

# Explanatory Statement

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## *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2017*

### Summary

The *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2017* (the Determination) is made by the Minister for Education and Training under subsection 210(4) of the *A New Tax System (Family Assistance) (Administration) Act 1999* (the Administration Act).

The purpose of the Determination is to set out the required qualifications that a person must hold in order to be approved as a registered carer, if the person does not meet the minimum age requirement to be approved as a registered carer. It continues the operation of the *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2000*, which is repealed under Part 4 of the *Legislation Act 2003* (Sunsetting of legislative instruments), on 1 October 2017.

### Background

Division 4 of Part 3 of the *A New Tax System (Family Assistance) Act 1999* (the Family Assistance Act) includes provisions relevant to the eligibility requirements for child care benefit. A person must be eligible for child care benefit, before they may be determined, under Division 4 of Part 3 of the Administration Act to be entitled to be paid child care benefit.

Child care benefit is a means-tested payment which assists individuals with child care costs. Under family assistance law, a person may be eligible for child care benefit where child care is provided by a registered carer. Section 210 of the Administration Act sets out the requirements for the Secretary to approve an individual as a registered carer. Amongst other things, in order to be approved as a registered carer an individual must generally be at least 18 years old. However, an individual who has not turned 18 can be approved by the Secretary as a registered carer if the individual holds qualifications determined by the Minister, by legislative instrument. This Determination sets out those qualifications.

The Determination is intended to replicate the operation of the *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2000* (2000 Determination). The references in the 2000 Determination to the relevant qualifications are outdated, so the opportunity has been taken to bring those references up to date in the new Determination. The 2000 Determination is repealed on 1 October 2017, under Part 4 of the *Legislation Act 2003* (Sunsetting of legislative instruments). The new Determination will operate from 1 October 2017 until 2 July 2018, when it will be repealed.

The *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017* (the Amendment Act) was enacted on 4 April 2017. This Amendment Act gives effect to the legislative elements of the Government's new child care system, including the Child Care Subsidy and Additional Child Care Subsidy from 2 July 2018. In particular, the Amendment Act repeals the provisions of the Administration Act in relation to registered carers.

Consequently, the sole purpose of the Determination is to enable the operation of the current arrangements for the approval of individuals under 18 as registered carers between the sunsetting of the 2000 Determination on 1 October 2017 and the commencement of the Amendment Act on 2 July 2018.

## Consultation

Prior to this instrument being made, targeted consultation was undertaken with child care stakeholders notifying them of the remaking of the instrument and inviting their comments. Targeted consultation was deemed appropriate as the remaking of the instrument was machinery in nature to continue the operation of the *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2000* until 2 July 2018. The instrument does not substantially alter existing arrangements.

## Regulatory Impact Statement

The Determination does not require a Regulatory Impact Statement or a Business Cost Calculator Figure. The Determination remakes the 2000 Determination for a short period, and is machinery in nature and will not have more than minor regulatory impact. The Office of Best Practice Regulation (OBPR) agrees with this regulatory impact assessment (OBPR ID 22536).

## Authority

The *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2017* is made under subsection 210(4) of the *A New Tax System (Family Assistance) (Administration) Act 1999*.

## Explanation of Provisions

**Section 1** sets out that the name of the instrument is the *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2017*.

**Section 2** provides that the instrument commences on 1 October 2017 and is repealed immediately after the commencement of Schedule 1 to the *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017* (i.e. on 2 July 2018).

**Section 3** sets out that the authority for the instrument is the *A New Tax System (Family Assistance) (Administration) Act 1999*.

**Section 4** specifies that in order for an individual, who does not meet the age requirements in subsection 210(2) of the Administration Act, to be eligible to be approved as a registered carer for the purposes of the family assistance law they must have a qualification that relates to early childhood, child care or home and community care. The qualification must have been issued by a registered training organisation within the scope of its registration and is included on the National Register (within the meaning of the *National Vocational Education and Training Regulator Act 2011*). Section 4 updates the references to qualifications that are currently referred to in section 4 of the 2000 Determination.

# Statement of Compatibility with Human Rights

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*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

## ***Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2017***

This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

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The purpose of the Determination is to set out the required qualifications that a person must hold in order to be approved as a registered carer, if the person does not meet the minimum age requirement to be approved as a registered carer. It continues the operation of the *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2000*, which is repealed under Part 4 of the *Legislation Act 2003* (Sunsetting of legislative instruments), on 1 October 2017.

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The Determination is intended to replicate the operation of the *Child Care Benefit (Specified Qualifications for Registered Carers) Determination 2000* (2000 Determination). The references in the 2000 Determination to the relevant qualifications are outdated, so the opportunity has been taken to bring those references up to date in the new Determination. The 2000 Determination is repealed on 1 October 2017, under Part 4 of the *Legislation Act 2003* (Sunsetting of legislative instruments). The new Determination will operate from 1 October 2017 until 2 July 2018, when it will be repealed.

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Consequently, the sole purpose of the Determination is to enable the operation of the current arrangements for the approval of individuals under 18 as registered carers between the sunsetting of the 2000 Determination on 1 October 2017 and the commencement of the Amendment Act on 2 July 2018.

## **Human Rights Implications**

The making of the Determination is machinery in nature to enable current legislative requirements set out in the 2000 Determination to continue until 2 July 2018. The Determination does not substantially alter existing arrangements and will not have more than minor regulatory impact or change any human rights implications under the current instrument.

The Determination in isolation does not engage any of the applicable rights or freedoms. It merely specifies the qualifications and accreditation requirements an individual must have who does not meet the age requirements set out in the Administration Act. The principal registered carer requirements are set out in the Administration Act.

## **Conclusion**

The Determination is compatible with human rights as it does not raise any human rights issues.

**Simon Birmingham**  
**Minister for Education and Training**