



# A New Tax System (Family Assistance) (Administration) (Business Continuity Payments) Determination 2010

*A New Tax System (Family Assistance) (Administration) Act 1999*

---

I, KATE ELLIS, Minister for Employment Participation and Childcare, make this Determination under subsection 219RD (2) of the *A New Tax System (Family Assistance) (Administration) Act 1999*.

Dated 15 December                      2010

KATE ELLIS  
Minister for Employment Participation and Childcare

---

## **1            Name of Determination**

This Determination is the *A New Tax System (Family Assistance) (Administration) (Business Continuity Payments) Determination 2010*.

## **2            Commencement**

This Determination commences on the day after it is registered.

## **3            Interpretation**

(1) In this Determination:

*Act* means the *A New Tax System (Family Assistance) (Administration) Act 1999*.

*business continuity payment* means a payment under section 219RD of the Act.

*period to which the business continuity payment relates* means the period specified in the notice given by the Secretary to an approved child care service in accordance with subsection 219RD (4) of the Act.

*Note* The following terms are defined in subsection 3 (1) of the Act or subsection 3 (1) of the *A New Tax System (Family Assistance) Act 1999*, and have the same meaning in this Determination as they have in those Acts – see subsection 3 (2) of the Act and paragraph 13 (1) (b) of the *Legislative Instruments Act 2003*:

- *approved centre based long day care service, approved child care service, approved family day care service, approved in-home care service, approved occasional care service and approved outside school hours care service;*
  - *Secretary;*
  - *school holiday session and session of care;*
  - *week.*
- (2) For this Determination, a *positive fee reduction amount paid to a service* in respect of sessions of care in a week is the sum of fee reduction amounts calculated by the Secretary in respect of the sessions of care provided by the service in that week under sections 50Z and 50ZB of the Act, or recalculated under section 50ZA or 50ZC of the Act, and that is more than 0.

#### **4 Circumstances in which a business continuity payment may be made**

For paragraph 219RD (2) (a) of the Act, the specified circumstances are circumstances that:

- (a) are beyond the control of an approved child care service; and
- (b) prevent the service from giving a report under subsection 219N (1) or (2) of the Act within the period applicable under subsection 219N (5).

*Examples:*

- the service is experiencing significant software problems that the service is unable to rectify by the end of the relevant period;
- a disruption to the operation of communication cables the service uses that cannot be rectified by the end of the relevant period;
- the service is significantly affected by natural disaster, such as flood, storm, fire or earthquake.

#### **5 Amount of a business continuity payment for a period**

- (1) For paragraph 219RD (2) (b) of the Act, the amount of business continuity payment is the sum of:
  - (a) the amounts determined under section 6, 7 or 8 for each week in the period to which the payment relates; and
  - (b) the amount (if any) determined under section 9.
- (2) If an amount of business continuity payment determined under subsection (1) is not a multiple of \$100, the Secretary may round the amount to the nearest multiple of \$100 (rounding up an amount that is a multiple of \$50 but not \$100).

**6 Weekly amount of a business continuity payment where fee reductions previously paid to the service — school holiday sessions**

- (1) This section applies to the determination of the amount of business continuity payment to be paid to an approved outside school hours care service for a week, where:
  - (a) the week is one in which school holidays sessions are, or are expected to be, provided by the service; and
  - (b) a positive fee reduction amount was paid to the service under section 219Q of the Act in respect of school holiday sessions in a week during the previous period of school holidays (*comparable school holidays*) that corresponds to the period of school holidays in which the week mentioned in paragraph (a) occurs.
- (2) For paragraph (1) (b), a period of school holidays *corresponds to* another period of school holidays if both of the periods of school holidays are:
  - (a) summer school holidays; or
  - (b) school holidays including Easter; or
  - (c) school holidays other than those mentioned in paragraph (a) or (b).
- (3) The amount of payment for the week is the average of the positive fee reduction amounts paid to the service in respect of sessions of care in each week in the previous comparable school holidays.

**7 Weekly amount of a business continuity payment where fee reductions previously paid to the service — sessions of care other than school holiday sessions**

- (1) This section applies to the determination of the amount of business continuity payment to be paid to an approved child care service for a week, where:
  - (a) the week is not one in which school holiday sessions are, or are expected to be, provided by the service; and
  - (b) a positive fee reduction amount was paid to the service under section 219Q of the Act in respect of sessions of care, other than school holiday sessions, in a week occurring before the start of the period to which the business continuity payment relates.
- (2) The amount of payment for the week is the average of the 8 most recent positive fee reduction amounts paid to the service in respect of sessions of care in weeks that were not during a period of school holidays.

**8 Weekly amount of a business continuity payment where fee reductions not previously paid to the service**

- (1) This section applies to the determination of the amount of business continuity payment to be paid to an approved child care service for a week if section 6 or 7 does not apply.

## Section 9

---

- (2) The amount of payment to an approved centre based long day care service, approved family day care service, approved in-home care service, or approved occasional care service for the week is:

$$\frac{\text{standard hourly rate} \times \text{maximum hours} \times \text{approved places}}{2}$$

- (3) The amount of payment to an approved outside school hours care service for the week is:

$$\frac{0.85 \times \text{standard hourly rate} \times \text{maximum hours} \times \text{approved places}}{2}$$

- (4) In subsections (2) and (3):

**approved places** means the maximum number of children for whom the service may provide care, as identified in the application for approval of the service for the purposes of the family assistance law, in the week.

**maximum hours** for an approved child care service means the number of hours mentioned in the last column of the following table for the kind of child care service and the kind of care (if any) mentioned in the second column of the table in respect of sessions of care in the week:

Item	Kind of service and care	Maximum hours
1	approved centre based long day care service, approved family day care service, or approved in-home care service	50
2	approved occasional care service	45
3	approved outside school hours care service providing child care during school holidays	50
4	approved outside school hours care service providing only before school hours care	10
5	approved outside school hours care service providing only after school hours care	17.5
6	approved outside school hours care service providing both before and after school hours care	27.5

**standard hourly rate** is the rate mentioned in item 1 of the table in subclause 4 (1) of Schedule 2 to the Act (as indexed).

## 9 Notional amounts of enrolment advances

- (1) This section applies if:
- (a) an approved child care service has not been paid an amount of an enrolment advance under section 219RA of the Act or an amount determined under this section previously; and

- (b) the Secretary must, under section 219RA of the Act, pay an amount of an enrolment advance to the service; and
  - (c) the Secretary is not able to pay that amount because of the circumstances in which a business continuity payment may be made to the service.
- (2) For paragraph 5 (1) (b), the amount is equal to the sum of the amounts of enrolment advances that the Secretary is not able to pay to the service.