



Child Care Benefit (Session of Care) Determination 2016

A New Tax System (Family Assistance) Act 1999

I, Simon Birmingham, Minister for Education and Training, make the following instrument under section 9 of the *A New Tax System (Family Assistance) Act 1999*.

Dated: 12 September 2016

Simon Birmingham

Minister for Education and Training

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Part 1 Preliminary

1 Name

This Determination is the *Child Care Benefit (Session of Care) Determination 2016*.

2 Commencement

This Determination commences on 10 October 2016.

3 Authority

This Determination is made under section 9 of the *A New Tax System (Family Assistance) Act 1999 (the Act)*.

4 Revocation

The *Child Care Benefit (Session of Care) Determination 2000* is revoked.

5 Savings and transitional

To avoid doubt, the *Child Care Benefit (Session of Care) Determination 2000* applied to sessions of care that occurred up to and on 9 October 2016.

This Determination applies to sessions of care that occur on and from 10 October 2016 onwards.

Part 2 Sessions of Care

6 What constitutes a session of care

- (1) Subject to section 11, for the purposes of the Act, a session of care is the minimum period of time in respect of which an approved child care service imposes a liability on an individual by charging a fee for providing child care.
- (2) To avoid doubt, a genuine legal liability must arise in respect of the fee referred to in subsection (1) under an arrangement which requires an individual to pay the fee irrespective of any payment made by the Secretary under the family assistance law to discharge some or all of that liability.
- (3) A session of care may start on one day and end on the next day, however, a session of care must not exceed 12 hours.

7 Session of care starting on one day and ending on the next day

A session of care that starts on one day (the first day) and ends on the next day is to be treated as having occurred on the first day.

Part 3 Sessions of care before and after school

8 Definition for this Part

In this Part *approved child care service* does not include an approved occasional care service.

9 Sessions of before school care

- (1) In this section *standard period* means the period of 2 hours ending immediately before school starts.
- (2) A *standard session* is the minimum period for which an approved child care service charges a fee for providing before school care to a child in the standard period.
- (3) A standard session must not exceed 2 hours.
- (4) If a child attends a standard session exceeding one hour, and on the same day the approved child care service provides an additional period of care for the child immediately before or after the standard period, a session of care during the additional period must not exceed half an hour.

10 Sessions of after school care

- (1) In this section *standard period* means the period of 3 and a half hours starting immediately after school finishes.
- (2) A *standard session* is the minimum period for which an approved child care service charges a fee for providing after school care to a child in the standard period.
- (3) A standard session must not exceed 3 and a half hours.
- (4) If a child attends a standard session exceeding one hour, and on the same day the approved child care service provides an additional period of care for the child immediately before or after the standard period, a session of care during the additional period must not exceed half an hour.

Part 4 Care provided that is not a session of care for which child care benefit is payable

11 Care that is not a session of care

- (1) Care provided to a child in the following situations does not constitute a session of care:
 - (a) the provision of a transport service, unless the transport is merely incidental to a session of care being provided;
 - (b) care provided in a domestic living arrangement on residential premises where no liability as described in section 6 of this determination would ordinarily arise, including where:
 - (i) the care is provided in the child's own home; or
 - (ii) an individual for whom the child is an FTB child or a regular care child (including a parent of the child) remains present at the location where the care is being provided, whilst the care is taking place.
- (2) Notwithstanding paragraph (1)(b), the care is a session of care where the care is provided by a service approved as an in-home care service under section 195 of the *A New Tax System (Family Assistance) Administration Act 1999* and in accordance with the *Child Care Benefit (Allocation of Child Care Places) Determination 2000*.