

## **EXPLANATORY STATEMENT**

**Issued by the authority of the Minister for Education**

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

***Child Care Subsidy Amendment (Parent Pathways and Other Measures) Minister's Rules  
2024***

### **AUTHORITY**

The *Child Care Subsidy Amendment (Parent Pathways and Other Measures) Minister's Rules 2024* (Amendment Rules) are made under subsection 85GB(1) of the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act) as construed in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (Acts Interpretation Act).

Under subsection 33(3) of the Acts Interpretation Act, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke and amend or vary any such instrument.

### **PURPOSE AND OPERATION**

The *Child Care Subsidy Minister's Rules 2017* (the Principal Rules) prescribe matters that are required or permitted (or which are otherwise necessary or convenient) for the purposes of the Family Assistance Act or the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Assistance Administration Act).

The Amendment Rules amend the Principal Rules to have the effect that:

- income support recipients participating in Parent Pathways, the new voluntary pre-employment service for parents with young children, will be entitled to 36 hours of subsidised care per fortnight under the activity test.
- former compulsory ParentsNext participants will have their activity test result (the maximum number of hours for which Child Care Subsidy (CCS) or Additional Child Care Subsidy (ACCS) can be paid to the individual in a CCS fortnight) maintained from 11 November 2024 to 11 May 2025. This will give time for participants to transition to Parent Pathways, which commences from 1 November 2024, while ensuring parents maintain the same entitlements during this transition period.
- former compulsory ParentsNext participants will have an increased activity test result of 100 hours, rather than 36 hours, per fortnight for the period from 12 June 2023 to 9 June 2024. This measure has a retrospective beneficial effect and is required due to temporary arrangements to implement the Minister for Employment and Workplace Relations' 2023-24 Budget measure to transition from compulsory to voluntary participation in ParentsNext.

- child care providers run by States and Territories will be able to discount fees for preschool programs, in alignment with existing Third Party Payment arrangements for preschool children.
- the Early Childhood Education and Care (ECEC) Worker Retention Payment Grant Opportunity is prescribed in the Principal Rules for the purposes of the special appropriation in the Family Assistance Administration Act for the 2024-25 financial year. This program is intended to ensure ECEC workers are fairly remunerated, to help attract and retain ECEC workers, and to ensure that ECEC remains accessible and affordable to families.

### *Parent Pathways*

Parent Pathways is a voluntary pre-employment service for parents with young children starting from 1 November 2024. It will provide practical support to parents facing disadvantage to improve their future economic security. ParentsNext, a program to assist parents with young children plan and prepare for work, will cease on 31 October 2024. Participants from ParentsNext may be eligible to transition and connect with Parent Pathways.

Parents who are recipients of certain income support payments (Parenting Payment and Special Benefit) and who participate in Parent Pathways will be entitled to an individual CCS activity test result of 36 subsidised hours per fortnight. This maintains the existing entitlement granted for ParentsNext participants.

To prevent disruptions to participants' CCS entitlement between ParentsNext ceasing and participants commencing in Parent Pathways, transitional arrangements will be established. Any individuals who have an activity test result of 36 subsidised hours on 31 October 2024, due to their participation in ParentsNext, will retain that 36 hour CCS activity test result until 11 May 2025. Some of these individuals may have a higher activity test result, for example, because they also undertake recognised activities such as work or study.

Former compulsory ParentsNext participants will have an increased activity test result of 100 hours, rather than 36 hours, per fortnight for the period from 12 June 2023 to 9 June 2024. This measure has a retrospective beneficial effect and is required due to temporary arrangements to implement the Minister for Employment and Workplace Relations' 2023-24 Budget measure to transition from compulsory to voluntary participation in ParentsNext. To provide certainty for ParentsNext participants who made decisions about early childhood education and care usage on the basis of the temporary arrangements, the Principal Rules will be amended to confirm those arrangements.

### *Provider discounts and third party payments*

Subsection 201BB(1) of the Family Assistance Administration Act allows the Minister to make rules prescribing events and circumstances when the provider may give a discount on their gap fee (prescribed circumstances discount).

The Amendment Rules introduce a new prescribed circumstances discount for sessions of care in a preschool program in a centre-based day care service run by a State or Territory provider. This means families attending State or Territory run early childhood education and care services can access an allowable provider discount for preschool children in the 2 years before full-time schooling without impacting their CCS entitlements. The amendment mirrors existing third party payment provisions where a State or Territory provides fee relief for children attending a privately-run centre-based day care service.

The Amendment Rules also remove references to redundant third party payments (for example third party payments which were made for a finite period which has now ended).

### *Special appropriation for ECEC Worker Retention Payments*

The Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024 (Special Account Bill) is intended to establish a special account to fund grants that support a remuneration increase for workers in the ECEC sector from 1 July 2025. The Amendment Rules will ensure that funding is supported by the existing special appropriation in the Family Assistance Administration Act for the 2024-25 financial year. This will allow payments to commence in December 2024 while a payment system is built to support grants made under the Special Account Bill from mid-2025.

### *Other minor amendments*

The Amendment Rules also include other minor amendments, such as updating references to certain instruments that have now been replaced and removing provisions that refer to programs that no longer exist.

## **IMPACT ANALYSIS**

The Office of Impact Analysis has advised that no Impact Analysis is required for the Amendment Rules because they are unlikely to have more than a minor impact (reference number: OIA24-07631).

## **COMMENCEMENT**

Sections 1 to 4, and Parts 2, 3 (except items 8 and 12) of Schedule 1 to the Amendment Rules will commence the day after the Amendment Rules are registered.

Part 1 (except item 1) of Schedule 1 to the Amendment Rules will commence on 1 November 2024.

Part 4 commences on 18 August 2020.

Part 5 of Schedule 1 to the Amendment Rules will commence on 1 December 2024.

#### *Retrospective commencement*

Item 1 of Part 1 to Schedule 1 to the Amendment Rules commences on 12 June 2023. This item provides that former compulsory ParentsNext participants will have an increased activity test result of 100 hours, rather than 36 hours, per fortnight for the period from 12 June 2023 to 9 June 2024. This measure has a retrospective beneficial effect and is required due to temporary arrangements to implement the Minister for Employment and Workplace Relations's 2023-24 Budget measure to transition from compulsory to voluntary participation in ParentsNext. To provide certainty for ParentsNext participants who made decisions about early childhood education and care usage on the basis of the temporary arrangements, the Principal Rules will be amended to confirm those arrangements. The retrospective commencement of these amendments will not affect a person's rights so as to disadvantage the person, or impose a relevant liability on that person.

Items 8 and 12 of Part 3 of Schedule 1 to the Amendment Rules commence on 26 January 2019. These amendments have a beneficial effect and their retrospective commencement will not affect a person's rights so as to disadvantage the person, or impose a relevant liability on that person. The amendments ensure that individuals studying a secondary course or preparatory course specified in the *Student Assistance (Education Institutions and Courses) Determination 2019*, which commenced on 26 January 2019, would meet the study requirements required to meet the activity requirements to be eligible for ACCS (transition to work) from the time the current instrument commenced.

Part 4 of Schedule 1 to the Amendment Rules commences on 18 August 2020. The amendment in Part 4 has a beneficial effect and its retrospective commencement does not affect a person's rights so as to disadvantage the person, or impose a relevant liability on that person. The amendment ensures that an individual with a child diagnosed with or undergoing assessment for a condition in the *Disability Care Load Assessment (Child) Determination 2020*, which commenced on 18 August 2020, is eligible for CCS or ACCS (child wellbeing) from the time this determination commenced.

#### **CONSULTATION**

The Department of Education (the Department) has consulted with Services Australia and the Department of Employment and Workplace Relations (DEWR) about the implementation of the CCS activity test result for participants of ParentsNext and Parent Pathways. Both agencies support the measures. The Department has consulted with the

Victorian Department of Education on the provider discounts measure, to ensure the provisions would enable the discounts to be applied as intended by Victoria.

Consultation was undertaken with the Department of Social Services (DSS) and Jobs and Skills Australia on updating the outdated references to the *Disability Care Load Assessment (Child) Determination 2010*, *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2)* and the *Ratings Summary—Labour Market Analysis of Skilled Occupations*.

The Department did not undertake specific consultation on the amendments to the Principal Rules relating to the special appropriation for ECEC Worker Retention Payments. However, development of the ECEC Worker Retention Payment involved extensive consultation with key stakeholders in the ECEC sector, including service providers, educators, unions, and advocacy organisations. This included consultation through the ECEC supported bargaining process as part of Fair Work Commission proceedings and consideration of submissions received in response to the ACCC and Productivity Commission inquiries into ECEC. Consultation has also been undertaken with relevant Commonwealth departments, such as DEWR, concerning alignment of the ECEC Worker Retention Payment with workplace relations requirements including recent reforms resulting from the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, and the Department of Finance in relation to costs.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### Child Care Subsidy Amendment (Parent Pathways and Other Measures) Minister's Rules 2024

The *Child Care Subsidy Amendment (Parent Pathways and Other Measures) Minister's Rules 2024* (the 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**

The *Child Care Subsidy Minister's Rules 2017* (the Principal Rules) prescribe matters that are required or permitted (or which are otherwise necessary or convenient) for the purposes of the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act) or the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Assistance Administration Act).

The Amendment Rules amend the Principal Rules to have the effect that:

- income support recipients participating in Parent Pathways, the new voluntary pre-employment service for parents with young children, will be entitled to 36 hours of subsidised care per fortnight under the activity test
- former compulsory ParentsNext participants will have their activity test result (the maximum number of hours for which Child Care Subsidy (CCS) or Additional Child Care Subsidy (ACCS) can be paid to the individual in a CCS fortnight) maintained from 11 November 2024 to 11 May 2025. This will give time for participants to transition to Parent Pathways, which commences from 1 November 2024, while ensuring parents maintain the same entitlements during this transition period.
- former compulsory ParentsNext participants will have an increased activity test result of 100 hours, rather than 36 hours, per fortnight for the period from 12 June 2023 to 9 June 2024. This measure has a retrospective beneficial effect and is required due to temporary arrangements to implement the Minister for Employment and Workplace Relations' 2023-24 Budget measure to transition from compulsory to voluntary participation in ParentsNext.
- CCS-approved providers run by states and territories will be able to discount fees for preschool programs, in alignment with existing Third Party Payment arrangements for preschool children.
- ensure that the Early Childhood Education and Care (ECEC) Worker Retention Payment Grant Opportunity is prescribed in the Principal Rules for the purposes of the special appropriation in the Family Assistance Administration Act for the 2024-25 financial year. This program is intended to ensure ECEC workers are fairly remunerated, to help attract and retain ECEC workers, and to ensure that ECEC remains accessible and affordable to families.

## *Parent Pathways*

Parent Pathways is a voluntary pre-employment service for parents with young children starting from 1 November 2024. It will provide practical support to parents facing disadvantage to improve their future economic security. ParentsNext, a program to assist parents with young children plan and prepare for work, will cease on 31 October 2024. Participants from ParentsNext may be eligible to transition and connect with Parent Pathways.

Parents who are recipients of certain income support payments (Parenting Payment and Special Benefit) and who participate in Parent Pathways will be entitled to an individual CCS activity test result of 36 subsidised hours per fortnight. This maintains the existing entitlement granted for ParentsNext participants.

To prevent disruptions to participants' CCS entitlement between ParentsNext ceasing and participants commencing in Parent Pathways, transitional arrangements will be established. Any individuals who have an activity test result of 36 subsidised hours on 31 October 2024, due to their participation in ParentsNext, will retain that 36 hour CCS activity test result until 11 May 2025. Some of these individuals may have a higher activity test result, for example, because they also undertake recognised activities such as work or study.

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## *Provider discounts and third party payments*

Subsection 201BB(1) of the Family Assistance Administration Act allows the Minister to make rules prescribing events and circumstances when the provider may give a discount on their gap fee (prescribed circumstances discount).

The Amendment Rules introduce a new prescribed circumstances discount for sessions of care in a preschool program in a centre-based day care service run by a State or Territory provider. This means families attending State or Territory run early childhood education and care services can access an allowable provider discount for preschool children in the 2 years before full-time schooling without impacting their CCS entitlements. The amendment mirrors existing third party payment provisions where a State or Territory provides fee relief for children attending a privately-run centre-based day care service.

The Amendment Rules also remove references to redundant third party payments (for example third party payments which were made for a finite period which has now ended).

### *Special appropriation for ECEC Worker Retention Payments*

The Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024 (Special Account Bill) is intended to establish a special account to fund grants that support a remuneration increase for workers in the ECEC sector from 1 July 2025. The Amendment Rules will ensure that funding is supported by the existing special appropriation in the Family Assistance Administration Act for the 2024-25 financial year. This will allow payments to commence in December 2024 while a payment system is built to support grants made under the Special Account Bill from mid-2025.

### *Other minor amendments*

The Amendment Rules also include other minor amendments, such as updating references to certain instruments that have now been replaced and removing provisions that refer to programs that no longer exist.

### **Human rights implications**

The Instrument engages the following rights:

- the right to education under Article 13(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and under Articles 28 and 29 of the *Convention on the Rights of the Child* (CRC), read with Articles 3, 4 and 18(2);
- the rights contained in the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), particularly Articles 2(c) and 3;
- the rights of parents and children under the CRC, particularly Article 18;
- the right to the enjoyment of just and favourable conditions of work under Article 7 of the ICESCR.

### Right to education

Article 13(1) of the ICESCR relates to the right of everyone to education ‘directed to the full development of the human personality and the sense of its dignity’, including that ‘[t]he development of a system of schools at all levels shall be actively pursued’.

Article 3 of the CRC recognises that in all actions concerning children, including those undertaken by administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 4 of the CRC requires States Parties to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the CRC. These rights include the right of the child to education (Article 28).

Article 18(2) of the CRC requires States Parties to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and to ensure the development of institutions, facilities and services for the care of children.



Paragraph 3 of Article 18 requires States Parties to take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.

This Instrument supports the right to education by improving access and affordability for preschool programs offered at approved, centre-based child care services, by enabling State and Territory governments to make contributions to further reduce session fees for these programs where the State or Territory operates the service. Delivery of preschool programs at child care services means that working parents have greater access and choice in relation to early childhood education for their children of preschool age.

Accordingly, the Instrument will support children and families to be able to access early childhood education and care that is safe and affordable and supports the child to also attend a preschool program.

#### Rights contained in the CEDAW

The CEDAW provides that in relation to discrimination against women, States Parties must:

- ensure the effective protection of women against acts of discrimination (Article 2(b));
- ensure the full development and advancement of women (Article 3).

This instrument promotes the rights contained in the CEDAW as it promotes the full development and advancement of women by ensuring a particular activity test result for participants of Parent Pathways. This measure improves access and affordability of early childhood education and care, making it easier for parents (mostly women) who are facing disadvantage to participate in pre-employment support and activities.

Parent Pathways provides practical support for women who are parents to take steps towards and to achieve their individual goals. This may include undertaking study, or training, or participating in work readiness support, or local services to address challenges they face before they are ready to progress towards their goals.

Parent Pathways is a voluntary service that respects women's choice to participate and determine the goals they would like to achieve while prioritising their caring responsibilities. The service gives parents access to more financial assistance, and greater discretion on how that financial assistance is used, to achieve their goals. The service is an important pathway for women to harness their strengths and build capabilities, social networks, community connections, and self-confidence, to improve their future economic security and reduce their risks of disadvantage becoming entrenched or intergenerational.

One of the main barriers for women with young children, to participate meaningfully in the support offered by Parent Pathways, or in the labour market, is having access to affordable early childhood education and care, particularly for families facing disadvantage. Ensuring a CCS activity test result of 36 subsidised hours per fortnight for parenting payment and Special Benefit recipients who participate in Parent Pathways will ensure that CCS benefits

that are currently available in ParentsNext, will be available in Parent Pathways. This will support women to participate in Parent Pathways, and in services and activities to achieve their goals.

#### Rights of parents and children

Article 18(2) of the CRC requires States Parties to provide appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and ensure the development of institutions, facilities and services for the care of children.

This Instrument ensures that the existing special appropriation in the Family Assistance Administration Act will support grants to early childhood education and care (ECEC) providers to fund remuneration increases for ECEC workers employed by these providers. The Grant Opportunity Guidelines will impose conditions on ECEC providers to pass on all funding to ECEC workers in the form of a remuneration increase, constrain fees charged to families and ensure a workplace instrument is in place.

Ahead of the measures in the Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024, this Instrument will make it easier for parents and children in Australia to access high quality and affordable ECEC. By facilitating the payments from December 2024, the Instrument will help to improve attraction and retention in the sector, which in turn supports growth and increases the number of services able to deliver high quality ECEC.

#### Right to the enjoyment of just and favourable working conditions

Article 7 of the ICESCR requires State Parties to recognise the right of everyone to the enjoyment of just and favourable working conditions. It also specifically recognises the right to fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work. The International Labour Organization's *Equal Remuneration Convention 1950* (No. 100) also recognises the principle of equal remuneration.

The Instrument facilitates Commonwealth funding for ECEC providers to provide a remuneration increase for ECEC workers from 1 December 2024. This directly addresses the pay inequity faced by ECEC workers and takes decisive action to support their retention and professional growth.

The Grant Opportunity Guidelines will require, as one eligibility criterion for funding, that providers have a legally enforceable workplace instrument. This will provide a mechanism for workers to legally enforce their rights and entitlements.

Finally, funding to be provided under grants relying on the special appropriation will address workforce shortages: that is, it will assist with the retention of existing workers and make the sector more attractive to prospective workers. This will complement existing initiatives to create a more sustainable ECEC workforce.

**Conclusion**

The Instrument is compatible with human rights because it promotes the protection of human rights recognised under the ICESCR, CEDAW and CRC.

**Minister for Education, Jason Clare**

***Child Care Subsidy Amendment (Parent Pathways and Other Measures) Minister's Rules  
2024***

**EXPLANATION OF PROVISIONS**

**Section 1: Name**

1. This section provides that the name of the instrument is the *Child Care Subsidy Amendment (Parent Pathways and Other Measures) Minister's Rules 2024* (Amendment Rules).

**Section 2: Commencement**

2. Sections 1 to 4, and Parts 2 and 3(except items 8 and 12) of Schedule 1 to the Amendment Rules will commence the day after the Amendment Rules are registered.
3. Part 1 (except item 1) commences 1 November 2024.
4. Item 1 of Part 1 of Schedule 1 to the Amendment Rules will commence on 12 June 2023. This amendment has a beneficial effect and does not affect a person's rights so as to disadvantage the person, or impose a relevant liability on that person. In particular, the amendment retrospectively increases the Minister's rules result from 36 to 100 for compulsory ParentsNext participants for a transitional period.
5. Items 8 and 12 of Part 3 of Schedule 1 to the Amendment Rules commence on 26 January 2019. These amendments have a beneficial effect and do not affect a person's rights so as to disadvantage the person, or impose a relevant liability on that person. The amendments ensure that individuals studying a secondary course or preparatory specified in the *Student Assistance (Education Institutions and Courses) Determination 2019*, which commenced on 26 January 2019, would meet the study requirements required to meet the activity requirements to be eligible for ACCS transition to work).
6. Part 4 of Schedule 1 to the Amendment Rules commences on 18 August 2020. This amendment in Part 5 has a beneficial effect and does not affect a person's rights so as to disadvantage the person, or impose a relevant liability on that person. The amendment ensures that an individual with a child diagnosed with or undergoing assessment for a condition in the *Disability Care Load Assessment (Child) Determination 2020*, which commenced on 18 August 2020, is eligible for CCS or ACCS (child wellbeing).
7. Part 5 commences on 1 December 2024. This will ensure that funding for the Worker Retention Payment is supported by the existing special appropriation in the Family Assistance Administration Act for the 2024-25 financial year. This will allow

payments to commence in December 2024 while a payment system is built to support grants made under the Special Account Bill from mid-2025.

### **Section 3: Authority**

8. This section provides that the Amendment Rules are made under subsection 85GB(1) of the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act). Subsection 85GB(1) allows the Minister to make rules required or permitted to be prescribed by the Family Assistance Act or the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Assistance Administration Act), or necessary or convenient to be prescribed for carrying out or giving effect to certain provisions of the Family Assistance Act and the Family Assistance Administration Act, which include provisions relating to Child Care Subsidy (CCS) or Additional Child Care Subsidy (ACCS).

### **Section 4: Schedules**

9. This section provides that the *Child Care Subsidy Minister's Rules 2017* (Principal Rules) are amended or repealed as set out in the applicable items in the Schedules to the Amendment Rules.

## **SCHEDULE 1 – Amendments**

### **PART 1 – Parent Pathways**

#### **Item 1 – After section 39**

10. Section 39 of the Principal Rules prescribes that individuals receiving payments with mutual obligation requirements, including the parenting payment, receive a Minister's rule result of 36. Recipients of the parenting payment could meet this requirement by participating in the ParentsNext program. The program was designed to help parents with children under 6 to plan and prepare for future study or employment.
11. Item 1 inserts new section 39A to provide former compulsory ParentsNext participants with an increased activity test result of 100 hours, rather than 36 hours, per fortnight for the period from 12 June 2023 to 9 June 2024. This measure has a retrospective beneficial effect and is required due to temporary arrangements to implement the Minister for Employment and Workplace Relations' 2023-24 Budget measure to transition from compulsory to voluntary participation in ParentsNext. To provide certainty for compulsory ParentsNext participants who made decisions

about early childhood education and care usage on the basis of the temporary arrangements, the Principal Rules will be amended to confirm those arrangements.

Item 2 – After section 39

12. ParentsNext will cease on 31 October 2024. A new voluntary pre-employment service for parents with young children, called Parent Pathways, will start from 1 November 2024.
13. Item 2 inserts new section 39B into the Principal Rules. Subsection 39B(1) provides that a Minister’s rule result of 36 will apply for an individual for a CCS fortnight, if they receive the parenting payment or a special benefit and they have commenced in Parent Pathways on the first day of a CCS fortnight.
14. Parent Pathways providers will commence eligible parents in Parent Pathways by registering them in the Parent Pathways service. In limited circumstances, parents may transfer to a different provider or pause their participation if they need a temporary break, for example, due to illness, or other for other reasons. A Minister’s rule result of 36 will continue to apply for these individuals in these circumstances.
15. New subsection 39B(2) provides that a Minister’s rule result of 36 will apply for CCS fortnights that commence in the period beginning from 11 November 2024 to 11 May 2025, where the individual was a ParentsNext participant who had a Minister’s rule result of 36 for the CCS fortnight commencing 28 October 2024. The first CCS fortnight in the period specified in new subsection 39B(2) commences on 11 November 2024 and the last CCS fortnight in this period commences on 28 April 2025. This amendment will ensure there is no gap in entitlement for parents due to ParentsNext ceasing on 31 October 2024 and Parent Pathways commencing on 1 November 2024. It will also ensure the continuity of a Minister’s rules result of 36 for a 6-month transition period to give time for ParentsNext participants to transition to Parent Pathways.
16. An individual would be taken to be ‘participating’ in ParentsNext (or Parent Pathways), on a day from the date of commencing in the relevant service until the day that they exit).
17. An individual’s activity test result is the highest result in the applicable column in the table in clause 11 of Schedule 2 to the Family Assistance Act. It is possible for an individual to have a Minister’s rule result of 36 but have a higher activity test result

because they have a higher result as specified in the table in clause 11, for example, because the individual is also undertaking recognised activity such as work or study.

## **PART 2 – Provider discounts and third party payments**

### **Item 3 – Subsection 16A(3C)**

18. Item 3 repeals subsection 16A(3C) of the Principal Rules to remove a redundant reference to a payment that has ceased.
19. Subparagraph 2(2)(b)(i) of Schedule 2 to the Family Assistance Act provides that the hourly session fee is reduced by the hourly rate of any payment which the individual benefits from in respect to that session. Paragraph 2(2A)(c) of Schedule 2 to the Family Assistance Act provides that subparagraph 2(2)(b)(i) does not apply to payments that are prescribed in the Principal Rules. Section 16A of the Principal Rules prescribes payments for the purpose of paragraph 2(2A)(c) of the Family Assistance Act.
20. Subsection 16A(3C) prescribed the \$500 voucher paid to individuals by the New South Wales Government between 1 January 2022 to 1 July 2023. As this period is now over, the provision can be repealed.

### **Item 4 – Subsection 16A(3D) (note)**

21. Subsection 16A(3D) prescribes payments made by a State or Territory that do not reduce the hourly session fee for a session of care provided to a child for the purpose of paragraph 2(2A)(c) of Schedule 2 to the Family Assistance Act. These State or Territory payments are for sessions of care provided between 1 January 2023 to 31 December 2025 by a centre-based day care service in a preschool program (meaning an early childhood education program provided to children before their first year of school).
22. The note in subsection 16A(3D) provides examples of State or Territory payments that would be captured by subsection 16A(3D). Item 4 amends the note to subsection 16A(3D) to specify the New South Wales Start Strong program, which provides funding for families with children attending preschool at approved services in New South Wales, and remove the references to redundant Queensland preschool programs.

Items 5, 6 and 7 – Section 54B (at the end of the heading), section 54B, at the end of section 54B

23. Subsection 201BB(1) of the Family Assistance Administration Act allows the Minister to prescribe events and circumstances when the provider may allow an individual a discount on their gap fee.
24. Item 7 inserts a new subsection 54B(2) to provide for an additional prescribed circumstances discount, where a session of care is provided in a preschool program between 1 January 2025 to 31 December 2025 and that session of care is provided by a centre-based day care service operated by a State or Territory provider, or an authority of a State or Territory. The program must be aimed at children in the years that are 2 or 3 years before grade 1 of school (“three year old preschool” or “four year old preschool”).
25. The amendment ensures that families attending State or Territory-run early childhood education and care services can access an allowable provider discount for preschool children without impacting their CCS entitlements.
26. Item 5 adds ‘or by States or Territories’ to the heading of section 54B, to make clear that the section prescribes circumstances for a discount for sessions of care provided by States or Territories.
27. Item 6 is a technical consequential change to section 54B.

**PART 3 - ACCS (Transition to Work) skills requirements**

Items 8 and 12 – Subparagraphs 13(7)(a)(i) and (ii), Subsection 13(12) (table item 1)

28. Section 13 of the Principal Rules prescribes requirements that an individual must meet to be eligible for ACCS (transition to work). Subsection 13(7) sets out the study requirements in relation to an approved course of education or study that an individual must meet.
29. Items 8 and 12 replace the outdated reference to the *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2)* with the current *Student Assistance (Education Institutions and Courses) Determination 2019* in subsections 13(7) and 13(12) of the Principal Rules.

Item 9 – Subparagraph 13(7)(c)(ii)

30. For the purposes of meeting the study requirements to be eligible for ACCS (transition to work), subparagraph 13(7)(c)(ii) allows an individual to study at a level below a qualification already achieved, for an occupation on the *Ratings Summary—Labour Market Analysis of Skilled Occupations*.
31. Item 9 amends the Principal Rules to replace the outdated reference to the *Ratings Summary—Labour Market Analysis of Skilled Occupations* (previously prepared by



the then Department of Education, Skills and Employment) with the current *Skills Priority List* (prepared by Jobs and Skills Australia).

#### Item 10 – Subsection 13(7) (note)

32. Item 10 amends the note to subsection 13(7) of Principal Rules to refer to the current Skills Priority List rather than the outdated *Ratings Summary—Labour Market Analysis of Skilled Occupations*. The current Skills Priority List is published on the internet and can be freely accessed and used by members of the public.

#### Item 11 – Subsection 13(9)

33. Item 11 amends the reference to the Australian Qualifications Framework Council in subsection 13(9) of the Principal Rules, as this entity no longer exists. Item 11 also provides the website address for the Australian Qualifications Framework, which can be freely accessed and used by members of the public, and clarifies that the website address is current as of 2024.

### **PART 4—Disability references**

#### Item 13 – Paragraph 8C(2)(c)

34. Section 8C of the Principal Rules prescribes classes of children for whom CCS and ACCS is payable. This includes children diagnosed with or undergoing assessment for a condition in the *Disability Care Load Assessment (Child) Determination 2010*.
35. Item 13 amends paragraph 8C(2)(c) of the Principal Rules to replace the outdated reference to the *Disability Care Load Assessment (Child) Determination 2010* with the current *Disability Care Load Assessment (Child) Determination 2020*.

### **Part 5—Grant purposes supported by standing appropriation**

#### Item 14

36. Subsection 233(1) of the Family Assistance Administration Act provides that payments under the Act are to be made out of the Consolidated Revenue Fund, and are appropriated accordingly. Subsection 233(1) does not apply to a payment of an amount under a funding agreement entered into under section 85GA of the Family Assistance Act, unless the payment is for a purpose prescribed in the Minister's rules (see subsection 233(2) of the Family Assistance Administration Act).
37. For the purpose of subsection 233(2) of the Family Assistance Administration Act, item 14 inserts a new subsection 78(1A) into the Principal Rules to prescribe payments made for the purposes of an agreement entered into under the Early Childhood Education and Care Worker Retention Payment Grant Opportunity.

#### Item 15

38. Subsection 233(3) of the Family Assistance Administration Act provides that the Minister's rules must prescribe the total amount that may be paid in respect of a financial year under subsection 233(1) because of subsection 233(2).
39. The Minister's rules must prescribe the total amount for the financial year before the start of the year and may be varied at any time before the financial year ends (see subsection 233(4) of the Family Assistance Administration Act).
40. Item 15 amends subsection 78(10) of the Principal Rules to increase the total amount prescribed for the 2024-25 financial year to \$745 million.

#### Item 16

41. Subsection 233(5) of the Family Assistance Administration Act provides that the Minister's rules may prescribe the total amount that may be paid in respect of a financial year under subsection 233(1) because of subsection 233(2) for a purpose prescribed by the Minister's rules made for subsection 233(2).
42. Item 16 inserts new subsection 78(11A) into the Principal Rules to prescribe the total amount of \$741 million that may be paid for the purpose of an agreement entered into under the Early Childhood Education and Care Worker Retention Payment Grant Opportunity specified in new subsection 78(1A).