

Type of Amendment	No.	Detail	Explanatory Memorandum reference
<b>Consequential</b> Due to amendments made to legislation that the Jobs for Families Child Care Package Bill makes reference to, or because of changes to the timing of the Package, there are sections of the Bill that must be updated to reflect these changes.	1.1	<b>Amend various dates</b> within the Bill as a consequence of new commencement dates for the <i>Jobs for Families</i> Child Care Package. Note that there are approximately 15 dates to be updated. Some examples of dates that need to change include: - Title of Bill has a new date (2016 instead of 2015) to reflect the year introduced into the Australian Parliament. - Commencement Table (pg 2) - this table gives effect to when the Child Care Subsidy (CCS) and the various schedules within the Bill are due to take effect. - 3(1) CCS Fortnight (pg 4): Change '3 July 2017' to '2 July 2018'. This section defines what a CCS fortnight is. Changing this will determine a new start date for a CCS fortnight. - Schedule 3, Part 2 (pg 216): Change title to 'Amendments commencing 1 July 2017'. This section captures provisions that will take effect prior to the beginning of the CCS. This date will be reflective of the commencement table. - Schedule 3, Part 2, Items 13 (pg 216) & 14 (pg 216-217): Change '2016' to '2017'. This change is relevant to the ceasing of enrolment advances. - Schedule 4, part 5, item 12(3) (pg 226): replace '3 July 2019' with 'within 2 years after the commencement day'. This item is relevant to the Transition rules. The date here sets a limitation for the time period in which the rules can be made (not the period that they have effect).	Clause 2, pg 17
	1.2	<b>Various.</b> There are minor consequential changes throughout the Bill to clarify clauses, language and update referencing where changes have been made. For example, section <b>85CF(5)</b> on <b>page 22</b> has been updated to change the words 'be in' to 'have'.	N/A
	1.3	<b>85EE (pg 30-32):</b> The Child Care Bill 2015 provided a maximum period of eligibility for CCS/ACCS for individual who is absent from Australia of 56 weeks unless extended. However, a consequential amendment is required to align the portability period (the period in which an individual can remain overseas whilst remaining eligible for payment) for CCS with Family Tax Benefit and Child Care Benefit, reflecting changes to other legislation that were made after the Child Care Bill 2015 was introduced. As such, 56 weeks has now been changed to six.	85EE, pg 35-36
	1.4	<b>Schedule 3, Part 1, Item 2 (pg 214):</b> Amendments consequent on enactment of the 'No Jab No Pay' measures, that ensure references can be made to the <i>Australian Immunisation Handbook</i> , as published from time to time. This will ensure that the legislation always refers to most up to date immunisation requirements. This amendment would commence from Royal Assent.	Items 1 and 2, pg 92
	1.5	<b>Schedule 4, Part 2, Item 5 (pg 221):</b> This amendment reflects that indexation of the CCS Annual Cap, Hourly Fee Cap and Lower Income Threshold, by CPI, will occur prior to the commencement of CCS. The indexation will occur on 1 July 2018, however the provision is complicated in its drafting because technically the caps don't exist until the commencement of the CCS on 2 July 2018.	Item 5, pg 94
<b>Corrective</b> To fix drafting errors and to give effect to policy intent	2.1	<b>85BA(2) (pg 15) &amp; 85CA(3) (pg 17):</b> The Child Care Bill 2015 limited CCS eligibility to children 13 years and under who do not attend secondary school. The amendment to these sections of the Bill include a new rule making power that will enable the Minister to determine circumstances in which children over the age of 13 and/or are attending secondary school may be eligible for CCS. This has been included to address concerns about the impact of tightening the age limit for CCS on older children with disability, and their families, who may have a legitimate need to access child care, particularly outside of school hours care.	Subsection 85BA(2), pg 25 Subsection 85CA(2), pg 26
	2.2	<b>Various.</b> Update all references to Additional Child Care Subsidy (ACCS) 'At Risk' to ACCS 'Child Wellbeing'. This is consequential to the change in name of the ACCS payment previously known as 'At Risk'. Note that there are references to this throughout the Bill. E.g. <b>85CA (pg 16-17)</b>	Subsection 85CA(1), pg 25-26
	2.3	<b>85CB(4) (pg 18):</b> An amendment has been made to remove potential unintended consequences in relation to the way that services calculate attendances when issuing a certificate in relation to a child under the ACCS (Child Wellbeing) payment. Under the 2015 Bill, services couldn't have in excess of 50 per cent of children in care certified for ACCS (Child Wellbeing) for the entire period of a certificate. In practice, this would have meant that if the 50 per cent threshold was exceeded in week 6 of a 6 week certificate (for example, if a number of children left a small service), the entire certificate would be invalid and a debt may arise. The amendment now requires services to meet the 50 per cent limit for only the first week in which the certificate has effect.	Section 85CB, pg 27-28
	2.4	<b>Clause 12 (Activity test result) (pg 47-49):</b> A amendment has been made to give better effect to the policy that the Minister may, by legislative instrument, prescribe: • An activity result for specific kinds of activity (e.g. volunteering, job-seeking) • What activities (associated activities) constitutes work, training or study, etc.  While the 2015 Bill gave the Minister capacity to create rules that specify other recognised activities that count toward an individual's activity test result, it did not allow the Minister to limit the number of hours which could be counted in respect of an activity (i.e. volunteering on its own to be limited to the first step of the activity test), and it did not allow the Minister to define/expand upon the list of activities listed in the Bill.  An amendment has also been made to expand the Secretary's power to make case by case decisions about an individual's Activity Test Result.	Division 1 - Individual's activity test result, pg 45-49
	2.5	<b>Item 45 (pg 52-53) &amp; 103A (pg 110-111):</b> Amendments have been made that address the effect of reconciliation on individuals who have had relationships that have ended in the previous financial year. The amendments alter the reconciliation provisions to include a discretionary power for the Secretary to determine what the impact of an individual's former partner will be and for determining the adjusted taxable income. The effect of not having these is that if a former partner does not meet the reconciliation requirements (that is, lodge a tax return) within the required timeframe, it will be the individual who loses entitlement to CCS.	Items 42, 43 and 44, pg 49 Section 103A, pg 67
	2.6	<b>Corrections to wording</b> - <b>67CD(1) (pg 73):</b> Change subheading 'Time for making determination' to 'Preconditions for making determinations'. This change more accurately reflects the effect of the provision as this section does not specify any timing requirements within which the Secretary must make a determination. - <b>67CD(1)(d) (pg 73):</b> Remove repeated words 'was made'.	Section 67CD, pg 56-57
	2.7	<b>67CD(4) &amp; (6) (pg 75-76):</b> This corrective amendment clarifies that subsidy application requirements must be met in order for the Secretary to be satisfied that an individual is entitled to ACCS (Grandparent) and ACCS (Transition to Work). While similar provisions for ACCS (Child Wellbeing) and ACCS (Temporary Financial Hardship) exist in the Child Care Bill 2015, they did not for the other ACCS payments.	Subsection 67CD(4), pg 58 Subsection 67CD(6), pg 59
	2.8	<b>67FI (pg 99):</b> This provision replicates a current information gathering power in family assistance law. The amendment enables the Secretary to ask individuals for information in relation to eligibility for CCS and/or ACCS in current years, while the 2015 Child Care Bill only enabled the Secretary to request information about income levels in future years.	Section 67FI, pg 65
	2.9	<b>104 (pg 112) &amp; 108(2)(f) to (g) (pg 120):</b> This amendment corrects an omission from the Child Care Bill 2015 that would have left Secretary's decisions in relation to grant funding open to review. However, it is not normal practice for grant funding to be open to review. The amendment aligns requirements with normal grant funding processes and will provide assurance for grant recipients as it means that once funding agreements are entered into, they will have funding certainty. A funding agreement may specify particular conditions in respect of the funding and how it's spent.	Item 115 & Paragraph 104(d), pg 68 Items 127 to 132, pg 70

	2.10	<b>Correct Referencing Errors</b> - <b>105E (pg 115-117)</b> : Clauses 105E(1)(a), 105E(2)(c) and 105E(3)(a) incorrectly cross-reference clause 67CD(6), rather than 67CD(8). - <b>134B (pg 132)</b> : Clause 134B incorrectly cross-referenced clause s125C, rather than 125A.	Section 105E, pg 69 Item 176, pg 73
	2.11	<b>194B(5) (pg 143)</b> : When approving a provider in respect of a service for CCS, the service may not always begin operation on a Monday. Section 194B(5) has been amended to give the Secretary discretion to select any day of the week (which cannot be before the date of application) in which the CCS approval takes effect. This provision is particularly relevant to circumstances where there is change of ownership of a service and the date of transition is not a Monday, or where the state regulatory authority does not license a service to begin operation on a Monday. Where this is not the case, the default day of effect for CCS approval will be a Monday.	Section 194B, pg 76
	2.12	<b>200A (pg 167-168)</b> : This amendment ensures continuity of current reporting obligations for enrolments. The change means that providers will continue to be required to submit reports for all children who attend the service, not just those who are eligible for CCS. This is particularly relevant for monitoring the 50 per cent ACCS (Child Wellbeing) limit (which must take into account all children attending the service) and to the calculation of entitlements under future grant programmes. Note that this change has minor consequential amendments to other sections, including 200D (pg 170-171) and 204B (pg 186-188).	Subsection 200A(3), pg 82
	2.13	<b>201D (pg 174-175) &amp; 201E (pg 176-177)</b> : Statements are required to be given by providers to individuals on a regular basis. This amendment clarifies that statements must be given in writing (note that electronic statements - i.e. via e-mail - are considered to be in writing).	Section 201D, pg 84
	2.14	<b>Schedule 3, Part 2, Item 13 (pg 216)</b> : The Bill ceases enrolment advance payments to services from 1 July 2017. However, a corrective amendment is required to make clear that enrolment advances are only paid where the enrolment is elected and commences before 1 July 2017. This change will address a loophole where an enrolment advance election could be made in respect of an enrolment that begins on or after 1 July 2017.	Items 11 to 20, pg 93
	2.15	<b>Schedule 4, Part 4, Item 9 (pg 224-225)</b> : This provision states that all services that are approved under the current family assistance law, immediately before the commencement of CCS, will also be approved for CCS. As services are currently approved in respect of a 'kind of service', this amendment is required to allow the Secretary to specify the type of service they are deemed to be approved for under the CCS upon transition (e.g. family day care service, centre-based day care service).	Item 9, pg 95-96
<b>Compliance Measures</b> The following changes, enhance or bring forward compliance provisions.	3.1	<b>85CB(4)(c) (pg 18)</b> : This amendment is made to allow the Secretary to both increase AND decrease a service's self certification percentage limit (i.e. 50 per cent limit that applies to ACCS (Child Wellbeing)). The Child Care Bill 2015 only allowed the Secretary to increase a service's limit on request. The change has been made to allow the Secretary to initiate action where there are significant compliance concerns.	Section 85CB, pg 27-28
	3.2	<b>67CD(1)(e) &amp; (11) (pg 73-78)</b> : This clause has been amended to confirm that the Secretary must be satisfied of the correctness of information prior to making determinations of entitlement (and hence, payments). Amending this section clarifies the Secretary's ability to seek verification from families in relation to information contained in the enrolment notice in order to be satisfied that the information is correct, prior to processing payments. While this was implied in the Child Care Bill 2015, it has now been explicitly included as a strategy to help reduce the number of incorrect payments made as result of inaccurate and fraudulent information, predominately received from child care providers, by increasing parent involvement in confirming enrolment and attendance information.	Section 67CD, pg 56-57 Subsection 67CD(11), pg 60
	3.3	<b>67EC (pg 92-94)</b> : There are two elements to this amendment that have been made to give correct effect to policy. Firstly, the Child Care Bill 2015 stated that CCS must be paid to families directly, prior to reconciliation, if an entitlement decision is made when a child is no longer enrolled at a service. An amendment made in the 2016 Bill allows for this amount to be paid to the individual or to another person if that is more appropriate, which will allow the amount to go to the service if the department is aware the service has already passed on the fee reduction amount onto the individual. Secondly, the amendment gives the Secretary discretion to pay individuals directly (instead of services) prior to reconciliation if the Secretary considers it appropriate in the circumstances, for example, where there are compliance concerns. There are also various notes referenced in the Bill that state where a fee reduction amount is paid directly to an individual, the provider will be notified so that they are aware that they are not required to pass on a fee reduction in these circumstances.	Section 67CC, pg 55-56
	3.4	<b>194E(d) (pg 146)</b> : This provision has been amended to reflect the current eligibility determination in order to ensure that the Secretary can continue to have regard to both convictions and finding of guilt to determine if a person is fit and proper to operate a CCS approved child care service. The Child Care Bill 2015 only referred to convictions.	Section 194E, pg 76
	3.5	<b>204G (pg 191-192)</b> : Child swapping will be a circumstance prescribed in the rules made under 85BA(1)(c)(iii), which relates to sessions of care that are not eligible for CCS. The rule making power in 204G(1) needs to be extended to reference 85BA(1)(c)(iii) in order to enable the Minister to continue to impose compliance requirements on providers in relation to child swapping, both in relation to classes of children and in relation to sessions of care.	Section 204G, pg 87
	3.6	<b>Schedule 3, Part 1, Item 3 (Application taken not to have been made) (pg 214) and Item 5 (Reassessment of continued approval) (pg 215)</b> : The compliance pausing provision and reassessment clause have been moved in order to have effect from Royal Assent. They were previously located in Schedule 3, Part 2 where they would have had effect from one year prior to the commencement of the CCS.	Items 1 and 2, pg 92 Items 3, 4, 5 and 6, pg 92