



## **Child Care Benefit (Activity Requirements and Exemptions) Determination 2017**

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I, Simon Birmingham, Minister for Education and Training, make this instrument under sections 14, 15 and 17A of the *A New Tax System (Family Assistance) Act 1999*.

Dated 18 September 2017

Simon Birmingham  
Minister for Education and Training

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# Contents

<b>Part 1—Preliminary</b>	<b>1</b>
1 Name .....	1
2 Commencement and repeal .....	1
3 Authority .....	1
4 Definition .....	1
<b>Part 2—Activity requirements</b>	<b>2</b>
5 Purpose of Part .....	2
6 Classes of individuals and activities that count towards the activity requirements .....	2
7 Other classes of individuals who are taken to have recognised work or work related commitments .....	3
<b>Part 3—Individuals not required to meet activity requirements or exempt from work/training/study test</b>	<b>3</b>
8 Purpose of Part .....	3
9 Individuals who are not required to meet the activity requirements .....	3
10 Individuals who are exempt from the work/training/study test – general .....	4
11 Individuals who are exempt from the work/training/study test – principal carers of grandchildren .....	4



## Part 1—Preliminary

### 1 Name

This instrument is the *Child Care Benefit (Activity Requirements and Exemptions) Determination 2017*.

### 2 Commencement and repeal

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 October 2017.	1 October 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.
- (3) This instrument is repealed immediately after the commencement of Schedule 1 to the *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017*.

Note: Schedule 1 to the *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017* commences on 2 July 2018, see section 2 of that Act.

### 3 Authority

This instrument is made under the *A New Tax System (Family Assistance) Act 1999*.

### 4 Definition

In this instrument:

**parental leave** for an individual means leave from an individual's employment associated with the birth or adoption of a child by the individual or the individual's partner, and includes leave taken in preparation for the birth or adoption.

## Part 2—Activity requirements

### 5 Purpose of Part

This Part sets out:

- (a) for subsection 14(1C) of the Family Assistance Act, the classes of individuals who must meet the activity requirements; and
- (b) for subsection 15(2) of the Family Assistance Act, the classes of individuals who have recognised work or work related commitments; and
- (c) for subsection 17A(2) of the Family Assistance Act, the activities that count towards the activity requirements.

### 6 Classes of individuals and activities that count towards the activity requirements

- (1) An individual must meet the activity requirements if the individual:
  - (a) is actively setting up a business that has not yet started to operate; or
  - (b) is actively looking for work; or
  - (c) is undertaking unpaid voluntary work that provides work experience that gives or increases skills which could normally be expected to enhance a person's prospects of obtaining paid employment; or
  - (d) is on leave of the following kind:
    - (i) annual leave, where the period of that leave in any calendar year has not exceeded 25 days;
    - (ii) long service leave;
    - (iii) parental leave in relation to a child, where the period of that leave and the period of any parental leave taken by the individual's partner in relation to the child has not exceeded 12 months;
    - (iv) leave on account of illness or injury, where the period of leave in relation to that illness or injury has not exceeded 2 years;
    - (v) leave (other than leave mentioned in subparagraphs (i) to (iv)) granted under the individual's terms and conditions of employment; or
  - (e) is self-employed and is not working because:
    - (i) the individual is ill or injured and has obtained a certificate from a medical practitioner stating that the individual is unable to work because of the illness or injury; or
    - (ii) the individual is taking leave that, if the individual were a paid employee, would be described as annual leave, long service leave, or parental leave of the kinds mentioned in subparagraphs (d)(i), (ii) and (iii).
- (2) An individual who is undertaking an activity mentioned in subsection (1) is taken to have recognised work or work related commitments.
- (3) The activities mentioned in subsection (1) are activities that count towards the activity requirements.

## **7 Other classes of individuals who are taken to have recognised work or work related commitments**

An individual is taken to have recognised work or work related commitments if the individual:

- (a) is undertaking unpaid voluntary work for at least 15 hours a week; or
- (b) is, under section 9, not required to meet the activity test requirements for a week; or
- (c) is personally providing constant care and supervision for a disabled person; or
- (d) usually personally provides constant care and supervision for a disabled person, but is temporarily not doing so because:
  - (i) the individual is ill or injured and has obtained a certificate from a medical practitioner stating that the individual is unable to provide care and supervision because of the illness or injury; or
  - (ii) the individual is taking leave that, if the individual were a paid employee, would be described as annual leave, long service leave, or parental leave of the kinds mentioned in subparagraphs 6(1)(d)(i), (ii) and (iii); or
- (e) is undertaking an ongoing training course or course of education, and is not training or studying because of a scheduled temporary break in the provision of the course, for example, between terms or semesters.

## **Part 3—Individuals not required to meet activity requirements or exempt from work/training/study test**

### **8 Purpose of Part**

This Part sets out:

- (a) for subsection 14(1B) of the Family Assistance Act, the classes of individuals who are not required to meet the activity requirements; and
- (b) for subsection 14(2) of the Family Assistance Act, the classes of individuals who are exempt from the requirements of paragraphs 14(1)(a), (b) and (c) of that Act.

### **9 Individuals who are not required to meet the activity requirements**

- (1) An individual is not required to meet the activity requirements for a week if:
  - (a) the individual has been offered paid work; and
  - (b) the individual is due to start the paid work within 14 days after the last session of care for the week was provided to an FTB child or a regular care child of the individual or the individual's partner.
- (2) In addition, an individual is not required to meet the activity requirements for a week if:
  - (a) the individual is enrolled in a training course, or a course of education, for improving the individual's work skills or employment prospects; and

Section 10

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- (b) the individual is due to start the training course or the course of education within 14 days after the last session of care for the week was provided to an FTB child or a regular care child of the individual or the individual's partner.

**10 Individuals who are exempt from the work/training/study test – general**

An individual is exempt from the requirements of paragraphs 14(1)(a), (b) and (c) of the Family Assistance Act if:

- (a) the individual is a member of a couple; and
- (b) the individual's partner is not exempt from the requirements of paragraphs 14(1)(a), (b) and (c) of the Family Assistance Act under this section; and
- (c) the individual is not able to satisfy the work/training/study test or care for any children of the individual or the individual's partner because the individual is:
  - (i) a disabled person; or
  - (ii) outside Australia; or
  - (iii) an inmate of a prison; or
  - (iv) otherwise lawfully detained for any reason.

**11 Individuals who are exempt from the work/training/study test – principal carers of grandchildren**

- (1) An individual is exempt from the requirements of paragraphs 14(1)(a), (b) and (c) of the Family Assistance Act in relation to a child (*related child*) if:
  - (a) the individual, or the individual's partner, is a grandparent or a great-grandparent of the related child; and
  - (b) the related child is an FTB child of the individual or the individual's partner; and
  - (c) the individual, or the individual's partner, is the principal carer of the related child; and
  - (d) the individual, or the individual's partner, is conditionally eligible or eligible for child care benefit for care provided to the related child by an approved child care service.
- (2) An individual is also exempt from the requirements of paragraphs 14(1)(a), (b) and (c) of the Family Assistance Act in relation to a child (*unrelated child*) if:
  - (a) the individual is exempt from the requirements of paragraphs 14(1)(a), (b) and (c) of the Family Assistance Act under subsection (1) in relation to a related child; and
  - (b) the unrelated child is an FTB child or regular care child of the individual or the individual's partner; and
  - (c) the individual, or the individual's partner, is conditionally eligible or eligible for child care benefit for care provided to the unrelated child by an approved child care service.



(3) In this section:

***grandparent*** of a person has same meaning as in section 50R of the Family Assistance Administration Act.

***great-grandparent*** of a person has same meaning as in section 50R of the Family Assistance Administration Act.

***principal carer*** of a person has same meaning as in section 50S of the Family Assistance Administration Act.