

EXPLANATORY STATEMENT

Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2005 (No.1)

Summary

This Determination is made under subsection 205(1) of the **A New Tax System (Family Assistance) (Administration) Act 1999** (the Family Assistance Administration Act).

This Determination is a legislative instrument for the purposes of the **Legislative Instruments Act 2003**.

The purpose of this Determination is to amend the *Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000* (the Approval Determination) that sets out the rules relating to the eligibility of child care services to become, and remain, approved child care services for the purposes of child care benefit (CCB).

In relation to an approved centre based long day care service, family day care service or outside school hours care service, it is a condition of continued approval of a service that the service complies with the relevant quality assurance system in accordance with the requirements published by the National Childcare Accreditation Council (the Council).

The Council administers the Quality Improvement and Accreditation System (QIAS) for centre based long day care services, the Family Day Care Quality Assurance system (FDC QA) for family day care services and the Outside School Hours Care Quality Assurance system (OSHCQA) for outside school hours care services. The systems are being continually developed and improved, and up-to-date information about the requirements of the systems is communicated by the Council to approved child care services through the Council's publications.

The Approval Determination currently in force does not fully reflect the changes that have occurred to the quality assurance systems since the introduction of quality assurance as a condition of continued approval.

Specifically, the Approval Determination operates to the effect that continued approval of centre based long day care services depends on the services' compliance with the QIAS requirements that were in operation on 1 July 2000 and continued approval of family day care services depends on services' compliance with the FDC QA requirements that were in operation on 1 July 2001.

This Determination amends the Approval Determination to include specific references to the publications of the Council currently applicable to those systems.

Amendments made by this Determination will make compliance with the QIAS requirements published in 2001 a condition of continued approval of centre based long day care services and will make compliance with the FDC QA requirements published in 2004 a condition of continued approval of family day care services. The explanation of those requirements is included under the heading 'Background'.

The amendments made to the provisions dealing with the OSHCQA are of a technical nature, to align the style of the OSHCQA provisions with the similar provisions operating in relation to QIAS and FDC QA. They are not intended to change the OSHCQA requirements currently in force under the Approval Determination.

The amendments would commence on the day following the day on which this Determination is registered.

Background

Under the ***A New Tax System (Family Assistance) Act 1999***, a person may be eligible for CCB for child care provided by an 'approved child care service'. An 'approved child care service' is a service approved under section 195 of the Family Assistance Administration Act. To continue to be approved, a child care service must comply with the eligibility rules (the Approval Determination) determined by the Minister under subsection 205(1). Failure to comply with any of the eligibility rules may result in a sanction being imposed on the service under section 200, at the Secretary's discretion.

One of the conditions of continued approval that applies to centre based long day care services, family day care services and outside school hours services is the requirement to participate in the relevant quality assurance system in accordance with any requirements published by the Council (sections 23, 23A, 23B, 24A and 24B of the Approval Determination refer).

The QIAS publications and the FDC QA publications have undergone revisions (in 2001 and 2004 respectively), reflecting improvements to those systems. The Approval Determination operates to the effect that continued approval of the services that are registered to participate in the relevant quality assurance system depends on the services' compliance with the requirements of the publications captured by the Approval Determination.

The Approval Determination currently in force only captures the QIAS requirements that were in force on 1 July 2000 and the FDC QA requirements in force on 1 July 2001.

QIAS

The Approval Determination does not specifically identify the quality improvement and accreditation requirements published by the Council that were in force as of 1 July 2000. The relevant requirements were published in the *QIAS Handbook*, 1st edition, 1993, and these are the requirements that currently apply to long day care services under the Approval Determination.

In 1999-2000, the Commonwealth Child Care Advisory Council (CCCAC) conducted a review of the QIAS. The CCCAC consulted extensively in the course of this review. Input was sought through submissions, a parent survey and a series of focus groups involving parents, owners/managers, and staff of child care services.

The consultations showed a strong acceptance of the QIAS and a desire to maintain a high level of quality in child care services, but also a desire to make the process less complex, less time consuming, and better coordinated with State licensing provisions.

The final recommendations are detailed in the paper "Review of the Quality Improvement and Accreditation System", and are implemented through the reclassification of the QIAS.

The Council introduced the changes to QIAS as reflected in the following publications: the *QIAS Source Book*, 1st edition, 2001, the *QIAS Handbook*, 2nd edition, 2001, and the *QIAS Self-study Report*, 2nd edition, 2001 (the QIAS 2001 publications).

The main areas of change in relation to the quality improvement and accreditation requirements included in the QIAS 2001 publications are as follows:

- The quality standards required for Accreditation are now outlined in the *QIAS Source Book* (2001) and an overview of the steps involved in the Quality Assurance process are outlined in the *QIAS Handbook* (2001);
- The *QIAS Source Book* (2001) re-classified the 52 Principles into 10 Quality Areas that are described by 35 Quality Principles of quality practice;
- The *QIAS Handbook* (2001) standardised the Accreditation period to 2.5 years between the submission of Self-study Reports; and
- The quality standards under the *QIAS Handbook* (1993) are Unsatisfactory, Basic, Good Quality and High Quality. The quality standards under the *QIAS Handbook* (2001) and the *QIAS Source Book* (2001) are Unsatisfactory, Satisfactory and High Quality.

These changes were made as a result of feedback from the long day care community, which identified a need to review the quality standards of the QIAS. The changes were intended to result in a simpler, more reliable and more cost efficient system.

The Determination amends section 23 of the Approval Determination so that it refers to the 2001 QIAS publications that contain the revised requirements.

FDC QA

The Approval Determination does not specify the publications relevant to FDC QA. The FDC QA requirement in sections 23A and 23B of the Approval Determination was introduced with effect from 1 July 2001. The Approval Determination operates to the effect that family day care services are required, as a condition of continued approval, to comply with the quality assurance requirements specified in the Council's publications in force on 1 July 2001.

The relevant requirements are published in the *FDC QA Quality Practices Guide*, 1st edition, 2001 (QPG 2001), the *FDC QA Handbook*, 1st edition, 2001 and the *FDC QA Self-study Report*, 1st edition, 2001. These are the requirements that currently apply to family day care services under the Approval Determination. The requirements specified in these publications were applied in respect of family day care services from 2002 to 2004.

In 2004, the Council introduced changes to FDC QA, reflected in the following publications: *FDC QA Quality Practices Guide*, 2nd edition, 2004 (QPG 2004), the *FDC QA Handbook*, 2nd edition, 2004, and the *FDC QA Self-study Report*, 2nd edition, 2004 (the FDC QA 2004 publications). The FDC QA 2004 publications were developed in consultation with a reference group nominated by the National Family Day Care Council of Australia and by taking into account the feedback of the wider family day care community.

The main quality assurance requirements included in the FDC QA 2004 publications are as follows:

- The number of Indicators has been reduced and some have been reworded to provide clarity;
- The QPG 2004 clearly identifies coordination unit staff and carer responsibilities in each Quality Area and each Principle;
- Quality Indicators for each Principle are provided for three standards of practice: Satisfactory, Good Quality and High Quality Care.
- Indicators have been included to meet current legislation and to reflect current information about the health, safety and development of children.

These changes were made as a result of feedback from the family day care community that identified a need to review the quality care standards of the FDC QA. The changes were intended to result in a more user friendly system, with greater clarity as to the roles of carers and coordination unit staff. The grouping of Indicators also allows carers and staff to focus on the essential practices to ensure quality.

This Determination amends the Approval Determination to make compliance with the relevant requirements of the FDC QA 2004 publications a condition of continued approval of family day care services, with effect from the day after the registration of this Determination.

Explanation of the clauses

Name of Determination

Clause 1 states the name of this Determination.

Commencement

Clause 2 states that this Determination commences on the day after it is registered.

Amendment of the Approval Determination

Clause 3 states that Schedule 1 amends the Approval Determination.

Explanation of the items in Schedule 1

Item 1 – definition of OSHCQA

Item 1 makes an amendment consequential on the amendment made by item 5. The amendment made by item 1 is explained in the context of the amendment made by item 5.

Item 2 – amendment to paragraph 23(a)

Section 23 (Centre based long day care services: participation in QIAS) commenced its operation on 1 July 2000. Section 23 is relevant to all approved centre based long day care services.

Under paragraph 23(a) as it currently operates, it is a condition of continued approval of an approved centre based long day care service that the service participates in the QIAS “in accordance with any quality improvement and accreditation requirements published by the Council” and in force at the time paragraph 23(a) commenced its operation- that is, on 1 July 2000.

Item 2 substitutes new paragraph 23(a) to incorporate, in new subparagraphs 23(a)(i), (ii) and (iii), references to the following publications: the *Quality Improvement and Accreditation System Source Book*, 1st edition, 2001; the *Quality Improvement and Accreditation System Handbook*, 2nd edition, 2001; and the *Quality Improvement and Accreditation System Self-study Report*, 2nd edition, 2001.

From the commencement of this amendment it will be a condition of continued approval of an approved centre based long day care service that the service participates in the QIAS in accordance with any quality improvement and accreditation requirements published by the Council in the QIAS 2001 publications referred to in paragraph 23(a).

Item 3 – amendment to paragraph 23A(a)

Section 23A (Family day care services: participation in FDC QA) commenced its operation on 1 July 2001. This section is relevant to the approved family day care services which were approved for the purposes of the family assistance law with effect from 1 July 2001 or any later day on an application made on or after 1 July 2001.

Under paragraph 23A(a) as it currently operates, it is a condition of continued approval of an approved family day care service to which section 23A applies that the service participates in the FDC QA “in accordance with any quality assurance requirements published by the Council” and in force at the time paragraph 23A(a) commenced its operation- that is, on 1 July 2001.

Item 3 substitutes new paragraph 23A(a) to incorporate, in new subparagraphs 23A(a)(i), (ii) and (iii), references to the following publications: the *Family Day Care Quality Assurance Quality Practices Guide*, 2nd edition, 2004; the *Family Day Care Quality Assurance Handbook*, 2nd edition, 2004, and the *Family Day Care Quality Assurance Self-study Report*, 2nd edition, 2004.

As a result of this amendment, from the commencement of this amendment, it will be a condition of a continued approval of an approved family day care service to which section 23A applies that the service participates in the FDC QA in accordance with any quality assurance requirements published by the Council in the FDC QA 2004 publications referred to in paragraph 23A(a).

Item 4 – amendment to subparagraph 23B(2)(b)

Section 23B (Family day care services: registration and participation in FDC QA) commenced its operation on 1 July 2001. This section is relevant to the approved family day care services, which were approved for the purposes of the family assistance law with effect from a day earlier than 1 July 2001 on an application for approval made before or after that date.

Under paragraph 23B(2)(b) as it currently operates, it is a condition of continued approval of an approved family day care service to which section 23B applies that the service participates in the FDC QA “in accordance with any quality assurance requirements published by the Council” and in force at the time paragraph 23B(2)(b) commenced its operation- that is, on 1 July 2001.

Item 4 substitutes new paragraph 23B(2)(b) that cross-refers to the FDC QA 2004 publications specified in paragraph 23A(a) as amended by item 3.

As a result of this amendment, from the commencement of this amendment, it will be a condition of a continued approval of an approved family day care service to which section 23B applies that the service participates in the FDC QA in accordance with any quality assurance requirements published by the Council in the FDC QA 2004 publications referred to in paragraph 23A(a).

Item 5 – amendment to paragraph 24A(2)(a)

Section 24A (Outside school hours care: participation in OSHCQA) commenced its operation on 1 July 2003. This section is relevant to approved outside school hours care services, which were approved for the purposes of the family assistance law with effect from 1 July 2003 or from any later day on an application made on or after 1 July 2003.

Under paragraph 24A(2)(a), it is a condition of continued approval of an approved outside school hours care service to which section 24A applies that the service participates in the OSHCQA “in accordance with any quality assurance requirements published by the Council”. The relevant requirements are those specified in the publications (the OSHCQA 2003 publications) referred to in the definition of the OSHCQA in subsection 3(1) of the Approval Determination.

Items 1 and 5 make technical amendments to reposition the references to the OSHCQA 2003 publications from subsection 3(1) into paragraph 24A(2)(a). Item 1 removes the references to the OSHCQA 2003 publications from the definition of OSHCQA in subsection 3(1) and item 5 inserts references to the same publications into paragraph 24A(2)(a). A reference to the relevant edition has been added to each of the specified publication. The amendments made by items 1 and 5 are intended to align the drafting style of all the provisions relevant to quality assurance publications, to enhance the clarity of meaning conveyed by those provisions.

There are no changes to the OSHCQA requirements as a result of the amendments made by items 1 and 5.

Item 6 – amendment to paragraph 24B(2)(b)

Section 24B (Outside school hours care: participation in OSHCQA) commenced its operation on 1 July 2003. This section is relevant to approved outside school hours care services, which were approved for the purposes of the family assistance law with effect from a day earlier than 1 July 2003 on an application made before or after 1 July 2003.

Under paragraph 24B(2)(b) of the Approval Determination, it is a condition of continued approval of an approved outside school hours care service to which section 24B applies that the service participates in the OSHCQA “in accordance with any quality improvement and accreditation requirements published by the Council”. The relevant requirements are those specified in the publications (the OSHCQA 2003 publications) referred to in the definition of the OSHCQA in subsection 3(1) of the Approval Determination.

As items 1 and 5 reposition the references to the relevant OSHCQA 2003 publications from the definition of OSHCQA in subsection 3(1) to paragraph 24A(2)(a), item 6 makes a consequential amendment to paragraph 24B(2)(b) so it cross-refers to paragraph 24A(2)(a) in which the publications are specified.

There are no changes to the OSHCQA requirements as a result of the amendments made by item 6.