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The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Family Assistance Legislation  
Amendment (Child Care Rebate) Bill  
2011**

**No.     , 2011**

*(Employment Participation and Childcare)*

**A Bill for an Act to amend the law in relation to  
child care benefit and child care rebate, and for  
related purposes**



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1     **A Bill for an Act to amend the law in relation to**  
2     **child care benefit and child care rebate, and for**  
3     **related purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act may be cited as the *Family Assistance Legislation*  
7                     *Amendment (Child Care Rebate) Act 2011*.

8     **2 Commencement**

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

13

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, items 1 to 12	The day after this Act receives the Royal Assent.	
3. Schedule 1, item 13	The day after this Act receives the Royal Assent.  However, if Schedule 5 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.	
4. Schedule 1, items 14 to 21	At the same time as the provision(s) covered by table item 2.	
5. Schedule 1, item 22	The day after this Act receives the Royal Assent.  However, if Part 1 of Schedule 1 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.	
6. Schedule 1, item 23	At the same time as the provision(s) covered by table item 2.	
7. Schedule 1, item 24	The day after this Act receives the Royal Assent.  However, if Part 1 of Schedule 1 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.	
8. Schedule 1, items 25 to 34	At the same time as the provision(s) covered by table item 2.	

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
9. Schedule 1, item 35	The day after this Act receives the Royal Assent.  However, if Part 1 of Schedule 1 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.	
10. Schedule 1, items 36 to 39	At the same time as the provision(s) covered by table item 2.	
11. Schedule 1, item 40	The day after this Act receives the Royal Assent.  However, if Part 1 of Schedule 1 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.	
12. Schedule 1, items 41 and 42	At the same time as the provision(s) covered by table item 2.	
13. Schedule 1, item 43	The day after this Act receives the Royal Assent.  However, if Schedule 5 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.	
14. Schedule 1, items 44 to 54	At the same time as the provision(s) covered by table item 2.	
15. Schedule 1, item 55	The day after this Act receives the Royal Assent.  However, if Schedule 5 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not	

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
	commence at all.	
16. Schedule 1, items 56 to 61	At the same time as the provision(s) covered by table item 2.	
17. Schedule 1, item 62	<p>The day after this Act receives the Royal Assent.</p> <p>However, if Schedule 5 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.</p>	
18. Schedule 1, items 63 to 67	At the same time as the provision(s) covered by table item 2.	
19. Schedule 1, items 68 and 69	<p>The day after this Act receives the Royal Assent.</p> <p>However, if Part 1 of Schedule 1 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.</p>	
20. Schedule 1, item 70	At the same time as the provision(s) covered by table item 2.	
21. Schedule 1, item 71	<p>The day after this Act receives the Royal Assent.</p> <p>However, if Part 1 of Schedule 1 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences on or before that day, the provision(s) do not commence at all.</p>	
22. Schedule 1, item 72	At the same time as the provision(s) covered by table item 2.	
23. Schedule 1, items 73 to 75	<p>The day after this Act receives the Royal Assent.</p> <p>However, if Part 1 of Schedule 1 to the</p>	



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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
	<i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011 commences on or before that day, the provision(s) do not commence at all.</i>	
24. Schedule 1, items 76 to 81	At the same time as the provision(s) covered by table item 2.	
25. Schedule 2, Part 1	Immediately after the commencement of Part 1 of Schedule 1 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> .	
26. Schedule 2, Part 2	At the same time as Part 1 of Schedule 1 to the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences.	
27. Schedule 2, Part 3	At the same time as the provision(s) covered by table item 25.	
28. Schedule 3	At the same time as the provision(s) covered by table item 2.	

1 Note: This table relates only to the provisions of this Act as originally  
2 enacted. It will not be amended to deal with any later amendments of  
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.  
5 Information may be inserted in this column, or information in it  
6 may be edited, in any published version of this Act.

### 7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or  
9 repealed as set out in the applicable items in the Schedule  
10 concerned, and any other item in a Schedule to this Act has effect  
11 according to its terms.  
12

1  
2 **Schedule 1—Amendments to allow weekly**  
3 **payment of child care rebate**

4 **Part 1—Amendments**

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

6 **1 Before section 57EA**

7 Insert:

8 **57EAA Eligibility for child care rebate—for a week**

9 (1) An individual is eligible for child care rebate for a week in respect  
10 of a child if:

11 (a) a determination is in force under section 50F of the Family  
12 Assistance Administration Act during the week to the effect  
13 that the individual is conditionally eligible for child care  
14 benefit by fee reduction in respect of the child; and

15 (b) one or more sessions of care are provided by one or more  
16 approved child care services to the child during the week;  
17 and

18 (c) under Subdivision G of Division 4, one or more of the  
19 following is the weekly limit of hours applicable to the  
20 individual in the week:

21 (i) the 50 hour limit (see section 54);

22 (ii) the more than 50 hour limit (see section 55);

23 (iii) the 24 hour care limit under section 56; and

24 (d) the Secretary has calculated an amount of fee reduction under  
25 subsection 50Z(1) of the Family Assistance Administration  
26 Act in respect of the individual and the child for at least one  
27 of those sessions of care provided in the week; and

28 (e) the amount referred to in paragraph (d) is:

29 (i) an amount greater than a nil amount; or

30 (ii) a nil amount because the CCB % applicable to the  
31 individual is zero %; and

32 (f) the individual has made an election, under paragraph  
33 65EAAAA(1)(a) or (b) of the Family Assistance

1 Administration Act, to have child care rebate paid weekly  
2 and the election is in effect for the week.

3 Note 1: If one of the paragraph (c) limits applies, the individual satisfies the  
4 paragraph (c) condition, even if the individual has not used child care  
5 for the child during the week up to the full extent of the limit.

6 Note 2: For the purposes of paragraph (d), it does not matter if the amount is  
7 later recalculated under subsection 50ZA(1) of the Family Assistance  
8 Administration Act.

9 (2) If:

10 (a) a limit mentioned in paragraph (1)(c) does not apply under a  
11 determination in force under section 50H of the Family  
12 Assistance Administration Act for the individual and the  
13 child in the week; but

14 (b) the circumstances in which such a limit applies were  
15 applicable to the individual in that week;

16 then that limit is taken, for the purposes of that paragraph, to be the  
17 weekly limit of hours applicable to the individual in the week.

18 Note: If the only limit applicable to the individual in the week was the limit  
19 of 24 hours under subsection 53(3), then the condition in  
20 paragraph (1)(c) will not be satisfied.

21 (3) The 50 hour limit is taken, for the purposes of paragraph (1)(c), to  
22 be applicable to the individual in the week if it would have been  
23 applicable to the individual in the week but for the fact that the  
24 individual failed to meet the requirements of paragraph 17A(1)(b)  
25 in relation to the week.

## 26 **2 At the end of subsection 57EA(1)**

27 Add:

28 ; and (f) the individual has made an election, under paragraph  
29 65EAAAA(1)(c) of the Family Assistance Administration  
30 Act, to have child care rebate paid quarterly and the election  
31 is in effect for the quarter.

## 32 **3 Before Subdivision A of Division 4A of Part 4**

33 Insert:

1 **Subdivision AA—Child care rebate for a week**

2 **84AAA Amount of the child care rebate—for a week**

3 If the Secretary calculates, under section 65EAAA of the Family  
4 Assistance Administration Act, the amount of child care rebate  
5 applicable in respect of an individual and a child for care provided  
6 for the child by an approved child care service in a week, the  
7 amount is worked out as follows:

8 *Method statement*

- 9 Step 1. Work out the total amount of the individual's approved  
10 child care fees for care provided for the child by the  
11 approved child care service in the week.
- 12 Step 2. Work out the total amount (if any) of so much of the fee  
13 reductions:
- 14 (a) calculated under subsection 50Z(1) of the Family  
15 Assistance Administration Act; or
- 16 (b) recalculated under subsection 50ZA(1) of that Act;  
17 in respect of the individual and the child as are  
18 attributable to the care provided for the child by the  
19 approved child care service in the week.
- 20 Step 3. Work out the total amount of Jobs Education and  
21 Training (JET) Child Care fee assistance (if any) that the  
22 individual is eligible to receive for the child that is  
23 attributable to the care provided for the child by the  
24 approved child care service in the week.
- 25 Step 4. Work out the lesser of the following amounts for the  
26 child:
- 27 (a) the amount worked out using the formula:
- 28 
$$50\% \times \left( \text{Step 1 amount} - \text{Step 2 amount} - \text{Step 3 amount} \right)$$

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(b) the amount worked out by subtracting from the child care rebate limit for the income year in which the week began, the total of the child care rebate (if any) applicable in respect of the individual and the child for each earlier week that falls wholly in that income year (whether paid weekly or quarterly).

Step 5. The amount of child care rebate applicable in respect of the individual and the child for care provided for the child by the approved child care service in the week is:

(a) the step 4 amount reduced by the reduction percentage; or

(b) if the Secretary determines under section 84AAD that the step 4 amount is not to be reduced—the step 4 amount.

**84AAB Component of formula—*approved child care fees***

*General rule—approved child care fees for care provided for a child in a week*

- (1) For the purposes of section 84AAA, the amount of an individual's ***approved child care fees*** for care provided for a child by an approved child care service in a week is the amount of fees for which:
- (a) the individual; or
  - (b) the individual's partner during the week;
- is liable for the care. For this purpose, disregard the weekly limit of hours applicable to the individual in the week.

*Special rule if the week is also a week for the individual's partner for the child*

- (2) However, the individual's approved child care fees for care provided for the child in the week do not include fees that the individual's partner is liable to pay if:
- (a) paragraphs 57EAA(1)(b) to (e) (as affected by subsections 57EAA(2) and (3)) are satisfied for the partner and the child for the week; or

- 1 (b) the week is a base week for the individual’s partner and the  
2 child under section 84AC (partner receiving child care rebate  
3 quarterly).

4 *Disregard amounts passed on to reduce fees*

- 5 (3) For the purposes of this section, disregard any amount passed on to  
6 the individual under section 219B or section 219EA of the Family  
7 Assistance Administration Act for the care.

8 **84AAC Component of formula—reduction percentage**

- 9 (1) For the purposes of section 84AAA, the *reduction percentage* is:  
10 (a) 15%; or  
11 (b) if the Secretary specifies a percentage in an instrument under  
12 subsection (2)—that percentage.  
13 (2) The Secretary may, by legislative instrument, specify a percentage  
14 for the purposes of paragraph (1)(b).

15 **84AAD Component of formula—Secretary determines that step 4**  
16 **amount not to be reduced**

- 17 (1) The Secretary may determine in writing that, for the purposes of  
18 step 5 of the method statement in section 84AAA as it applies in  
19 calculating the amount of child care rebate applicable in respect of  
20 an individual and a child specified in the determination, the step 4  
21 amount is not to be reduced.  
22 (2) A determination under subsection (1) must specify either:  
23 (a) the week or weeks to which it is to apply; or  
24 (b) that it is to apply to weeks beginning on or after a specified  
25 day.  
26 The determination may apply to a week or weeks beginning before  
27 the determination is made.  
28 (3) The Secretary may only make a determination under subsection (1)  
29 in respect of an individual and a child:  
30 (a) if the amount of fee reduction calculated by the Secretary  
31 under subsection 50Z(1) of the Family Assistance  
32 Administration Act in respect of the individual and the child  
33 for sessions of care provided in a week to which the

1 determination applies is a nil amount because the CCB %  
2 applicable to the individual is zero %; or  
3 (b) in other circumstances of a kind determined by the Secretary,  
4 by legislative instrument.

5 **4 Section 84AA (method statement, step 4, paragraph (b))**

6 After “for each earlier quarter in the income year”, insert “(whether paid  
7 weekly or quarterly”.

8 **5 Subsection 84AB(2)**

9 Repeal the subsection, substitute:

- 10 (2) However, the individual’s approved child care fees for the week do  
11 not include fees that the individual’s partner is liable to pay if:  
12 (a) the base week is also a base week for the individual’s partner  
13 and the child; or  
14 (b) paragraphs 57EAA(1)(b) to (e) (as affected by subsections  
15 57EAA(2) and (3)) are satisfied for the partner and the child  
16 for the week (partner receiving child care rebate weekly).

17 **6 Subsections 84AB(3), 84B(3) and 84DB(3)**

18 After “219B”, insert “or section 219EA”.

19 **7 Section 84E**

20 Repeal the section, substitute:

21 **84A Component of each formula—*Jobs Education and Training***  
22 ***(JET) Child Care fee assistance***

23 For the purposes of sections 84AAA, 84AA, 84A and 84DA, *Jobs*  
24 *Education and Training (JET) Child Care fee assistance*, in  
25 relation to a week, means the payment of that name that is paid by  
26 the Commonwealth to the individual in respect of child care  
27 provided by one or more approved child care services to the child  
28 in the week.

29 Note: The individual may be a deceased individual (see step 4 of the method  
30 statement in section 84DA).

31 **8 Subsection 84F(1)**

32 After “sections”, insert “84AAA,”.

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1 ***A New Tax System (Family Assistance) (Administration) Act***  
2 ***1999***

3 **9 Section 3 (after paragraph (h) of the definition of *civil***  
4 ***penalty provision*)**

5 Insert:

6 (ha) subsection 219EA(2);

7 (hb) subsection 219EB(1) or (5);

8 **10 Section 3 (after paragraph (r) of the definition of *civil***  
9 ***penalty provision*)**

10 Insert:

11 (sa) subsection 219QE(1);

12 **11 Subparagraph 49C(1)(a)(ii)**

13 Omit “and (4),”, substitute “, (4) and (6),”.

14 **12 At the end of section 49C**

15 Add:

16 (5) The information or documents required by the Secretary under  
17 paragraph (1)(a) may include information or documents relevant  
18 to:

19 (a) whether the claimant is eligible for child care rebate; and

20 (b) the amount of child care rebate applicable in respect of the  
21 claimant; and

22 (c) determining any other matter in relation to the payment of  
23 child care rebate to the claimant.

24 (6) A claim for payment of child care benefit by fee reduction for care  
25 provided by an approved child care service to a child will be  
26 effective even if the claimant does not make an election under  
27 section 65EAAAA in relation to the care (weekly or quarterly  
28 payments of child care rebate).

29 **13 Before Subdivision AA of Division 4AA of Part 3**

30 Insert:



1 **Subdivision AAA—Election to have child care rebate paid in**  
2 **various ways**

3 **65EAAAA Individual may elect to have child care rebate paid in**  
4 **various ways**

5 (1) An individual may give the Secretary notice in accordance with  
6 subsection (2) electing to have child care rebate in respect of the  
7 individual and a child for care provided for the child in an income  
8 year paid in one of the following ways:

- 9 (a) weekly into a bank account maintained by the individual  
10 alone or jointly or in common with someone else;  
11 (b) weekly to one or more approved child care services;  
12 (c) quarterly into a bank account maintained by the individual  
13 alone or jointly or in common with someone else.

14 Note: Child care rebate is calculated on the basis of reports given by  
15 approved child care services in relation to each week of care under  
16 section 219N. A report for care provided in one week may be given up  
17 to 2 weeks later. A service may therefore give a report for 2 weeks  
18 together. For this reason, payments of child care rebate to an  
19 individual for 2 successive weeks may be made together. The effective  
20 result is then a fortnightly payment.

21 (2) A notice under subsection (1):

- 22 (a) must be given in the form, and in the manner or way,  
23 approved by the Secretary; and  
24 (b) must be given before the beginning of the income year to  
25 which the notice relates unless:  
26 (i) the individual makes a claim after the beginning of the  
27 income year for payment of child care benefit by fee  
28 reduction for care provided for the child by one or more  
29 approved child care services; or  
30 (ii) the Secretary makes a determination under  
31 subsection (4).

32 (3) If an individual gives notice under subsection (1) when making a  
33 claim after the beginning of an income year for payment of child  
34 care benefit by fee reduction, the election is taken to relate to the  
35 income year in which the claim is made.

36 (4) The Secretary may determine, in writing, that an individual may  
37 give notice under subsection (1) after the income year to which the

1 notice relates has begun, if the Secretary is satisfied that there are  
2 exceptional circumstances justifying the determination.

3 Note: A determination of entitlement to child care rebate will be made for  
4 the income year under Subdivision A of this Division. So if a person is  
5 entitled to child care rebate, does not elect to have it paid weekly or  
6 quarterly and has not been receiving child care rebate weekly or  
7 quarterly as a result of a previous election (see section 65EAAAC),  
8 child care rebate will be paid after the end of the income year.

9 **65EAAAB Period in which election has effect**

10 (1) If:

11 (a) a notice is given under paragraph 65EAAAA(1)(a) or (b) to  
12 have child care rebate paid weekly; and

13 (b) the notice is given before the income year to which it relates  
14 has begun;

15 the election takes effect on the first Monday in the income year and  
16 continues in effect for each week all or part of which falls in the  
17 income year.

18 (2) If:

19 (a) a notice is given under paragraph 65EAAAA(1)(c) to have  
20 child care rebate paid quarterly; and

21 (b) the notice is given before the income year to which it relates  
22 has begun;

23 the election takes effect on the first day of the first quarter in the  
24 income year and continues in effect for each quarter which falls in  
25 the income year.

26 (3) If notice is given under subsection 65EAAAA(1) after the income  
27 year to which it relates has begun:

28 (a) the Secretary must determine in writing the day on which the  
29 election is to take effect; and

30 (b) the election continues in effect:

31 (i) if the notice is given under paragraph 65EAAAA(1)(a)  
32 or (b) to have child care rebate paid weekly—for each  
33 week all or part of which falls in the income year; and

34 (ii) if the notice is given under paragraph 65EAAAA(1)(c)  
35 to have child care rebate paid quarterly—for each  
36 quarter which falls in the income year.

1 **65EAAAC Where no election made for an income year**

2 If an individual does not give notice under subsection  
3 65EAAAA(1) for an income year, child care rebate in respect of  
4 the individual and the child for care provided during the income  
5 year is to be paid:

- 6 (a) if child care rebate was paid in respect of the individual and  
7 the child in relation to the immediately preceding income  
8 year—in the same way as it was paid in relation to that year;  
9 and  
10 (b) otherwise—for the income year.

11 **Subdivision AAB—Weekly payments of child care rebate**

12 **65EAAA Weekly payments of child care rebate**

13 If:

- 14 (a) the Secretary is satisfied that an individual is eligible under  
15 subsection 57EAA(1) of the Family Assistance Act for child  
16 care rebate for a week in respect of a child; and  
17 (b) the Secretary has calculated an amount of fee reduction under  
18 subsection 50Z(1) in respect of the individual and the child  
19 for a session or sessions of care provided by an approved  
20 child care service in the week;

21 the Secretary must calculate the amount of the rebate which the  
22 Secretary considers is applicable in respect of the individual and  
23 the child for care provided for the child by the approved child care  
24 service in the week.

25 Note 1: The individual will not be eligible to have child care rebate paid  
26 weekly unless the individual has made an election under paragraph  
27 65EAAAA(1)(a) or (b) to have rebate paid weekly.

28 Note 2: The calculation is made in accordance with section 84AAA of the  
29 Family Assistance Act.

30 Note 3: The amount of fee reduction calculated under subsection 50Z(1) may  
31 be a nil amount (see section 4A).

32 **65EAAB Where individual elects to have child care rebate paid**  
33 **weekly to approved child care service**

- 34 (1) This section applies if:
-

**Schedule 1** Amendments to allow weekly payment of child care rebate  
**Part 1** Amendments

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- 1 (a) the Secretary calculates an amount of child care rebate under  
2 section 65EAAA which the Secretary considers is applicable  
3 in respect of an individual and a child for care provided for  
4 the child by an approved child care service in a week; and  
5 (b) the individual has made an election under paragraph  
6 65EAAAA(1)(b) that is in effect for the week to have child  
7 care rebate paid weekly to the approved child care service.
- 8 (2) The Secretary must notify the approved child care service of the  
9 amount calculated.
- 10 (3) The notice must be given in the form, and in the manner or way,  
11 approved by the Secretary.
- 12 (4) Without limiting subsection (3), the Secretary may approve  
13 notification of the amount by making the information available to  
14 the approved child care service using an electronic interface. In  
15 that case, the approved child care service is taken to have been  
16 given the notice on the day on which the information is made  
17 available.
- 18 Note: The amount is then paid to the approved child care service under  
19 subsection 219QC(1).

20 **65EAAC Where individual elects to have child care rebate paid**  
21 **weekly into own bank account**

- 22 (1) This section applies if:  
23 (a) the Secretary calculates an amount of child care rebate under  
24 section 65EAAA which the Secretary considers is applicable  
25 in respect of an individual and a child for care provided for  
26 the child by an approved child care service in a week; and  
27 (b) the individual has made an election under paragraph  
28 65EAAAA(1)(a) that is in effect for the week to have child  
29 care rebate paid weekly into a bank account nominated and  
30 maintained by the individual.
- 31 (2) The Secretary must pay the amount of child care rebate calculated  
32 under section 65EAAA to the individual, at such time as the  
33 Secretary considers appropriate, by paying it to the credit of the  
34 bank account.

- 1 (3) The Secretary may direct that the whole or a part of an amount that  
2 is to be paid under this section is to be paid in a different way from  
3 that provided for by subsection (2). If the Secretary gives the  
4 direction, the amount is to be paid in accordance with the direction.
- 5 (4) The Secretary must give notice to the individual:
- 6 (a) identifying the week or weeks to which the notice relates (the  
7 *rebate period*); and
- 8 (b) stating:
- 9 (i) the child's name; and
- 10 (ii) the amount of child care rebate calculated in respect of  
11 the rebate period (the *rebate amount*); and
- 12 (iii) the total amount of the individual's approved child care  
13 fees for care provided for the child by the approved  
14 child care service during the rebate period, worked out  
15 under step 1 of the method statement in section 84AAA  
16 of the Family Assistance Act when calculating the  
17 rebate amount; and
- 18 (iv) the total amount (if any) of fee reductions for care  
19 provided for the child by the approved child care service  
20 during the rebate period, worked out under step 2 of the  
21 method statement in section 84AAA of the Family  
22 Assistance Act when calculating the rebate amount.
- 23 (5) The calculation and payment of an amount of child care rebate  
24 applicable under this section is not ineffective by reason only that  
25 any, or all, of the requirements of subsection (4) are not complied  
26 with.
- 27 (6) This section is subject to:
- 28 (a) section 65EAAF; and
- 29 (b) section 65EAB; and
- 30 (c) Part 4; and
- 31 (d) Division 3 of Part 8B.

32 **65EAAD Revising a calculation of weekly child care rebate**

- 33 The Secretary may recalculate an amount of child care rebate  
34 which the Secretary considers is applicable:
- 35 (a) under section 65EAAA; or
- 36 (b) under a previous application of this section;
-

1 in respect of an individual and a child for care provided for the  
2 child by an approved child care service in a week, so long as a  
3 determination of entitlement has not been made under Subdivision  
4 A in respect of the individual and child for the income year in  
5 which all or part of the week falls.

6 **65EAAE If weekly payment is to an approved child care service,**  
7 **notice of revised calculation must be given to the service**

- 8 (1) This section applies if:
- 9 (a) the Secretary, under section 65EAAD, recalculates an  
10 amount of child care rebate which the Secretary considers is  
11 applicable in respect of an individual and a child for care  
12 provided for the child by an approved child care service in a  
13 week; and
  - 14 (b) the individual has made an election under paragraph  
15 65EAAAA(1)(b) that is in effect for the week to have child  
16 care rebate paid weekly to the approved child care service.
- 17 (2) Subject to subsection (3), the Secretary must notify the approved  
18 child care service of the recalculated amount.
- 19 (3) The Secretary need not notify the approved child care service of  
20 the recalculated amount if the amount is reduced, and the  
21 recalculation is for a reason other than the substitution or  
22 withdrawal by the service of a report given under section 219N.
- 23 (4) The notice must be given in the form, and in the manner or way,  
24 approved by the Secretary.
- 25 (5) Without limiting subsection (4), the Secretary may approve  
26 notification of the amount by making the information available to  
27 the approved child care service using an electronic interface. In  
28 that case, the approved child care service is taken to have been  
29 given the notice on the day on which the information is made  
30 available.

31 Note: The effect of a recalculation on payments to an approved child care  
32 service is dealt with in subsection 219QC(2) and section 219QD.

33 **65EAAF Effect of revised calculation—payment to the individual**

- 34 (1) This section applies if:
-

- 1 (a) the Secretary, under section 65EAAD, recalculates an  
2 amount of child care rebate which the Secretary considers is  
3 applicable in respect of an individual and a child for care  
4 provided for the child by an approved child care service in a  
5 week; and  
6 (b) the individual has made an election under paragraph  
7 65EAAAA(1)(a) that is in effect for the week to have child  
8 care rebate paid weekly into a bank account nominated and  
9 maintained by the individual.
- 10 (2) If the recalculation increases the amount of child care rebate  
11 applicable in respect of the individual and the child for care  
12 provided for the child by the service in the week, then subsections  
13 65EAAC(2), (3) and (6) apply to the increase as if the increase  
14 were the amount applicable under section 65EAAA.
- 15 (3) If the recalculation decreases the amount of child care rebate  
16 applicable in respect of the individual and the child for care  
17 provided for the child by the service in the week, the Secretary  
18 may set off all or a part of the decrease against an amount of child  
19 care rebate applicable under this Subdivision or Subdivision AA  
20 for that or any other approved child care service in respect of the  
21 individual and the child for a later period in the same income year.
- 22 (4) The Secretary must give notice to the individual:  
23 (a) identifying the week or weeks to which the notice relates (the  
24 **rebate period**); and  
25 (b) stating:  
26 (i) the child's name; and  
27 (ii) the amount of child care rebate as recalculated under  
28 this section in respect of the rebate period (the **rebate**  
29 **amount**); and  
30 (iii) the total amount of the individual's approved child care  
31 fees for care provided for the child by the approved  
32 child care service during the rebate period, worked out  
33 under step 1 of the method statement in section 84AAA  
34 of the Family Assistance Act when recalculating the  
35 rebate amount; and  
36 (iv) the total amount (if any) of fee reductions for care  
37 provided for the child by the approved child care service  
38 during the rebate period, worked out under step 2 of the
-

1 method statement in section 84AAA of the Family  
2 Assistance Act when recalculating the rebate amount.

3 (5) The recalculation and payment of an amount of child care rebate  
4 applicable under this section is not ineffective by reason only that  
5 any, or all, of the requirements of subsection (4) are not complied  
6 with.

7 **14 Subsection 65EAA(4)**

8 Repeal the subsection, substitute:

- 9 (4) This section is subject to:  
10 (a) section 65EAAF; and  
11 (b) section 65EAB; and  
12 (c) Part 4; and  
13 (d) Division 3 of Part 8B.

14 **15 Subsection 65EAB(3)**

15 Omit “under this Subdivision in respect of the individual and the child  
16 for a later quarter”, substitute “under this Subdivision or Subdivision  
17 AAB in respect of the individual and the child for a later period”.

18 **16 Subsection 65EF(2A)**

19 Repeal the subsection, substitute:

- 20 (2A) If the determination of entitlement is made under section 65EA, the  
21 Secretary must reduce the amount to be paid under subsection (1)  
22 by:  
23 (a) the amount of any child care rebate already paid under  
24 Subdivision AAB in respect of the individual and the child  
25 for a week included in the income year; and  
26 (b) the amount of any child care rebate already paid under  
27 Subdivision AA in respect of the individual and the child for  
28 a quarter included in the income year.

29 **17 Before paragraph 65EF(2B)(c)**

30 Insert:

- 31 (ca) under Subdivision AAB in respect of the individual and the  
32 child for a week all or part of which falls in the income year;  
33 and



1 **18 Subsection 65EF(2E)**

2 Repeal the subsection, substitute:

3 (2E) However, the Secretary must reduce the amount to be paid under  
4 subsection (2D) by the amount of any child care rebate already  
5 paid:

6 (a) under Subdivision AAB in respect of the deceased individual  
7 and the child for a week wholly or partly included in the  
8 period; and

9 (b) under Subdivision AA in respect of the deceased individual  
10 and the child for a quarter wholly or partly included in the  
11 period.

12 **19 After paragraph 66(1)(f)**

13 Insert:

14 (faa) payments under section 219QC or subsection 219QD(2) in  
15 respect of child care rebate;

16 **20 Paragraph 66(2)(aa)**

17 After “65EAA(3)”, insert “, 65EAAC(3)”.

18 **21 After paragraph 66(2)(aa)**

19 Insert:

20 (aaa) subsection 65EAAF(3) (about setting off a decrease in a  
21 weekly amount of child care rebate against rebate for a later  
22 period); and

23 **22 Paragraph 66(2)(cb)**

24 Omit “payments under section 219Q or subsection 219QA(2) in respect  
25 of fee reduction or payments of enrolment advances under  
26 section 219RA”, substitute “various payments”.

27 **23 After paragraph 66(2)(cb)**

28 Insert:

29 (cba) section 219QD (setting off a recalculated weekly payment of  
30 child care rebate against various payments);

31 **24 Paragraph 66(2)(cc)**

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1 Omit “payments under section 219Q or subsection 219QA(2) in respect  
2 of fee reduction or payments of enrolment advances under  
3 section 219RA”, substitute “various payments”.

4 **25 After subsection 68(1A)**

5 Insert:

6 (1B) In the case of a person who has made an election under paragraph  
7 65EAAAA(1)(b) to have child care rebate in respect of a child paid  
8 weekly to an approved child care service, the amount of child care  
9 rebate paid to the person in a week for which the election is in  
10 effect consists of the amount that the service is required, under  
11 section 219EA, to pass on to the individual for care provided for  
12 the child in the week.

13 **26 Section 70**

14 Omit “or subsection 219QA(2),”, substitute “, subsection 219QA(2),  
15 section 219QC or subsection 219QD(2),”.

16 Note: The heading to section 71 is altered by inserting “, **child care rebate**” after “**child care**  
17 **benefit**”.

18 **27 After paragraph 71B(1)(c)**

19 Insert:

20 or (d) an approved child care service is required under  
21 section 219EA to pass on an amount to an individual (the  
22 **recipient**) in respect of care provided for a child by the  
23 service in a week, but the recipient was not entitled to child  
24 care rebate in respect of the week;

25 **28 Paragraph 71B(3)(a)**

26 Repeal the paragraph, substitute:

- 27 (a) one of the following payments is made to a financial  
28 institution for the credit of an account kept with the  
29 institution (the **incorrect account**):
- 30 (i) a payment under section 219Q or subsection 219QA(2)  
31 in respect of fee reduction;
  - 32 (ii) a payment under section 219QC or subsection  
33 219QD(2) in respect of child care rebate;
  - 34 (iii) a payment under section 219RA of an enrolment  
35 advance; and
-

1 **29 Paragraph 71CAA(1)(a)**

2 After “by way of child care rebate”, insert “for a week under  
3 Subdivision AAB or”.

4 **30 Subparagraph 71CAA(4)(a)(i)**

5 After “for an income year,”, insert “for a week in an income year.”.

6 **31 Paragraph 71CAB(1)(a)**

7 Repeal the paragraph, substitute:

8 (a) an amount (the *received amount*) has been paid to an  
9 individual by way of child care rebate in respect of a period  
10 during which the individual is conditionally eligible for child  
11 care benefit by fee reduction in respect of a child; and

12 (aa) the amount is paid under Subdivision AAB of Division 4AA  
13 of Part 3 (weekly payment), Subdivision AA of that Division  
14 (quarterly payment), or both Subdivision AAB and  
15 Subdivision AA of that Division (both weekly and quarterly  
16 payment during the period); and

17 Note: The heading to subsection 71CAB(1) is replaced by the heading “*Overpayment of*  
18 *rebate arising from CCB by fee reduction—for a week or a quarter*”.

19 **32 After section 71CA**

20 Insert:

21 **71CB Debts arising in respect of child care rebate payment not**  
22 **remitted—debt owed by service**

23 If an approved child care service does not remit to the Secretary an  
24 amount that the service is required to remit under section 219QE  
25 (weekly payments of child care rebate that it is not reasonably  
26 practicable for the service to pass on), the amount is a debt due to  
27 the Commonwealth by the service.

28 **33 Subparagraph 71G(1)(a)(ii)**

29 Repeal the subparagraph, substitute:

30 (ii) such an amount would be paid, but for a set off under  
31 subsection 82(2) or section 219QA, 219QD, 219RC or  
32 219RE; and

33 **34 After subsection 71G(2)**

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1           Insert:

2                     *Weekly payments of child care rebate*

3           (2A) If:

4                 (a) either:

5                         (i) an amount is paid under section 219QC or subsection  
6                                 219QD(2) to a person that is an approved child care  
7                                 service (weekly payments of child care rebate); or

8                         (ii) such an amount would be paid, but for a set off under  
9                                 subsection 82(2) or section 219QA, 219QD, 219RC or  
10                                 219RE; and

11                 (b) the service's approval is suspended or cancelled under this  
12                         Act before a period of care in respect of which the payment  
13                         was made;

14                     so much of the amount of the child care rebate paid as relates to  
15                     that period of care is a debt due to the Commonwealth by the  
16                     service immediately before its approval was suspended or  
17                     cancelled.

18           (2B) If:

19                 (a) an amount is required to be set off under subsection  
20                         219QD(3) against the payment of another amount to a person  
21                         that is an approved child care service (payment where  
22                         recalculation reduces the amount of child care rebate); and

23                 (b) the service's approval is suspended or cancelled under this  
24                         Act; and

25                 (c) the amount has not already been set off against another  
26                         amount under subsection 219QD(3) by the day the service's  
27                         approval is suspended or cancelled;

28                     the amount is a debt due to the Commonwealth by the service  
29                     immediately before its approval was suspended or cancelled.

30           Note 1: The heading to section 71G is replaced by the heading "**Debts arising where child care**  
31                     **services approval is suspended or cancelled—debt owed by service**".

32           Note 2: The following heading to subsection (1) is inserted "*Child care benefit—fee reduction*".

33           Note 3: The following heading to subsection (3) is inserted "*Enrolment advances*".

34           **35 After paragraph 82(2)(a)**

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- 1 (aa) setting off the amount of the debt against one or more  
2 payments under section 219QC or subsection 219QD(2) in  
3 respect of child care rebate;

4 **36 Subsection 82(3) (definition of *debt*)**

5 Omit “71CA,”.

6 **37 Subsection 82(3) (definition of *debt*)**

7 After “71CAB,”, insert “71CA, 71CB,”.

8 **38 Subsection 93A(6) (paragraphs (b) to (bb) of the definition**  
9 **of *family assistance payment*)**

10 Repeal the paragraphs, substitute:

- 11 (b) a payment under section 219Q or subsection 219QA(2)  
12 (payments in respect of fee reduction); or  
13 (ba) a payment under section 219QC or subsection 219QD(2)  
14 (payments in respect of child care rebate); or  
15 (bb) a payment of an enrolment advance under section 219RA; or  
16 (bc) a payment under section 219RD (business continuity  
17 payments); or  
18 (bd) a payment of child care rebate under section 65EAA  
19 (including as that section applies because of subsection  
20 65EAAF(2)); or  
21 (be) a payment of child care rebate under section 65EAA  
22 (including as that section applies because of subsection  
23 65EAB(2)); or  
24 (bf) a payment of child care rebate under section 65EF; or

25 **39 Paragraphs 104(d) to (da)**

26 Repeal the paragraphs, substitute:

- 27 (d) a decision by the Secretary under section 219Q or subsection  
28 219QA(2) to pay an amount in respect of fee reduction; or  
29 (da) a decision by the Secretary under section 219QC or  
30 subsection 219QD(2) to pay an amount in respect of child  
31 care rebate; or  
32 (db) a decision under section 219RD (business continuity  
33 payments); or

- 1 (dc) a calculation of an amount of child care rebate for a week  
2 under section 65EAAA, or a recalculation of such an amount  
3 under section 65EAAD; or  
4 (dd) a decision by the Secretary under subsection 65EAAAA(4)  
5 (allowing election after beginning of income year to be paid  
6 child care rebate weekly or quarterly) or under subsection  
7 65EAAAB(3) (day on which new payment arrangement  
8 begins); or  
9 (de) a calculation of an amount of child care rebate for a quarter  
10 under section 65EAA, or a recalculation of such an amount  
11 under section 65EAB; or

12 **40 Paragraphs 108(2)(da) to (db)**

13 Repeal the paragraphs, substitute:

- 14 (da) a decision by the Secretary under section 219Q or subsection  
15 219QA(2) to pay an amount in respect of fee reduction; or  
16 (db) a decision by the Secretary under section 219QC or  
17 subsection 219QD(2) to pay an amount in respect of child  
18 care rebate; or  
19 (dc) a decision under section 219RD (business continuity  
20 payments); or  
21 (dd) a calculation of an amount of child care rebate for a week  
22 under section 65EAAA, or a recalculation of such an amount  
23 under section 65EAAD; or  
24 (de) a decision by the Secretary under subsection 65EAAAA(4)  
25 (allowing election after beginning of income year to be paid  
26 child care rebate weekly or quarterly) or under subsection  
27 65EAAAB(3) (day on which new payment arrangement  
28 begins); or  
29 (df) a calculation of an amount of child care rebate for a quarter  
30 under section 65EAA, or a recalculation of such an amount  
31 under section 65EAB; or

32 **41 Subparagraph 108(2)(fa)(i)**

33 Omit “paragraphs 200(1)(a) to (h)”, substitute “paragraphs 200(1)(a) to  
34 (i)”.

35 **42 Subparagraph 111(2)(a)(viii)**

36 Omit “57G(2)”, substitute “57G(3) or 57G(5)”.

1 **43 After subparagraph 111(2)(a)(ix)**

2 Insert:

3 (ixa) paragraph 65EAAAA(2)(a);

4 (ixb) subsection 65EAAB(3) or 65EAAE(4);

5 **44 After subparagraph 111(2)(a)(xiv)**

6 Insert:

7 (xiva) subsection 219QE(3);

8 (xivb) paragraph 219QE(5)(a);

9 **45 Paragraph 154(4A)(c)**

10 After “subsection”, insert “57EAA(1),”.

11 **46 Subparagraph 154(4A)(d)(i)**

12 After “under”, insert “Subdivision AAB or”.

13 **47 After subparagraph 173(1)(d)(v)**

14 Insert:

15 (via) affects, or might affect, eligibility for child care rebate  
16 under subsection 57EAA(1) of the Family Assistance  
17 Act, or the amount of child care rebate applicable under  
18 Subdivision AAB of Division 4AA of Part 3; or

19 **48 Paragraph 175(a)**

20 After “other than child care rebate”, insert “for a week under  
21 Subdivision AAB or”.

22 **49 Paragraph 175AA(a)**

23 After “child care rebate”, insert “for a week under Subdivision AAB  
24 or”.

25 **50 Subparagraph 176(1)(a)(iii)**

26 Repeal the subparagraph, substitute:

27 (iii) in the case of an approved child care service—an  
28 amount is paid under section 219Q or subsection  
29 219QA(2) in respect of fee reduction, under  
30 section 219QC or subsection 219QD(2) in respect of

1 child care rebate or under section 219RA as an  
2 enrolment advance; or

3 **51 After paragraph 176(2)(a)**

4 Insert:

5 (aa) the element of the offence that a payment in respect of child  
6 care rebate is paid to the service under section 219QC or  
7 subsection 219QD(2); and

8 **52 Subparagraph 176(3)(d)(iii)**

9 Repeal the subparagraph, substitute:

10 (iii) in the case of an approved child care service—an  
11 amount is paid under section 219Q or subsection  
12 219QA(2) in respect of fee reduction, under  
13 section 219QC or subsection 219QD(2) in respect of  
14 child care rebate or under section 219RA as an  
15 enrolment advance; or

16 **53 After paragraph 176(4)(a)**

17 Insert:

18 (aa) the element of the offence that a payment in respect of child  
19 care rebate is paid to the service under section 219QC or  
20 subsection 219QD(2); and

21 **54 Paragraph 178(1)(b)**

22 After “payments in respect of fee reduction,” insert “payments in  
23 respect of weekly child care rebate,”.

24 **55 Subparagraph 195(2)(b)(i)**

25 Omit “paragraphs 200(1)(a) to (h)”, substitute “paragraphs 200(1)(a) to  
26 (i)”.

27 **56 At the end of subsection 200(1)**

28 Add:

29 ; (i) suspend, for a maximum of 3 weeks, payment under  
30 section 219QC or subsection 219QD(2) in respect of child  
31 care rebate.

32 **57 After subsection 200(3B)**

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1           Insert:

2                     *Revocation of suspension of payment in respect of child care*  
3                     *rebate*

4           (3C) If the Secretary suspends payment in respect of child care rebate,  
5               the Secretary may at any time, by notice to the service revoke the  
6               suspension. If the suspension is revoked, all payments under  
7               section 219QC or subsection 219QD(2) that would have been paid  
8               but for the suspension must be paid.

9           **58 Subsection 201(1)**

10                   Omit “paragraphs 200(1)(a) to (h)”, substitute “paragraphs 200(1)(a) to  
11                   (i)”.

12           **59 Paragraphs 201B(1)(a) and (2)(c)**

13                   Omit “paragraphs 200(1)(a) to (h)”, substitute “paragraphs 200(1)(a) to  
14                   (i)”.

15           **60 Before section 219A**

16                   Insert:

17           **Subdivision A—Obligations relating to enrolment**

18           **61 Before section 219B**

19                   Insert:

20           **Subdivision B—Obligations relating to child care benefit by fee**  
21                   **reduction**

22           **62 After section 219E**

23                   Insert:

24           **Subdivision C—Obligations relating to weekly child care rebate**

25           **219EA Obligation to pass on weekly child care rebate**

26                   (1) This section applies if:

27                           (a) the Secretary calculates under section 65EAAA, or  
28                           recalculates under section 65EAAD, the amount of the child

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1 care rebate that is applicable in respect of an individual and a  
2 child for care provided for the child by an approved child  
3 care service in a week; and

4 (b) the Secretary has notified the service of the amount in  
5 accordance with subsection 65EAAB(2), or the recalculated  
6 amount in accordance with subsection 65EAAE(2).

7 (2) Subject to subsection (5), the service must, within 14 days after  
8 being notified of the amount as calculated or recalculated, pass the  
9 amount on to the individual, except to the extent that the service is  
10 required to remit the amount to the Secretary under section 219QE.

11 Note 1: This amount must be passed on, even if the payment of child care  
12 rebate has been suspended under paragraph 200(1)(i).

13 Note 2: This is a civil penalty provision. Part 8C provides for pecuniary  
14 penalties for breaches of civil penalty provisions.

15 (3) An approved child care service commits an offence if the service  
16 contravenes subsection (2).

17 Penalty: 60 penalty units.

18 (4) Subsection (3) is an offence of strict liability.

19 Note: For strict liability, see section 6.1 of the *Criminal Code*.

20 (5) If:

21 (a) the Secretary, on recalculating under section 65EAAD the  
22 amount in which the Secretary considers child care rebate is  
23 applicable in respect of an individual and a child for care  
24 provided for the child by an approved child care service in a  
25 week, reduces the amount; and

26 (b) the amount is reduced for a reason other than the substitution  
27 or withdrawal by the service of a report given under  
28 section 219N;

29 the service must pass on to the individual the amount as calculated,  
30 or recalculated, immediately before the last recalculation, rather  
31 than the amount last recalculated.

32 (6) If:

33 (a) the service reduces the amount by which it charges an  
34 individual in respect of care in anticipation of the Secretary's  
35 calculation of the amount of child care rebate applicable for

- 1 the service in respect of the individual and a child for a week;  
2 and  
3 (b) the service was an approved child care service at the time the  
4 care was provided;  
5 the service is taken to have passed on to the individual an amount  
6 equal to the anticipated child care rebate.
- 7 (7) The amount is taken to have been passed on to the individual on  
8 the day on which the Secretary notified the service of the amount  
9 in accordance with subsection 65EAAB(2) or 65EAAE(2).

10 **219EB Obligation to provide additional material in section 219E**  
11 **statements**

- 12 (1) If:  
13 (a) an approved child care service is required to pass on an  
14 amount under section 219EA to an individual in respect of  
15 care provided for a child by the service in a week; and  
16 (b) the care is provided in a statement period for the service  
17 described in subsection 219E(4) or set out in rules made  
18 under paragraph 219E(6)(c);  
19 the service must set out the additional matters specified in  
20 subsection (4) in relation to the care in the statement given to the  
21 individual or another person under section 219E for the statement  
22 period.
- 23 Note: This is a civil penalty provision. Part 8C provides for pecuniary  
24 penalties for breaches of civil penalty provisions.
- 25 (2) An approved child care service commits an offence if:  
26 (a) the approved child care service is required to pass on an  
27 amount under section 219EA to an individual in respect of  
28 care provided for a child by the service in a week; and  
29 (b) the care is provided in a statement period for the service  
30 described in subsection 219E(4) or set out in rules made  
31 under paragraph 219E(6)(c); and  
32 (c) the service does not set out the additional matters specified in  
33 subsection (4) in relation to the care in the statement given to  
34 the individual or another person under section 219E for the  
35 statement period.

36 Penalty: 60 penalty units.

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- 1 (3) Subsection (2) is an offence of strict liability.  
2 Note: For strict liability, see section 6.1 of the *Criminal Code*.
- 3 (4) The additional matters required to be set out in the statement given  
4 under section 219E for the statement period are:  
5 (a) the amount of the fees for which the individual to whom the  
6 amount is passed on would have been liable for the care if  
7 any fee reduction under section 219B had been passed on but  
8 no amount of child care rebate had been passed on under  
9 section 219EA for the care; and  
10 (b) the amount of child care rebate required to be passed on  
11 under section 219EA.
- 12 (5) If:  
13 (a) an approved child care service has, under subsection (1),  
14 included a matter in a statement (the *earlier statement*) given  
15 to an individual or other person under section 219E in  
16 relation to care provided by the service during a statement  
17 period; and  
18 (b) under subsection 65EAAE(2), the service is notified on a day  
19 (the *notification day*) of a recalculated amount in respect of  
20 the care;  
21 the service must, before the end of the first statement period  
22 starting after the notification day, give the individual or other  
23 person either a statement setting out the additional matters  
24 specified in subsection (4) taking account of the recalculation or a  
25 statement amending the earlier statement so as to take account of  
26 the recalculation.
- 27 Note: This is a civil penalty provision. Part 8C provides for pecuniary  
28 penalties for breaches of civil penalty provisions.
- 29 (6) An approved child care service commits an offence if:  
30 (a) an approved child care service has, under subsection (1),  
31 included a matter in a statement (the *earlier statement*) given  
32 to an individual or other person under section 219E in  
33 relation to care provided by the service during a statement  
34 period; and  
35 (b) under subsection 65EAAE(2), the service is notified on a day  
36 (the *notification day*) of a recalculated amount in respect of  
37 the care; and

1 (c) the service does not, before the end of the first statement  
2 period starting after the notification day, give the individual  
3 or other person either a statement setting out the additional  
4 matters specified in subsection (4) taking account of the  
5 recalculation or a statement amending the earlier statement so  
6 as to take account of the recalculation.

7 Penalty: 60 penalty units.

8 (7) Subsection (6) is an offence of strict liability.

9 Note: For strict liability, see section 6.1 of the *Criminal Code*.

## 10 **Subdivision D—Obligations relating to records**

### 11 **63 Before section 219H**

12 Insert:

## 13 **Subdivision E—Reporting and other obligations**

### 14 **64 After paragraph 219N(4)(a)**

15 Insert:

- 16 (aa) any information required by the Secretary that is relevant to:
- 17 (i) determining whether an individual is eligible to receive  
18 child care rebate; or
- 19 (ii) determining the amount in which child care rebate is  
20 applicable in respect of an individual and a child for  
21 care provided for the child by an approved child care  
22 service in a week, a quarter or an income year; or
- 23 (iii) making a determination of entitlement in relation to the  
24 care under Division 4AA of Part 3; or
- 25 (iv) determining any other matter in relation to the payment  
26 of child care rebate to an individual; and

### 27 **65 After subsection 219P(1)**

28 Insert:

- 29 (1A) If the approval of a child care service is suspended or cancelled,  
30 the person who operated the child care service immediately before  
31 the service's approval was suspended or cancelled must fulfil the  
32 obligations under the following provisions in respect of care that

- 1                    occurred before the approval was suspended or cancelled as if it  
2                    had not been:  
3                    (a) section 219EA;  
4                    (b) section 219QE.

5                    **66 Subsection 219P(2)**

6                    After “subsection (1)”, insert “or (1A)”.

7                    **67 After paragraph 219Q(3)(b)**

8                    Insert:

- 9                    (ba) section 219QD (set off where amount of applicable child care  
10                    rebate reduced on recalculation); and

11                    **68 Paragraph 219QA(3)(a)**

12                    Omit “subsection 219QA(2)”, substitute “subsection (2) of this section”.

13                    **69 After paragraph 219QA(3)(a)**

14                    Insert:

- 15                    (aa) one or more payments under section 219QC or subsection  
16                    219QD(2) in respect of child care rebate; or

17                    **70 Subparagraph 219QB(1)(a)(ii)**

18                    Repeal the subparagraph, substitute:

- 19                    (ii) such an amount would be paid, but for a set off under  
20                    subsection 82(2) or section 219QA, section 219QD,  
21                    section 219RC or section 219RE, or the imposition of a  
22                    sanction under paragraph 200(1)(h); and

23                    **71 After Division 2 of Part 8A**

24                    Insert:

25                    **Division 2A—Weekly payments in respect of child care**  
26                    **rebate to approved child care services**

27                    **219QC Weekly payments of child care rebate**

28                    (1) If:

- 29                    (a) the Secretary, under section 65EAAA, calculates the amount  
30                    in which the Secretary considers child care rebate is

1 applicable in respect of an individual and a child for care  
2 provided for the child by an approved child care service in a  
3 week; and  
4 (b) the individual has made an election under paragraph  
5 65EAAAA(1)(b) that is in effect for the week to have child  
6 care rebate paid weekly to the approved child care service;  
7 the Secretary must pay the amount calculated to the credit of a  
8 bank account nominated and maintained by the service.

9 (2) If:  
10 (a) the Secretary, on recalculating under section 65EAAD the  
11 amount in which the Secretary considers child care rebate is  
12 applicable in respect of an individual and a child for care  
13 provided for the child by an approved child care service in a  
14 week, increases the amount; and  
15 (b) the individual has made an election under paragraph  
16 65EAAAA(1)(b) that is in effect for the week to have child  
17 care rebate paid weekly to the approved child care service;  
18 the Secretary must pay to the credit of a bank account nominated  
19 and maintained by the service an amount equal to the increase.

20 *Relationship with other provisions*

21 (3) This section is subject to:  
22 (a) Part 4 (overpayments and debt recovery); and  
23 (b) section 219QA (set off where amount of applicable fee  
24 reduction reduced on recalculation); and  
25 (c) section 219QD (set off where amount of applicable child care  
26 rebate reduced on recalculation); and  
27 (d) section 219RC (set off where enrolment ceases); and  
28 (e) section 219RE (set off where a payment under  
29 section 219RD is made); and  
30 (f) paragraph 200(1)(i) (suspending payment in respect of child  
31 care rebate).

32 **219QD Payments and set offs where recalculation results in reduced**  
33 **weekly child care rebate**

34 (1) This section applies if:

**Schedule 1** Amendments to allow weekly payment of child care rebate  
**Part 1** Amendments

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- 1 (a) the Secretary, on recalculating under section 65EAAD the  
2 amount in which the Secretary considers child care rebate is  
3 applicable in respect of an individual and a child for care  
4 provided for the child by an approved child care service in a  
5 week, reduces the amount; and  
6 (b) the individual has made an election under paragraph  
7 65EAAAA(1)(b) that is in effect for the week to have child  
8 care rebate paid weekly to the approved child care service;  
9 and  
10 (c) the amount is reduced because of the substitution or  
11 withdrawal by the service of a report given under  
12 section 219N.
- 13 (2) The Secretary must pay the amount as last recalculated to the credit  
14 of a bank account nominated and maintained by the service.
- 15 (3) The amount as calculated, or recalculated, immediately before the  
16 last recalculation must be set off against a later payment to the  
17 service of an amount in respect of:
- 18 (a) one or more payments under section 219Q or subsection  
19 219QA(2) in respect of fee reduction; or  
20 (b) one or more payments under section 219QC or subsection (2)  
21 of this section in respect of child care rebate; or  
22 (c) one or more enrolment advances under section 219RA.

23 **219QE Remitting amounts that cannot be passed on**

- 24 (1) If:  
25 (a) either:  
26 (i) an amount is paid to an approved child care service  
27 under section 219QC or subsection 219QD(2) for a  
28 week; or  
29 (ii) such an amount would be paid, but for a set off under  
30 subsection 82(2), section 219QA, section 219QD,  
31 section 219RC or section 219RE, or the imposition of a  
32 sanction under paragraph 200(1)(i); and  
33 (b) it is not reasonably practicable for the service to pass on to  
34 the individual within the time required under subsection  
35 219EA(2) the child care rebate in respect of which the  
36 amount was or would have been paid;



1 the service must immediately remit to the Secretary an amount  
2 equal to the amount that could not be passed on.

3 Note: This is a civil penalty provision. Part 8C provides for pecuniary  
4 penalties for breach of civil penalty provisions.

5 (2) An approved child care service commits an offence if the service  
6 contravenes subsection (1).

7 Penalty: 60 penalty units.

8 (3) The amount must be remitted in the manner or way approved by  
9 the Secretary.

10 (4) The service must notify the Secretary of the remittal of the amount.

11 (5) The notice must:

12 (a) be given in the form, and in the manner or way, approved by  
13 the Secretary; and

14 (b) include any information required by the Secretary.

## 15 **72 After paragraph 219RA(2)(b)**

16 Insert:

17 (ba) section 219QD (set off where amount of applicable child care  
18 rebate reduced on recalculation); and

## 19 **73 Paragraph 219RC(b)**

20 Omit “or section 219QA”, substitute “, section 219QA or  
21 section 219QD”.

## 22 **74 At the end of section 219RC**

23 Add:

24 ; or (e) any weekly payment of child care rebate that is to be paid to  
25 the service in relation to that or another enrolment.”.

## 26 **75 After paragraph 219RE(a)**

27 Insert:

28 (aa) any amount that is to be paid to the service in respect of  
29 weekly child care rebate; or

## 30 **76 After paragraph 224(1)(c)**

31 Insert:

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**Schedule 1** Amendments to allow weekly payment of child care rebate  
**Part 1** Amendments

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1 (caa) about the amount of child care rebate applicable in respect of  
2 a person and a child for a week under Subdivision AAB of  
3 Division 4AA of Part 3; or  
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2 **Part 2—Application and transitional provisions**

3 **77 Application**

4 The amendments made by this Schedule apply in relation to income  
5 years beginning on or after 1 July 2011.

6 **78 Transitional—elections made before 1 July 2011**

- 7 (1) This item applies if an individual gives the Secretary notice, by the time  
8 and in the form and manner or way approved by the Secretary, electing  
9 to have child care rebate in respect of the individual and a child for care  
10 provided for the child in the 2011-2012 income year paid in one of the  
11 following ways:
- 12 (a) weekly into a bank account maintained by the individual  
13 alone or jointly or in common with someone else;
  - 14 (b) weekly to one or more approved child care services;
  - 15 (c) quarterly into a bank account maintained by the individual  
16 alone or jointly or in common with someone else.
- 17 (2) For the purposes of the Family Assistance Act and the Family  
18 Assistance Administration Act:
- 19 (a) if the notice is of the kind described in paragraph (1)(a) of  
20 this item—the individual is taken to have given notice under  
21 paragraph 65EAAAA(1)(a) of the Family Assistance  
22 Administration Act in relation to the 2011-2012 income year;  
23 and
  - 24 (b) if the notice is of the kind described in paragraph (1)(b) of  
25 this item—the individual is taken to have given notice under  
26 paragraph 65EAAAA(1)(b) of the Family Assistance  
27 Administration Act in relation to the 2011-2012 income year;  
28 and
  - 29 (c) if the notice is of the kind described in paragraph (1)(c) of  
30 this item—the individual is taken to have given notice under  
31 paragraph 65EAAAA(1)(c) of the Family Assistance  
32 Administration Act in relation to the 2011-2012 income year.
- 33 (3) If an individual does not give notice of the kind described in subitem 1,  
34 child care rebate (if any) in respect of the individual and the child for  
35 care provided during the 2011-2012 income year is to be paid:
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- 1 (a) if child care rebate was paid quarterly in respect of the  
2 individual and the child in relation to the 2010-2011 income  
3 year—quarterly; and  
4 (b) otherwise—for the income year.

- 5 (4) To avoid doubt, this item applies even if the Secretary approves the  
6 time, the form or the manner or way, in which the election is to be given  
7 before the day on which this item commences.

8 **79 Continued application of section 71B of the Family**  
9 **Assistance Administration Act**

10 The amendment made by item 28 of this Schedule does not affect  
11 section 71B of the Family Assistance Administration Act as it applies in  
12 relation to payments made before the commencement of that item.

13 **80 Continued application of section 93A of the Family**  
14 **Assistance Administration Act**

15 The amendment made by item 38 of this Schedule does not affect  
16 section 93A of the Family Assistance Administration Act as it applies in  
17 relation to payments made before the commencement of that item.

18 **81 Continued application of section 176 of the Family**  
19 **Assistance Administration Act**

20 The amendments made by items 50 and 52 do not affect section 176 of  
21 the Family Assistance Administration Act as it applies in relation to  
22 payments obtained before the commencement of those items.  
23

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2 **Schedule 2—Amendments to be made if the**  
3 **Family Assistance and Other**  
4 **Legislation Amendment (Child Care**  
5 **and Other Measures) Act 2011 is**  
6 **passed after Schedule 1 commences**

7 **Part 1—Amendment of the A New Tax System**  
8 **(Family Assistance) (Administration) Act**  
9 **1999**

10 *A New Tax System (Family Assistance) (Administration) Act*  
11 *1999*

12 **1 Subsection 3(1) (after paragraph (a) of the definition of**  
13 ***child care service payment*)**

14 Insert:

15 (aa) a payment under section 219QC or subsection 219QD(2) in  
16 respect of child care rebate; or

17 **2 Subsection 65EAAE(2)**

18 Omit “Subject to subsection (3), the”, substitute “The”.

19 **3 Subsection 65EAAE(3)**

20 Repeal the subsection.

21 **4 Paragraph 108(2)(daaa)**

22 Repeal the paragraph.

23 **5 After paragraph 108(2)(db)**

24 Insert:

25 (dba) a decision under subsection 218RA(1A) not to pay enrolment  
26 advance; or

**Schedule 2** Amendments to be made if the Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011 is passed after Schedule 1 commences

**Part 1** Amendment of the A New Tax System (Family Assistance) (Administration) Act 1999

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1 **6 Subsection 219EA(2)**

2 Omit “Subject to subsection (5), the”, substitute “The”.

3 **7 Subsection 219EA(5)**

4 Repeal the subsection.

5 **8 Paragraph 219QC(3)(d)**

6 After “ceases”, insert “or where notification of decision to cease  
7 operating service”.

8 **9 Subsection 219QD(1)**

9 Repeal the subsection, substitute:

10 (1) This section applies if:

- 11 (a) the Secretary, on recalculating under section 65EAAD the  
12 amount in which the Secretary considers child care rebate is  
13 applicable in respect of an individual and a child for care  
14 provided for the child by an approved child care service in a  
15 week, reduces the amount (including to nil); and  
16 (b) the individual has made an election under paragraph  
17 65EAAAA(1)(b) that is in effect for the week to have child  
18 care rebate paid weekly to the approved child care service.

19 **10 Subsection 219QD(2)**

20 After “amount”, insert “(if any)”.

21 **11 Subsection 219QD(3)**

22 Omit all the words after “against”, substitute:

23 one or more child care service payments that are to be made to the  
24 service (the *first service*) or to another approved child care service  
25 operated by the person who operates the first service.

26 Note: For *child care service payment* see subsection 3(1).

27 **12 Subparagraph 219RC(3)(b)(ii)**

28 After “section 219QA”, insert “section 219QD”.

29 **13 Application**

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Amendments to be made if the Family Assistance and Other Legislation Amendment  
(Child Care and Other Measures) Act 2011 is passed after Schedule 1 commences

**Schedule 2**

Amendment of the A New Tax System (Family Assistance) (Administration) Act 1999

**Part 1**

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- 1 (1) The amendments made by items 2, 3, 6, 7, 9 and 10 of this Schedule  
2 apply in relation to recalculations done under section 65EAAD of the  
3 Family Assistance Administration Act on or after the commencement of  
4 those items in respect of weeks beginning before, on or after that  
5 commencement.
- 6 (2) The amendment made by item 11 of this Schedule applies in relation to  
7 payments that are to be made on or after the commencement of that  
8 item.  
9

**Schedule 2** Amendments to be made if the Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011 is passed after Schedule 1 commences

**Part 2** Amendment of the Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011

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**Part 2—Amendment of the Family Assistance and  
Other Legislation Amendment (Child Care  
and Other Measures) Act 2011**

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*Family Assistance and Other Legislation Amendment (Child  
Care and Other Measures) Act 2011*

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**14 Items 5 and 6 of Schedule 1**

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Repeal the items.

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2 **Part 3—Other consequential amendments**

3 *Family Assistance Legislation Amendment (Child Care*  
4 *Management System and Other Measures) Act*  
5 *2007*

6 **15 After paragraph 97C(1)(b) of Schedule 1**

7 Insert:

8 (ba) subsection 219QD(3) of that Act (about set off where amount  
9 of weekly child care rebate reduced on recalculation); and  
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**Schedule 3—Amendments to be made if the Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011 already passed**

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

**1 Subsection 3(1) (after paragraph (a) of the definition of *child care service payment*)**

Insert:

- (aa) a payment under section 219QC or subsection 219QD(2) in respect of child care rebate; or

**2 Before Subdivision AA of Division 4AA of Part 3**

Insert:

**Subdivision AAA—Election to have child care rebate paid in various ways**

**65EAAAA Individual may elect to have child care rebate paid in various ways**

- (1) An individual may give the Secretary notice in accordance with subsection (2) electing to have child care rebate in respect of the individual and a child for care provided for the child in an income year paid in one of the following ways:
  - (a) weekly into a bank account maintained by the individual alone or jointly or in common with someone else;
  - (b) weekly to one or more approved child care services;
  - (c) quarterly into a bank account maintained by the individual alone or jointly or in common with someone else.

Note: Child care rebate is calculated on the basis of reports given by approved child care services in relation to each week of care under section 219N. A report for care provided in one week may be given up

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1 to 2 weeks later. A service may therefore give a report for 2 weeks  
2 together. For this reason, payments of child care rebate to an  
3 individual for 2 successive weeks may be made together. The effective  
4 result is then a fortnightly payment.

- 5 (2) A notice under subsection (1):  
6 (a) must be given in the form, and in the manner or way,  
7 approved by the Secretary; and  
8 (b) must be given before the beginning of the income year to  
9 which the notice relates unless:  
10 (i) the individual makes a claim after the beginning of the  
11 income year for payment of child care benefit by fee  
12 reduction for care provided for the child by one or more  
13 approved child care services; or  
14 (ii) the Secretary makes a determination under  
15 subsection (4).  
16 (3) If an individual gives notice under subsection (1) when making a  
17 claim after the beginning of an income year for payment of child  
18 care benefit by fee reduction, the election is taken to relate to the  
19 income year in which the claim is made.  
20 (4) The Secretary may determine, in writing, that an individual may  
21 give notice under subsection (1) after the income year to which the  
22 notice relates has begun, if the Secretary is satisfied that there are  
23 exceptional circumstances justifying the determination.

24 Note: A determination of entitlement to child care rebate will be made for  
25 the income year under Subdivision A of this Division. So if a person is  
26 entitled to child care rebate, does not elect to have it paid weekly or  
27 quarterly and has not been receiving child care rebate weekly or  
28 quarterly as a result of a previous election (see section 65EAAAC),  
29 child care rebate will be paid after the end of the income year.

### 30 **65EAAAB Period in which election has effect**

- 31 (1) If:  
32 (a) a notice is given under paragraph 65EAAAA(1)(a) or (b) to  
33 have child care rebate paid weekly; and  
34 (b) the notice is given before the income year to which it relates  
35 has begun;  
36 the election takes effect on the first Monday in the income year and  
37 continues in effect for each week all or part of which falls in the  
38 income year.

- 1 (2) If:  
2 (a) a notice is given under paragraph 65EAAAA(1)(c) to have  
3 child care rebate paid quarterly; and  
4 (b) the notice is given before the income year to which it relates  
5 has begun;  
6 the election takes effect on the first day of the first quarter in the  
7 income year and continues in effect for each quarter which falls in  
8 the income year.
- 9 (3) If notice is given under subsection 65EAAAA(1) after the income  
10 year to which it relates has begun:  
11 (a) the Secretary must determine in writing the day on which the  
12 election is to take effect; and  
13 (b) the election continues in effect:  
14 (i) if the notice is given under paragraph 65EAAAA(1)(a)  
15 or (b) to have child care rebate paid weekly—for each  
16 week all or part of which falls in the income year; and  
17 (ii) if the notice is given under paragraph 65EAAAA(1)(c)  
18 to have child care rebate paid quarterly—for each  
19 quarter which falls in the income year.

20 **65EAAAC Where no election made for an income year**

- 21 If an individual does not give notice under subsection  
22 65EAAAA(1) for an income year, child care rebate in respect of  
23 the individual and the child for care provided during the income  
24 year is to be paid:  
25 (a) if child care rebate was paid in respect of the individual and  
26 the child in relation to the immediately preceding income  
27 year—in the same way as it was paid in relation to that year;  
28 and  
29 (b) otherwise—for the income year.

30 **Subdivision AAB—Weekly payments of child care rebate**

31 **65EAAA Weekly payments of child care rebate**

- 32 If:
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- 1 (a) the Secretary is satisfied that an individual is eligible under  
2 subsection 57EAA(1) of the Family Assistance Act for child  
3 care rebate for a week in respect of a child; and  
4 (b) the Secretary has calculated an amount of fee reduction under  
5 subsection 50Z(1) in respect of the individual and the child  
6 for a session or sessions of care provided by an approved  
7 child care service in the week;  
8 the Secretary must calculate the amount of the rebate which the  
9 Secretary considers is applicable in respect of the individual and  
10 the child for care provided for the child by the approved child care  
11 service in the week.
- 12 Note 1: The individual will not be eligible to have child care rebate paid  
13 weekly unless the individual has made an election under paragraph  
14 65EAAAA(1)(a) or (b) to have rebate paid weekly.
- 15 Note 2: The calculation is made in accordance with section 84AAA of the  
16 Family Assistance Act.
- 17 Note 3: The amount of fee reduction calculated under subsection 50Z(1) may  
18 be a nil amount (see section 4A).

19 **65EAAB Where individual elects to have child care rebate paid**  
20 **weekly to approved child care service**

- 21 (1) This section applies if:  
22 (a) the Secretary calculates an amount of child care rebate under  
23 section 65EAAA which the Secretary considers is applicable  
24 in respect of an individual and a child for care provided for  
25 the child by an approved child care service in a week; and  
26 (b) the individual has made an election under paragraph  
27 65EAAAA(1)(b) that is in effect for the week to have child  
28 care rebate paid weekly to the approved child care service.
- 29 (2) The Secretary must notify the approved child care service of the  
30 amount calculated.
- 31 (3) The notice must be given in the form, and in the manner or way,  
32 approved by the Secretary.
- 33 (4) Without limiting subsection (3), the Secretary may approve  
34 notification of the amount by making the information available to  
35 the approved child care service using an electronic interface. In  
36 that case, the approved child care service is taken to have been

1 given the notice on the day on which the information is made  
2 available.

3 Note: The amount is then paid to the approved child care service under  
4 subsection 219QC(1).

5 **65EAAC Where individual elects to have child care rebate paid**  
6 **weekly into own bank account**

7 (1) This section applies if:

- 8 (a) the Secretary calculates an amount of child care rebate under  
9 section 65EAAA which the Secretary considers is applicable  
10 in respect of an individual and a child for care provided for  
11 the child by an approved child care service in a week; and  
12 (b) the individual has made an election under paragraph  
13 65EAAA(1)(a) that is in effect for the week to have child  
14 care rebate paid weekly into a bank account nominated and  
15 maintained by the individual.

16 (2) The Secretary must pay the amount of child care rebate calculated  
17 under section 65EAAA to the individual, at such time as the  
18 Secretary considers appropriate, by paying it to the credit of the  
19 bank account.

20 (3) The Secretary may direct that the whole or a part of an amount that  
21 is to be paid under this section is to be paid in a different way from  
22 that provided for by subsection (2). If the Secretary gives the  
23 direction, the amount is to be paid in accordance with the direction.

24 (4) The Secretary must give notice to the individual:

- 25 (a) identifying the week or weeks to which the notice relates (the  
26 *rebate period*); and  
27 (b) stating:  
28 (i) the child's name; and  
29 (ii) the amount of child care rebate calculated in respect of  
30 the rebate period (the *rebate amount*); and  
31 (iii) the total amount of the individual's approved child care  
32 fees for care provided for the child by the approved  
33 child care service during the rebate period, worked out  
34 under step 1 of the method statement in section 84AAA  
35 of the Family Assistance Act when calculating the  
36 rebate amount; and
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- 1 (iv) the total amount (if any) of fee reductions for care  
2 provided for the child by the approved child care service  
3 during the rebate period, worked out under step 2 of the  
4 method statement in section 84AAA of the Family  
5 Assistance Act when calculating the rebate amount.
- 6 (5) The calculation and payment of an amount of child care rebate  
7 applicable under this section is not ineffective by reason only that  
8 any, or all, of the requirements of subsection (4) are not complied  
9 with.
- 10 (6) This section is subject to:  
11 (a) section 65EAAF; and  
12 (b) section 65EAB; and  
13 (c) Part 4; and  
14 (d) Division 3 of Part 8B.

15 **65EAAD Revising a calculation of weekly child care rebate**

- 16 The Secretary may recalculate an amount of child care rebate  
17 which the Secretary considers is applicable:  
18 (a) under section 65EAAA; or  
19 (b) under a previous application of this section;  
20 in respect of an individual and a child for care provided for the  
21 child by an approved child care service in a week, so long as a  
22 determination of entitlement has not been made under Subdivision  
23 A in respect of the individual and child for the income year in  
24 which all or part of the week falls.

25 **65EAAE If weekly payment is to an approved child care service,  
26 notice of revised calculation must be given to the service**

- 27 (1) This section applies if:  
28 (a) the Secretary, under section 65EAAD, recalculates an  
29 amount of child care rebate which the Secretary considers is  
30 applicable in respect of an individual and a child for care  
31 provided for the child by an approved child care service in a  
32 week; and  
33 (b) the individual has made an election under paragraph  
34 65EAAA(1)(b) that is in effect for the week to have child  
35 care rebate paid weekly to the approved child care service.

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- 1 (2) The Secretary must notify the approved child care service of the  
2 recalculated amount.
- 3 (3) The notice must be given in the form, and in the manner or way,  
4 approved by the Secretary.
- 5 (4) Without limiting subsection (3), the Secretary may approve  
6 notification of the amount by making the information available to  
7 the approved child care service using an electronic interface. In  
8 that case, the approved child care service is taken to have been  
9 given the notice on the day on which the information is made  
10 available.
- 11 Note: The effect of a recalculation on payments to an approved child care  
12 service is dealt with in subsection 219QC(2) and section 219QD.

13 **65EAAF Effect of revised calculation—payment to the individual**

- 14 (1) This section applies if:
- 15 (a) the Secretary, under section 65EAAD, recalculates an  
16 amount of child care rebate which the Secretary considers is  
17 applicable in respect of an individual and a child for care  
18 provided for the child by an approved child care service in a  
19 week; and
- 20 (b) the individual has made an election under paragraph  
21 65EAAA(1)(a) that is in effect for the week to have child  
22 care rebate paid weekly into a bank account nominated and  
23 maintained by the individual.
- 24 (2) If the recalculation increases the amount of child care rebate  
25 applicable in respect of the individual and the child for care  
26 provided for the child by the service in the week, then subsections  
27 65EAAAC(2), (3) and (6) apply to the increase as if the increase  
28 were the amount applicable under section 65EAAA.
- 29 (3) If the recalculation decreases the amount of child care rebate  
30 applicable in respect of the individual and the child for care  
31 provided for the child by the service in the week, the Secretary  
32 may set off all or a part of the decrease against an amount of child  
33 care rebate applicable under this Subdivision or Subdivision AA  
34 for that or any other approved child care service in respect of the  
35 individual and the child for a later period in the same income year.
- 36 (4) The Secretary must give notice to the individual:
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- 1 (a) identifying the week or weeks to which the notice relates (the  
2 *rebate period*); and  
3 (b) stating:  
4 (i) the child's name; and  
5 (ii) the amount of child care rebate as recalculated under  
6 this section in respect of the rebate period (the *rebate*  
7 *amount*); and  
8 (iii) the total amount of the individual's approved child care  
9 fees for care provided for the child by the approved  
10 child care service during the rebate period, worked out  
11 under step 1 of the method statement in section 84AAA  
12 of the Family Assistance Act when recalculating the  
13 rebate amount; and  
14 (iv) the total amount (if any) of fee reductions for care  
15 provided for the child by the approved child care service  
16 during the rebate period, worked out under step 2 of the  
17 method statement in section 84AAA of the Family  
18 Assistance Act when recalculating the rebate amount.
- 19 (5) The recalculation and payment of an amount of child care rebate  
20 applicable under this section is not ineffective by reason only that  
21 any, or all, of the requirements of subsection (4) are not complied  
22 with.

### 23 **3 Paragraphs 108(2)(da) to (db)**

24 Repeal the paragraphs, substitute:

- 25 (da) a decision by the Secretary under section 219Q or subsection  
26 219QA(2) to pay an amount in respect of fee reduction; or  
27 (db) a decision by the Secretary under section 219QC or  
28 subsection 219QD(2) to pay an amount in respect of child  
29 care rebate; or  
30 (dc) a decision under subsection 219RA(1A) not to pay an  
31 enrolment advance; or  
32 (dd) a decision under section 219RD (business continuity  
33 payments); or  
34 (de) a calculation of an amount of child care rebate for a week  
35 under section 65EAAA, or a recalculation of such an amount  
36 under section 65EAAD; or  
37 (df) a decision by the Secretary under subsection 65EAAAA(4)  
38 (allowing election after beginning of income year to be paid
-

- 1 child care rebate weekly or quarterly) or under subsection  
2 65EAAAB(3) (day on which new payment arrangement  
3 begins); or  
4 (dg) a calculation of an amount of child care rebate for a quarter  
5 under section 65EAA, or a recalculation of such an amount  
6 under section 65EAB; or

7 **4 After subparagraph 111(2)(a)(ix)**

- 8 Insert:  
9 (ixa) paragraph 65EAAAA(2)(a);  
10 (ixb) subsection 65EAAAB(3) or 65EAAAE(3);

11 **5 After section 219E**

12 Insert:

13 **Subdivision C—Obligations relating to weekly child care rebate**

14 **219EA Obligation to pass on weekly child care rebate**

- 15 (1) This section applies if:  
16 (a) the Secretary calculates under section 65EAAA, or  
17 recalculates under section 65EAAD, the amount of the child  
18 care rebate that is applicable in respect of an individual and a  
19 child for care provided for the child by an approved child  
20 care service in a week; and  
21 (b) the Secretary has notified the service of the amount in  
22 accordance with subsection 65EAAAB(2), or the recalculated  
23 amount in accordance with subsection 65EAAAE(2).  
24 (2) The service must, within 14 days after being notified of the amount  
25 as calculated or recalculated, pass the amount on to the individual,  
26 except to the extent that the service is required to remit the amount  
27 to the Secretary under section 219QE.  
28 Note 1: This amount must be passed on, even if the payment of child care  
29 rebate has been suspended under paragraph 200(1)(i).  
30 Note 2: This is a civil penalty provision. Part 8C provides for pecuniary  
31 penalties for breaches of civil penalty provisions.  
32 (3) An approved child care service commits an offence if the service  
33 contravenes subsection (2).

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1 Penalty: 60 penalty units.

2 (4) Subsection (3) is an offence of strict liability.

3 Note: For strict liability, see section 6.1 of the *Criminal Code*.

4 (5) If:

5 (a) the service reduces the amount by which it charges an  
6 individual in respect of care in anticipation of the Secretary's  
7 calculation of the amount of child care rebate applicable for  
8 the service in respect of the individual and a child for a week;  
9 and

10 (b) the service was an approved child care service at the time the  
11 care was provided;

12 the service is taken to have passed on to the individual an amount  
13 equal to the anticipated child care rebate.

14 (6) The amount is taken to have been passed on to the individual on  
15 the day on which the Secretary notified the service of the amount  
16 in accordance with subsection 65EAAB(2) or 65EAAE(2).

17 **219EB Obligation to provide additional material in section 219E**  
18 **statements**

19 (1) If:

20 (a) an approved child care service is required to pass on an  
21 amount under section 219EA to an individual in respect of  
22 care provided for a child by the service in a week; and

23 (b) the care is provided in a statement period for the service  
24 described in subsection 219E(4) or set out in rules made  
25 under paragraph 219E(6)(c);

26 the service must set out the additional matters specified in  
27 subsection (4) in relation to the care in the statement given to the  
28 individual or another person under section 219E for the statement  
29 period.

30 Note: This is a civil penalty provision. Part 8C provides for pecuniary  
31 penalties for breaches of civil penalty provisions.

32 (2) An approved child care service commits an offence if:

33 (a) the approved child care service is required to pass on an  
34 amount under section 219EA to an individual in respect of  
35 care provided for a child by the service in a week; and

- 1 (b) the care is provided in a statement period for the service  
2 described in subsection 219E(4) or set out in rules made  
3 under paragraph 219E(6)(c); and  
4 (c) the service does not set out the additional matters specified in  
5 subsection (4) in relation to the care in the statement given to  
6 the individual or another person under section 219E for the  
7 statement period.

8 Penalty: 60 penalty units.

- 9 (3) Subsection (2) is an offence of strict liability.

10 Note: For strict liability, see section 6.1 of the *Criminal Code*.

- 11 (4) The additional matters required to be set out in the statement given  
12 under section 219E for the statement period are:

13 (a) the amount of the fees for which the individual to whom the  
14 amount is passed on would have been liable for the care if  
15 any fee reduction under section 219B had been passed on but  
16 no amount of child care rebate had been passed on under  
17 section 219EA for the care; and

18 (b) the amount of child care rebate required to be passed on  
19 under section 219EA.

- 20 (5) If:

21 (a) an approved child care service has, under subsection (1),  
22 included a matter in a statement (the *earlier statement*) given  
23 to an individual or other person under section 219E in  
24 relation to care provided by the service during a statement  
25 period; and

26 (b) under subsection 65EAAE(2), the service is notified on a day  
27 (the *notification day*) of a recalculated amount in respect of  
28 the care;

29 the service must, before the end of the first statement period  
30 starting after the notification day, give the individual or other  
31 person either a statement setting out the additional matters  
32 specified in subsection (4) taking account of the recalculation or a  
33 statement amending the earlier statement so as to take account of  
34 the recalculation.

35 Note: This is a civil penalty provision. Part 8C provides for pecuniary  
36 penalties for breaches of civil penalty provisions.

- 37 (6) An approved child care service commits an offence if:
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- 
- 1 (a) an approved child care service has, under subsection (1),  
2 included a matter in a statement (the *earlier statement*) given  
3 to an individual or other person under section 219E in  
4 relation to care provided by the service during a statement  
5 period; and  
6 (b) under subsection 65EAAE(2), the service is notified on a day  
7 (the *notification day*) of a recalculated amount in respect of  
8 the care; and  
9 (c) the service does not, before the end of the first statement  
10 period starting after the notification day, give the individual  
11 or other person either a statement setting out the additional  
12 matters specified in subsection (4) taking account of the  
13 recalculation or a statement amending the earlier statement so  
14 as to take account of the recalculation.

15 Penalty: 60 penalty units.

16 (7) Subsection (6) is an offence of strict liability.

17 Note: For strict liability, see section 6.1 of the *Criminal Code*.

## 18 **Subdivision D—Obligations relating to records**

### 19 **6 After Division 2 of Part 8A**

20 Insert:

## 21 **Division 2A—Weekly payments in respect of child care** 22 **rebate to approved child care services**

### 23 **219QC Weekly payments of child care rebate**

- 24 (1) If:
- 25 (a) the Secretary, under section 65EAAA, calculates the amount  
26 in which the Secretary considers child care rebate is  
27 applicable in respect of an individual and a child for care  
28 provided for the child by an approved child care service in a  
29 week; and  
30 (b) the individual has made an election under paragraph  
31 65EAAA(1)(b) that is in effect for the week to have child  
32 care rebate paid weekly to the approved child care service;

1 the Secretary must pay the amount calculated to the credit of a  
2 bank account nominated and maintained by the service.

3 (2) If:

4 (a) the Secretary, on recalculating under section 65EAAD the  
5 amount in which the Secretary considers child care rebate is  
6 applicable in respect of an individual and a child for care  
7 provided for the child by an approved child care service in a  
8 week, increases the amount; and

9 (b) the individual has made an election under paragraph  
10 65EAAAA(1)(b) that is in effect for the week to have child  
11 care rebate paid weekly to the approved child care service;  
12 the Secretary must pay to the credit of a bank account nominated  
13 and maintained by the service an amount equal to the increase.

14 *Relationship with other provisions*

15 (3) This section is subject to:

16 (a) Part 4 (overpayments and debt recovery); and

17 (b) section 219QA (set off where amount of applicable fee  
18 reduction reduced on recalculation); and

19 (c) section 219QD (set off where amount of applicable child care  
20 rebate reduced on recalculation); and

21 (d) section 219RC (set off where enrolment ceases or where  
22 notification of decision to cease operating service); and

23 (e) section 219RE (set off where a payment under  
24 section 219RD is made); and

25 (f) paragraph 200(1)(i) (suspending payment in respect of child  
26 care rebate).

27 **219QD Payments and set offs where recalculation results in reduced**  
28 **weekly child care rebate**

29 (1) This section applies if:

30 (a) the Secretary, on recalculating under section 65EAAD the  
31 amount in which the Secretary considers child care rebate is  
32 applicable in respect of an individual and a child for care  
33 provided for the child by an approved child care service in a  
34 week, reduces the amount (including to nil); and

- 
- 1 (b) the individual has made an election under paragraph  
2 65EAAAA(1)(b) that is in effect for the week to have child  
3 care rebate paid weekly to the approved child care service.
- 4 (2) The Secretary must pay the amount (if any) as last recalculated to  
5 the credit of a bank account nominated and maintained by the  
6 service.
- 7 (3) The amount as calculated, or recalculated, immediately before the  
8 last recalculation must be set off against one or more child care  
9 service payments that are to be made to the service (the *first*  
10 *service*) or to another approved child care service operated by the  
11 person who operates the first service.
- 12 Note: For *child care service payment* see subsection 3(1).

### 13 **219QE Remitting amounts that cannot be passed on**

- 14 (1) If:  
15 (a) either:  
16 (i) an amount is paid to an approved child care service  
17 under section 219QC or subsection 219QD(2) for a  
18 week; or  
19 (ii) such an amount would be paid, but for a set off under  
20 subsection 82(2), section 219QA, section 219QD,  
21 section 219RC or section 219RE, or the imposition of a  
22 sanction under paragraph 200(1)(i); and  
23 (b) it is not reasonably practicable for the service to pass on to  
24 the individual within the time required under subsection  
25 219EA(2) the child care rebate in respect of which the  
26 amount was or would have been paid;  
27 the service must immediately remit to the Secretary an amount  
28 equal to the amount that could not be passed on.
- 29 Note: This is a civil penalty provision. Part 8C provides for pecuniary  
30 penalties for breach of civil penalty provisions.
- 31 (2) An approved child care service commits an offence if the service  
32 contravenes subsection (1).
- 33 Penalty: 60 penalty units.
- 34 (3) The amount must be remitted in the manner or way approved by  
35 the Secretary.

- 1 (4) The service must notify the Secretary of the remittal of the amount.  
2 (5) The notice must:  
3 (a) be given in the form, and in the manner or way, approved by  
4 the Secretary; and  
5 (b) include any information required by the Secretary.

6 **7 Paragraph 219RC(1)(b)**

7 Omit “or section 219QA”, substitute “section 219QA or  
8 section 219QD”.

9 **8 Subparagraph 219RC(3)(b)(ii)**

10 After “section 219QA,”, insert “section 219QD,”.

11 ***Family Assistance Legislation Amendment (Child Care***  
12 ***Management System and Other Measures) Act***  
13 ***2007***

14 **9 After paragraph 97C(1)(b) of Schedule 1**

15 Insert:

- 16 (ba) subsection 219QD(3) of that Act (about set off where amount  
17 of weekly child care rebate reduced on recalculation); and

18 **10 Application**

19 The amendments made by this Schedule apply in relation to income  
20 years beginning on or after 1 July 2011.