

## **EXPLANATORY STATEMENT**

### **A New Tax System (Family Assistance) (Administration) (Child Care Benefit - Record Keeping) Rules 2006**

#### **Summary**

These Rules are made under subsection 219F(3) of the **A New Tax System (Family Assistance) (Administration) Act 1999** (the Family Assistance Administration Act).

These Rules are a legislative instrument for the purposes of the **Legislative Instruments Act 2003**.

The purpose of these Rules is to add a further record keeping requirement for family day care services to those record keeping requirements that were contained in the Child Care Benefit (Record Keeping) Rules 2000.

These rules revoke the Child Care Benefit (Record Keeping) Rules 2000, which required approved child care services to keep certain records, and to reproduce them in these Rules with a title to reflect the title of the legislation that these Rules are made under and to reflect the titling conventions used by the Commonwealth Office of Legislative Drafting and Publishing.

These Rules relate to the Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2006 (No.1).

All legal and other requirements under the **Legislative Instruments Act 2003** have been met.

#### **Background**

Under the Family Assistance Administration Act a person may be eligible for child care benefits 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. The Child Care Benefit (Record Keeping) Rules 2000, that were made under subsection 219F(3) of the Family Assistance Administration Act, required approved child care services to keep certain records.

These Rules extend those record keeping requirements to oblige operators of approved family day care services to keep current contact details (for example telephone numbers and addresses) of carers employed, or contracted, by the services. If the child care is provided by a carer at a place other than the carer's residence then current records of the address and telephone number of the premises where that care is provided must also be kept.

A family day care service is a kind of approved child care service, comprising a network of carers who provide child care in their own homes for other people's children. The operator of a family day care service (usually a community organisation) supports and administers the network of carers and is responsible for the effective operation of all components of the service. The individual carers may be employees or contractors of the organisation operating the service.

Information collected as a result of these Rules are subject to **the *Privacy Act 1988 (Cth)*** and the confidentiality provisions in Part 6 of the Family Assistance Administration Act.

The Child Care Benefit (Record Keeping) Rules 2000 are revoked and integrated into these Rules (with this new requirement for family day care services) under a new title to reflect the title of the legislation that these Rules are made under and to reflect the titling conventions used by the Commonwealth Office of Legislative Drafting and Publishing.

The Office of Regulatory Review has advised that a Regulation Impact Statement is not required for these Rules as these Rules are effectively amendments of a minor nature and do not substantially alter existing arrangements (RIS ID: 8260)

As these Rules are of a minor nature, and do not substantially alter existing arrangements that were made under the Child Care Benefit (Record Keeping) Rules 2000, consultation on these Rules was considered unnecessary or inappropriate in accordance with section 18 of the ***Legislative Instruments Act 2003***.

## **Explanation of the Sections**

### *Name of Rules*

Section 1 states the name of these Rules.

### *Commencement*

Section 2 states that these Rules commence on 1 July 2006.

### *Revocation*

Section 3 states that the Child Care Benefit (Record Keeping) Rules 2000 (the revoked rules) are revoked.

### *Interpretation*

Section 4(1) reproduces the definitions of the same five words that were defined in the revoked rules.

Section 4(2) was updated to reflect the drafting conventions used by the Commonwealth Office of Legislative Drafting and Publishing.

#### *References to Revoked Rules*

Section 5 is a deeming provision. It provides that a reference in an instrument (other than a legislative instrument) to the revoked rules or provision of the revoked rules is taken to be a reference to these Rules or a corresponding provision of these Rules. As an example, this provision has the effect that any contract or funding agreement, which incorporates the revoked rules as a term, will now incorporate these Rules.

#### *Records to be kept by approved child care services*

Section 6 reproduces section 4 of the revoked rules in its entirety. Section 4 listed the types of records that must have been kept by approved child care services.

#### *Additional records to be kept by approved family day care services*

Section 7 requires approved family day care services to keep records of the full name, residential address and contact telephone number of each carer employed by, or contracted to, the approved family day care service. If the child care is provided by a carer at a place other than the carer's residence then current records of the address and telephone number of the premises where that care is provided must also be kept.