taxable income does not exceed the individual's income free area, the individual's **income excess** is nil.
- Step 4.* If the individual's adjusted taxable income exceeds the individual's income free area, the individual's **income excess** is the individual's adjusted taxable income less the individual's income free area.
- Step 5.* The individual's **reduction for income** is 30% of the income excess.

33 Income free area

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

Part 5—Common provisions

Division 1—Large family supplement

34 Eligibility for large family supplement

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

35 Rate of large family supplement

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

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

Division 2—Multiple birth allowance

36 Eligibility for multiple birth allowance

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

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

37 Rate of multiple birth allowance

The amount of the multiple birth allowance is:

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

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

If:

- (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
- (b) the child is one of at least 3 children who were born during the same multiple birth;

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

Schedule 2—Child care benefit rate calculator

Note: See subsection 70(1).

Part 1—Overall rate calculation process

1 Method of calculating rate of child care benefit

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

Method statement

- Step 1.* Use Part 2 (clause 4) to work out the standard hourly rate for the session.
- Step 2.* Work out the individual's adjustment percentage using clause 2.
- Step 3.* Work out that percentage of the standard hourly rate: the result is the *individual's rate of child care benefit* for the care.

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

2 Adjustment percentage

- (1) An individual's *adjustment percentage* for the purposes of step 2 in the method statement in clause 1 is:
- $$\text{CCB \%} \times \text{Schooling \%} \times \text{Part-time \%}$$
- (2) In subclause (1):

Clause 3

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

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

Clause 3

- (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.

Part 2—Standard hourly rate

4 Standard hourly rate—basic meaning

- (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

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

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

where:

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

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)

Clause 4

that are provided to the child in the week concerned and for which the individual is eligible for child care benefit.

Part 3—Multiple child %

5 Multiple child %

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:

Method statement

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

Part 4—Taxable income %

6 Income thresholds

- (1) There are 2 income thresholds that are relevant for working out an individual's taxable income %.
- (2) The *lower income threshold* is \$28,200.
- (3) The *upper income threshold* is \$66,000.

7 Method of calculating taxable income %

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

- (a) 100% if:
 - (i) the individual's adjusted taxable income for the income year does not exceed the lower income threshold; or
 - (ii) the individual or the individual's partner is receiving a social security benefit, a social security pension or a service pension; and
- (b) worked out using clause 8 if paragraph (a) does not apply.

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

- (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:

Method statement

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

Clause 9

- 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 %.

9 Income threshold

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

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

10 Taper %

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

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%

11 Maximum weekly benefit

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

Schedule 2 Child care benefit rate calculator
Part 4 Taxable income %

Clause 11

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	$\left(\text{Item 7 MWB} \right) - \left(\text{Individual's weekly taper amount} \right)$

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

MWB means maximum weekly benefit.

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

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

12 Minimum taxable income %

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

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

where:

standard hourly rate is the amount specified in item 1 of the table 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.

4 Adjusted fringe benefits total

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

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

where:

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

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

5 Target foreign income

- (1) An individual's *target foreign income* for an income year is the amount of the individual's foreign income (as defined in section 10A of the *Social Security Act 1991*) for the income year that is not:
 - (a) taxable income; or
 - (b) received in the form of a fringe benefit (as defined in the *Fringe Benefits Tax Assessment Act 1986*, as it applies of its own force or because of the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*) in relation to the individual as an employee (as defined in the *Fringe Benefits Tax Assessment Act 1986*) and a year of tax.
- (2) If it is necessary, for the purposes of this Schedule, to work out an amount of foreign income expressed in a foreign currency received in an income year, the amount in Australian currency is to be worked out using the market exchange rate for 1 July in that income year.
- (3) If there is no market exchange rate for 1 July in the income year (for example, because of a national public holiday), the market

Clause 6

exchange rate to be used is the market exchange rate that applied on the last working day immediately before that 1 July.

- (4) For the purposes of this clause, the market exchange rate of a foreign currency is the on-demand airmail buying rate for that currency available at the Commonwealth Bank of Australia.

6 Net rental property loss

The *net rental property* loss of an individual for an income year is:

- (a) if the expenses incurred by the individual on rental property during that year exceed the individual's gross rental property income for that year—the amount by which those expenses exceed that gross rental property income; or
- (b) if the expenses incurred by the individual on rental property during that year do not exceed the individual's gross rental property income for that year—nil.

7 Tax free pension or benefit

For the purposes of this Schedule, the following payments received in an income year are tax free pensions or benefits for that year:

- (a) a disability support pension under Part 2.3 of the *Social Security Act 1991*;
- (b) a wife pension under Part 2.4 of the *Social Security Act 1991*;
- (c) a carer payment under Part 2.5 of the *Social Security Act 1991*;
- (d) a pension under Part II of the *Veterans' Entitlements Act 1986* payable to a veteran;
- (e) an invalidity service pension under Division 4 of Part III of the *Veterans' Entitlements Act 1986*;
- (f) a partner service pension under Division 5 of Part III of the *Veterans' Entitlements Act 1986*;
- (g) a pension under Part II of the *Veterans' Entitlements Act 1986* payable to the widow or widower of a deceased veteran;
- (h) income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*;

to the extent to which the payment:

- (i) is exempt from income tax; and
- (j) is not a payment by way of bereavement payment, pharmaceutical allowance, rent assistance or remote area allowance.

8 Deductible child maintenance expenditure

Deductible child maintenance expenditure

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

Child maintenance expenditure

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

Amount of child maintenance expenditure

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

Clause 8

Value of a benefit provided

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

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

- (5) If:
- (a) an individual providing a benefit is a party to a child support agreement under the *Child Support (Assessment) Act 1989*; and
 - (b) the agreement contains:
 - (i) provisions under which the individual is providing child support to an individual for a child otherwise than in the form of a periodic payment; and
 - (ii) a statement of the annual value of a specified amount that the child support has; and
 - (c) the individual provides the support;
- the value of the benefit provided by the individual is the specified amount.

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

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

Schedule 4—Indexation and adjustment of amounts

Note: See section 75.

Part 1—Preliminary

1 Analysis of Schedule

This Schedule provides for:

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

2 Indexed and adjusted amounts

The following table sets out:

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

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]

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
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 25, years of age (Part A—Method 1)	FTB 16-24 child rate (A1) [Schedule 1—clause 7—table—items 3 and 4]
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)—all amounts]
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)]

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]

Schedule 4 Indexation and adjustment of amounts
Part 2 Indexation

Clause 3

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

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 16-24 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

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
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

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

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
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

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

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
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

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.

4 Indexation of amounts

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

Method statement

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

5 Indexation factor

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

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

worked out to 3 decimal places.

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

Clause 6

- (4) Subject to subclause (5), if at any time (whether before or after the commencement of this clause), the Australian Statistician publishes an index number for a quarter in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this clause.
- (5) If at any time (whether before or after the commencement of this clause) the Australian Statistician changes the reference base for the Consumer Price Index, regard is to be had, for the purposes of applying this clause after the change takes place, only to index numbers published in terms of the new reference base.

6 Rounding off indexed amounts

- (1) If a provisional indexed amount is a multiple of the rounding base, the provisional indexed amount becomes the indexed amount.
- (2) If a provisional indexed amount is not a multiple of the rounding base, the indexed amount is the provisional indexed amount rounded up or down to the nearest multiple of the rounding base.
- (3) If a provisional indexed amount is not a multiple of the rounding base but is a multiple of half the rounding base, the indexed amount is the provisional indexed amount rounded up to the nearest multiple of the rounding base.

Part 3—Adjustment of other rates

7 Adjustment of FTB child rates

- (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:

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

- (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.

- (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:

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

- (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.

- (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.

Part 4—Transitional indexation provision

8 Transitional indexation of amounts used to calculate family assistance rates

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

Transitional Indexation Table		
	Provision	Amount specified in
1	section 58	subsection (2)
2	Schedule 1 (clause 7)	items 1 to 3 of the 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)	paragraph 2 (a)
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

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

*[Minister's second reading speech made in—
House of Representatives on 31 March 1999
Senate on 24 May 1999]*

(74/99)