



## Family Assistance Legislation Amendment (Child Care) Bill 2010

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## Family Assistance Legislation Amendment (Child Care) Bill 2010

**Date introduced:** 24 February 2010

**House:** House of Representatives

**Portfolio:** Early Childhood Education, Childcare and Youth

**Commencement:** The day of Royal Assent except for Schedules 3 & 6 which commence on the day after Royal Assent, Schedules 2 & 4 which commence on the 28<sup>th</sup> day after Royal Assent, and Schedule 5 Part 1, Division 1 of which commences on 29 June 2007 while Division 2 commences on 16 May 2009.

**Links:** The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

### Purpose

To introduce a number of refinements and minor changes to the Family Assistance Law in the areas of Child Care Benefit (CCB) payments to child care services, statements concerning child care usage for parents and notification requirements where child care services cease to operate.

### Background

The Commonwealth Government provides CCB to users of child care services in the form of fee reductions in most cases. To ensure that the delivery of CCB is properly regulated child care services have, since 2009, been required to operate using the Child Care Management System (CCMS). This system was introduced after the passage through parliament of the *Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Act 2007*. The digest for the Bill that produced that Act provides extensive background to the introduction of the CCMS.<sup>1</sup>

The CCMS provides online internet access for child care services to communicate information about the enrolment and attendance of children in their services. This information is provided to the Department of Education, Employment and Workplace

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<sup>1</sup> P Yeend, *Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Bill 2007*, Bills digest, no. 177, 2006-07, Parliamentary Library, Canberra, 2008. <http://www.aph.gov.au/Library/pubs/bd/2006-07/07bd177.pdf>

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Relations (DEEWR) which calculates entitlements to CCB and pays CCB to the services who pass it on as reduced fees to the parents and carers of children using their services.

The measures in this Bill all relate to payments to child care services, obligations of child care services and the transition to the CCMS from the previous arrangements. The measures are:

- The introduction of Business Continuity Payments for services whose ability to comply with reporting obligations under the CCMS has been impaired by circumstances beyond their control, such as local emergencies like bush fires or disruptions to internet services.
- The introduction of increased flexibility in the requirement that child care services provide usage statements every four weeks to parents and carers of children using their services.
- Changing the present mandatory suspension of a child care services' approval for the payment of CCB, where there have been 10 infringement notices issued in a twelve month period, to a discretionary suspension.
- Increasing the notification period that applies where a child care service operator intends to cease operating a service from 30 days to 42 days.
- Clarifying the legislative basis for the acquittal of quarterly advance payments of CCB at the time of the transition of services to operations under the CCMS.

## Financial implications

There is no financial impact from this bill.

## Main provisions

**Item 27 of Schedule 1** adds **new Division 4** to part 8A of the *Family Assistance (Administration) Act 1999*. **New section 219RD** provides for the payment of business continuity payments to child care services in subsection (1). These payments are to be paid where a service has not submitted reports on child care usage due to circumstances specified in a determination under subsection (2), which specifies that the minister must, by legislative instrument, make such a determination. That determination would set out

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situations where the business continuity payment would be made and set out the method for determining the amounts of such payments. In general those circumstances would be those in which the service is unable to make reports due to factors that are outside of their control.

**New Section 219RE** sets out how the normal payments to a child care service are to be adjusted to recover the amount of the business continuity payment.

**Item 4 of Schedule 2** repeals subsection 219E(4) and substitutes **new subsection 219E(4)**. This subsection specifies that a statement of child care usage must be provided to parent or carers of a child using child care at least every 3 months. However it may be given for a period shorter than three months. The period covered by the statement may be provided for a period that is common to all users of the service.

This provision is different to the existing provision in that the current subsection requires that statements should be issued for 4 weekly periods, which are potentially different for each user of child care.

This change is intended to provide more flexibility to services when issuing statements.

**Item 1 of Schedule 3** amends subsection 219TSQ(1) to make suspension of a child care services' approval for payment of CCB, in cases where 10 infringements of civil penalty provisions have occurred within a twelve month period, discretionary rather than mandatory. This brings the provision into line with other suspension provisions in the Act.

**Item 1 of Schedule 4** repeals subsection 219M(1) and substitutes **new subsection 219M(1)**. This change increases the notification period where a child care operator decides to cease operating a child care service from the existing 30 days to 42 days. This change allows greater time for the department to make arrangements for affected families to have access to child care.

**Items 2 and 3 of Schedule 5** insert **new sections 96A and 97B** into the *Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Act 2007*. These amendments clarify that acquittal of quarterly advances of CCB to child care services as part of the transition to the Child Care Management System had an appropriate legislative basis for both recovery of amounts from services and payment of additional amounts to services. The amendment is therefore retrospective to 29 June 2007 when the original provision took effect.

**Item 1 of Schedule 6** adds **new section 102** to the *Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Act 2007*. It specifies that the payments to child care services mentioned above come from the Consolidated Revenue Fund.

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