

EXPLANATORY STATEMENT

A New Tax System (Family Assistance)(Child Care Benefit – Recognised Work or Work Related Commitments) Amendment Determination 2008 (No.1)

Summary

This Determination is made under subsection 15(2) of the *A New Tax System (Family Assistance) Act 1999* (the Family Assistance 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 *A New Tax System (Family Assistance)(Child Care Benefit – Recognised Work or Work Related Commitments) Determination 2006* (the Recognised Work or Work Related Commitments Determination) which specifies the circumstances in which an individual in a specified class is taken to have recognised work or work related commitments for the purposes of section 15 of the Family Assistance Act. If these circumstances apply to an individual, the individual may be eligible for child care benefit (CCB) for up to 50 hours of care provided to an FTB child of that individual in a week. The basic weekly limit of hours of care which an individual may be eligible for is 24.

The Recognised Work or Work Related Commitments Determination is amended as a consequence of the introduction of a ‘regular care child’ concept into the family assistance law by the *Child Support Legislation Amendment (Reform of the Child Support Scheme – New Formula and Other Measures) Act 2006* (the Amending Act) with effect from 1 July 2008. ‘Family assistance law’ is defined in section 3 of the *A New Tax System (Family Assistance)(Administration) Act 1999* as including, among others, that Act and the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act).

As a consequence of the amendments, in the same circumstances, an individual will be taken to have recognised work or work related commitments for the purposes of section 15 of the Family Assistance Act in relation to care provided to a regular care child. The amendments made by this Determination commence on 1 July 2008.

Background

Currently, to be eligible for CCB for a child, the child must be an ‘FTB child’ of the individual or the individual’s partner.

The ‘FTB child’ is currently defined in sections 22 to 29 of the Family Assistance Act. If a child is in the care of more than one individual, the child is not an FTB child of an individual if the child is in the individual’s care for less than 10% of the time.

Amendments that were made to the family assistance law by the Amending Act have altered, from 1 July 2008, the concept of an ‘FTB child’ relevant to eligibility for family assistance including for family tax benefit (FTB) and CCB.

As a result of the changes made by the Amending Act, a child in respect of whom an individual has at least 35% of care is an FTB child of that individual (subsection 22(7) of the Family Assistance Act, as amended refers) and a child in respect of whom an individual has 14% to 34% of care is a 'regular care child' of the individual (subsection 3(1) of the Family Assistance Act, as amended refers).

Amendments were made by the Amending Act to the CCB eligibility provisions so that, from 1 July 2008, eligibility for CCB arises for both categories of children, FTB children and regular care children.

The Recognised Work or Work Related Commitments Determination which, specifies classes of individuals who are taken to have recognised work or work related commitments, includes references to an FTB child only. As a consequence of the changes to the CCB eligibility provisions, amendments to the Recognised Work or Work Related Commitments Determination are made to ensure that a 'regular care child' is afforded the same treatment as an 'FTB child under that Determination.

Consultation

The amendments made by this Determination were not consulted given that they are consequential on the amendments made by the Amending Act (as announced in the 2006-2007 Budget) and which commenced on 1 July 2008.

Regulatory Impact Analysis

This instrument does not require a Regulation Impact Statement (RIS) and /or a Business Cost Calculator Figure. This instrument is not regulatory in nature, will not impact on business activity, and will have no, or minimal, compliance costs or competition impact. It is not expected that any compliance costs will be incurred by business as a result of this instrument.

Explanation of Amendments

Name of the Determination

Section 1 states the name of this Determination.

Commencement

Section 2 states that this Determination commences on 1 July 2008.

This determination does not disadvantage the rights and liabilities of persons for the purposes of subsection 12(2) of the *Legislative Instruments Act 2003*. The delay in making this determination was due to an administrative oversight by the Department.

Amendment of the A New Tax System (Family Assistance)(Child Care Benefit – Recognised Work or Work Related Commitments) Determination 2006

Section 3 states that Schedule 1 amends the Recognised Work or Work Related Commitments Determination.

Explanation of the items in Schedule 1

Item 1 – Clauses 5 and 6

Schedule 1 specifies classes of individuals who are taken to have recognised work or work related commitments. Clause 5 includes an individual who can show that they have been offered paid work due to start within 14 days after the last session of care provided to the FTB child of the individual or the individual's partner for the relevant week for which CCB is claimed.

Clause 6 includes an individual who is enrolled in a training course or a course of education for improving skills or employment prospects and the course is due to start within 14 days after the last session of care provided to the FTB child of the individual or the individual's partner for the relevant week for which CCB is claimed.

Item 1 substitutes new clauses 5 and 6 to ensure that in the same circumstances, an individual claiming CCB for care provided to a regular care child is included in the class of individuals taken to have recognised work or work related commitments for the purposes of claiming CCB.