



**Australian Government**

**Department of Education and Training**

**Senate Education and Employment Legislation Committee**

**Inquiry into the  
Family Assistance Legislation Amendment  
(Jobs for Families Child Care Package) Bill 2015**

**Submission of the  
Department of Education and Training**

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## Acronyms/Abbreviations

<b>ANAO</b>	Australian National Audit Office
<b>BBF Programme</b>	Budget Based Funded Programme
<b>Bill</b>	Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 (Cth)
<b>CPI</b>	Consumer Price Index
<b>Department</b>	The Department of Education and Training
<b>DHS</b>	Department of Human Services
<b>Family Assistance Law</b>	<i>A New Tax System (Family Assistance) Act 1999</i> (Cth) and the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> (Cth)
<b>FTB</b>	Family Tax Benefit
<b>IT</b>	Information Technology
<b>Minister</b>	Minister for Education and Training
<b>Nanny Pilot Programme</b>	Interim Home Based Carer Subsidy Pilot Programme
<b>National Law</b>	<i>Education and Care Services National Law Act 2010</i>
<b>National Quality Standard</b>	National Quality Standard for Early Childhood Education and Care and School Age Care
<b>ORIMA</b>	ORIMA Research Pty Ltd
<b>Package</b>	Jobs for Families Child Care Package
<b>RIS</b>	Regulation Impact Statement
<b>Secretary</b>	Secretary of the Department of Education and Training

## Introduction

1. The Department of Education and Training (the Department) welcomes the opportunity to make a submission to the Education and Employment Legislation Committee (the Committee) inquiry into the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 (Cth) (the Bill). This submission is intended to assist the Committee by identifying key changes between the current child care system and the reforms contained in the Bill in the context of the Australian Government's overall *Jobs for Families* Child Care Package (the Package).
2. The Bill introduces major reforms under the Package to deliver a simpler, more affordable, more flexible and more accessible child care system. This submission outlines the effects of the Bill's provisions as drafted and introduced into the House of Representatives. Nothing in this submission is intended to presume the passage of the Bill by the Parliament.
3. Submission references are designed to be read in conjunction with the Bill, Explanatory Memorandum, and Regulation Impact Statement (RIS), which together detail the proposed legislative changes, the policy rationale, and stakeholder's views on the Package.
4. As noted by the Hon Luke Hartsuyker MP, the Minister for Vocational Education and Skills, in his Second Reading Speech for the Bill, an election commitment of the Government was to task the Productivity Commission to undertake an Inquiry into Childcare and Early Childhood Learning. The Inquiry was the largest review of child care since the 1990s and drew together a wide range of input from families, service providers, early childhood education professionals, business and other experts to identify the challenges and potential ways forward.
5. The Productivity Commission report confirmed the need for significant changes to the child care system to address systemic and specific failings. In particular the Productivity Commission found that the current system is overly complex and difficult for families to navigate, with some programmes poorly targeted. Despite the Government spending \$7.2 billion in 2014-15, expected to rise to almost \$10 billion in 2018-19, the child care system is seen as unaffordable by families, inflexible and includes disincentives to workforce participation. The Productivity Commission report states:

‘There is a lot that is good about Australia’s current ECEC system. Most children have some exposure to early learning opportunities prior to starting school and the vast majority of children transition well into school. But the current ECEC funding system was largely designed to meet the needs of a different era and the series of incremental additions and amendments mean there is much scope for improvement.’<sup>1</sup>
6. Family focus groups, conducted by ORIMA Research Pty Ltd (ORIMA) as part of broader stakeholder consultations following the release of the Productivity Commission report, similarly found that the child care system is difficult to understand, is inflexible, with a lack of available places when families need them to support their workforce participation.
7. In the 2015-16 Budget the Australian Government announced the Package, which included an additional investment of more than \$3 billion over the forward estimates, bringing the Australian Government's investment in child care and learning support to around \$40 billion over the next four years. The major elements of the Package are:
  - a new, simpler means-tested Child Care Subsidy, which will improve affordability

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<sup>1</sup> Productivity Commission 2014, *Childcare and Early Childhood Learning*, Inquiry Report No.73, Canberra, Volume 1, p.6

- the Child Care Safety Net, which will improve accessibility and comprises of the:
  - Additional Child Care Subsidy
  - Community Child Care Fund
  - Inclusion Support Programme
- the Interim Home Based Carer Subsidy Pilot Programme, also known as the Nanny Pilot Programme, which will enhance flexibility for families.

## **The Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015**

8. The Bill, which was introduced into the House of Representatives on 2 December 2015, gives effect to several components of the Package that seek to create a more sustainable child care system that encourages greater workforce participation and productivity and better meets families' requirements, while addressing children's learning and development needs.
9. The Bill provides the legislative framework for key elements of the Package. Specifically, the Bill will amend the current Family Assistance Law comprising:
  - *A New Tax System (Family Assistance) Act 1999* (Cth)
  - *A New Tax System (Family Assistance) (Administration) Act 1999* (Cth).
10. In practical terms the Bill amends the Family Assistance Law rather than, for example, creating a new 'clean sheet' Child Care Act in part because there are significant linkages between the provisions related to a family's eligibility for Family Tax Benefit (FTB) and child care subsidies under the current Acts. As one example, a family's eligibility for assistance under both FTB and child care subsidies is based on the definition of an 'FTB Child', the parent's role as the carer of the 'FTB Child' and quite complex rules around these relationships. Most of these basic eligibility rules will continue to be shared under the Package such that, on balance, it is considered preferable to maintain child care and FTB legislative provisions together in these two related Acts. However, in drafting the Bill every effort has been made to group the new child care provisions together where possible for improved readability and clarity.
11. Passage of the Bill will:
  - replace the existing complex suite of child care payments with a single means tested Child Care Subsidy
  - introduce the Additional Child Care Subsidy which is one element of the Child Care Safety Net
  - introduce an activity test to encourage greater workforce participation by targeting child care subsidies to those who work, or want to work more
  - introduce a number of measures (including in particular hourly fee caps) that will put downward pressure on fees charged by child care providers
  - strengthen new child care service approval eligibility requirements
  - enhance the child care payments compliance framework.
12. The Bill will be supported by subordinate legislation, that is Minister's rules and Secretary's rules, which will include details about how certain provisions will work. A list of subordinate legislation which may be made under provisions contained in the Bill is provided at [Appendix 1](#). Many of these rules are currently being developed by the Department, and will be finalised with input from, and in consultation with, relevant stakeholders. It is also important to note that all Minister's rules and Secretary's rules identified in [Appendix 1](#) will be legislative instruments

subject to disallowance by either house of the Parliament under the *Legislative Instruments Act 2003* (Cth).

13. The Community Child Care Fund, Inclusion Support Programme, and Nanny Pilot Programme, are administered funding programmes and while key elements of the Package, they are not included in the Bill. Guidelines for the Nanny Pilot Programme have been finalised following consultation with families and the sector and are available on the Department's website. Draft guidelines on the Inclusion Support Program are available on the Department's website and are expected to be finalised shortly. Guidelines for the Community Child Care Fund are currently being developed and will also be completed in consultation with relevant stakeholders.

## Financial Impact Statement

14. The measures in the Bill form part of the around \$40 billion Package, which includes more than \$3 billion of additional expenditure over the forward estimates, as detailed in the table below:

<b>Jobs for Families Child Care Package</b>	<b>Funding</b>	<b>Years</b>	<b>Timeframe</b>
Legislative Measure			
Child Care Subsidy	\$21 billion	Over two years from 2017-18	From July 2017
Additional Child Care Subsidy	\$178 million	Over two years from 2017-18	From July 2017
Non-Legislative Measure (Administered Programme)			
Interim Home Based Carer Subsidy Pilot Programme	\$184.5 million	2016 and 2017	From January 2016
Inclusion Support Programme	\$409 million	Over three years from 2016-17	From July 2016
Community Child Care Fund	\$271 million	Over two years from 2017-18	From July 2017

## Regulation Impact Statement

15. The RIS for the Package presents the options which were considered during the development of the Package and is the culmination of extensive consultation with the sector and Australian families by the Productivity Commission and the Government.
16. As noted in the RIS, the estimated net regulatory impact is a decrease in regulatory costs (a saving) of \$104.48 million per annum. This represents a red tape reduction and cost savings for the early childhood and care sector and Australian families. The new information technology (IT) system, which is being developed, is also anticipated to further streamline and simplify interaction by families and services with child care fee assistance.

## Consultation

17. There has been significant consultation with the child care sector over the last two years in relation to proposed reforms, including with child care peak organisations, child care service providers and their staff and educators, families, communities and state and territory governments.

18. Extensive public consultation initially occurred through the Productivity Commission Inquiry into Childcare and Early Childhood Learning in 2014, and the 2014 Review of the National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care.
19. The Government undertook further consultation in 2015 seeking views in relation to the Productivity Commission's recommendations and after the Package was announced as part of the RIS process. As noted above the Productivity Commission confirmed the need for significant changes to the child care system with this view supported by further stakeholder consultations undertaken by the Department with the child care sector and families.
20. Chapter 10 of the RIS provides details of consultations undertaken. Feedback from the consultations is described throughout Chapters 7, 8 and 9 of the RIS (which refer to the implementation of the Child Care Subsidy, Child Care Safety Net and other measures to support the reforms).
21. Consultations will continue with the child care sector and state/territory government agencies in relation to developing the Minister's rules and Secretary's rules that will be made under the Bill. While much of the policy underpinning these rules has been settled and is outlined in the RIS there are micro policy and process issues that the Government has committed to consult further on as the rules are developed.

## Policy Objectives

22. In 2013, the Government tasked the Productivity Commission with an inquiry into how Australia's child care system could be made more affordable, flexible and accessible. The Package is the Australian Government's response to the Productivity Commission's report and the Government's further consultations, and addresses the following priorities:
  - simplifying and streamlining a complex system that is difficult to understand
  - improving affordability for parents, including taking steps to constrain fee growth
  - improving accessibility and flexibility
  - better targeting assistance for vulnerable children and communities
  - reducing regulatory burden through improved data/information sharing and IT systems.
23. The overarching goal is to create a more sustainable system that:
  - encourages greater workforce participation and productivity, and better meets families' needs
  - addresses children's learning and development needs, particularly those who are vulnerable or at risk of poor long-term development outcomes
  - improves budget sustainability in the longer term.

## The Imperative for Reform

24. There has been a strong appetite for successive governments to 'fix' child care and while this means different things to different stakeholders it is broadly accepted that the cost (including increasing costs to the Government), availability of places, inflexibility and complexity are all significant concerns for most stakeholders, including families.
25. It has also become apparent in recent years that some child care subsidies and programmes have been the target of sharp practice and fraud (see paragraph 107 for more detail of recent Australian National Audit Office (ANAO) findings). Further, some programmes are poorly targeted or ineffective such that the high levels of Government expenditure is not resulting in the best possible outcomes.

26. Many of these issues are interrelated to such a degree that structural reform is now required to address them which should not be done in a piecemeal way.

## Timing

27. The Bill makes significant amendments to the Family Assistance Law in order to introduce the Child Care Subsidy, the Additional Child Care Subsidy, new approved service requirements and an enhanced compliance framework from July 2017. A July 2017 commencement date for these elements allows sufficient time to assist families and the child care sector adjust to the changes.
28. The Bill also includes a number of transitional provisions to commence in July 2016 including some elements of the compliance framework enhancements.
29. The detailed changes outlined in the Bill will provide the underlying foundation for the development of a new integrated IT system that will support the Package while also making it easier for families and service providers to interact with the Government regarding child care payments. Work on the new IT system is already underway but passage of the Bill and confirmation of all of the changes to be implemented is required as soon as possible to ensure the IT system is operational by July 2017.

## Amendments to Family Assistance Law

### Child Care Subsidy

30. The centrepiece of the Package is the Child Care Subsidy, which is to commence on 3 July 2017 (the first Monday of 2017-18 financial year). The Child Care Subsidy will replace the current Child Care Benefit and Child Care Rebate with a single payment based on family income. The Child Care Subsidy will:
- be paid directly to service providers, based on a family's fortnightly entitlement
  - be better targeted and provide more assistance to low and middle income families.
31. An individual's eligibility for the Child Care Subsidy is outlined in Clause 85BA of the Bill, in summary an individual is eligible for the subsidy if at the time the care was provided:
- the child is a FTB child, or regular care child of the individual or their partner; and
  - the child is 13 years old or under and does not attend secondary school; and
  - the child meets immunisation requirements; and
  - the individual or their partner meets residence requirements (outlined in Clause 85BB);and
  - the individual or their partner has incurred a liability to pay for the child care; and
  - the care is provided in Australia and is not part of a compulsory education programme.
32. The Child Care Subsidy will provide the greatest rate of subsidy to families earning the least and provide more hours of subsidy to families who work the most.
33. The Child Care Subsidy paid will be a percentage of the actual fee charged by the child care service (up to the relevant percentage of the hourly fee cap).



34. The percentage of subsidy to which a family will be entitled is based on family income. The number of hours of subsidised care a family will be entitled to will be determined by a three-step activity test which more closely aligns the amount of work, training, study or other recognised activity undertaken. Most families will always make a contribution to their child care fees. Accordingly, the amount of fortnightly Child Care Subsidy to which a family will be entitled depends on:
- the family income, which determines the subsidy percentage
  - the amount of work, training, study or other recognised activity undertaken by the parent(s)
  - the actual hourly fee charged by the service and the hourly fee cap for the service type being utilised.
35. The amount of Child Care Subsidy which a family is entitled to during the financial year will also be dependent on whether an annual cap applies to them (refer paragraph 40 below).
36. The Child Care Subsidy is consistent with the Productivity Commission's recommendations to have a simpler single, means-tested subsidy that provides greater assistance to low income families compared to the current system.
37. While the Child Care Subsidy will not include the different rates and complex loadings (for example the current multiple children and Family Day Care loadings) it will be better targeted and provide more assistance for low to middle income families in relation to all children.

### *Family incomes*

38. The percentage of Child Care Subsidy to which a family will be entitled is based on family income, with the highest rate of subsidy for families on the lowest income levels.
39. Families earning \$65,710 or less when the subsidy commences will receive a subsidy equal to 85 per cent of the actual fee charged (up to 85 per cent of an hourly fee cap). For family incomes above \$65,710, the subsidy tapers from 85 per cent down to 20 per cent when family income reaches \$340,000.

Combined Family Income	Subsidy per cent of the actual fee charged (up to relevant percentage of the hourly fee cap)
Up to \$65,710	85%
More than \$65,710 to below \$170,710	Tapering to 50%*
\$170,710 to below \$250,000	50%
\$250,000 to below \$340,000	Tapering to 20%*
\$340,000 or more	20%

\*Subsidy tapers down by 1 per cent for each \$3000 of income.

40. For families earning more than \$185,710, an annual subsidy cap of \$10,000 per child will apply. Families on incomes of \$185,710 or less will no longer be subject to a cap on the amount of subsidy they receive; whereas currently all families are subject to the annual Child Care Rebate cap of \$7,500 per child. This change will better target assistance to low and middle income families, particularly those who need to use more child care to work more.

41. Since the Package was announced as part of the 2015-16 Budget, the Government has modified the Child Care Subsidy for two reasons. First, to respond to feedback from stakeholders that the announced subsidy rate was too generous for high income families. Second, the additional funding to support the implementation of the Package was to be funded by savings measures from the FTB announced in the 2014-15 Budget. These savings measures have not been fully realised. As such, the Government has decided to reduce the rate of Child Care Subsidy for higher income families down to 20 per cent for those with incomes of \$340,000 and above.
42. The use of a decreasing subsidy that tapers to a 20 per cent minimum is designed to have a downward pressure on fees as higher income families will need to bear a greater proportion of any fee increases. This approach is consistent with feedback from families that higher income families are able to make a greater contribution to their child care costs.
43. When the Child Care Subsidy commences in July 2017 the income thresholds will be set in the legislation. In each subsequent financial year the lowest income threshold will be indexed by the Consumer Price Index (CPI), and all other income thresholds will be shifted by the same dollar amount to preserve the exact slope of the subsidy tapers. Indexing income thresholds in this way will also ensure Child Care Subsidy rates continue to place downward pressure on fees. The annual subsidy cap (initially \$10,000 per child) will also be indexed by CPI each year.

### *The activity test*

44. Family eligibility for the Child Care Subsidy will be determined by a three-step activity test, more closely aligning the hours of subsidised care with the combined hours of work, training, study or other recognised activity undertaken, and providing for up to 100 hours of subsidy per fortnight.

Step	Hours of activity (per fortnight)	Maximum number of hours of subsidy (per fortnight)
1	8 hours to 16 hours	36 hours
2	More than 16 hours to 48 hours	72 hours
3	More than 48 hours	100 hours

45. In two parent families both parents, unless exempt, must meet the activity test to access subsidised child care. In the case where both parents meet different steps of the activity test, the parent with the lowest entitlement will determine the hours of subsidised care for the child. This parent is usually the second income earner in the family and likely to have more time to care for the child.
46. Closer alignment between the hours of subsidised care and the hours of recognised activity will create a stronger incentive for parents to increase their workforce participation if they want to access more subsidised child care.
47. To minimise unnecessary burden, families will continue to self-declare the number of hours they participate in recognised activities (as they do currently for both Child Care Benefit and Child Care Rebate) to determine the amount of subsidised care they are entitled to. Families are best placed to know what activities they are undertaking and the Government has a high level of trust in them reporting this accurately.
48. The new compliance framework will have a strong focus on the prevention and deterrence of non-compliant behaviour, including undertaking random sampling to confirm data submitted by services and families. The approach to the random sample spot checks will be developed in consultation with the Department of Human Services (DHS) in the lead up to July 2017. The

approach will draw heavily on DHS' current well established payment integrity processes which include random sample surveys as a component of the compliance framework.

49. Families will be provided with guidance on the evidence requirements for random spot checks, which should not require families to maintain or produce new evidence. In addition to the random checks, the Government will investigate any allegations or suspicions of deliberate fraud in relation to families' declared activity.
50. Under current arrangements, families who do not meet the Child Care Benefit activity test can access up to 48 hours per fortnight (24 hours per week) of Child Care Benefit. Usage data shows that these families are on average being charged for only around 18 hours per week per child of subsidised child care. Under the Package (and included in the Bill), the Child Care Safety Net will support families earning \$65,710 or less who do not meet the activity test, by subsidising up to 24 hours of care per fortnight at the 85 per cent rate of the Child Care Subsidy (refer paragraphs 99-101 below).
51. Research conducted by ORIMA on low income families' use of child care and their workforce participation, found 63 per cent of these families are already undertaking sufficient recognised activity to meet one of the three steps of the proposed Child Care Subsidy activity test, or alternatively would be exempt from the activity test and therefore eligible for at least 36 hours of Child Care Subsidy per fortnight.
52. The ORIMA research found 23 per cent of low income families who did not meet the first step of the Child Care Subsidy activity test, would be encouraged to increase their activity in response to the new activity test requirements.

#### *Activity test and irregular work hours*

53. The activity test is based on the hours of recognised activity per fortnight. To make it easier for individuals working casual or irregular hours (such as fly-in fly-out workers), individuals will be able to estimate their hours of activity over a three month period to ensure their workforce participation is supported. Where circumstances change that would cause individuals to move between steps in the activity test (or in their Child Care Subsidy percentage), they will need to notify DHS of these changes. The new IT system will support this functionality and will enable families to interact with DHS using smart technology (including apps) which will reduce the need for families to report change of circumstances over the phone.

#### *Recognised activities*

54. A broad range of activities will meet activity test requirements. The Bill (at Clause 12(2)) defines recognised activity as:  
*An individual engages in **recognised activity** if the individual engages in any one or more of the following:*
  - a) paid work (whether or not as an employee)*
  - b) a training course for the purpose of improving the individual's work skills or employment prospects or both;*
  - c) an approved course of education or study;*
  - d) an activity prescribed by the Minister's rules.<sup>2</sup>*
55. The Department is currently developing the list of recognised activities which will be prescribed in the Minister's rules. The prescribed recognised activities will be a modified version of Option 1.2 tabled in Chapter 7 of the RIS. The range of recognised activities will have a clear focus on workforce participation and be expanded to include unpaid work experience and a

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<sup>2</sup>Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 (Cth) Clause 12(2).

broad definition for voluntary work, making it easier for individuals and families to meet the activity test.

56. The RIS proposed that individuals undertaking voluntary work through a recognised voluntary organisation would be eligible for up to 18 hours of subsidy per week. In response to feedback a broader definition will be adopted, one that is less complex than the current treatment of voluntary work which depends on whether the work improves an individual's work skills or employment prospects.
57. Limits on access to subsidised child care will be set for some activities where individuals are not currently engaged in the workforce. Individuals who are looking for work and not in receipt of income support, or undertaking voluntary work, will be entitled to up to 36 hours per fortnight (the first step of the activity test) of subsidised child care. While this approach supports looking for work and voluntary work as a pathway to finding employment, limiting the number of subsidised hours also provides an incentive to get into and stay in work.

### *Exemptions from activity test*

58. The Family Assistance Law provides for exemptions to the current work, training, study test for Child Care Benefit so that individuals or families in some circumstances can access up to 100 hours of subsidised child care per fortnight. These exemptions are as follows:

Exemption	Maximum number of hours
Child is at risk of serious abuse or neglect	100 hours
Individual or their partner is disabled	100 hours Parents in receipt of Disability Support Pension are currently treated as exempt regardless of whether they have an assessed capacity to work.
Individual or their partner is the grandparent or great grandparent of the child	100 hours
Individual or their partner is living overseas	100 hours
Individual or their partner is in prison or otherwise lawfully detained	100 hours
Exceptional circumstances	Case by case basis

59. The current exemptions to the activity test will be retained and an additional exemption category included for families if their child is attending a preschool programme in a child care service (for the period of the preschool programme). The list of exemptions will be provided in the Minister's rules (Clause 14 refers).
60. In the case where one parent is exempt from the activity test and the other meets the requirements, the hours of subsidised child care will be determined by the parent without the exemption.
61. Additionally, in exceptional circumstances, the Secretary is able to specify an individual's activity test in a determination (Clause 11(3) refers). The exceptional circumstances exemption will be applied on a case by case basis, where the Secretary is satisfied that exceptional circumstances exist in relation to an individual, the individual's partner or child. The exceptional circumstances exemption provides the Secretary with the discretion to consider a range of circumstances, such as families affected by domestic violence, serious illness or medical condition preventing an individual from working, and families impacted by significant trauma.

*The Child Care Subsidy is calculated as a percentage of the actual fee charged*

62. The Child Care Subsidy is based on a percentage of the actual fee, up to an hourly fee cap with the level of the cap varying based on service type used.
63. The benchmark fee proposed by the Productivity Commission was based on the national median fee which was, amongst other things, designed to put downward pressure on fee growth and provide a very clear indicator to families about what 'standard' child care fees are and what level of service the Government is prepared to subsidise. However, this approach would not have taken into account regional differences in fees, and in particular would not work well in major cities where the fees can be significantly higher than the national median for reasons outside the control of services and families.
64. Subsidising a proportion of the actual fee (up to the relevant percentage of the hourly fee cap) as proposed under the Package allows for variability in child care fees and takes into account geographical differences. This will help to improve affordability for families living in high fee areas and may lead to increased workforce participation as the cost of child care is a factor parents consider when making decisions about workforce participation.
65. A mechanism to put downward pressure on fees charged by child care services was a fundamental feature of the Productivity Commission's recommendations. The Child Care Subsidy hourly fee caps are designed to help constrain price growth and address the inflationary problems experienced in the current system where the Child Care Rebate covers 50 per cent of out of pocket costs after any Child Care Benefit subsidy, regardless of the cost of care. The objective is to improve the overall affordability for parents and ensure a sustainable level of expenditure for the Government. The use of an hourly fee cap also sends a strong message about what a 'high fee' service is and places downward pressure on fee increases as families will not be subsidised for the gap between the relevant hourly fee cap and higher fees. This will help to restrain Government expenditure over time.
66. The hourly fee caps are differentiated by service type in recognition of the current mean fees charged by the different services types. The hourly fee caps have been calculated using:
  - the mean hourly fees as at 2015–16 Budget plus 17.5 per cent for Long Day Care and Outside School Hours Care
  - the mean hourly fee plus 5.75 per cent for Family Day Care.

These amounts have then been increased to account for growth and inflation as at the 2017-18 financial year. Centre Based Day Care services have the highest hourly cap to account for overheads and high ratio of educators to children.

67. When the subsidy commences in July 2017 the hourly fee caps will be:

Service type	Maximum hourly fee cap
Centre Based Day Care	\$11.55
Family Day Care	\$10.70
Outside School Hours Care	\$10.10

68. The proposed Child Care Subsidy hourly fee caps are expected to cover most fees charged in 2017-18. For example the average hourly fee for Long Day Care in the March 2015 (latest available data) was \$8.30 and it is estimated that the \$11.55 hourly cap for Centre Based Day Care will be equivalent to around the 85<sup>th</sup> percentile of fees charged for this service type in 2017-18.
69. The Bill provides the Minister with the ability to prescribe other service types and an associated maximum hourly fee cap in Minister's rules. This clause (2(3) in the Bill) will provide the flexibility to add more service types, such as Nannies, in the future without legislative amendments.

### *Sessions of care*

70. As part of simplifying the child care system and ensuring services will be able to operate in a manner that best suits the families who use them, the Bill reduces regulatory requirements currently applying to child care services, including the hours per day and days per week that a service must open. Services will only be required to operate for a minimum of 48 weeks per year, or seven weeks per year if the service only provides outside school hours care. The number of hours of care provided per day will be a matter for the child care provider to determine. This flexibility is expected to be particularly useful for regional and remote services where a five day per week, eight hour per day service may not be viable.
71. These requirements will increase service providers' flexibility to deliver shorter, more flexible sessions of care to better meet the needs of their families where there is demand. This also encourages child care service providers to charge for care needed by their families as opposed to longer sessions of care that may not be attended in full. Where shorter sessions of care are offered, families will also be able to maximise their child care subsidy within their fortnightly entitlement.
72. Some services already offer shorter sessions or casual places where there is demand from families. Regulatory changes included in the Bill will make these practices easier for services to offer. Offering more flexible options is especially important where children are primarily accessing services for early learning outcomes rather than to support families juggling work commitments.

## Additional Child Care Subsidy

73. The Child Care Subsidy will be supplemented by the Additional Child Care Subsidy, which is part of the broader Child Care Safety Net. The Additional Child Care Subsidy will target additional support to children and families who are genuinely disadvantaged, to minimise barriers to participation and provide access to early learning.

Target Group	Additional Subsidy
Children at risk of serious abuse or neglect	A subsidy equal to 100 per cent of the actual fee charged (up to 120 per cent of the hourly fee cap) for a maximum of 100 hours per fortnight.
Families experiencing temporary financial hardship	A subsidy equal to 100 per cent of the actual fee charged (up to 120 per cent of the hourly fee cap) for a maximum of 100 hours per fortnight, for up to 13 weeks per event.
Grandparent primary carers on income support	A subsidy equal to 100 per cent of the actual fee charged (up to 120 per cent of the hourly fee cap) for a maximum of 100 hours per fortnight.
Parents transitioning to work from income support	A subsidy equal to 95 per cent of the actual fee charged (up to 95 per cent of the hourly fee cap) with the number of hours of assistance determined by the Child Care Subsidy activity test.
Low income families who do not meet the activity test	A subsidy equal to 85 per cent of the actual fee charged (up to 85 per cent of the hourly fee cap) for a maximum of 24 hours per fortnight.

### *Children at risk of serious abuse or neglect*

74. Children who are at risk of serious abuse or neglect will be eligible for a subsidy equal to 100 per cent of the actual fee charged (up to 120 per cent of the hourly fee cap) for 100 hours per fortnight, irrespective of their families' income or the activity of the parent(s).
75. The 'at risk' subsidy is an important element of the Government's National Framework for Protecting Australia's Children 2009-2020. It supports two of the key outcomes under the Framework: providing support and care to children who have been abused or neglected, and providing early intervention support to 'at risk' children and families.
76. The intent of the Additional Child Care Subsidy 'at risk' subsidy is to target child care support to 'at risk' children and their families before they reach crisis point (and before they are drawn into the child protection system) by providing relief through child care, as well as providing care for those children already experiencing serious abuse and/or neglect (and known to child protection authorities).
77. The Minister's rules will make it clear that risk factors indicating that a child may be vulnerable (e.g. low educational attainment, intellectual disability) may not in themselves be enough to certify a child to be eligible for this subsidy. However, combined with other information about a child's situation and risk indicators these vulnerability measures may be contributing factors to a decision that the child is at risk of serious abuse or neglect.



78. The 'at risk' element of the Additional Child Care Subsidy will replace the 'at risk' element of the Special Child Care Benefit. Key differences under the Package are:
- services will be required to refer a child who is 'at risk' to an appropriate state/territory body to help ensure the child's welfare and wellbeing
  - services can certify a child to be 'at risk' for up to six weeks in any 12 month period, with this certification being reviewable (whereas, currently child care service providers can certify a child to be 'at risk' for up to 13 weeks in a financial year, with this certification being non-reviewable)
  - further periods of 'at risk' assistance will be assessed and approved by DHS (for maximum of 13 week blocks). If it is evident in consultation with the relevant state/territory body that the child's situation will not change for a period of time longer than 13 weeks, the Secretary may certify additional periods of 'at risk' without the need for child care service providers to make additional applications to DHS (hence removing the administrative burden of the current process in these cases)
  - families who have had a child assessed as 'at risk' for a period of six months or more will be exempt from the activity test for a further period of 18 months, after the 'at risk' entitlement ceases. This exemption recognises the need to provide ongoing support in instances where the underlying reasons that led to an 'at risk' event are medium to long-term in nature
  - simpler Priority of Access requirements will be introduced to ensure the highest priority children can access child care. There will be two priority categories with 'a child at risk of serious abuse or neglect' receiving the Additional Child Care Subsidy to be Priority 1 (and children of families who meet the activity test through paid employment to be Priority 2)
  - services will be limited to certifying 'at risk' to 50 per cent of children in care at the child care service on any one day. Any additional children that child care service providers identify as 'at risk' can be approved by DHS. This is an increase to the current rule under the Special Child Care Benefit (where services are limited to 18 per cent of the total Child Care Benefit, Special Child Care Benefit and Grandparent Child Care Benefit paid to the service in the quarter before last).
79. The Department is currently developing the list of circumstances in which a child may be considered at risk of serious abuse or neglect. Feedback from consultations is being considered and further consultations are taking place in order to draft the Minister's rules which will prescribe these circumstances (see Clause 85CA(3) of the Bill).
80. Children who are genuinely at risk of serious abuse or neglect under the current system will continue to be covered under the Additional Child Care Subsidy. The Bill and the Minister's rules will provide a legal basis to grant or reject an Additional Child Care Subsidy 'at risk' claim, and will support greater transparency and clarity of decision making by services and/or DHS.
81. The Bill (Clause 85CE(3)) includes a 28 day timeframe within which DHS must assess applications for Additional Child Care Subsidy 'at risk' to ensure that services will be advised of a child's assessed eligibility in a timely manner.
82. The Department is also consulting with states and territories regarding details relating to evidentiary requirements, the referral process, and tools to assist services to make a certification. Details about evidentiary requirements and the referral process will be captured in programme guidelines.



### *Temporary Financial Hardship*

83. The Temporary Financial Hardship subsidy will provide a higher level of subsidy equal to 100 per cent of the actual fee charged (up to 120 per cent of the hourly fee cap) for 100 hours per fortnight, irrespective of a families' income or the activity of the parents. This subsidy would be paid for up to 13 weeks per hardship event to families who are experiencing significant short term financial stress due to exceptional circumstances. This element of the Additional Child Care Subsidy will help ensure continuity of care and support the child's physical safety, health and wellbeing.
84. The Temporary Financial Hardship subsidy will replace the current Temporary Financial Hardship element of the Special Child Care Benefit. Key changes include:
- better targeting and limiting of assistance to a maximum of 13 weeks per event to reflect the short term, crisis nature and intent of this assistance (previously services could approve up to 13 weeks and DHS could make further approvals of maximum blocks of 13 weeks up to 52 weeks for any single hardship event)
  - tightening the definition of 'temporary financial hardship' to a specific set of exceptional circumstances and providing clearer guidance about the assistance available under this category
  - families will apply directly to DHS rather than through their child care service provider and DHS will assess their eligibility.
85. DHS are best placed to manage the application and assessment process for Temporary Financial Hardship as families are usually in contact with them regarding assistance when the types of scenarios that this subsidy addresses occur. This will also address the fact that some families may not be comfortable discussing personal financial matters with their child care service. Further, it will reduce the administrative burden on services.
86. The Department is currently developing the list of circumstances in which a family may be eligible for this subsidy which will be listed in the Minister's rules. Circumstances that are likely to be included are:
- sudden and unexpected death of a spouse/partner or child
  - unexpected loss of employment
  - an officially declared disaster event.
87. While the child care service provider will not administer Temporary Financial Hardship, those circumstances in which families will be eligible for this subsidy will be made available to services so that they can provide care to children in situations where they can be confident that additional subsidy will be paid.
88. Evidence will be required to support a family's application for Temporary Financial Hardship. Appropriate forms of evidence may include:
- independent documentation such as a letter from an employer (for loss of job), or from an independent professional
  - a statutory declaration from the individual outlining the nature of the temporary hardship event
  - a natural disaster event that has been formally declared and where the families concerned would be eligible for disaster assistance
  - medical or death certificates.

### *Grandparents primary carers of their grandchildren on income support*

89. The grandparent element of Additional Child Care Subsidy will provide a higher rate of subsidy to grandparents on income support who are primary carers of their grandchildren.
90. Under this subsidy, grandparents on income support who are the primary carers of their grandchildren will not have to meet the Child Care Subsidy activity test and will be eligible for a subsidy equal to 100 per cent of the actual fee charged (up to 120 per cent of the hourly fee cap) for 100 hours per fortnight.
91. This additional subsidy will replace the current Grandparent Child Care Benefit. The key difference under the Package is that grandparents must demonstrate they provide at least 65 per cent of ongoing daily care for their grandchild with evidence of this to include a court order, parenting order, consent order or statutory declaration. The inclusion of more rigorous evidentiary requirements will help ensure that this subsidy is only accessed by the target group.
92. Grandparent primary carers not on income support will be exempt from the Child Care Subsidy activity test and will be eligible for up to 100 hours of subsidised approved child care each fortnight with a Child Care Subsidy rate based on their family income.

### *Transition to Work*

93. Transition to Work will provide support to families who are transitioning to work from income support by engaging in work, study or training activities. Transition to Work provides a higher subsidy for families equal to 95 per cent of the actual fee charged (up to 95 per cent of the hourly fee cap), with the number of hours determined by the Child Care Subsidy activity test. It also allows for up to 12 weeks of the higher subsidy to be paid if recipients come off income support due to employment, as an incentive for people to move into jobs.
94. This element of the Additional Child Care Subsidy is likely to assist families eligible for the current Jobs, Education and Training Child Care Fee Assistance (JETCCFA) programme. Key features of the new subsidy include:
  - better targeting of assistance to income support recipients transitioning to work
  - reduced complexity with simpler payment arrangements
  - inclusion of the Disability Support Pension as an eligible income support payment
  - hours of care determined by the Child Care Subsidy activity test
  - flexibility to access support that best suits a family's work, study or training needs.
95. Assistance provided under the Transition to Work subsidy will compare favourably to that currently available under the JETCCFA programme. Under JETCCFA parents are required to pay a 50 cent per hour contribution to their child care fees after their Child Care Benefit, Child Care Rebate and JETCCFA subsidies have all been paid. In comparison as the Transition to Work subsidy will be 95 per cent of the actual fee charged (up to 95 per cent of the hourly fee cap) parents will be required to contribute less than 50 cents per hour for fees below \$10 per hour and only marginally more as fees rise above \$10 per hour up to the hourly fee cap. Under the Transition to Work subsidy parents will also be able to access up to 50 hours of child care per week in relation to study and training activities (subject to the Child Care Subsidy activity test) compared to a maximum of 36 hours per week allowed for approved study activities under JETCCFA.

96. To be eligible for Transition to Work families need to be:

- eligible for the Child Care Subsidy
- receive a rate of income support from one of the following payments:
  - i. Parenting Payment
  - ii. Newstart Allowance
  - iii. Disability Support Pension
  - iv. Youth Allowance
  - v. a payment prescribed by the Minister's rules.
- have a Job Plan (whether mandatory or voluntary) in effect (employment pathway plan within the meaning of the *Social Security Act 1991* (Cth), or a participation plan under Clause 94B of the *Social Security Act 1991* (Cth)).

97. Families will apply directly to DHS for the Transition to Work subsidy. DHS will determine a family's eligibility, and where an approved activity extends beyond a 12 month period will review a family's continued eligibility for up to a further 12 months. For study activities, it is expected that recipients will be progressing in their studies to continue to access the subsidy.

98. The Department is currently developing the Minister's rules which will set out further requirements relating to eligibility of income support payments, approved activities, periods of assistance, the requirement to demonstrate course progression, and review arrangements.

#### *Low income families who do not meet the activity test*

99. Children from low income families (incomes of \$65,710 or less in 2017-18) where the family does not meet the Child Care Subsidy activity test will be eligible to access 24 hours per fortnight of subsidised child care. Families will receive a subsidy equal to 85 per cent of the actual fee charged (up to 85 per cent of the hourly fee cap).

100. Under the current child care system all families, including these low income families, receive 48 hours per fortnight of Child Care Benefit subsidy without having to meet the current activity test. The Additional Child Care Subsidy provides 24 hours of subsidised care per fortnight for low income families who do not meet the activity test based on the following rationale:

- the activity test is designed to ensure child care subsidies are targeted to those who depend upon it in order to work or work more
- the Child Care Subsidy activity test has a low entry requirement (eight hours of activity a fortnight for up to 36 hours of subsidised child care per fortnight) and the types of recognised activity will be generous in order to encourage workforce participation
- 24 hours per fortnight is equivalent to two six-hour sessions per week. Child care providers will have flexibility to deliver these sessions
- these families will also receive 600 hours of preschool a year for children in the year before school under the National Partnership Agreement on Universal Access to Early Childhood Education.

101. To ensure families are not unfairly penalised if they earn more than the lower income threshold (that is \$65,710) the period when this estimate has been in effect will be quarantined from reconciliation for their activity test result. This means that they will not retrospectively lose their entitlement to 24 hours of subsidised care, and only their Child Care Subsidy percentage will be adjusted at reconciliation in accordance with their actual income for the financial year.

## Administrative Matters

### *Reviews and Appeals*

102. Administrative arrangements that allow relevant parties to seek reviews of decisions made that affect them will remain.

103. Internal reviews (reviews conducted by the Secretary of the relevant department) are the simplest and quickest reviews to be sought and conducted. Following this, affected parties have the option of seeking a review of the Secretary's decision through the Administrative Appeals Tribunal and the courts.

### *Improved Information Technology to support the Package*

104. A new integrated Child Care IT system is being proposed that will support the reforms, enable improved policy and programme implementation, and provide a flexible and cost effective system capable of supporting the new legislative requirements and adapting to a growing and changing sector.

105. The existing technical environment is complex with many stakeholders and systems required to interact. The current process to effect policy and programme changes is slow due to the nature of the different systems needing to be modified. This results in added cost and administrative burden for child care services and families, as well as lengthy timeframes for implementation.

106. The new IT system will:

- be easy to interact with for families and services while ensuring payment efficiency and accountability
- share information more easily to reduce the burden placed on families and service providers who supply information to governments and also from a compliance point of view
- assist in minimising compliance costs and burden for families and services
- implement adequate measures to minimise the scope for 'conscious' fraud and improper payments, while increasing the ability for the Government to address fraudulent behaviour
- support the Government's deregulation agenda as families and services will experience more end-to-end digital services
- enhance the ways families identify and register for assistance through smart technology.

## Provider Approvals & Compliance

107. The ANAO 2014-15 Financial Statements<sup>3</sup> audit report estimates that \$692.9 million was inappropriately claimed by child care service providers in 2014-15. The problem is, in large part, a product of the fact that the Family Assistance Law does not adequately address the challenges and risks which have emerged since it commenced in 2000. The legislation as it is currently framed incorporates inadequate criteria for eligibility for approval, lacks controls around fee charging, fails to create fee transparency, does not adequately acknowledge incorrect attendance reporting as non-compliant activity and does not provide the compliance tools to take effective action to encourage and, where appropriate, enforce compliance or remove unsuitable operators from the system.

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<sup>3</sup> 'Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2015' published at <http://www.anao.gov.au/Publications/Audit-Reports/2015-2016/Audits-of-the-Financial-Statements--for-the-Period-Ended-30-June-2015>.

108. Changes proposed under the Bill will create a more robust compliance framework, limiting opportunities for child care service providers to defraud the Commonwealth or unethically maximise fee assistance. It will do this by introducing a range of new compliance tools to pursue and remove unscrupulous providers, and tightening the approvals process to stop these providers from entering the system in the first place.
109. The introduction of an hourly cap on the subsidised fee will constrain price growth, and also significantly limit the ability of dishonest providers to inflate fees where high or full subsidies are paid to maximise Government payments. The requirement for families to pay the difference between their subsidy and the actual fee charged will also deter child care service providers from making claims where children are no longer enrolled in care. A requirement for more detailed and regular invoicing will allow parents to play a greater role in keeping providers honest.
110. Improved alignment with the National Law and clearer distinction between state/territory and Commonwealth responsibilities for the administration of subsidies and the care of children will both help child care service providers to better understand their obligations and improve the Government's ability to take action where non-compliance is identified.
111. The Bill triggers relevant provisions of the *Regulatory Powers (Standard Provisions) Act 2014* which will ensure these powers are consistent with the approach endorsed by Parliament. This will also establish a more robust and clearly defined suite of powers that will support more effective monitoring and compliance activities.
112. The Package creates greater deterrence to fraud and other non-compliant activity by establishing more targeted offence provisions and clarifying penalty and sanction processes. Several new offences have been created, most notably in respect of fraudulent child care attendance reporting, and there is now greater consistency in the penalties that may be imposed. The sanction process has been streamlined to improve the Government's ability to act on non-compliance promptly.
113. Other changes to further enhance the Department's ability to prevent non-compliance and fraud include:
- the ability for families to elect how their subsidies are paid to multiple providers
  - stronger record keeping requirements placed upon child care service providers to enhance monitoring
  - the ability to more readily identify educators and ensure subsidising of inappropriate reciprocal care arrangements are stopped.
114. The provider approval process has been strengthened by requiring people with management and control to be fit and proper persons to administer child care subsidies. Currently, some applicants with a history of non-compliance or a criminal record will, during the assessment phase, remove themselves as a director or shareholder but will continue to manage and influence the day-to-day operations of the service. The new test will allow the Department to consider any person who is making or influencing decisions.
115. The Secretary will also be able to undertake assessments of providers' eligibility with Family Assistance Law at any time to determine whether the provider continues to meet its ongoing requirements. This will simplify the process for removal of undesirable providers who are already in the sector and those whose circumstances change once approval has been given. The power to review service suitability at any time will commence on 1 July 2016. This will allow reviews of high risk services to be undertaken in 2016-17, and removal of those services that would fail to meet eligibility criteria or with a history of abusing the system, before they transition to the new system.

116. The Bill provides a Ministerial rule making power to apply a pause on provider approvals in specified circumstances. This rule making power is intended to be used to limit applications to address excessive growth within a particular child care service type, specifically where there are concerns about proven or alleged non-compliance with Family Assistance Law. Such a power would only be used in limited circumstances (e.g. where there is a very high incidence of proven or suspected non-compliance) and will be subject to disallowance by the Parliament. Should such a rule be required in the future it will be drafted in consultation with relevant stakeholders.

117. The Bill lists the following service types for approval under the Child Care Subsidy:

- Centre Based Day Care (includes current Long Day Care and Occasional Care services)
- Family Day Care
- Outside School Hours Care

The Minister also has a rule making power which enables the inclusion of additional service types.

### Access for Indigenous children

118. Indigenous children are underrepresented in the current child care system and the Government is committed to increasing their participation in the new system.

119. The majority of Indigenous children who attend child care attend approved child care services. A smaller number of Indigenous families use services funded through the Budget Based Funded (BBF) programme.

120. The BBF programme is an amalgamation of several historical measures aimed at supporting culturally appropriate early childhood education and care and communities where the market may not otherwise support the viable operation of a service.

121. Due to the historical nature of the programme, funding allocations to BBF services are inconsistent and lack transparency with similar services allocated very different levels of funding (e.g. BBF Outside School Hours Care service funding ranges from \$9,800 to \$370,000 per service per annum). These funding allocations have also remained static over many years, not responding to growth in numbers of children, while the support for mainstream child care services has increased steadily over the same period.

122. Families using most BBF services are not eligible for any Government assistance with the cost of fees.

123. A major programme review, ANAO audit and several smaller projects have highlighted a range of problems with the BBF programme including that:

- the programme is capped and closed so no new services can be funded in areas of need
- there is no incentive for services to increase utilisation
- in some cases families pay high fees but are not eligible for any fee subsidy
- in some locations approved child care services have been established close to the BBF service so there may no longer be a real need for that service.

124. These issues as well as concerns about the quality of many BBF services resulted in significant investment by the Government over the past five years to bring many of the BBF services closer to the National Quality Standard with regard to their infrastructure, qualifications of staff and the quality of the governance of organisations that deliver the services. At the same time, in order to further embed quality and continuous improvement, BBF services are required to use the approved learnings frameworks of the National Quality Framework and complete Quality Improvement Plans each year.

125. Following this work, it is now the right time to bring these services into the new child care system with additional support available, as required, from Child Care Safety Net programmes.
126. The new child care system will be fairer and more equitable than the current system with support targeted to families in greatest need, including Indigenous families. The increased flexibility of the new system will mean that services will be able to operate flexible models in small Indigenous communities where services may only be required on a part time basis.
127. There will also be greater opportunity for new services to be established in Indigenous communities where child care is not currently available. This will ensure that more Indigenous families have access to the Child Care Subsidy and former BBF services are, over time, subject to the same quality assurance processes as all other child care services.

### **Access for Children with a Disability**

128. While the Inclusion Support Programme is not part of the Bill, it has an important role to play in the Package given it assists eligible Child Care Subsidy approved services to include children with additional needs. The programme will provide eligible services with access to tailored inclusion advice and support from contracted Inclusion Agencies and funding to address more challenging inclusion barriers. For example, a subsidy so an additional educator can be engaged to assist with integrating a child/ren with disability with ongoing high support needs alongside their typically developing peers.
129. The Inclusion Support Programme replaces the existing Inclusion and Professional Support Program from 1 July 2016 and will provide increased programme funding support by 25 per cent including an increased payment for services to engage an additional educator from about \$17 to \$23 per hour. The programme will also provide greater flexibility for families by allowing services to access up to 25 hours of assistance per week with daily limits being removed and significant streamlining of processes for services.

### **Transitional Arrangements**

130. Subject to the passage of the Bill, the transition from the existing child care system to the new system will be of significant interest to Australian families and child care service providers.
131. All families who use child care, or need to use child care in the future, will be kept informed of the progress of the changes and given timely information on how they may be affected when the changes come into effect in July 2017. The Department and DHS will undertake a range of communication and stakeholder engagement activities to implement the Package and support families and services transition to the new system. The aim of these activities will be to inform parents about the proposed changes to the child care system, inform stakeholders on its implementation, and advise families and service providers on how they will transition to the new system. The mix of activities is likely to include paid advertising, social media, online content and targeted communication via email and letters.
132. Child care service providers will also experience significant changes, particularly those moving from demand driven programmes to competitive processes. To ensure providers have sufficient time to implement necessary changes to their administration and IT systems, the Department aims to have legislation and associated subordinate legislation in place by 30 June 2016.
133. Further consultation will also occur at key phases of implementation, seeking stakeholder feedback on relevant aspects of the package and proposed implementation strategies. Established advisory groups will continue to be used throughout implementation, as well as the engagement of particular stakeholder groups for co-design workshops and user testing related to the new integrated IT System. This will ensure stakeholders understand how to transition to the new system, and that the IT System has been designed to support them.



134. Further information on the activities necessary to implement the Package is in Chapter 11 of the RIS.

## Impact Analysis

135. An impact analysis of the Package is contained in Chapter 5 of the RIS (Section 5.3 refers). This includes an analysis of the impact on families, child care service providers, communities and governments, and an assessment of the Package's impact towards achieving the objectives of the reform.

136. As noted in the RIS, the estimated net regulatory impact of the Package is a decrease in regulatory costs (a saving) of \$104.48 million per annum. This represents a red tape reduction and cost saving for Australian families and the early childhood and care sector. A new IT system, which is being developed, is also anticipated to further streamline and simplify interaction by families and services with child care fee assistance.

### *Impact on Families*

137. In 2017-18 around 1 million families accessing child care will be better off or maintain their current level of support.

138. From implementation, about 250,000 families earning \$65,710 or less per year will have access to a subsidy rate of 85 per cent of their fee (up to 85 per cent of an hourly fee cap), which is up from their current subsidy rate of around 72 per cent. The majority of these families will be better off (about 104,100) or will experience no change (about 81,000). There are approximately 12,800 families on income support who have not reported their income – without this information it is difficult to determine how these families will be impacted.

139. Those families earning \$65,710 or less who do not meet the activity test will receive 12 hours of child care a week, subsidised at a rate of 85 per cent. Under current arrangements, families need not demonstrate any activity in order to receive 24 hours of subsidised care a week. About 52,100 families in this income bracket will receive a reduced level of support mainly because they are not working, training, studying or volunteering. These families can access more hours of subsidised child care by increasing their recognised activity.

140. The subsidy rate tapers from 85 per cent for families earning more than \$65,710 to 50 per cent for those earning \$170,710. In this income bracket, there are about 653,900 families, and around 565,400 of them will be better off with a further 32,800 experiencing no change in support. These families will benefit from the removal of the annual cap, which applies universally today, but will only apply to families with incomes of more than \$185,710 under the new Package. The cap will also increase from \$7,500 to \$10,000 per year per child. There are around 55,700 families in this income bracket who may receive reduced support due to not meeting the activity and/or paying child care fees in excess of the hourly fee cap. Many of these families could increase the level of subsidy they would be eligible for by either increasing their activity or seeking lower cost child care.

141. The Child Care Subsidy tapers to 50 per cent for family incomes of \$170,710. It then remains at 50 per cent until family income reaches \$250,000. Around 142,400 families earning between these amounts will be better off under the new Package, while a further 19,500 will experience no change. About 16,600 will receive a reduced level of child care support, mainly because they are paying child care fees in excess of average costs. Most of these 16,600 families will continue to access subsidised child care, but may not be eligible for as many hours or may face larger out of pocket costs if they are using a high cost child care service that charges fees above the hourly fee cap.



142. For high income families earning \$250,000 or more, the subsidy reduces from 50 per cent to 20 per cent at \$340,000 and above. Around 7,200 families will experience no change while about 3,800 families will be better off. Around 59,500 families earning more than \$250,000 a year will receive less Child Care Subsidy under the proposed arrangements. Consultations, including through the Productivity Commission, indicated this to be a sufficient level of support for high income families.

### *Impact on Child Care Providers and Services*

143. One of the fundamental aims of the Package is to simplify child care arrangements for families and their child care providers. The Bill includes many provisions aimed at streamlining processes and reducing administrative burden on providers including, amongst other things:

- alignment where possible with provisions and processes under the National Law administered by states and territories
- reduced regulatory burden by streamlining the service approval/application processes
- payment of the Child Care Subsidy to services to pass on as a fee reduction to simplify fee administration and to reduce bad debts
- assistance from state/territory bodies in managing cases involving children at risk of serious harm or neglect
- deregulation of the hours per day and days per week that services are required to operate
- simplification of the Priority of Access guidelines
- simpler and clearer family eligibility for the Child Care Subsidy and the suite of additional subsidies and support programmes which will be easier for services to discuss with families
- significantly enhanced IT system to simplify and automate many administrative processes for providers.

144. Of course the Package will represent significant change management processes for child care providers that will require them to commit to appropriate levels of transition and training for their organisations and staff. In general the Department's consultations with the sector have indicated a strong desire for significant reform and a genuine willingness to undertake the work required to make the reforms work for the sector and families.

145. Some of the changes under the Package may require some providers to review their business practices, the services they provide to families and their fee structures. For example high fee charging services may need to be prepared to explain the quality of their services and high level inclusions to differentiate themselves from lower charging competitors.

146. The Government has also made it clear that it expects services to take the opportunity to review their practices around charging long sessions of care where families/children require shorter sessions and where these may not be viable for families under the new activity test.

### *Impact on Communities and Governments*

147. It is expected the Package will generate a range of broader economic benefits, including:

- increases in workforce participation, leading to greater economic productivity and also flow on benefits for child development as outcomes are improved for children whose parents have some workforce attachment
- an increased uptake of child care by children from disadvantaged and lower socio-economic backgrounds
- better child development outcomes associated with early identification and intervention to address developmental delays.

### *Government*

148. Under the Child Care Subsidy, most families will always make a contribution to their child care fees. Parents will be able to compare the fees they are paying against the fees other services charge, and the cap, and make informed decisions about what they are getting for their fees.
149. A co-contribution should encourage families to consider their child care service options and, in combination with the proposed activity test, exert downward pressure on fee prices. This is expected to help increase affordability for families, particularly low income families, as well as help minimise growth in Government child care fee expenditure.
150. If a family is charged more than the hourly subsidy cap, they will need to meet the full amount they are charged above the cap. This would create a strong price signal at the upper end of the market and help constrain fee growth.
151. Given the intention to introduce better designed and targeted programmes, build improved IT systems, and develop an enhanced legislative and compliance architecture, the impact for the Government is intended to be a more fiscally sustainable child care system with strong payment integrity and a better return on investment for both the Government and Australian families.

### *Communities*

152. The Package, in particular the Child Care Safety Net, will have a positive impact on families accessing child care across regional and remote communities as these communities are particularly targeted for assistance under the Community Child Care Fund.
153. The Community Child Care Fund is a competitive grants programme that will be available to child care providers to:
- address barriers to child care for disadvantaged children, or children in regional or remote areas
  - provide sustainability support for child care services experiencing viability issues
  - provide capital support to increase the supply of child care places in areas of high unmet demand.
154. The Community Child Care Fund will also support the integration of early childhood, maternal and child health and family support services in a number of Indigenous communities experiencing disadvantage, as recommended by Andrew Forrest in his review of Indigenous jobs and training – Creating Parity.
155. As noted in paragraph 70 above, the proposed increased flexibility for services in relation to operating requirements is expected to be particularly useful for regional and remote services where a five day per week, eight hour per day service may not be viable.

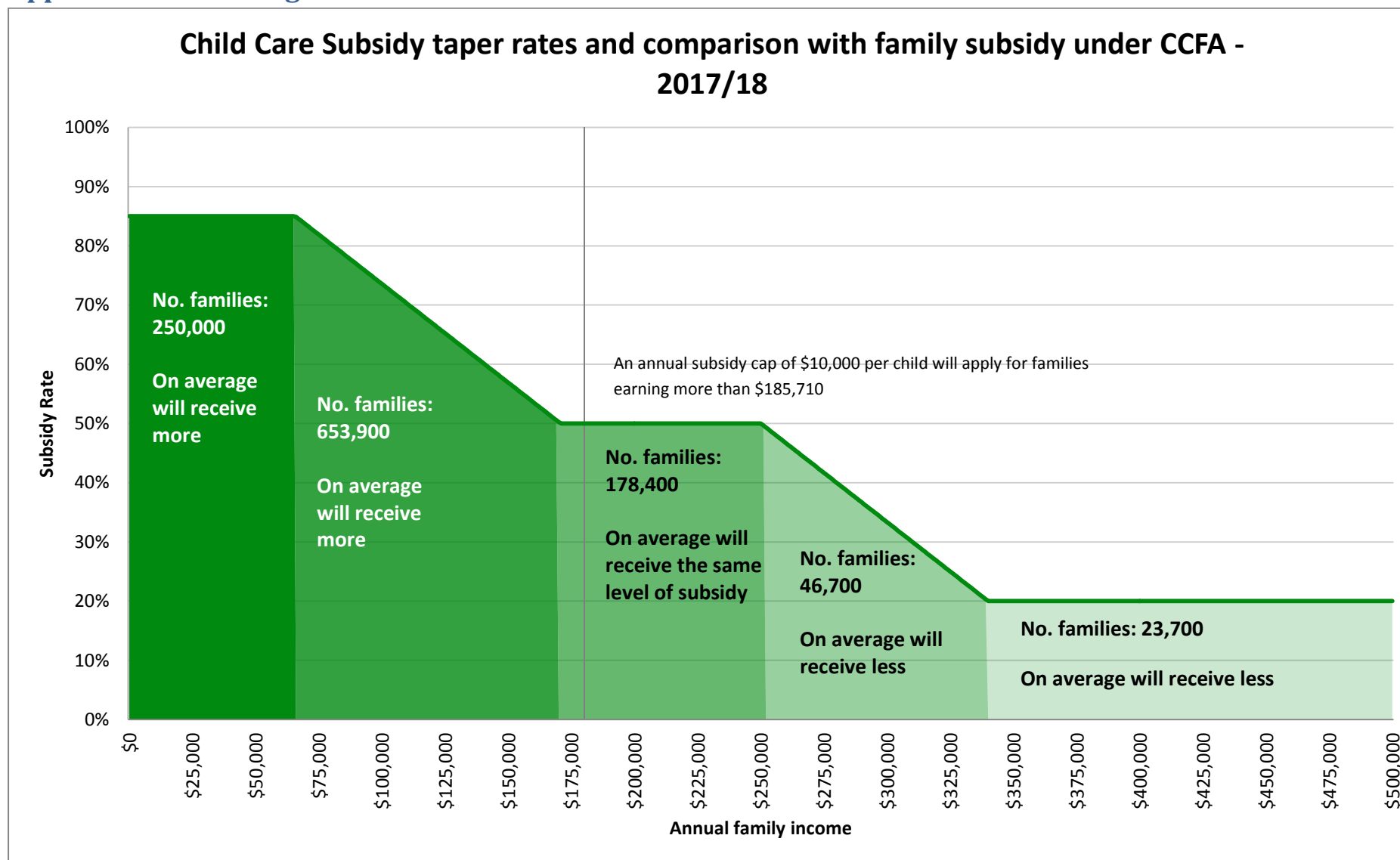
## Appendix 1: List of Subordinate Legislation

Note that while the Bill gives effect to allow all the rules below to be created, not all will be created by July 2017. This list does not include the existing determinations that won't be repealed by the Bill.

Bill Clause Reference	Clause Title	Minister's Rule	Secretary's Rule
Item 31: 8(1)	Extended meaning of Australian resident - hardship and special circumstances	Yes	
10(2)(b)(iv) & 10(3)(c)(iv)	When a session of care is provided	Yes	
10(4)(e)	When a session of care is provided	Yes	
85BA(c)(iii) 85CA(2)(c)(iii)	Eligibility for CCS Eligibility for ACCS (at risk)	Yes	
85CA(3)	Eligibility for ACCS (at risk)	Yes	
85CB(2)(f)	Certificate of risk of serious abuse or neglect		Yes
85CB(4)(b)	Certificate of risk of serious abuse or neglect		Yes
85CB(5)	Certificate of risk of serious abuse or neglect	Yes	
85CG(2)	Eligibility for ACCS (temporary financial hardship)	Yes	
85CK(1)(c), (2)(c), (3)(b)	Eligibility for ACCS (transition to work)	Yes	
85EA(2)	Only one individual eligible at a time	Yes	
85ED(1)(b), (2)	No eligibility for child who is in care of State or Territory or member of prescribed class	Yes	
85GA(3)	Funding agreements	Yes	
2(3), (4)	Hourly rate of CCS	Yes	
4(3)	Activity-tested amount of CCS	Yes	
6(2)(b)	Hourly rate of ACCS (at risk), ACCS (temporary financial hardship) or ACCS (grandparent)		Yes
12(2)(d)	Recognised activity result	Yes	
14	Minister's rules result	Yes	
16	Provider's deemed activity test result	Yes	
Item 58: Subclause 3(1)	Definition of a child care service payment	Yes	
Item 81: 4A(2)	Large centre-based day care providers	Yes	
67BE(g)	When a claim is effective		Yes
67EB(3)(b)	Payments to providers of individuals' entitlements to CCS or ACCS by fee reduction	Yes	
67FI(2)	Request for information about future income years		Yes
194A(1)(d)	Application for provider approval	Yes	
194A(2)(b)	Application for provider approval		Yes
194A(3)(b) 196A(3)(b)	Application for provider approval	Yes	
194C(f)	Provider eligibility rules	Yes	
194D(f)(vi)	Service eligibility rules	Yes	
194D(g)	Service eligibility rules	Yes	
194E(k)	Fit and proper person considerations	Yes	
195C(3)	Condition for continued approval—operating period for each approved child care service	Yes	
195E	Condition for continued approval - compliance with conditions imposed by Minister	Yes	

Bill Clause Reference	Clause Title	Minister's Rule	Secretary's Rule
195H(2)	Consequences of breach of conditions for continued approval	Yes	
195H(6)	Consequences of breach of conditions for continued approval	Yes	
196A(2)(b)	Application to add or remove a service		Yes
196C(4)	Removing a service on application	Yes	
197C(2)	Cancellation on request	Yes	
198A	Allocation of child care places to approved child care services	Yes	
198B(3)(b)	Secretary to allocate child care places		Yes
199F & (b)	Certain providers are not required to comply with requirements	Yes	
199G(1)	Minister's rules in relation to backdating of approvals etc.	Yes	
200B(1)(b)(iv)	When a child is enrolled	Yes	
200B(3)	When a child is enrolled		Yes
200C(b)	Variation of complying written arrangements	Yes	
201D(3)(iv)	Requirement to give individuals statements of entitlement		Yes
201D(4) 201E(4)	Requirement to give individuals statements of entitlement		Yes
201D(7)(b)	Requirement to give individuals statements of entitlement		Yes
201E(2)	Statements following changes of entitlement		Yes
202A(1)(b)(iv)	Requirement to make records		Yes
202B(1) & (1)(d)	Requirement to keep records		Yes
204F(1) & (1)(b)	Requirement to notify the Secretary of certain matters	Yes	
204G(1)	Requirements prescribed by Minister's rules in relation to children who are members of a prescribed class	Yes	
205A(1)(c) & (2)	Business continuity payments (BCPs)	Yes	
230A(7)	Application of family assistance law (FAL) to providers that are partnerships	Yes	
230B(6)	Application of family assistance law to providers that are unincorporated	Yes	
Schedule 4, Part 5, Item 12	Transitional Rules	Yes	

## Appendix 2: Modelling



Source: Legislative Out-years Customisable Model of Child Care (LOCMOCC) 2013, Department of Education and Training as at MYEFO 2015

### Child Care Subsidy

The centrepiece of the Jobs for Families Child Care Package is the Child Care Subsidy (CCS). When the CCS commences in July 2017, it will:

- Replace the Child Care Benefit (CCB) and Child Care Rebate (CCR) with a single, means-tested subsidy
- Be paid directly to service providers to be passed on to families
- Be simpler than the current multi-payment system
- Be better targeted and provide more assistance to low and middle income families

Families earning \$65,710 or less when the subsidy commences will receive a subsidy equal to 85 per cent of the actual fee charged (up to 85 per cent of an hourly fee cap). For family incomes above \$65,710, the subsidy tapers down to 20 per cent when family income reaches \$340,000.

Combined Family Income	Subsidy per cent of the actual fee charged (up to relevant percentage of the hourly fee cap)
Up to \$65,710	85%
More than \$65,710 to below \$170,710	Tapering to 50%
\$170,710 to below \$250,000	50%
\$250,000 to below \$340,000	Tapering to 20%
\$340,000 or more	20%

\*Subsidy tapers down 1 per cent for each \$3,000 of family income

When the CCS commences in July 2017 the hourly fee caps will be:

Service Type	Maximum hourly fee cap
Centre Based Day Care	\$11.55
Family Day Care	\$10.70
Outside School Hours Care	\$10.10

For families earning more than \$185,710, an annual CCS cap of \$10,000 per child will apply.

Family eligibility for the CCS will be subject to a three-step activity test, more closely aligning the hours of subsidised care with the hours of work, training, study or other recognised activity undertaken, and providing up to 100 hours of subsidy per fortnight.

Step	Hours of activity (per fortnight)	Maximum number of hours of subsidy (per fortnight)
1	8 hours to 16 hours	36 hours
2	More than 16 hours to 48 hours	72 hours
3	More than 48 hours	100 hours

A broad range of activities will meet the activity test requirements, including paid work, being self-employed, doing unpaid work in a family business, looking for work, volunteering or studying. There will be exemptions to the activity test for parents who legitimately cannot meet the activity requirements.

Some families who don't meet the activity test will be assisted through the new Child Care Safety Net, including families on incomes of \$65,710 or less a year who will be able to access 24 hours of subsidised care per fortnight without having to meet the activity test.

### Modelling Assumptions

#### Costing the new Child Care Subsidy

Costings for the new CCS policy were produced using the Legislative Out-years Customisable Model of Child Care (LOCMOCC). The model uses a reference week of child care administrative data to simulate both the existing Child Care Fee Assistance (CCFA) policy and the proposed CCS.

### Data Source

LOCMOCC is a micro-simulation model based on Department of Human Services (DHS) administrative data extracted from the DHS Enterprise Data Warehouse. The base data is a reference week, with model results stated in annualised terms.

- Reference week assumes family income/circumstances remain fixed throughout the year with entitlement reconciliation estimated separately

### Modelling Behaviour Change

The Department has used the Productivity Commission's model to estimate the overall change in child care usage as a result of the introduction of the CCS.

### Indexing income thresholds

When the CCS commences in July 2017 the income thresholds will be set in the legislation. In each subsequent year the lowest income threshold will be indexed by CPI, and all other income thresholds will be shifted by the same dollar amount to preserve the exact slope of the subsidy tapers.

### Indexing fee caps

When the Child Care Subsidy commences in July 2017 the hourly fee caps will be fixed (estimated as the mean hourly fee as at 2015–16 Budget + 17.5% for LDC and OSHC, and the average hourly fee + 5.75% for FDC). Each subsequent year the hourly fee caps will be indexed by CPI.

### Indexing annual subsidy cap

When the Child Care Subsidy commences in July 2017 the annual subsidy cap will be fixed at \$10,000. Each subsequent year the annual subsidy cap will be indexed by CPI.