

## EXPLANATORY STATEMENT

### **Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2003 (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).

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 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).

The amendments made by this Determination set out additional conditions of approval and continued approval for family day care services, which will apply in relation to places (JET child care places) allocated to those services for children of parents requiring this type of care during the time they participate in an activity under the Jobs, Education and Training Program (JET Program) administered jointly by the Department and other Commonwealth departments.

These amendments are related to the amendments made by the *Child Care Benefit (Allocation of Child Care Places) Amendment Determination 2003 (No. 1)*.

#### **Background**

The *Child Care Benefit (Allocation of Child Care Places) Amendment Determination 2003 (No. 1)* amended the *Child Care Benefit (Allocation of Child Care Places) Determination 2000* (the Allocation Determination) to ensure that participants in an activity under the JET Program who require child care for the duration of the activity can access family day care places through the mechanism provided in the legislative allocation framework.

Amendments made to the Allocation Determination enable the Secretary to:

- determine the number of JET child care places available for allocation to family day care services in a particular area; and
- allocate a JET child care place to a family day care for a specified child and for a specified period.

This Determination amends the Approval Determination to provide conditions of approval and continued approval of a family day care service consequential on the allocation of a JET child care place to the service. If a JET child care place is allocated to a family day care service for a specified child for a specified period, the service can only provide care to that child during that period. After that period, the service cannot offer that place to that or any other child. Non-compliance with the conditions of approval and continued approval may result in a sanction under section 200 of the Family Assistance Administration Act being applied to the service by the Secretary.

### **Explanation of the clauses**

#### *Name of Determination*

Clause 1 states the name of this Determination.

#### *Commencement*

Clause 2 states that this Determination commences on gazettal.

#### *Amendments 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 JET child care place*

Item 1 inserts in section 3 a new definition of “JET child care place”. “JET child care place” is defined by reference to the meaning given by paragraph 7(2)(c) of the Allocation Determination, that is, to places which may be allocated to family day care services to enable parents of children requiring this type of care to participate in activities under the JET Program.

#### *Item 2 - new condition of approval of a family day care service*

Part 2 of the Approval Determination contains rules that must be satisfied in order for a child care service to become approved for the purposes of CCB. Section 13 of Part 2 sets out rules relating to the priority of access. The applicant (a person who applies under section 194 of the Family Assistance Administration Act for approval of a child care service for the purposes of the family assistance law) must undertake that the service will provide access to child care places in accordance with those rules.

Item 2 inserts new subsection 13(1A), which provides a new rule applicable to family day care services. Under the new rule, the applicant must undertake that, if a JET child care place is allocated to the service for a child and a period specified in a notice given to the service under section 8 of the Allocation Determination, the service will not provide that place otherwise than to that specified child and for that specified period.

*Item 3 – new condition of continued approval of a family day care service applicable to former childcare assistance agreement services*

Part 3 of the Approval Determination contains rules that must be satisfied in order for an approved child care service to continue to be approved for the purposes of CCB.

Section 16 of Part 3 provides that the service must continue to satisfy the conditions of approval specified in Part 2 (including priority of access provisions as amended by item 2). A family day care service for whom the applicant made an undertaking relating to the provision of JET child care places specified in new subsection 13(1A) will be bound by this undertaking as a condition of continued approval.

Section 17 provides rules relating to continued approval for former childcare assistance services that are treated as being approved child care services (including family day care services) for CCB purposes, but to whom the conditions of approval in Part 2 do not apply. Subsection 17(8) requires these services to comply with the priority of access provisions specified in subsections 13(2) to (7). Item 3 amends subsection 17(8) to include the new priority of access requirement in subsection 13(1A), inserted by item 2, relating to the provision of JET child care places by family day care services.

*Item 4 – new condition of continued approval of a family day care service applicable to existing approved family day care services that are not former childcare assistance agreement services*

Item 4 inserts subsection 17A into Part 3 to provide a new condition of continued approval relating to the provision of JET child care places, applicable to a family day care service that, on the day of commencement of this subsection, is an approved family day care service but that is not a former childcare assistance service. As a condition of continued approval, if a JET child care place is allocated to the service for a child and a period specified in a notice given to the service under section 8 of the Allocation Determination, the service must not provide that place otherwise than to that specified child and for that specified period.