Aged Care (Living Longer Living Better) Act 2013

No. 76, 2013

An Act to amend the *Aged Care Act 1997*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

Contents

1 Short title 1
2 Commencement 2
3 Schedule(s) 3
4 Review of operation of amendments 3

Schedule 1—Amendments commencing on 1 August 2013 6

Part 1—Amendments 6

Aged Care Act 1997 6

Part 2—Transitional and savings provisions 29

Schedule 2—Amendments commencing on 1 January 2014 31

Part 1—Amendments 31

Aged Care Act 1997 31

Part 2—Transitional and savings provisions 40

Schedule 3—Amendments commencing on 1 July 2014 42

Part 1—Amendments 42

Aged Care Act 1997 42

Part 2—Transitional and savings provisions 135

Schedule 4—Amendments of other Acts 136

Part 1—Amendments commencing on 1 August 2013 136

A New Tax System (Goods and Services Tax) Act 1999 136

National Disability Insurance Scheme Act 2013 136

Part 2—Amendments commencing on 1 July 2014 138

A New Tax System (Goods and Services Tax) Act 1999 138

Health and Other Services (Compensation) Act 1995 138

Human Services (Medicare) Act 1973 139

Social Security Act 1991 139

Social Security (Administration) Act 1999 141

Veterans' Entitlements Act 1986 142

Schedule 5—Aged Care (Transitional Provisions) Act 1997 147

Part 1—Enactment 147
Part 2—Amendments 148
Aged Care (Transitional Provisions) Act 1997 148
Part 3—Transitional and savings provisions 171

Aged Care (Living Longer Living Better) Act 2013

No. 76, 2013

An Act to amend the *Aged Care Act 1997*, and for related purposes

[*Assented to 28 June 2013*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Aged Care (Living Longer Living Better) Act 2013*.

2 Commencement

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

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2013
2. Schedule 1	1 August 2013.	1 August 2013
3. Schedule 2, items 1 to 4	1 January 2014.	1 January 2014
3A. Schedule 2, item 5	1 August 2013.	1 August 2013
3B. Schedule 2, item 6	1 January 2014.	1 January 2014
3C. Schedule 2, items 7 to 11	1 August 2013.	1 August 2013
3D. Schedule 2, item 12	1 January 2014.	1 January 2014
3E. Schedule 2, items 13 and 14	1 August 2013.	1 August 2013
3F. Schedule 2, item 15	1 January 2014.	1 January 2014
3G. Schedule 2, items 16 and 16A	1 August 2013.	1 August 2013
3H. Schedule 2, item 17	1 January 2014.	1 January 2014
3J. Schedule 2, item 18	1 August 2013.	1 August 2013
3K. Schedule 2, items 19 to 21	1 January 2014.	1 January 2014
3L. Schedule 2,	1 August 2013.	1 August 2013

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
item 22		
3M. Schedule 2, item 23	1 January 2014.	1 January 2014
3N. Schedule 2, Part 2	1 August 2013.	1 August 2013
4. Schedule 3	1 July 2014.	1 July 2014
5. Schedule 4, Part 1	1 August 2013.	1 August 2013
6. Schedule 4, Part 2	1 July 2014.	1 July 2014
7. Schedule 5, Part 1	1 July 2014.	1 July 2014
8. Schedule 5, Parts 2 and 3	Immediately after the commencement of the provision(s) covered by table item 7.	1 July 2014

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

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

3 Schedule(s)

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

4 Review of operation of amendments

(1) The Minister must cause an independent review to be undertaken of the operation of the amendments made by:

(a) this Act; and

(b) the *Aged Care (Bond Security) Amendment Act 2013*; and

(c) the *Aged Care (Bond Security) Levy Amendment Act 2013*.

(2) The review must consider at least the following matters:

(a) whether unmet demand for residential and home care places has been reduced;

(b) whether the number and mix of places for residential care and home care should continue to be controlled;

(c) whether further steps could be taken to change key aged care services from a supply driven model to a consumer demand driven model;

(d) the effectiveness of means testing arrangements for aged care services, including an assessment of the alignment of charges across residential care and home care services;

(e) the effectiveness of arrangements for regulating prices for aged care accommodation;

(f) the effectiveness of arrangements for protecting equity of access to aged care services for different population groups;

(g) the effectiveness of workforce strategies in aged care services, including strategies for the education, recruitment, retention and funding of aged care workers;

(h) the effectiveness of arrangements for protecting refundable deposits and accommodation bonds;

(i) the effectiveness of arrangements for facilitating access to aged care services;

(j) any other related matter that the Minister specifies.

(3) The review must make provision for public consultation and, in particular, must provide for consultation with:

(a) approved providers; and

(b) aged care workers; and

(c) consumers; and

(d) people with special needs; and

(e) carers; and

(f) representatives of consumers.

(4) The review must be undertaken as soon as practicable after the end of the period of 3 years after the commencement of Schedule 1.

(5) The person who undertakes the review must give the Minister a written report of the review within 12 months after the end of the 3 year period.

(6) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of receiving it.

Schedule 1—Amendments commencing on 1 August 2013

Part 1—Amendments

Aged Care Act 1997

1 Subsection 1-3(5) (table items 3 and 4)

Omit "community", substitute "home".

2 Paragraph 3-5(b)

Repeal the paragraph.

3 Section 3-6

Repeal the section.

4 Section 5-2 (heading to table column headed "Community care subsidy")

Omit "**Community**", substitute "**Home**".

5 Section 5-2 (note 2)

Repeal the note, substitute:

Note 2: Allocation of funding for grants is dealt with in Chapter 5.

6 Paragraphs 11-3(b) to (e)

Repeal the paragraphs, substitute:

(b) people from culturally and linguistically diverse backgrounds;
(c) people who live in rural or remote areas;
(d) people who are financially or socially disadvantaged;
(e) veterans;
(f) people who are homeless or at risk of becoming homeless;
(g) care-leavers;
(ga) parents separated from their children by forced adoption or removal;
(h) lesbian, gay, bisexual, transgender and intersex people;

(i) people of a kind (if any) specified in the Allocation Principles.

7 Subsection 12-3(2)

Omit "in the *Gazette*", substitute "on the Department's website".

8 Subsection 12-5(3)

Repeal the subsection.

9 Subsection 12-6(3)

Omit "in the *Gazette*", substitute "on the Department's website".

10 Section 14-2

Repeal the section, substitute:

14-2 Competitive assessment of applications for allocations

In deciding which allocation of *places would best meet the needs of the aged care community in the *region, the Secretary must consider, in relation to each application, the matters set out in the Allocation Principles.

11 At the end of subsection 14-5(1)

Add:

Note: Approved providers have a responsibility under Part 4.3 to comply with the conditions to which the allocation is subject. Failure to comply with a responsibility can result in a sanction being imposed under Part 4.4.

12 Subsection 14-5(4)

Repeal the subsection.

13 Subsection 15-7(7)

Repeal the subsection.

14 Subsection 16-9(2)

Repeal the subsection.

15 Paragraph 16-11(c)

Omit "*community", substitute "*home".

16 Subsection 17-2(3)

Repeal the subsection.

17 At the end of subsection 18-2(2)

Add:

; (f) the approved provider's proposals for ensuring that the provider meets the provider's responsibilities for any:

(i) *accommodation bond balance; or

(ii) *entry contribution balance;

held by the provider in respect of the places to be relinquished.

18 Paragraph 18-5(1)(b)

Omit "community" (wherever occurring), substitute "home".

19 Section 19-1

Omit "community", substitute "home".

20 Section 19-1

Omit "*community", substitute "*home".

21 Subsection 20-1(2)

Omit "community" (wherever occurring), substitute "home".

22 Subsection 20-1(4)

Omit "community" (wherever occurring), substitute "home".

23 Paragraph 21-1(b)

Omit "community", substitute "home".

24 Section 21-3 (heading)

Omit "**community**", substitute "**home**".

25 Section 21-3

Omit "***community***", substitute "***home***".

26 Paragraph 21-3(c)

Omit "community", substitute "home".

27 Paragraph 22-1(1)(b)

Omit "community", substitute "home".

28 Subsection 22-2(3)

Repeal the subsection, substitute:

(3) The Secretary may limit the approval to one or more levels of care.

Note: Limitations of approvals to one or more levels of care are reviewable under Part 6.1.

29 Paragraph 22-4(2)(b)

Repeal the paragraph, substitute:

(b) the person's eligibility to receive a specified level or levels of care.

30 Paragraph 22-6(2)(c)

Repeal the paragraph, substitute:

(c) whether the approval is limited to a level or levels of care (see subsection 22-2(3));

31 Section 23-1

Omit "community", substitute "home".

32 Paragraph 23-3(2)(c)

Omit "community", substitute "home".

33 Section 24-1 (note)

Omit "community", substitute "home".

34 Subsection 25-2(5)

Repeal the subsection.

35 Subsection 25-4(1)

After "27-4", insert "at one or more *aged care services operated by the approved provider".

36 Paragraph 25-4(1)(a)

Omit “a substantial number of appraisals or reappraisals connected with classifications”, substitute “an appraisal or reappraisal connected with a classification”.

37 Paragraph 25-4(1)(b)

Omit “classifications made in connection with those appraisals or reappraisals were”, substitute “classification was”.

38 Paragraph 25-4(1)(c)

Repeal the paragraph, substitute:

(c) the Secretary is satisfied that, after the classification was changed, the approved provider gave false, misleading or inaccurate information in another appraisal or reappraisal.

39 Subsection 25-4(2)

Repeal the subsection.

40 Paragraph 27-3(1)(a)

Omit “a substantial number of appraisals or reappraisals connected with classifications”, substitute “an appraisal or reappraisal connected with a classification”.

41 Paragraph 27-3(1)(b)

Omit “classifications made in connection with those appraisals or reappraisals were”, substitute “classification was”.

42 Paragraph 27-3(1)(c)

Repeal the paragraph, substitute:

(c) the Secretary is satisfied that, after the classification was changed, the approved provider gave false, misleading or inaccurate information in another appraisal or reappraisal;

43 Subsection 27-3(2)

Repeal the subsection.

44 Subsection 32-7(2)

Omit “in the *Gazette*”, substitute “on the Department’s website”.

45 Subsection 32-8(5)

Repeal the subsection.

46 Section 39-2

Before "The", insert "(1)".

47 At the end of section 39-2

Add:

(2) Subsection (1) does not apply in relation to a temporary change in location if the Secretary is satisfied that exceptional circumstances exist.

48 Subsections 39-3(1) and (2)

Repeal the subsections, substitute:

(1) If:
  (a) the Secretary is satisfied that an approved provider's residential care service has ceased to be suitable for *certification; or
  (b) the Secretary is satisfied that the approved provider's application for certification of the service contained information that was false or misleading in a material particular;

the Secretary must notify the approved provider that the Secretary is considering revoking the certification.

Note: Certification may also be revoked as a sanction under Part 4.4.

(2) The notice must be in writing and must:
  (a) include the Secretary's reasons for considering the revocation; and
  (b) invite the approved provider to make submissions, in writing, to the Secretary within 28 days after receiving the notice; and
  (c) inform the approved provider that if no submission is made within that period, any revocation will take effect on the day after the last day for making submissions.

49 After subsection 39-3(3)

Insert:

(3A) Unless the Secretary decides to take action under section 39-3A or 39-3B, the Secretary must revoke the *certification if the Secretary remains satisfied that:

(a) the residential care service has ceased to be suitable for certification; or

(b) the approved provider's application for certification of the service contained information that was false or misleading in a material particular.

Note: Revocations of certifications are reviewable under Part 6.1.

50 After section 39-3

Insert:

39-3A Secretary may issue notice to rectify

(1) This section applies if:

(a) the Secretary has notified an approved provider under subsection 39-3(2) that the Secretary is considering revoking the *certification of the approved provider's residential care service because the service has ceased to be suitable for certification; and

(b) the approved provider has made submissions to the Secretary in accordance with the invitation under paragraph 39-3(2)(b); and

(c) the Secretary is satisfied that the submissions:

(i) propose appropriate action to rectify the unsuitability of the service; or

(ii) set out sufficient reason for the unsuitability.

(2) The Secretary may give the approved provider a notice in accordance with subsection (3).

(3) The notice must be in writing and must:

(a) inform the approved provider that, within 14 days after the date of the notice, or within such shorter period as is specified in the notice, the approved provider must give a written undertaking to the Secretary to rectify the unsuitability of the service; and

(b) inform the approved provider that the *certification will be revoked at the time specified in the notice if the undertaking is not given or complied with.

(4) The undertaking must:
  (a) be in a form approved by the Secretary; and
  (b) contain a description and acknowledgement of the unsuitability of the service; and
  (c) set out the action the approved provider proposes to take to rectify the unsuitability of the service; and
  (d) set out the period within which such action will be taken; and
  (e) contain an acknowledgement that a failure by the approved provider to comply with the undertaking will result in the *certification being revoked.

(5) If the approved provider fails to give the undertaking within the specified time or fails to comply with the undertaking, the Secretary must:
  (a) revoke the *certification; and
  (b) give the approved provider written notice of the revocation.

39-3B Secretary may request further information

(1) This section applies if, after receiving submissions in accordance with the invitation under paragraph 39-3(2)(b), the Secretary is not satisfied as mentioned in paragraph 39-3A(1)(c).

(2) The Secretary may, in writing, request further information from the approved provider in relation to the submissions.

(3) The request must be made within 28 days after the end of the period for making submissions in accordance with the invitation under paragraph 39-3(2)(b).

(4) The further information must be provided within the time specified in the request.

(5) If, after receiving the further information, the Secretary is satisfied as mentioned in paragraph 39-3A(1)(c), then:
  (a) the Secretary must give a notice to the approved provider in accordance with subsection 39-3A(3); and
  (b) subsections 39-3A(4) and (5) have effect.

(6) If:
  (a) the approved provider does not provide the further information within the specified time; or

(b) after receiving the further information, the Secretary is not satisfied as mentioned in paragraph 39-3A(1)(c);

the Secretary must:

(c) revoke the *certification of the approved provider's residential care service; and

(d) give the approved provider written notice of the revocation.

(7) The notice must be given within 28 days after the end of the period for providing the further information.

51 Section 40-1

Omit "*community", substitute "*home".

52 Subsection 42-5(2)

Repeal the subsection.

53 At the end of section 44-27 (before the note)

Add:

; (e) any other supplement set out in the Residential Care Subsidy Principles for the purposes of this paragraph.

54 Part 3.2 (heading)

Omit "**Community**", substitute "**Home**".

55 Section 45-1

Omit "*community", substitute "*home".

56 Section 45-1

Omit "community", substitute "home".

57 Section 45-2 (heading)

Omit "**Community**", substitute "**Home**".

58 Section 45-2

Omit "*Community", substitute "*Home".

59 Section 45-2

Omit "Community Care", substitute "Home Care".

60 Section 45-2 (note)

Omit “Community”, substitute “Home”.

61 Section 45-3 (heading)

Omit “***community***”, substitute “***home***”.

62 Subsection 45-3(1)

Omit “***Community***”, substitute “***Home***”.

63 Subsection 45-3(2)

Omit “Community”, substitute “Home”.

64 Paragraphs 45-3(2)(a) and (b)

Omit “community”, substitute “home”.

65 Division 46 (heading)

Omit “**community**”, substitute “**home**”.

66 Section 46-1 (heading)

Omit “**community**”, substitute “**home**”.

67 Subsection 46-1(1)

Omit “*community care subsidy”, substitute “*home care subsidy”.

68 Paragraph 46-1(1)(a)

Omit “community”, substitute “*home”.

69 Paragraph 46-1(1)(b)

Omit “*community”, substitute “*home”.

70 Paragraph 46-1(1)(b)

Omit “community” (wherever occurring), substitute “home”.

71 Paragraph 46-1(1)(c)

Omit “community” (wherever occurring), substitute “home”.

72 Subsection 46-1(1) (note)

Repeal the note.

73 Subsection 46-1(2)

Omit "*community" (wherever occurring), substitute "*home".

74 Subsection 46-1(2)

Omit "community", substitute "home".

75 Subsection 46-1(2) (note)

Omit "community", substitute "home".

76 Section 46-2 (heading)

Omit "**community**", substitute "**home**".

77 Subsection 46-2(1)

Omit "community" (wherever occurring), substitute "home".

78 Subsection 46-2(1)

Omit "*community", substitute "*home".

79 Subsections 46-2(3) to (5)

Repeal the subsections, substitute:

(3) The Home Care Subsidy Principles may specify requirements relating to the suspension, on a temporary basis, of home care.

80 Subsection 46-3(1)

Omit "*community" (wherever occurring), substitute "*home".

81 Subsection 46-3(1)

Omit "community" (wherever occurring), substitute "home".

82 Subsection 46-3(2)

Omit "*community" (wherever occurring), substitute "*home".

83 Subsection 46-3(2)

Omit "community" (wherever occurring), substitute "home".

84 Section 46-4 (heading)

Omit "**community**", substitute "**home**".

85 Paragraph 46-4(1)(a)

Omit "*community", substitute "*home".

86 Paragraph 46-4(1)(b)

Omit "community", substitute "home".

87 Division 47 (heading)

Omit "**community**", substitute "**home**".

88 Section 47-1 (heading)

Omit "**community**", substitute "**home**".

89 Subsections 47-1(1) and (2)

Omit "*Community", substitute "*Home".

90 Subsection 47-1(2)

Omit "community" (wherever occurring), substitute "home".

91 Paragraph 47-2(b)

Omit "Community", substitute "Home".

92 Subsection 47-3(1)

Omit "*community", substitute "*home".

93 Subsection 47-3(2)

Omit "community", substitute "home".

94 Subsection 47-3(2)

Omit "*community", substitute "*home".

95 Subsection 47-3(3)

Omit "community", substitute "home".

96 Paragraph 47-3(3)(a)

Omit "*community", substitute "*home".

97 Subsection 47-3(4)

Omit "Community", substitute "Home".

98 Section 47-4 (heading)

Omit "**community**", substitute "**home**".

99 Subsection 47-4(1)

Omit "*community", substitute "*home".

100 Subsection 47-4(1)

Omit "community" (wherever occurring), substitute "home".

101 Subsection 47-4(2)

Omit "*community", substitute "*home".

102 Subsection 47-4(2)

Omit "community", substitute "home".

103 Subsection 47-4(3)

Omit "community", substitute "home".

104 Section 47-4A (heading)

Omit "**community**", substitute "**home**".

105 Division 48 (heading)

Omit "**community**", substitute "**home**".

106 Section 48-1 (heading)

Omit "**community**", substitute "**home**".

107 Subsection 48-1(1)

Omit "*community" (wherever occurring), substitute "*home".

108 Subsection 48-1(1)

Omit "community" (wherever occurring), substitute "home".

109 Subsection 48-1(2)

Omit "*community" (wherever occurring), substitute "*home".

110 Subsection 48-1(2)

Omit "community" (wherever occurring), substitute "home".

111 Subsection 48-1(3)

Omit "*community", substitute "*home".

112 Subsection 48-1(4)

Omit "*community", substitute "*home".

113 Section 49-3

Omit "community care", substitute "home care".

114 Paragraph 50-1(1)(b)

Repeal the paragraph, substitute:

(b) the approved provider:

(i) provides flexible care to a care recipient who is approved under Part 2.3 in respect of flexible care; or

(ii) provides flexible care to a care recipient who is included in a class of people who, under the Flexible Care Subsidy Principles, do not need approval under Part 2.3 in respect of flexible care; or

(iii) is taken to provide flexible care in the circumstances set out in the Flexible Care Subsidy Principles; and

115 Paragraph 54-1(1)(f)

Omit "community", substitute "home".

116 Paragraph 54-1(1)(f)

Omit "Community", substitute "Home".

117 Subsection 54-2(1)

Omit "(1)".

118 Subsection 54-2(2)

Repeal the subsection.

119 Section 54-4 (heading)

Omit "**Community**", substitute "**Home**".

120 Subsection 54-4(1)

Omit "(1)".

121 Subsection 54-4(1)

Omit “Community” (wherever occurring), substitute “Home”.

122 Subsection 54-4(1)

Omit “community”, substitute “home”.

123 Subsection 54-4(2)

Repeal the subsection.

124 Subsection 54-5(3)

Repeal the subsection.

125 Section 56-2 (heading)

Omit “**community**”, substitute “**home**”.

126 Section 56-2

Omit “community”, substitute “home”.

127 After paragraph 56-2(c)

Insert:

(ca) to provide such other care and services in accordance with the agreement between the approved provider and the care recipient;

128 Paragraph 56-2(e)

Omit “*community”, substitute “*home”.

129 Subsection 56-4(3)

Omit “community”, substitute “home”.

130 Subsection 56-4(3)

Omit “*community”, substitute “*home”.

131 Division 60 (heading)

Omit “**community**”, substitute “**home**”.

132 Section 60-1 (heading)

Omit “**community**”, substitute “**home**”.

133 Section 60-1

Omit “community” (wherever occurring), substitute “home”.

134 Section 60-2 (heading)

Omit “**community**”, substitute “**home**”.

135 Subsection 60-2(1)

Omit “community”, substitute “home”.

136 Subsection 60-2(2)

Omit “community” (wherever occurring), substitute “home”.

137 Division 61 (heading)

Omit “**community**”, substitute “**home**”.

138 Section 61-1 (heading)

Omit “**community**”, substitute “**home**”.

139 Subsection 61-1(1)

Omit “community” (wherever occurring), substitute “home”.

140 Subsection 61-1(2)

Omit “*community”, substitute “*home”.

141 Subsection 61-1(3)

Omit “*community”, substitute “*home”.

142 At the end of subparagraph 66-2(1)(a)(iii)

Add “in relation to care and services”.

143 Subparagraph 66-2(1)(a)(iv)

Omit “administer an aged care service in respect of which the approved provider has not complied with its responsibilities”, substitute “assist the approved provider to comply with its responsibilities in relation to governance and business operations”.

144 Paragraph 66A-1(2)(a)

Repeal the paragraph, substitute:

(a) the Secretary is satisfied that:
(i) the person has the skills and experience required to assist an approved provider to comply with its responsibilities under Parts 4.1, 4.2 and 4.3; and
(ii) if the person is an individual—the person is not a *disqualified individual; and
(iii) if the person is a body corporate—no individuals who are responsible for the executive decisions of the body corporate are disqualified individuals; and

145 Subsection 66A-1(2A)

Repeal the subsection.

146 Subsection 66A-1(5)

Repeal the subsection, substitute:

(5) A person may resign an appointment by giving the Secretary a written resignation:
(a) signed by him or her; or
(b) if the person is a body corporate—signed by an officer of the body corporate.

147 Paragraph 66A-2(1)(b)

Omit “revoked; and”, substitute “revoked.”.

148 Paragraph 66A-2(1)(c)

Repeal the paragraph.

149 Paragraph 66A-3(1)(b)

Omit “revoked; and”, substitute “revoked.”.

150 Paragraph 66A-3(1)(c)

Repeal the paragraph.

151 Subsection 66A-4(2)

After “under section”, insert “66A-2 or”.

152 Subsection 66A-4(2)

Omit "administer the service", substitute "assist the approved provider to comply with its responsibilities".

153 Subsections 66A-4(3) and (4)

Repeal the subsections.

154 Section 66A-5

Repeal the section.

155 Section 69-1

Omit ", with assessments or approvals related to *aged care or", substitute "and".

156 Section 69-1

Omit:

- *community care grants (see Part 5.2);
- *flexible care grants (see Part 5.2A);
- *assessment grants (see Part 5.3);

157 Paragraph 71-2(2)(b)

Omit "section 72-2", substitute "subsection 72-1(2)".

158 Paragraph 71-2(2)(d)

Repeal the paragraph.

159 Subsection 72-1(2)

Repeal the subsection, substitute:

(2) The allocation must meet the criteria for allocations specified in the Residential Care Grant Principles.

160 Sections 72-2 and 72-3

Repeal the sections.

161 Subsection 73-1(2)

Repeal the subsection, substitute:

(2) The grant is subject to:
  (a) such conditions (if any) as the Secretary determines in writing; and
  (b) such other conditions (if any) as are set out in the Residential Care Grant Principles.

162 Section 73-2

Repeal the section.

163 Subsection 73-5(4)

Repeal the subsection (including the note), substitute:

(4) If the Secretary needs further information to determine the application, the Secretary may give to the approved provider a notice requesting the approved provider to give the further information within 28 days after receiving the notice, or within such shorter period as is specified in the notice.

(5) The Secretary must make a variation or reject the application:
  (a) within 28 days after receiving the application; or
  (b) if the Secretary has requested further information under subsection (4)—within 28 days after receiving the information.

Note: Variations of allocations and rejections of applications are reviewable under Part 6.1.

(6) The Secretary must notify the approved provider in writing of the Secretary's decision.

164 Subsection 74-1(3)

Repeal the subsection.

165 Parts 5.2, 5.2A and 5.3

Repeal the Parts.

166 Subsection 80-1(2)

Repeal the subsection.

167 Subsection 81-3(1)

Omit “(1)”.

168 Subsection 81-3(2)

Repeal the subsection.

169 Subsection 81-4(1)

Omit “(1)”.

170 Subsection 81-4(2)

Repeal the subsection.

171 Paragraph 82-1(1)(a)

After “residential care”, insert “or home care”.

172 Subsection 82-3(1)

Omit “(1)”.

173 Subsection 82-3(2)

Repeal the subsection.

174 Subsection 82-4(1)

Omit “(1)”.

175 Subsection 82-4(2)

Repeal the subsection.

176 Section 85-1 (table item 21)

Omit “a *low level of residential care”, substitute “one or more levels of care”.

177 Section 85-1 (table item 35)

Omit “39-3(1)”, substitute “39-3(3A)”.

178 Section 85-1 (table items 49A and 49B)

Omit “community”, substitute “home”.

179 Section 85-1 (table items 57 and 58)

Omit “73-5(4)”, substitute “73-5(5)”.

180 Section 85-1 (table items 59 to 64)

Repeal the items, substitute:

59	A decision under Principles made under section 96-1 that is specified in the Principles concerned to be a decision reviewable under this section	the provision specified in the Principles as the provision under which the decision is made

180A Subsection 85-6(1)

Omit "1239 of the *Social Security Act 1991*", substitute "126 of the *Social Security (Administration) Act 1999*".

180B Paragraph 85-7(1)(a)

Omit "1240 of the *Social Security Act 1991*", substitute "129 of the *Social Security (Administration) Act 1999*".

180C Paragraph 85-7(1)(b)

Omit "1243 of the *Social Security Act 1991*", substitute "135 of the *Social Security (Administration) Act 1999*".

180D Subsection 85-7(2)

Omit "1240 of the *Social Security Act 1991*", substitute "129 of the *Social Security (Administration) Act 1999*".

181 Subsection 88-2(2)

Repeal the subsection.

181A At the end of section 95A-1

Add:

(3) If the *Aged Care Commissioner requests the Secretary to give the Commissioner information that the Commissioner requires for the purposes of the Commissioner's functions, the Secretary must, if the information is available to the Secretary, give the information to the Commissioner.

(4) If, on and after 1 January 2014, the *Aged Care Commissioner requests the CEO of the Quality Agency to give the Commissioner information that the Commissioner requires for the purposes of the

Commissioner's functions, the CEO must, if the information is available to the CEO, give the information to the Commissioner.

181B After section 95A-11

Insert:

95A-11A Aged Care Commissioner may give report to Minister at any time

The *Aged Care Commissioner may, at any time, give a written report to the Minister on any matter relating to the Commissioner's functions.

182 Section 96-1 (table items 7 and 11)

Repeal the items.

183 Section 96-1 (table item 12)

Omit "Community", substitute "Home".

184 Section 96-1 (table item 14A)

Repeal the item.

184A Subsection 96-3(1)

Repeal the subsection, substitute:

(1) For the purposes of this Act, the Minister:
  (a) must establish a committee to be known as the Aged Care Financing Authority; and
  (b) may establish other committees.

185 Section 96-5 (note)

Omit "*community", substitute "home".

186 Clause 1 of Schedule 1 (paragraph (b) of the definition of *aged care*)

Omit "community", substitute "home".

187 Clause 1 of Schedule 1 (definition of *assessment grant*)

Repeal the definition.

188 Clause 1 of Schedule 1 (definitions of *community care*, *community care agreement*, *community care grant*, *community care service* and *community care subsidy*)

Repeal the definitions.

189 Clause 1 of Schedule 1 (definition of *flexible care grant*)

Repeal the definition.

190 Clause 1 of Schedule 1

Insert:

> ***home care*** has the meaning given by section 45-3.
>
> ***home care agreement*** means an agreement referred to in section 61-1.
>
> ***home care service*** means an undertaking through which home care is provided.
>
> ***home care subsidy*** means a subsidy payable under Part 3.2.

191 Clause 1 of Schedule 1 (paragraph (b) of the definition of *payment period*)

Omit "to community", substitute "to home".

192 Clause 1 of Schedule 1 (paragraph (b) of the definition of *payment period*)

Omit "*community", substitute "*home".

193 Clause 1 of Schedule 1 (paragraph (b) of the definition of *payment period*)

Omit "a community", substitute "a home".

194 Clause 1 of Schedule 1 (definition of *place*)

Omit "community", substitute "home".

194A Application

Despite the amendment made by item 184A of this Schedule, subsection 96-3(1) of the *Aged Care Act 1997* has effect, before 1 August 2013, as if that amendment had not been made.

Part 2—Transitional and savings provisions

195 Definitions

In this Part:

commencement time means the time when this Schedule commences.

home care has the same meaning as in the new law.

new law means the *Aged Care Act 1997* as in force immediately after the commencement time.

old law means the *Aged Care Act 1997* as in force immediately before the commencement time.

196 Approval of providers

(1) This item applies if, before the commencement time:

(a) a person was approved under Part 2.1 of the old law as a provider of aged care (whether or not the approval had come into force); and

(b) the approval had not ceased to have effect.

(2) To the extent that the approval was in respect of community care, the approval is taken, for the purposes of the new law, to be in respect of home care.

(3) To the extent that the approval was in respect of flexible care, the approval is taken, for the purposes of the new law, to be in respect of both home care and flexible care.

197 Allocation of places

(1) An allocation of places in respect of community care that was done under Part 2.2 of the old law and was in force immediately before the commencement time is taken, after the commencement time, to have been done in respect of home care.

(2) An allocation of places in respect of flexible care that:

(a) was done under Part 2.2 of the old law and was in force immediately before the commencement time; and

(b) is of a kind specified in Allocation Principles made for the purposes of this subitem;

is taken, after the commencement time, to have been done in respect of home care.

198 Approval of care recipients

(1) An approval to receive community care that was given under Part 2.3 of the old law and was in force immediately before the commencement time is taken, after the commencement time, to have been given to receive home care.

(2) An approval to receive flexible care that:

(a) was given under Part 2.3 of the old law and was in force immediately before the commencement time; and

(b) is of a kind specified in Approval of Care Recipient Principles made for the purposes of this subitem;

is taken, after the commencement time, to have been given to receive home care.

(3) An approval to receive community care or flexible care that is taken to be an approval to receive home care under subitem (1) or (2), is also taken to be limited to the level or levels of care specified in Approval of Care Recipient Principles made for the purposes of this subitem.

199 Making Principles

(1) The Minister may, by legislative instrument, make Allocation Principles or Approval of Care Recipient Principles, or both, providing for matters:

(a) required or permitted by this Part to be provided; or

(b) necessary or convenient to be provided in order to carry out or give effect to this Part.

(2) Allocation Principles or Approval of Care Recipient Principles made under subitem (1) may be included with Allocation Principles or Approval of Care Recipient Principles, as the case requires, made under section 96-1 of the *Aged Care Act 1997*.

Schedule 2—Amendments commencing on 1 January 2014

Part 1—Amendments

Aged Care Act 1997

1 Paragraph 42-4(a)

Omit "an *accreditation body", substitute "the *CEO of the Quality Agency".

2 After section 65-1

Insert:

65-1A Information about compliance with responsibilities

(1) In deciding whether an approved provider has complied, or is complying, with one or more of its responsibilities under Part 4.1, 4.2 or 4.3, the Secretary may have regard to:

(a) any information provided by the *CEO of the Quality Agency in accordance with the Quality Agency Reporting Principles; and

(b) any other relevant information.

(2) The Quality Agency Reporting Principles may specify the circumstances in which the *CEO of the Quality Agency must provide information of a kind specified in the Principles to the Secretary for the purposes of this Part.

Note: The Quality Agency Reporting Principles are made by the Minister under section 96-1.

3 Section 69-1

Omit:

• *accreditation grants (see Part 5.4);

4 Part 5.4

Repeal the Part.

5 At the end of section 84-1

Add:

> ; (h) the Aged Care Pricing Commissioner, whose functions include approving accommodation payments that are higher than the maximum amount of accommodation payments determined by the Minister and approving extra service fees (see Part 6.7).

6 Paragraphs 95A-1(2)(d) and (e)

Repeal the paragraphs, substitute:

(d) to examine complaints made to the Aged Care Commissioner about the processes for:

(i) accrediting aged care services as mentioned in paragraph 12(a) of the *Australian Aged Care Quality Agency Act 2013*; and

(ii) conducting the quality review of home care services as mentioned in paragraph 12(b) of that Act;

(but not a complaint about the merits of a decision under those paragraphs), and make recommendations to the CEO of the Quality Agency arising from the examination;

(e) to examine, on the Aged Care Commissioner's own initiative, the processes for:

(i) accrediting aged care services as mentioned in paragraph 12(a) of the *Australian Aged Care Quality Agency Act 2013*; and

(ii) conducting the quality review of home care services as mentioned in paragraph 12(b) of that Act;

and make recommendations to the CEO of the Quality Agency arising from the examination;

7 Subsections 95A-4(1) and (2)

Omit "Complaints Principles", substitute "Commissioner Principles".

8 Section 95A-9

Before "The", insert "(1)".

9 At the end of section 95A-9

Add:

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

10 Section 95A-10

Repeal the section, substitute:

95A-10 Termination of appointment

(1) The Minister may terminate the appointment of the *Aged Care Commissioner:
  (a) for misbehaviour; or
  (b) if the Aged Care Commissioner is unable to perform the duties of his or her office because of physical or mental incapacity.

(2) The Minister must terminate the appointment of the *Aged Care Commissioner if the Aged Care Commissioner:
  (a) becomes bankrupt; or
  (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
  (c) compounds with his or her creditors; or
  (d) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
  (e) is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  (f) is appointed on a full-time basis and engages, except with the Minister's approval, in paid employment outside the duties of his or her office; or
  (g) is appointed on a part-time basis and engages in paid employment that conflicts or could conflict with the proper performance of the duties of his or her office; or
  (h) fails, without reasonable excuse, to comply with section 95A-8.

11 Section 95A-11 (heading)

Omit "**Delegations**", substitute "**Delegation**".

12 Subparagraphs 95A-12(2)(b)(ii) and (iii)

Repeal the subparagraphs, substitute:

(ii) the processes mentioned in subparagraphs 95A-1(2)(d)(i) and (ii); and

13 Paragraph 95A-12(2)(k)

Omit "Complaints Principles", substitute "Commissioner Principles".

14 At the end of Chapter 6

Add:

Part 6.7—Aged Care Pricing Commissioner

Division 95B—Aged Care Pricing Commissioner

95B-1 Aged Care Pricing Commissioner

(1) There is to be an *Aged Care Pricing Commissioner.

(2) The functions of the *Aged Care Pricing Commissioner are as follows:

(a) to approve extra service fees in accordance with Division 35;

(b) in accordance with section 52G-4, to approve accommodation payments that are higher than the maximum amount of accommodation payment determined by the Minister under section 52G-3;

(c) such other functions that are conferred on the Aged Care Pricing Commissioner by this Act;

(d) the functions that are conferred on the Aged Care Pricing Commissioner by any other law of the Commonwealth;

(e) the functions that are specified by the Minister by legislative instrument.

95B-2 Appointment

(1) The *Aged Care Pricing Commissioner is to be appointed by the Minister by written instrument.

(2) The *Aged Care Pricing Commissioner may be appointed on a full-time basis or on a part-time basis.

(3) The *Aged Care Pricing Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

95B-3 Acting appointments

The Minister may appoint a person to act as the *Aged Care Pricing Commissioner:

(a) during a vacancy in the office of the Aged Care Pricing Commissioner (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Aged Care Pricing Commissioner is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

95B-4 Remuneration

(1) The *Aged Care Pricing Commissioner is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Aged Care Pricing Commissioner is to be paid the remuneration that is prescribed by the Commissioner Principles.

(2) The *Aged Care Pricing Commissioner is to be paid the allowances that are prescribed by the Commissioner Principles.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

95B-5 Leave of absence

Full-time Commissioner

(1) If the *Aged Care Pricing Commissioner is appointed on a full-time basis:

(a) he or she has the recreation leave entitlements that are determined by the Remuneration Tribunal; and

(b) the Minister may grant the Aged Care Pricing Commissioner leave of absence, other than recreation leave, on the terms

and conditions as to remuneration or otherwise that the Minister determines.

Part-time Commissioner

(2) If the *Aged Care Pricing Commissioner is appointed on a part-time basis, the Minister may grant leave of absence to the Aged Care Pricing Commissioner on the terms and conditions that the Minister determines.

95B-6 Other terms and conditions

The *Aged Care Pricing Commissioner holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

95B-7 Restrictions on outside employment

Full-time Commissioner

(1) If the *Aged Care Pricing Commissioner is appointed on a full-time basis, he or she must not engage in paid employment outside the duties of the Aged Care Pricing Commissioner's office without the Minister's approval.

Part-time Commissioner

(2) If the *Aged Care Pricing Commissioner is appointed on a part-time basis, he or she must not engage in any paid employment that conflicts or could conflict with the proper performance of his or her duties.

95B-8 Disclosure of interests

The *Aged Care Pricing Commissioner must give written notice to the Minister of all interests, pecuniary or otherwise, that the Commissioner has or acquires that could conflict with the proper performance of the Commissioner's functions.

95B-9 Resignation

(1) The *Aged Care Pricing Commissioner may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

95B-10 Termination of appointment

(1) The Minister may terminate the appointment of the *Aged Care Pricing Commissioner:
  (a) for misbehaviour; or
  (b) if the Aged Care Pricing Commissioner is unable to perform the duties of his or her office because of physical or mental incapacity.

(2) The Minister must terminate the appointment of the *Aged Care Pricing Commissioner if the Aged Care Pricing Commissioner:
  (a) becomes bankrupt; or
  (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
  (c) compounds with his or her creditors; or
  (d) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
  (e) is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  (f) is appointed on a full-time basis and engages, except with the Minister's approval, in paid employment outside the duties of his or her office; or
  (g) is appointed on a part-time basis and engages in paid employment that conflicts or could conflict with the proper performance of the duties of his or her office; or
  (h) fails, without reasonable excuse, to comply with section 95B-8.

95B-11 Delegation of Aged Care Pricing Commissioner's functions

(1) The *Aged Care Pricing Commissioner may delegate in writing all or any of his or her functions to an APS employee in the Department.

(2) In exercising his or her power under subsection (1), the *Aged Care Pricing Commissioner is to have regard to the function to be

performed by the delegate and the responsibilities of the APS employee to whom the function is delegated.

(3) In performing functions delegated under subsection (1), the delegate must comply with any directions of the *Aged Care Pricing Commissioner.

95B-12 Annual report

(1) The *Aged Care Pricing Commissioner must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on the Aged Care Pricing Commissioner's operations during that year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

(2) The *Aged Care Pricing Commissioner must include in the report:

(a) the number of applications that were made to the Aged Care Pricing Commissioner during the financial year for approval to charge an accommodation payment that is higher than the maximum amount of accommodation payment determined by the Minister under section 52G-3; and

(b) the number of such applications that were approved, rejected or withdrawn during the financial year; and

(c) the number of applications that were made to the Aged Care Pricing Commissioner during the financial year for approval to charge an extra service fee; and

(d) any other information required by the Commissioner Principles to be included in the report.

15 Section 96-1 (table item 2)

Repeal the item.

16 Section 96-1 (after table item 9)

Insert:

9A	Commissioner Principles	Divisions 95A and 95B

16A Section 96-1 (after table item 14)

Insert:

14A	Fees and Payments Principles	Parts 3A.1, 3A.2 and 3A.3

17 Section 96-1 (after table item 17)

Insert:

17A	Quality Agency Reporting Principles	Part 4.4

18 Section 96-2 (heading)

Omit "**Delegations**", substitute "**Delegation**".

19 Subsection 96-2(6)

Repeal the subsection, substitute:

(6) The Secretary may, in writing, delegate to the *CEO of the Quality Agency the functions of the Secretary that the Secretary considers necessary for the CEO to perform the CEO's functions under the *Australian Aged Care Quality Agency Act 2013*.

20 Clause 1 of Schedule 1 (definition of *accreditation body*)

Repeal the definition.

21 Clause 1 of Schedule 1 (definition of *accreditation grant*)

Repeal the definition.

22 Clause 1 of Schedule 1

Insert:

Aged Care Pricing Commissioner means the Aged Care Pricing Commissioner holding office under Part 6.7.

23 Clause 1 of Schedule 1

Insert:

CEO of the Quality Agency means the Chief Executive Officer of the Australian Aged Care Quality Agency appointed under the *Australian Aged Care Quality Agency Act 2013*.

Part 2—Transitional and savings provisions

24 Definitions

In this Part:

accreditation body has the same meaning as in the old law.

CEO of the Quality Agency has the same meaning as in the new law.

first commencement time means the time when item 5 of this Schedule commences.

new law means the *Aged Care Act 1997* as in force immediately after the second commencement time.

old law means the *Aged Care Act 1997* as in force immediately before the second commencement time.

second commencement time means the time when item 1 of this Schedule commences.

25 Accreditation requirement

An accreditation of a residential care service by an accreditation body that was in force immediately before the second commencement time is taken, after the second commencement time, to have been an accreditation by the CEO of the Quality Agency.

26 Determining maximum amounts of accommodation payment

(1) After the first commencement time, the Minister may, by legislative instrument, determine the maximum amount of accommodation payment that an approved provider may charge a person.

(2) The determination may set out:

(a) the maximum daily accommodation payment amount and a method for working out refundable accommodation deposit amounts; or

(b) methods for working out both:

(i) the maximum daily accommodation payment amount; and

(ii) refundable accommodation deposit amounts.

(3) An approved provider may apply to the Aged Care Pricing Commissioner for approval to charge an accommodation payment that is higher than the maximum amount of accommodation payment determined by the Minister under subitem (1).

(4) The Aged Care Pricing Commissioner may approve the application.

(5) A decision by the Aged Care Pricing Commissioner not to approve the application is taken to be a reviewable decision within the meaning of section 85-1 of the *Aged Care Act 1997*.

(6) A power exercised under this item must be exercised in accordance with the *Aged Care Act 1997* as if it were amended by Schedule 3 to this Act.

Schedule 3—Amendments commencing on 1 July 2014

Part 1—Amendments

Aged Care Act 1997

1 At the end of Division 1

Add:

1-5 Application to continuing care recipients

Chapters 3 and 3A of this Act do not apply in relation to a *continuing care recipient.

Note: Subsidies, fees and payments for continuing care recipients are dealt with in the *Aged Care (Transitional Provisions) Act 1997*.

2 Section 3-1

Before "This Act", insert "(1)".

3 Paragraph 3-1(a)

Omit "subsidies", substitute "*subsidies".

4 At the end of section 3-1

Add:

(2) *Subsidies are also paid under Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997*.

5 Section 3-2

Omit "subsidy to a provider of *aged care under Chapter 3", substitute "*subsidy to a provider of *aged care".

6 Section 3-3 (heading)

Omit "**(Chapter 3)**".

7 Section 3-3

Omit “subsidy can be paid under Chapter 3”, substitute “*subsidy can be paid”.

8 After section 3-3

Insert:

3-3A Fees and payments

Care recipients may be required to pay for, or contribute to, the costs of their care and accommodation. Fees and payments are dealt with in Chapter 3A of this Act, and in Divisions 57, 57A, 58 and 60 of the *Aged Care (Transitional Provisions) Act 1997*.

9 Section 3-4

Omit “subsidy”, substitute “*subsidy”.

10 Section 5-1

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

11 Section 5-1

After “Part 2.6 (enabling”, insert “*accommodation payments, *accommodation contributions,”.

12 Section 5-1 (note)

Omit “subsidy under Chapter 3”, substitute “subsidy”.

13 Section 5-2

After “Chapter 3”, insert “of this Act or Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997*”.

14 Section 6-1

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

15 Section 7-1

Omit “subsidy cannot be made under Chapter 3”, substitute “*subsidy cannot be made”.

16 Subsections 7-2(1) and (2)

Omit "subsidy can only be paid under Chapter 3", substitute "*subsidy can only be paid".

17 Section 9-3 (heading)

Omit "**under this Act**".

18 Subsection 9-3(1)

After "this Act", insert "or the *Aged Care (Transitional Provisions) Act 1997*".

19 Section 9-3A (heading)

After "**relating to**", insert "**refundable deposits,**".

20 Paragraph 9-3A(1)(a)

Before "*accommodation bonds", insert "*refundable deposits or".

21 Paragraph 9-3A(1)(b)

After "more", insert "*refundable deposit balances or".

22 Paragraph 9-3A(1)(c)

After "total of the", insert "refundable deposit balances and".

23 Section 9-3B (heading)

Omit "**accommodation bond**".

24 Paragraph 9-3B(1)(a)

Omit "an *accommodation bond balance as required by section 57-21", substitute "a *refundable deposit balance or an *accommodation bond balance".

25 Paragraph 9-3B(1)(c)

After "used", insert "a *refundable deposit or".

26 Paragraph 9-3B(2)(c)

After "more", insert "*refundable deposit balances or".

27 Paragraph 9-3B(2)(d)

After "how", insert "*refundable deposits or".

28 Paragraphs 9-3B(2)(e) and (f)

After “use of”, insert “refundable deposits and”.

29 Section 11-1

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

30 Section 11-4

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

31 Subsection 12-1(1)

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

32 Subsection 12-3(1)

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

33 Subsections 12-4(1) and (3)

Omit “subsidy”, substitute “*subsidy”.

34 Subsection 12-5(1)

Repeal the subsection, substitute:

(1) The Secretary may, in respect of each type of *subsidy, determine for the *places *available for allocation the proportion of care that must be provided to people of kinds specified in the Allocation Principles.

35 Subsections 12-6(1) and (2)

Omit “subsidy”, substitute “*subsidy”.

36 Subsection 13-2(2)

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

37 Paragraph 13-2(3)(b)

Omit “subsidy”, substitute “*subsidy”.

38 Paragraph 13-2(3)(e)

Repeal the paragraph, substitute:

(e) the proportion of care (if any), in respect of the places available for allocation, that must be provided to people of kinds specified in the Allocation Principles.

39 Subsection 14-1(1)

Omit "subsidy under Chapter 3", substitute "*subsidy".

40 Paragraph 14-3(a)

Omit "subsidy under Chapter 3", substitute "*subsidy".

41 Subsection 14-5(5)

Repeal the subsection, substitute:

Lump sums paid by continuing care recipients

(5) If:

(a) a condition imposed on an allocation of *places to a person requires:

(i) the refund by the person to a *continuing care recipient, with the consent of the continuing care recipient, of a *pre-allocation lump sum or part of such a sum; or

(ii) the forgiveness by the person of an obligation (including a contingent obligation) by a continuing care recipient, with the consent of the continuing care recipient, in relation to a pre-allocation lump sum or part of such a sum; and

(b) the continuing care recipient continues, on the day on which the allocation was made, to be provided with *aged care through the residential care service in relation to entry to which the pre-allocation lump sum was paid or became payable;

then the continuing care recipient and the pre-allocation lump sum holder have the same rights, duties and obligations in relation to the charging of an *accommodation bond or an *accommodation charge as the continuing care recipient and the pre-allocation lump sum holder would have under this Act and the *Aged Care (Transitional Provisions) Act 1997* if:

(c) the continuing care recipient had *entered the residential care service or flexible care service on the day on which the allocation was made; and

(d) the pre-allocation lump sum were an accommodation bond paid in respect of aged care provided through another residential care service or flexible care service.

Lump sums paid by care recipients other than continuing care recipients

(5A) If:

(a) a condition imposed on an allocation of *places to a person requires:

(i) the refund by the person to a care recipient (the ***non-continuing care recipient***) who is not a *continuing care recipient, with the consent of the non-continuing care recipient, of a *pre-allocation lump sum or part of such a sum; or

(ii) the forgiveness by the person of an obligation (including a contingent obligation) by a non-continuing care recipient, with the consent of the non-continuing care recipient, in relation to a pre-allocation lump sum or part of such a sum; and

(b) the non-continuing care recipient continues, on the day on which the allocation was made, to be provided with *aged care through the residential care service in relation to entry to which the pre-allocation lump sum was paid or became payable;

then the non-continuing care recipient and the pre-allocation lump sum holder have the same rights, duties and obligations in relation to the charging of a *refundable deposit as the non-continuing care recipient and the pre-allocation lump sum holder would have under this Act if:

(c) the non-continuing care recipient had *entered the residential care service or flexible care service on the day on which the allocation was made; and

(d) the pre-allocation lump sum were a refundable deposit paid in respect of aged care provided through another residential care service or flexible care service.

42 Paragraph 14-5(6)(c)

After “not”, insert “a *refundable deposit,”.

43 Paragraph 14-8(2)(b)

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

44 Subsection 15-1(1)

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

45 Subsection 15-1(2) (note)

Omit “Subsidy”, substitute “*Subsidy”.

46 Paragraph 16-6(e)

Repeal the paragraph, substitute:

(e) the proportion of care (if any), in respect of the places to be transferred, that must be provided to people of kinds specified in the Allocation Principles.

47 Paragraph 16-10(2)(d)

Omit “(including, where applicable, retention amounts relating to *accommodation bonds)”.

48 Paragraph 16-10(2)(g)

After “requirements for”, insert “*refundable deposits and”.

49 Paragraph 16-11(a)

Omit “subsidy under Chapter 3”, substitute “*subsidy”.

50 Paragraph 16-11(b)

Omit “an”, substitute “a *refundable deposit balance or”.

51 Paragraph 16-18(e)

Repeal the paragraph, substitute:

(e) the proportion of care (if any), in respect of the places to be transferred, that must be provided to people of kinds specified in the Allocation Principles;

52 Subparagraph 18-2(2)(f)(ii)

Repeal the subparagraph, substitute:

(ii) *entry contribution balance; or

(iii) *refundable deposit balance;

53 Subsections 20-1(1) to (3)

Omit "Subsidy cannot be paid under Chapter 3", substitute "*Subsidy cannot be paid".

54 Paragraph 20-1(3)(b)

Omit "Flexible Care".

55 Section 20-2

After "Chapter 3", insert "of this Act or Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997*".

56 Paragraph 23-1(b)

Before "the approval", insert "in the case of flexible care—".

57 Section 23-3

Repeal the section, substitute:

23-3 Circumstances in which approval for flexible care lapses

Care not received within a certain time

(1) A person's approval as a recipient of flexible care lapses if the person is not provided with the care within:
  (a) the entry period specified in the Approval of Care Recipients Principles; or
  (b) if no such period is specified—the period of 12 months starting on the day after the approval was given.

(2) Subsection (1) does not apply if the care is specified for the purposes of this subsection in the Approval of Care Recipients Principles.

Person ceases to be provided with care in respect of which approved

(3) A person's approval as a recipient of flexible care lapses if the person ceases, in the circumstances specified in the Approval of Care Recipients Principles, to be provided with the care in respect of which he or she is approved.

58 Section 30-1

Omit ", but a lower amount of *residential care subsidy is payable".

59 Section 30-1 (notes 1 to 4)

Repeal the notes.

60 Paragraph 30-3(1)(b)

Repeal the paragraph.

61 Subsection 30-3(1) (at the end of the example)

Add "An individual resident's room might also constitute a "distinct part" of the service.".

62 Subsection 30-3(1) (note)

Repeal the note.

63 Paragraph 32-4(1)(a)

Omit "who:", substitute "who are included in a class of people specified in the Extra Service Principles;".

64 Subparagraphs 32-4(1)(a)(i) and (ii)

Repeal the subparagraphs.

65 Subsection 32-9(1)

Omit the second sentence.

66 Subsection 35-1(1)

Omit "Secretary", substitute "*Aged Care Pricing Commissioner".

67 Subsection 35-1(2)

Omit "The Secretary", substitute "The *Aged Care Pricing Commissioner".

68 Paragraphs 35-1(2)(c) and (d)

Omit "Secretary", substitute "Aged Care Pricing Commissioner".

69 Subsection 35-2(1)

Omit "Secretary", substitute "*Aged Care Pricing Commissioner".

70 Subsections 35-3(1) to (4)

Omit "Secretary", substitute "*Aged Care Pricing Commissioner".

71 Section 35-4 (heading)

Omit "**Secretary's**".

72 Section 35-4

Omit "The Secretary", substitute "The *Aged Care Pricing Commissioner".

73 Section 35-4

Omit "Secretary's", substitute "Aged Care Pricing Commissioner's".

74 Section 35-4

Omit the second sentence.

75 Section 36-4 (note)

Omit "56-1(f)", substitute "56-1(g)".

76 Section 37-1

Repeal the section, substitute:

37-1 What this Part is about

> This Part describes how a residential care service is certified and the circumstances in which certification ceases to have effect.

77 Paragraph 38-6(2)(d)

Repeal the paragraph, substitute:

(d) the consequences of failure by the approved provider to comply with the approved provider's responsibilities under Part 4.1, 4.2 or 4.3, in particular, that such a failure may lead to the revocation or suspension under Part 4.4 of the certification of the residential care service; and

78 Section 40-1

Omit "pays subsidies", substitute "pays *subsidies under this Chapter".

79 Section 41-2 (heading)

Omit "**Residential Care**".

80 Section 41-2

Omit “Residential Care Subsidy Principles. The provisions”, substitute “Subsidy Principles. Provisions”.

81 Section 41-2 (note)

Omit “Residential Care”.

82 Paragraph 41-3(1)(b)

Omit “Residential Care”.

83 Paragraph 41-3(2)(d)

Omit “Residential Care”.

84 Paragraph 42-1(2)(c)

Omit “subsections (3) and (4)”, substitute “subsection (3)”.

85 Subsection 42-1(4)

Repeal the subsection (not including the note).

86 Paragraph 42-2(3A)(b)

Omit “Residential Care”.

87 Subsection 42-3(3)

After “on leave”, insert “(the ***pre-entry leave***)”.

88 Paragraph 42-3(3)(b)

Omit “Residential Care”.

89 Subsection 42-5(1)

Omit “Residential Care”.

90 Paragraph 42-5(3)(d)

Omit “Residential Care”.

91 Subsection 43-1(3)

Omit “Residential Care”.

92 Paragraph 43-2(b)

Omit “Residential Care”.

93 Subsection 43-3(4)

Omit “Residential Care”.

94 Subsection 43-6(3)

Omit “Residential Care” (wherever occurring).

95 Subsection 43-6(5) (paragraph (g) of the definition of *capital payment*)

Repeal the paragraph, substitute:

(b) a payment of a kind specified in the Subsidy Principles.

96 Subsection 43-8(1)

Omit all the words after “care service”, substitute “if conditions specified in the Subsidy Principles, to which the allocation of the *places included in the service are subject under section 14-5 or 14-6, have not been met”.

97 Subsections 43-8(2) and (4)

Omit “Residential Care”.

98 Subsection 44-2(2) (Residential care subsidy calculator, step 4)

Repeal the step.

99 Subsection 44-2(2) (Residential care subsidy calculator, step 5)

Renumber as step 4.

100 Paragraph 44-3(3)(aa)

Repeal the paragraph.

101 Paragraphs 44-3(3)(c) and (d)

Repeal the paragraphs.

102 Paragraph 44-3(3)(e)

Omit “Residential Care”.

103 Sections 44-5 to 44-16

Repeal the sections, substitute:

44-5 Primary supplements

(1) The primary supplements for the care recipient are such of the following primary supplements as apply to the care recipient in respect of the *payment period:

(a) the following primary supplements as set out in the Subsidy Principles:

(i) the respite supplement;

(ii) the oxygen supplement;

(iii) the enteral feeding supplement;

(iv) the dementia and severe behaviours supplement;

(v) the veterans' supplement;

(vi) the workforce supplement;

(b) any other primary supplement set out in the Subsidy Principles for the purposes of this paragraph.

(2) The Subsidy Principles may specify, in respect of each primary supplement, the circumstances in which the supplement will apply to a care recipient in respect of a *payment period.

(3) The Minister may determine by legislative instrument, in respect of each such supplement, the amount of the supplement, or the way in which the amount of the supplement is to be worked out.

104 Paragraphs 44-17(a) to (c)

Repeal the paragraphs, substitute:

(a) the adjusted subsidy reduction (see section 44-19);

(b) the compensation payment reduction (see sections 44-20 and 44-20A);

(c) the care subsidy reduction (see sections 44-21 and 44-23).

105 Section 44-18

Repeal the section.

106 Subsections 44-20(5) and (6)

Omit "Residential Care".

107 Subsection 44-20(8)

Omit "an *accommodation bond", substitute "a *refundable deposit".

108 Subsection 44-20(8)

Omit "Residential Care".

109 Subdivision 44-E (heading)

Repeal the heading.

110 Sections 44-21 to 44-23

Repeal the sections, substitute:

44-20A Secretary's powers if compensation information is not given

(1) This section applies if:
  (a) the Secretary believes on reasonable grounds that a care recipient is entitled to compensation under a judgement, settlement or reimbursement arrangement; and
  (b) the Secretary does not have sufficient information to apply section 44-20 in relation to the compensation.

(2) The Secretary may, by notice in writing given to a person, require the person to give information or produce a document that is in the person's custody, or under the person's control, if the Secretary believes on reasonable grounds that the information or document may be relevant to the application of section 44-20 in relation to the compensation.

(3) The notice must specify:
  (a) how the person is to give the information or produce the document; and
  (b) the period within which the person is to give the information or produce the document; and
  (c) the effect of subsection (4).

Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal with service of documents) apply to notice given under this section.

(4) If the information or document is not given or produced within the specified period, the Secretary may determine compensation payment reductions for the care recipient.

Note: Decisions to determine compensation payment reductions under this section are reviewable under Part 6.1.

(5) The compensation payment reductions must be determined in accordance with the Subsidy Principles.

44-21 The care subsidy reduction

(1) The ***care subsidy reduction*** for the care recipient in respect of the *payment period is the sum of all the care subsidy reductions for days during the period on which the care recipient is provided with residential care through the residential care service in question.

(2) Subject to this section and section 44-23, the care subsidy reduction for a particular day is worked out as follows:

Care subsidy reduction calculator

Step 1. Work out the ***means tested amount*** for the care recipient (see section 44-22).

Step 2. Subtract the ***maximum accommodation supplement amount*** for the day (see subsection (6)) from the means tested amount.

Step 3. If the amount worked out under step 2 does not exceed zero, the ***care subsidy reduction*** is zero.

Step 4. If the amount worked out under step 2 exceeds zero but not the sum of the following, the ***care subsidy reduction*** is the amount worked out under step 2:

(a) the basic subsidy amount for the care recipient;

(b) all primary supplement amounts for the care recipient.

Step 5. If the amount worked out under step 2 exceeds the sum of the following, the ***care subsidy reduction*** is that sum:

(a) the basic subsidy amount for the care recipient;

(b) all primary supplement amounts for the care recipient.

(3) If the care recipient has not provided sufficient information about the care recipient's income and assets for the care recipient's means tested amount to be determined, the ***care subsidy reduction*** is the sum of the basic subsidy and primary supplement amounts for the care recipient.

(4) If, apart from this subsection, the sum of all the *combined care subsidy reductions made for the care recipient during a *start-date year for the care recipient would exceed the annual cap applying at the time for the care recipient, the ***care subsidy reduction*** for the remainder of the start-date year is zero.

(5) If, apart from this subsection, the sum of all the previous *combined care subsidy reductions made for the care recipient would exceed the lifetime cap applying at the time, the ***care subsidy reduction*** for the remainder of the care recipient's life is zero.

(6) The ***maximum accommodation supplement amount*** for a day is the highest of the amounts determined by the Minister by legislative instrument as the amounts of accommodation supplement payable for residential care services for that day.

(7) The ***annual cap***, for the care recipient, is the amount determined by the Minister by legislative instrument for the class of care recipients of which the care recipient is a member.

(8) The ***lifetime cap*** is the amount determined by the Minister by legislative instrument.

44-22 Working out the means tested amount

(1) The ***means tested amount*** for the care recipient is worked out as follows:

Means tested amount calculator

Work out the ***income tested amount*** using steps 1 to 4:

Step 1. Work out the care recipient's *total assessable income on a yearly basis using section 44-24.

Step 2. Work out the care recipient's *total assessable income free area using section 44-26.

Step 3. If the care recipient's total assessable income does not exceed the care recipient's total assessable income free area, the ***income tested amount*** is zero.

Step 4. If the care recipient's *total assessable income exceeds the care recipient's total assessable income free area, the ***income tested amount*** is 50% of that excess divided by 364.

Work out the ***per day asset tested amount*** using steps 5 to 10:

Step 5. Work out the value of the care recipient's assets using section 44-26A.

Step 6. If the value of the care recipient's assets does not exceed the ***asset free area***, the ***asset tested amount*** is zero.

Step 7. If the value of the care recipient's assets exceeds the ***asset free area*** but not the ***first asset threshold***, the ***asset tested amount*** is 17.5% of the excess.

Step 8. If the value of the care recipient's assets exceeds the first asset threshold but not the ***second asset threshold***, the ***asset tested amount*** is the sum of the following:

(a) 1% of the excess;

(b) 17.5% of the difference between the asset free area and the first asset threshold.

Step 9. If the value of the care recipient's assets exceeds the second asset threshold, the ***asset tested amount*** is the sum of the following:

(a) 2% of the excess;

(b) 1% of the difference between the first asset threshold and the second asset threshold;

(c) 17.5% of the difference between the asset free area and the first asset threshold.

Step 10. The ***per day asset tested amount*** is the asset tested amount divided by 364.

The ***means tested amount*** is the sum of the income tested amount and the per day asset tested amount.

(2) The ***asset free area*** is:
  (a) the amount equal to 2.25 times the *basic age pension amount; or
  (b) such other amount as is calculated in accordance with the Subsidy Principles.

(3) The ***first asset threshold*** and the ***second asset threshold*** are the amounts determined by the Minister by legislative instrument.

44-23 Care subsidy reduction taken to be zero in some circumstances

(1) The care subsidy reduction in respect of the care recipient is taken to be zero for each day, during the *payment period, on which one or more of the following applies:
  (a) the care recipient was provided with *respite care;
  (b) a determination was in force under subsection (2) in relation to the care recipient;
  (c) the care recipient was included in a class of people specified in the Subsidy Principles.

(2) The Secretary may, in accordance with the Subsidy Principles, determine that the care subsidy reduction in respect of the care recipient is to be taken to be zero.

Note: Refusals to make determinations are reviewable under Part 6.1.

(3) The determination ceases to be in force at the end of the period (if any) specified in the determination.

Note: Decisions specifying periods are reviewable under Part 6.1.

(4) In deciding whether to make a determination, the Secretary must have regard to the matters specified in the Subsidy Principles.

(5) Application may be made to the Secretary, in the form approved by the Secretary, for a determination under subsection (2) in respect of a care recipient. The application may be made by:
  (a) the care recipient; or
  (b) an approved provider that is providing, or is to provide, residential care to the care recipient.

(6) The Secretary must notify the care recipient and the approved provider, in writing, of the Secretary's decision on whether to make the determination. The notice must be given:
  (a) if an application for a determination was made under subsection (5)—within 28 days after the application was made, or, if the Secretary requested further information in relation to the application, within 28 days after receiving the information; or
  (b) if such an application was not made—within 28 days after the decision is made.

(7) A determination under subsection (2) is not a legislative instrument.

111 Subsection 44-24(5)

Omit "Residential Care".

112 Subparagraphs 44-24(6)(c)(ii) and (7)(b)(ii)

Omit "Residential Care".

113 Subsection 44-24(11)

Omit "Residential Care".

114 Subsection 44-26(1) (heading)

Repeal the heading.

115 Subsection 44-26(1)

Omit "(1)".

116 Subsection 44-26(1)

Omit "(other than a *protected resident or a *phased resident)".

117 Subsections 44-26(2) to (6)

Repeal the subsections.

118 At the end of Subdivision 44-E

Add:

44-26A The value of a person's assets

(1) Subject to this section, the value of a person's assets for the purposes of section 44-22 is to be worked out in accordance with the Subsidy Principles.

(2) If a person who is receiving an *income support supplement or a *service pension has an income stream (within the meaning of the *Veterans' Entitlements Act 1986*) that was purchased on or after 20 September 2007, the value of the person's assets:

(a) is taken to include the amount that the Secretary determines to be the value of that income stream that would be included in the value of the person's assets if Subdivision A of Division 11 of Part IIIB of the *Veterans' Entitlements Act 1986* applied for the purposes of this Act; and

(b) is taken to exclude the amount that the Secretary determines to be the value of that income stream that would not be included in the value of the person's assets if Subdivision A of Division 11 of Part IIIB of the *Veterans' Entitlements Act 1986* applied for the purposes of this Act.

(3) If a person who is not receiving an *income support supplement or a *service pension has an income stream (within the meaning of the *Social Security Act 1991*) that was purchased on or after 20 September 2007, the value of the person's assets:

(a) is taken to include the amount that the Secretary determines to be the value of that income stream that would be included in the value of the person's assets if Division 1 of Part 3.12 of the *Social Security Act 1991* applied for the purposes of this Act; and

(b) is taken to exclude the amount that the Secretary determines to be the value of that income stream that would not be included in the value of the person's assets if Division 1 of

Part 3.12 of the *Social Security Act 1991* applied for the purposes of this Act.

(4) The value of a person's assets is taken to include the amount that the Secretary determines to be the amount:

(a) if the person is receiving an *income support supplement or a *service pension—that would be included in the value of the person's assets if Subdivisions B and BB of Division 11 and Subdivision H of Division 11A of Part IIIB of the *Veterans' Entitlements Act 1986* applied for the purposes of this Act; and

(b) otherwise—that would be included in the value of the person's assets if Division 2 of Part 3.12 and Division 8 of Part 3.18 of the *Social Security Act 1991* applied for the purposes of this Act.

Note 1: Subdivisions B and BB of Division 11 of Part IIIB of the *Veterans' Entitlements Act 1986*, and Division 2 of Part 3.12 of the *Social Security Act 1991*, deal with disposal of assets.

Note 2: Subdivision H of Division 11A of Part IIIB of the *Veterans' Entitlements Act 1986*, and Division 8 of Part 3.18 of the *Social Security Act 1991*, deal with the attribution to individuals of assets of private companies and private trusts.

(5) If a person has paid a *refundable deposit, the value of the person's assets is taken to include the amount of the *refundable deposit balance.

(6) In working out the value at a particular time of the assets of a person who is or was a *homeowner, disregard the value of a home that, at the time, was occupied by:

(a) the *partner or a *dependent child of the person; or

(b) a carer of the person who:

(i) had occupied the home for the past 2 years; and

(ii) was eligible to receive an *income support payment at the time; or

(c) a *close relation of the person who:

(i) had occupied the home for the past 5 years; and

(ii) was eligible to receive an *income support payment at the time.

(7) In working out the value at a particular time of the assets of a person who is or was a *homeowner, disregard the value of a home

to the extent that it exceeded the *maximum home value in force at that time.

(8) The value of the assets of a person who is a *member of a couple is taken to be 50% of the sum of:
  (a) the value of the person's assets; and
  (b) the value of the assets of the person's *partner.

(9) A reference to the value of the assets of a person is, in relation to an asset owned by the person jointly or in common with one or more other people, a reference to the value of the person's interest in the asset.

(10) A determination under paragraph (2)(a), (2)(b), (3)(a) or (3)(b) or subsection (4) is not a legislative instrument.

44-26B Definitions relating to the value of a person's assets

(1) In section 44-26A, and in this section:

child: without limiting who is a child of a person for the purposes of this section and section 44-26A, each of the following is the ***child*** of a person:
  (a) a stepchild or an adopted child of the person;
  (b) someone who would be the stepchild of the person except that the person is not legally married to the person's partner;
  (c) someone who is a child of the person within the meaning of the *Family Law Act 1975*;
  (d) someone included in a class of persons specified for the purposes of this paragraph in the Subsidy Principles.

close relation, in relation to a person, means:
  (a) a parent of the person; or
  (b) a sister, brother, child or grandchild of the person; or
  (c) a person included in a class of persons specified in the Subsidy Principles.

Note: See also subsection (5).

dependent child has the meaning given by subsection (2).

homeowner has the meaning given by the Subsidy Principles.

maximum home value means the amount determined by the Minister by legislative instrument.

member of a couple means:

(a) a person who is legally married to another person, and is not living separately and apart from the person on a permanent basis; or

(b) a person whose relationship with another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section, and who is not living separately and apart from the other person on a permanent basis; or

(c) a person who lives with another person (whether of the same sex or a different sex) in a de facto relationship, although not legally married to the other person.

parent: without limiting who is a parent of a person for the purposes of this section and section 44-26A, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

partner, in relation to a person, means the other *member of a couple of which the person is also a member.

(2) A young person (see subsection (3)) is a ***dependent child*** of a person (the ***adult***) if:

(a) the adult:

(i) is legally responsible (whether alone or jointly with another person) for the day-to-day care, welfare and development of the young person; or

(ii) is under a legal obligation to provide financial support in respect of the young person; and

(b) in a subparagraph (a)(ii) case—the adult is not included in a class of people specified for the purposes of this paragraph in the Subsidy Principles; and

(c) the young person is not:

(i) in full-time employment; or

(ii) in receipt of a social security pension (within the meaning of the *Social Security Act 1991*) or a social security benefit (within the meaning of that Act); or

(iii) included in a class of people specified in the Subsidy Principles.

(3) A reference in subsection (2) to a ***young person*** is a reference to any of the following:

(a) a person under 16 years of age;

(b) a person who:

(i) has reached 16 years of age, but is under 25 years of age; and

(ii) is receiving full-time education at a school, college or university;

(c) a person included in a class of people specified in the Subsidy Principles.

(4) The reference in paragraph (2)(a) to care does not have the meaning given in the Dictionary in Schedule 1.

(5) For the purposes of paragraph (b) of the definition of ***close relation*** in subsection (1), if one person is the child of another person because of the definition of ***child*** in this section, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

44-26C Determination of value of person's assets

Making determinations

(1) The Secretary must determine the value, at the time specified in the determination, of a person's assets in accordance with section 44-26A, if the person:

(a) applies in the approved form for the determination; and

(b) gives the Secretary sufficient information to make the determination.

The time specified must be at or before the determination is made.

Note 1: Determinations are reviewable under Part 6.1.

Note 2: An application can be made under this section for the purposes of section 52J-5: see subsection 52J-5(3).

Giving notice of the determination

(2) Within 14 days after making the determination, the Secretary must give the person a copy of the determination.

When the determination is in force

(3) The determination is in force for the period specified in, or worked out under, the determination.

(4) However, the Secretary may by written instrument revoke the determination if he or she is satisfied that it is incorrect. The determination ceases to be in force on a day specified in the instrument (which may be before the instrument is made).

Note: Revocations of determinations are reviewable under Part 6.1.

(5) Within 14 days after revoking the determination, the Secretary must give written notice of the revocation and the day the determination ceases being in force to:

(a) the person; and

(b) if the Secretary is aware that the person has given an approved provider a copy of the determination—the approved provider.

(6) A determination made under subsection (1) is not a legislative instrument.

119 Section 44-27

Before “The other”, insert “(1)”.

120 Section 44-27

Omit “step 5”, substitute “step 4”.

121 Paragraph 44-27(a)

Omit “pensioner”, substitute “accommodation”.

122 Paragraphs 44-27(b) to (e)

Repeal the paragraphs, substitute:

(b) the hardship supplement (see section 44-30);

(c) any other supplement set out in the Subsidy Principles for the purposes of this paragraph.

123 Section 44-27 (note)

Repeal the note.

124 At the end of section 44-27 (before the note)

Add:

(2) The Subsidy Principles may specify, in respect of each other supplement set out for the purposes of paragraph (1)(c), the circumstances in which the supplement will apply to a care recipient in respect of a *payment period.

(3) The Minister may determine by legislative instrument, in respect of each such supplement, the amount of the supplement, or the way in which the amount of the supplement is to be worked out.

125 Section 44-28

Repeal the section, substitute:

44-28 The accommodation supplement

(1) The ***accommodation supplement*** for the care recipient in respect of the *payment period is the sum of all the accommodation supplements for the days during the period on which:
  (a) the care recipient was provided with residential care (other than *respite care) through the *residential care service in question; and
  (b) the care recipient was eligible for accommodation supplement.

(2) The care recipient is eligible for *accommodation supplement on a particular day if:
  (a) on that day:
    (i) the care recipient's *classification level is not the lowest applicable classification level; and
    (ii) the residential care service is *certified; and
    (iii) the residential care provided to the care recipient is not provided on an extra service basis; and
  (b) on the day (the ***entry day***) on which the care recipient entered the residential care service, the care recipient's means tested amount was less than the maximum accommodation supplement amount for the entry day.

(3) The care recipient is also eligible for *accommodation supplement on a particular day if, on that day, a *financial hardship determination under section 52K-1 is in force for the person.

(4) The *accommodation supplement for a particular day is the amount:
  (a) determined by the Minister by legislative instrument; or
  (b) worked out in accordance with a method determined by the Minister by legislative instrument.

(5) The Minister may determine different amounts (including nil amounts) or methods based on any one or more of the following:
  (a) the income of a care recipient;
  (b) the value of assets held by a care recipient;
  (c) the status of the building in which the residential care service is provided;
  (d) any other matter specified in the Subsidy Principles.

126 Section 44-29

Repeal the section.

127 Subsection 44-30(2)

Omit "Subject to subsection (4), the", substitute "The".

128 Paragraph 44-30(2)(a)

Omit "Residential Care".

129 Paragraph 44-30(2)(a)

Omit "the maximum daily amount of resident fees worked out under section 58-2", substitute "a daily amount of resident fees of more than the amount specified in the Principles".

130 At the end of subsection 44-30(2)

Add:

The specified amount may be nil.

131 Subsection 44-30(3)

Omit "Subject to subsection (4), the", substitute "The".

132 Subsection 44-30(4)

Repeal the subsection.

133 Subsections 44-31(1) and (2)

Repeal the subsections, substitute:

(1) The Secretary may, in accordance with the Subsidy Principles, determine that the care recipient is eligible for a hardship supplement if the Secretary is satisfied that paying a daily amount of resident fees of more than the amount specified in the determination would cause the care recipient financial hardship.

Note: Refusals to make determinations are reviewable under Part 6.1.

(2) In deciding whether to make a determination under this section, and in determining the specified amount, the Secretary must have regard to the matters (if any) specified in the Subsidy Principles. The specified amount may be nil.

134 Section 44-32

Repeal the section, substitute:

44-32 Revoking determinations of financial hardship

(1) The Secretary may, in accordance with the Subsidy Principles, revoke a determination under section 44-31.

Note: Revocations of determinations are reviewable under Part 6.1.

(2) Before deciding to revoke the determination, the Secretary must notify the care recipient and the approved provider concerned that revocation is being considered.

(3) The notice must be in writing and must:
  (a) invite the care recipient and the approved provider to make submissions, in writing, to the Secretary within 28 days after receiving the notice; and
  (b) inform them that if no submissions are made within that period, the revocation takes effect on the day after the last day for making submissions.

(4) In making the decision whether to revoke the determination, the Secretary must consider any submissions received within the period for making submissions. The Secretary must make the decision within 28 days after the end of that period.

(5) The Secretary must notify, in writing, the care recipient and the approved provider of the decision.

(6) The notice must be given to the care recipient and the approved provider within 28 days after the end of the period for making submissions.

(7) If the notice is not given within that period, the Secretary is taken to have decided not to revoke the determination.

(8) A revocation has effect:
  (a) if the care recipient and the approved provider received notice under subsection (5) on the same day—the day after that day; or
  (b) if they received the notice on different days—the day after the later of those days.

135 Section 45-2 (heading)

Omit "**Home Care**".

136 Section 45-2

Omit "Home Care Subsidy Principles. The provisions", substitute "Subsidy Principles. Provisions".

137 Section 45-2 (note)

Omit "Home Care".

138 Subsection 45-3(2)

Omit "Home Care".

139 Subsection 46-2(3)

Omit "Home Care".

140 Paragraph 47-2(b)

Omit "Home Care".

141 Subsection 47-3(4)

Omit "Home Care".

142 Section 48-1

Repeal the section, substitute:

48-1 Amount of home care subsidy

(1) The amount of *home care subsidy payable to an approved provider for a home care service in respect of a *payment period is the amount worked out by adding together the amounts of home care subsidy for each care recipient:

(a) in respect of whom there is in force a *home care agreement for provision of home care provided through the service during the period; and

(b) in respect of whom the approved provider was eligible for home care subsidy during the period.

(2) This is how to work out the amount of *home care subsidy for a care recipient in respect of the *payment period.

Home care subsidy calculator

Step 1. Work out the ***basic subsidy amount*** using section 48-2.

Step 2. Add to this amount the amounts of any ***primary supplements*** worked out using section 48-3.

Step 3. Subtract the amounts of any ***reductions in subsidy*** worked out using section 48-4.

Step 4. Add the amounts of any ***other supplements*** worked out using section 48-9.

The result is the ***amount of home care subsidy*** for the care recipient in respect of the *payment period.

48-2 The basic subsidy amount

(1) The ***basic subsidy amount*** for the care recipient in respect of the *payment period is the sum of all the basic subsidy amounts for the days during the period on which the care recipient was provided with home care through the home care service in question.

(2) The basic subsidy amount for a day is the amount determined by the Minister by legislative instrument.

(3) The Minister may determine different amounts (including nil amounts) based on any one or more of the following:
  (a) the levels for care recipients being provided with home care;
  (b) any other matters specified in the Subsidy Principles;
  (c) any other matters determined by the Minister.

48-3 Primary supplements

(1) The ***primary supplements*** for the care recipient under step 2 of the home care subsidy calculator are such of the following primary supplements as apply to the care recipient in respect of the *payment period:
  (a) the following primary supplements as set out in the Subsidy Principles:
    (i) the oxygen supplement;
    (ii) the enteral feeding supplement;
    (iii) the dementia and cognition supplement;
    (iv) the veterans' supplement;
    (v) the workforce supplement;
  (b) any other primary supplement set out in the Subsidy Principles for the purposes of this paragraph.

(2) The Subsidy Principles may specify, in respect of each primary supplement, the circumstances in which the supplement will apply to a care recipient in respect of a *payment period.

(3) The Minister may determine by legislative instrument, in respect of each such supplement, the amount of the supplement, or the way in which the amount of the supplement is to be worked out.

48-4 Reductions in subsidy

The ***reductions in subsidy*** for the care recipient under step 3 of the home care subsidy calculator are such of the following reductions as apply to the care recipient in respect of the *payment period:
  (a) the compensation payment reduction (see sections 48-5 and 48-6);
  (b) the care subsidy reduction (see sections 48-7 and 48-8).

48-5 The compensation payment reduction

(1) The ***compensation payment reduction*** for the care recipient in respect of the *payment period is the sum of all compensation payment reductions for days during the period:
  (a) on which the care recipient is provided with home care through the home care service in question; and
  (b) that are covered by a compensation entitlement.

(2) For the purposes of this section, a day is covered by a compensation entitlement if:
  (a) the care recipient is entitled to compensation under a judgement, settlement or reimbursement arrangement; and
  (b) the compensation takes into account the cost of providing home care to the care recipient on that day; and
  (c) the application of compensation payment reductions to the care recipient for preceding days has not resulted in reductions in subsidy that, in total, exceed or equal the part of the compensation that relates, or is to be treated under subsection (5) or (6) as relating, to future costs of providing home care.

(3) The compensation payment reduction for a particular day is an amount equal to the amount of *home care subsidy that would be payable for the care recipient in respect of the *payment period if:
  (a) the care recipient was provided with home care on that day only; and
  (b) this section and sections 48-9 and 48-10 did not apply.

(4) However, if:
  (a) the compensation payment reduction arises from a judgement or settlement that fixes the amount of compensation on the basis that liability should be apportioned between the care recipient and the compensation payer; and
  (b) as a result, the amount of compensation is less than it would have been if liability had not been so apportioned; and
  (c) the compensation is not paid in a lump sum;

  the amount of the compensation payment reduction under subsection (3) is reduced by the proportion corresponding to the proportion of liability that is apportioned to the care recipient by the judgement or settlement.

(5) If a care recipient is entitled to compensation under a judgement or settlement that does not take into account the future costs of providing home care to the care recipient, the Secretary may, in accordance with the Subsidy Principles, determine:

(a) that, for the purposes of this section, the judgement or settlement is to be treated as having taken into account the cost of providing that home care; and

(b) the part of the compensation that, for the purposes of this section, is to be treated as relating to the future costs of providing home care.

Note: Determinations are reviewable under Part 6.1.

(6) If:

(a) a care recipient is entitled to compensation under a settlement; and

(b) the settlement takes into account the future costs of providing home care to the recipient; and

(c) the Secretary is satisfied that the settlement does not adequately take into account the future costs of providing home care to the care recipient;

the Secretary may, in accordance with the Subsidy Principles, determine the part of the compensation that, for the purposes of this section, is to be treated as relating to the future costs of providing home care.

Note: Determinations are reviewable under Part 6.1.

(7) A determination under subsection (5) or (6) must be in writing and notice of it must be given to the care recipient.

(8) A determination under subsection (5) or (6) is not a legislative instrument.

(9) In this section, the following terms have the same meanings as in the *Health and Other Services (Compensation) Act 1995*:

compensation

compensation payer

judgement

reimbursement arrangement

settlement

48-6 Secretary's powers if compensation information is not given

(1) This section applies if:
  (a) the Secretary believes on reasonable grounds that a care recipient is entitled to compensation under a judgement, settlement or reimbursement arrangement; and
  (b) the Secretary does not have sufficient information to apply section 48-5 in relation to the compensation.

(2) The Secretary may, by notice in writing given to a person, require the person to give information or produce a document that is in the person's custody, or under the person's control, if the Secretary believes on reasonable grounds that the information or document may be relevant to the application of section 48-5 in relation to the compensation.

(3) The notice must specify:
  (a) how the person is to give the information or produce the document; and
  (b) the period within which the person is to give the information or produce the document.

Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal with service of documents) apply to notice given under this section.

(4) If the information or document is not given or produced within the specified period, the Secretary may determine compensation payment reductions for the care recipient.

Note: Decisions to determine compensation payment reductions under this section are reviewable under Part 6.1.

(5) The compensation payment reductions must be determined in accordance with the Subsidy Principles.

48-7 The care subsidy reduction

(1) The care subsidy reduction for the care recipient for the *payment period is the sum of all the care subsidy reductions for days during the period on which the care recipient is provided with home care through the home care service in question.

(2) Subject to this section and section 48-8, the care subsidy reduction for a particular day is worked out as follows:

Care subsidy reduction calculator

Step 1. Work out the care recipient's ***total assessable income*** on a yearly basis using section 44-24.

Step 2. Work out the care recipient's ***total assessable income free area*** using section 44-26.

Step 3. If the care recipient's total assessable income does not exceed the care recipient's total assessable income free area, the ***care subsidy reduction*** is zero.

Step 4. If the care recipient's total assessable income exceeds the care recipient's total assessable income free area but not the ***income threshold***, the ***care subsidy reduction*** is equal to the lowest of the following:

(a) the sum of the basic subsidy amount for the care recipient and all primary supplements for the care recipient;

(b) 50% of the amount by which the care recipient's total assessable income exceeds the income free area (worked out on a per day basis);

(c) the amount (the ***first cap***) determined by the Minister by legislative instrument for the purposes of this paragraph.

Step 5. If the care recipient's total assessable income exceeds the ***income threshold***, the ***care subsidy reduction*** is equal to the lowest of the following:

(a) the sum of the basic subsidy amount for the care recipient and all primary supplements for the care recipient;

(b) 50% of the amount by which the care recipient's total assessable income exceeds the income

threshold (worked out on a per day basis) plus the amount specified in paragraph (c) of step 4;

(c) the amount (the ***second cap***) determined by the Minister by legislative instrument for the purposes of this paragraph.

(3) If the care recipient has not provided sufficient information about the care recipient's income for the care recipient's care subsidy reduction to be determined, the ***care subsidy reduction*** is equal to the lesser of the following:

(a) the sum of the basic subsidy amount for the care recipient and all primary supplements for the care recipient;

(b) the second cap.

(4) If, apart from this subsection, the sum of all the *combined care subsidy reductions made for the care recipient during a *start-date year for the care recipient would exceed the annual cap applying at the time for the care recipient, the ***care subsidy reduction*** for the remainder of the start-date year is zero.

(5) If, apart from this subsection, the sum of all the previous *combined care subsidy reductions made for the care recipient would exceed the lifetime cap applying at the time, the ***care subsidy reduction*** for the remainder of the care recipient's life is zero.

(6) The ***income threshold*** is the amount determined by the Minister by legislative instrument.

(7) The ***annual cap***, for the care recipient, is the amount determined by the Minister by legislative instrument for the class of care recipients of which the care recipient is a member.

(8) The ***lifetime cap*** is the amount determined by the Minister by legislative instrument.

48-8 Care subsidy reduction taken to be zero in some circumstances

(1) The care subsidy reduction in respect of the care recipient is taken to be zero for each day, during the *payment period, on which one or more of the following applies:

(a) a determination was in force under subsection (2) in relation to the care recipient;
(b) the care recipient was included in a class of people specified in the Subsidy Principles.

(2) The Secretary may, in accordance with the Subsidy Principles, determine that the care subsidy reduction in respect of the care recipient is to be taken to be zero.

Note: Refusals to make determinations are reviewable under Part 6.1.

(3) The determination ceases to be in force at the end of the period (if any) specified in the determination.

Note: Decisions specifying periods are reviewable under Part 6.1.

(4) In deciding whether to make a determination, the Secretary must have regard to the matters specified in the Subsidy Principles.

(5) Application may be made to the Secretary, in the form approved by the Secretary, for a determination under subsection (2) in respect of a care recipient. The application may be made by:
(a) the care recipient; or
(b) an approved provider that is providing, or is to provide, home care to the care recipient.

(6) The Secretary must notify the care recipient and the approved provider, in writing, of the Secretary's decision on whether to make the determination. The notice must be given:
(a) if an application for a determination was made under subsection (5)—within 28 days after the application was made, or, if the Secretary requested further information in relation to the application, within 28 days after receiving the information; or
(b) if such an application was not made—within 28 days after the decision is made.

(7) A determination under subsection (2) is not a legislative instrument.

48-9 Other supplements

(1) The ***other supplements*** for the care recipient under step 4 of the home care subsidy calculator are such of the following supplements as apply to the care recipient in respect of the *payment period:

(a) the hardship supplement (see section 48-10);

(b) any other supplement set out in the Subsidy Principles for the purposes of this paragraph.

(2) The Subsidy Principles may specify, in respect of each other supplement set out for the purposes of paragraph (1)(b), the circumstances in which the supplement will apply to a care recipient in respect of a *payment period.

(3) The Minister may determine by legislative instrument, in respect of each such other supplement, the amount of the supplement, or the way in which the amount of the supplement is to be worked out.

48-10 The hardship supplement

(1) The hardship supplement for the care recipient in respect of the *payment period is the sum of all the hardship supplements for the days during the period on which:

(a) the care recipient was provided with home care through the home care service in question; and

(b) the care recipient was eligible for a hardship supplement.

(2) The care recipient is eligible for a hardship supplement on a particular day if:

(a) the Subsidy Principles specify one or more classes of care recipients to be care recipients for whom paying a daily amount of home care fees of more than the amount specified in the Principles would cause financial hardship; and

(b) on that day, the care recipient is included in such a class.

The specified amount may be nil.

(3) The care recipient is also eligible for a hardship supplement on a particular day if a determination is in force under section 48-11 in relation to the care recipient.

(4) The hardship supplement for a particular day is the amount:

(a) determined by the Minister by legislative instrument; or
(b) worked out in accordance with a method determined by the Minister by legislative instrument.

(5) The Minister may determine different amounts (including nil amounts) or methods based on any matters determined by the Minister by legislative instrument.

48-11 Determining cases of financial hardship

(1) The Secretary may, in accordance with the Subsidy Principles, determine that the care recipient is eligible for a hardship supplement if the Secretary is satisfied that paying a daily amount of home care fees of more than the amount specified in the determination would cause the care recipient financial hardship.

Note: Refusals to make determinations are reviewable under Part 6.1.

(2) In deciding whether to make a determination under this section, and in determining the specified amount, the Secretary must have regard to the matters (if any) specified in the Subsidy Principles. The specified amount may be nil.

(3) A determination under this section ceases to be in force at the end of a specified period, or on the occurrence of a specified event, if the determination so provides.

Note: Decisions to specify periods or events are reviewable under Part 6.1.

(4) Application may be made to the Secretary, in the form approved by the Secretary, for a determination under this section. The application may be made by:
(a) the care recipient; or
(b) an approved provider who is providing, or is to provide, home care to the care recipient.

(5) If the Secretary needs further information to determine the application, the Secretary may give to the applicant a notice requesting the applicant to give the further information:
(a) within 28 days after receiving the notice; or
(b) within such other period as is specified in the notice.

(6) The application is taken to have been withdrawn if the information is not given within whichever of those periods applies. The notice must contain a statement setting out the effect of this subsection.

Note: The period for giving the further information can be extended—see section 96-7.

(7) The Secretary must notify the care recipient and the approved provider, in writing, of the Secretary's decision on whether to make the determination. The notice must be given:
  (a) within 28 days after receiving the application; or
  (b) if the Secretary has requested further information under subsection (5)—within 28 days after receiving the information.

(8) If the Secretary makes the determination, the notice must set out:
  (a) any period at the end of which; or
  (b) any event on the occurrence of which;
the determination will cease to be in force.

(9) A determination under subsection (1) is not a legislative instrument.

48-12 Revoking determinations of financial hardship

(1) The Secretary may, in accordance with the Subsidy Principles, revoke a determination under section 48-11.

Note: Revocations of determinations are reviewable under Part 6.1.

(2) Before deciding to revoke the determination, the Secretary must notify the care recipient and the approved provider concerned that revocation is being considered.

(3) The notice must be in writing and must:
  (a) invite the care recipient and the approved provider to make submissions, in writing, to the Secretary within 28 days after receiving the notice; and
  (b) inform them that if no submissions are made within that period, the revocation takes effect on the day after the last day for making submissions.

(4) In making the decision whether to revoke the determination, the Secretary must consider any submissions received within the

period for making submissions. The Secretary must make the decision within 28 days after the end of that period.

(5) The Secretary must notify, in writing, the care recipient and the approved provider of the decision.

(6) The notice must be given to the care recipient and the approved provider within 28 days after the end of the period for making submissions.

(7) If the notice is not given within that period, the Secretary is taken to have decided not to revoke the determination.

(8) A revocation has effect:
  (a) if the care recipient and the approved provider received notice under subsection (5) on the same day—the day after that day; or
  (b) if they received the notice on different days—the day after the later of those days.

143 Section 49-2 (heading)

Omit "**Flexible Care**".

144 Section 49-2

Omit "Flexible Care Subsidy Principles. The provisions", substitute "Subsidy Principles. Provisions".

145 Section 49-2 (note)

Omit "Flexible Care".

146 Subparagraphs 50-1(1)(b)(ii) and (iii)

Omit "Flexible Care".

147 Subsection 50-2(1)

Omit "Flexible Care".

148 Subsections 51-1(1) and (2)

Omit "Flexible Care".

149 After Chapter 3

Insert:

Chapter 3A—Fees and payments

Division 52A—Introduction

52A-1 What this Chapter is about

Care recipients contribute to the cost of their care by paying resident fees or home care fees (see Part 3A.1).

Care recipients may pay for, or contribute to the cost of, accommodation provided with residential care or eligible flexible care by paying an *accommodation payment or an *accommodation contribution (see Part 3A.2).

Accommodation payments or accommodation contributions may be paid by:

- *daily payments; or
- *refundable deposit; or
- a combination of refundable deposit and daily payments.

Rules for managing refundable deposits, *accommodation bonds and *entry contributions are set out in Part 3A.3. Accommodation bonds and entry contributions are paid under the *Aged Care (Transitional Provisions) Act 1997*.

Part 3A.1—Resident and home care fees

Division 52B—Introduction

52B-1 What this Part is about

Care recipients may pay, or contribute to the cost of, residential care and home care by paying resident fees or home care fees.

Table of Divisions

52B Introduction
52C Resident fees
52D Home care fees

52B-2 The Fees and Payments Principles

Resident fees and home care fees are also dealt with in the Fees and Payments Principles. Provisions in this Part indicate when a particular matter is or may be dealt with in these Principles.

Note: The Fees and Payments Principles are made by the Minister under section 96-1.

Division 52C—Resident fees

52C-2 Rules relating to resident fees

(1) Fees charged to a care recipient for, or in connection with, residential care provided to the care recipient through a residential care service are ***resident fees***.

(2) The following apply:

(a) subject to section 52C-5, the resident fee in respect of any day must not exceed the sum of:

(i) the maximum daily amount worked out under section 52C-3; and

(ii) such other amounts as are specified in, or worked out in accordance with, the Fees and Payments Principles;

(b) the care recipient must not be required to pay resident fees more than one month in advance;

(c) the care recipient must not be required to pay resident fees for any period prior to *entry to the residential care service, other than for a period in which the care recipient is, because of subsection 42-3(3), taken to be on *leave under section 42-2;

(d) if the care recipient dies or departs from the service—any fees paid in advance in respect of a period occurring after the care recipient dies or leaves must be refunded in accordance with the Fees and Payments Principles.

52C-3 Maximum daily amount of resident fees

(1) The ***maximum daily amount of resident fees*** payable by the care recipient is the amount worked out as follows:

Resident fee calculator

Step 1. Work out the *standard resident contribution for the care recipient using section 52C-4.

Step 2. Add the ***compensation payment fee*** (if any) for the care recipient for the day in question (see subsection (2)).

Step 3. Add the ***means tested care fee*** (if any) for the care recipient for that day (see subsection (3)).

Step 4. Subtract the amount of any hardship supplement applicable to the care recipient for the day in question under section 44-30.

Step 5. Add any other amounts agreed between the care recipient and the approved provider in accordance with the Fees and Payments Principles.

Step 6. If, on the day in question, the *place in respect of which residential care is provided to the care recipient has *extra service status, add the extra service fee in respect of the place.

The result is the ***maximum daily amount of resident fees*** for the care recipient.

(2) The ***compensation payment fee*** for a care recipient for a particular day is the amount equal to the compensation payment reduction applicable to the care recipient on that day (see sections 44-20 and 44-20A).

(3) The ***means tested care fee*** for a care recipient for a particular day is:

(a) the amount equal to the care subsidy reduction applicable to the care recipient on that day (see sections 44-21 and 44-23); or

(b) if the care recipient is receiving respite care—zero.

52C-4 The standard resident contribution

The ***standard resident contribution*** for a care recipient is:

(a) the amount determined by the Minister by legislative instrument; or

(b) if no amount is determined under paragraph (a) for the care recipient—the amount obtained by rounding down to the nearest cent the amount equal to 85% of the *basic age pension amount (worked out on a per day basis).

52C-5 Maximum daily amount of resident fees for reserving a place

If:

(a) a care recipient is absent from a residential care service on a particular day; and

(b) the person is not on *leave from the residential care service on that day because of the operation of paragraph 42-2(3)(c);

the maximum fee in respect of a day that can be charged for reserving a place in the residential care service for that day is the sum of the following amounts:

(c) the maximum daily amount under section 52C-3 that would have been payable by the care recipient if the care recipient had been provided with residential care through the residential care service on that day;

(d) the amount that would have been the amount of *residential care subsidy under Division 44 for the care recipient in respect of that day, if the care recipient had been provided with residential care through the residential care service on that day.

Division 52D—Home care fees

52D-1 Rules relating to home care fees

(1) Fees charged to a care recipient for, or in connection with, home care provided to the care recipient through a home care service are ***home care fees***.

(2) The following apply:

(a) the home care fee in respect of any day must not exceed the sum of:
  (i) the maximum daily amount worked out under section 52D-2; and
  (ii) such other amounts as are specified in, or worked out in accordance with, the Fees and Payments Principles;
(b) the care recipient must not be required to pay home care fees more than one month in advance;
(c) the care recipient must not be required to pay home care fees for any period prior to being provided with the home care;
(d) if the care recipient dies or provision of home care ceases—any fees paid in advance in respect of a period occurring after the care recipient's death, or the cessation of home care, must be refunded in accordance with the Fees and Payments Principles.

52D-2 Maximum daily amount of home care fees

(1) The ***maximum daily amount of home care fees*** payable by the care recipient is the amount worked out as follows:

Home care fee calculator

Step 1. Work out the ***basic daily care fee*** using section 52D-3.

Step 2. Add the ***compensation payment fee*** (if any) for the care recipient for the day in question (see subsection (2)).

Step 3. Add the ***income tested care fee*** (if any) for the care recipient for the day in question (see subsection (3)).

Step 4. Subtract the amount of any hardship supplement applicable to the care recipient for the day in question under section 48-10.

Step 5. Add any other amounts agreed between the care recipient and the approved provider in accordance with the Fees and Payments Principles.

The result is the ***maximum daily amount of home care fees*** for the care recipient.

(2) The ***compensation payment fee*** for a care recipient for a particular day is the amount equal to the compensation payment reduction applicable to the care recipient on that day (see sections 48-5 and 48-6).

(3) The ***income tested care fee*** for a care recipient for a particular day is the amount equal to the care subsidy reduction applicable to the care recipient on that day (see sections 48-7 and 48-8).

52D-3 The basic daily care fee

The ***basic daily care fee*** for a care recipient is:

(a) the amount determined by the Minister by legislative instrument; or

(b) if no amount is determined under paragraph (a) for the care recipient—the amount obtained by rounding down to the nearest cent the amount equal to 17.5% of the *basic age pension amount (worked out on a per day basis).

Part 3A.2—Accommodation payments and accommodation contributions

Division 52E—Introduction

52E-1 What this Part is about

Care recipients may pay for, or contribute to the cost of, accommodation provided with residential care or eligible flexible care by paying an *accommodation payment or an *accommodation contribution.

Accommodation payments or accommodation contributions may be paid by:

- *daily payments; or
- *refundable deposit; or
- a combination of refundable deposit and daily payments.

Table of Divisions

52E Introduction
52F Accommodation agreements
52G Rules about accommodation payments and accommodation contributions
52H Rules about daily payments
52J Rules about refundable deposits
52K Financial hardship

52E-2 The Fees and Payments Principles

*Accommodation payments and *accommodation contributions are also dealt with in the Fees and Payments Principles. Provisions in this Part indicate when a particular matter is or may be dealt with in these Principles.

Note: The Fees and Payments Principles are made by the Minister under section 96-1.

Division 52F—Accommodation agreements

52F-1 Information to be given before person enters residential or eligible flexible care

(1) Before a person enters a residential care service or an *eligible flexible care service, the provider of the service must:
  (a) give the person:
    (i) an *accommodation agreement; and
    (ii) such other information as is specified in the Fees and Payments Principles; and
  (b) agree with the person, in writing, about the maximum amount that would be payable if the person paid an *accommodation payment for the service.

Note: Whether or not a person pays an accommodation payment depends on their means tested amount, which may not be worked out before they enter the service.

(2) A flexible care service is an ***eligible flexible care service*** if the service is permitted, under the Fees and Payments Principles, to charge *accommodation payments.

52F-2 Approved provider must enter accommodation agreement

(1) An approved provider must enter into an *accommodation agreement with a person:
  (a) before, or within 28 days after, the person enters the provider's service; or
  (b) within that period as extended under subsection (2).

(2) If, within 28 days after the person (the ***care recipient***) enters the service:
  (a) the approved provider and the care recipient have not entered into an *accommodation agreement; and
  (b) a process under a law of the Commonwealth, a State or a Territory has begun for a person (other than an approved provider) to be appointed, by reason that the care recipient has a mental impairment, as the care recipient's legal representative;

  the time limit for entering into the agreement is extended until the end of 7 days after:
  (c) the appointment is made; or
  (d) a decision is made not to make the appointment; or
  (e) the process ends for some other reason;

  or for such further period as the Secretary allows, having regard to any matters specified in the Fees and Payments Principles.

52F-3 Accommodation agreements

(1) The *accommodation agreement must set out the following:
  (a) the person's date (or proposed date) of *entry to the service;
  (b) that the person will pay an *accommodation payment if:
    (i) the person's *means tested amount at the date of entry is equal to, or greater than, the *maximum accommodation supplement amount for that day; or
    (ii) the person does not provide sufficient information to allow the person's means tested amount to be worked out;
  (c) that, if the person's means tested amount at the date of entry is less than the maximum accommodation supplement amount for that day, the person may pay an *accommodation

contribution, depending on the person's means tested amount;

(d) that a determination under section 52K-1 (financial hardship) may reduce the accommodation payment or accommodation contribution, including to nil;

(e) that, within 28 days after the date of entry, the person must choose to pay the accommodation payment or accommodation contribution (if payable) by:

(i) *daily payments; or

(ii) *refundable deposit; or

(iii) a combination of refundable deposit and daily payments;

(f) that, if the person does not choose how to pay within those 28 days, the person must pay by daily payments;

(g) that, if the person chooses to pay a refundable deposit within those 28 days:

(i) the person will not be required to pay the refundable deposit until 6 months after the date of entry; and

(ii) daily payments must be paid until the refundable deposit is paid;

(h) the amounts that are permitted to be deducted from a refundable deposit;

(i) the circumstances in which a refundable deposit balance must be refunded;

(j) any other conditions relating to the payment of a refundable deposit;

(k) such other matters as are specified in the Fees and Payments Principles.

(2) In relation to an *accommodation payment, the agreement must set out the following:

(a) the amount of *daily accommodation payment that would be payable, as agreed under paragraph 52F-1(1)(b);

(b) the amount of *refundable accommodation deposit that would be payable if no daily accommodation payments were paid;

(c) the method for working out amounts that would be payable as a combination of refundable accommodation deposit and daily accommodation payments;

(d) that, if the person pays a refundable accommodation deposit, the approved provider:
  (i) must, at the person's request, deduct daily accommodation payments for the person from the refundable accommodation deposit; and
  (ii) may require the person to maintain the agreed accommodation payment if the refundable accommodation deposit is reduced;

(e) that, if the person is required to maintain the agreed accommodation payment because the refundable accommodation deposit has been reduced, the person may do so by:
  (i) paying daily accommodation payments or increased daily accommodation payments; or
  (ii) topping up the refundable accommodation deposit; or
  (ii) a combination of both.

(3) In relation to an *accommodation contribution, the agreement must set out the following:

(a) that the amount of accommodation contribution for a day will not exceed the amount assessed for the person based on the person's *means tested amount;

(b) that the amount of accommodation contribution payable will vary from time to time depending on:
  (i) the *accommodation supplement applicable to the service; and
  (ii) the person's means tested amount;

(c) the method for working out amounts that would be payable by:
  (i) *refundable accommodation contribution; or
  (ii) a combination of *refundable accommodation contribution and *daily accommodation contributions;

(d) that, if the person pays a refundable accommodation contribution, the approved provider:
  (i) must, at the person's request, deduct daily accommodation contributions for the person from the refundable accommodation contribution; and
  (ii) may require the person to maintain the accommodation contribution that is payable if the refundable accommodation contribution is reduced;

(e) that, if the person is required to maintain the accommodation contribution because the refundable accommodation contribution has been reduced, the person may do so by:
  (i) paying *daily accommodation contributions or increased daily accommodation contributions; or
  (ii) paying or topping up a *refundable accommodation contribution; or
  (ii) a combination of both;
(f) that, if the amount of accommodation contribution that is payable increases, the approved provider may require the person to pay the increase;
(g) that, if the person is required to pay the increase, the person may do so by:
  (i) paying daily accommodation contributions or increased daily accommodation contributions; or
  (ii) paying or topping up a refundable accommodation contribution; or
  (ii) a combination of both.

52F-4 Refundable deposit not to be required for entry

The approved provider must not require the person to choose how to pay an *accommodation payment or *accommodation contribution before the person *enters the service.

52F-5 Accommodation agreements for flexible care

If the *accommodation agreement is for a flexible care service, the accommodation agreement is not required to deal with the matters in section 52F-3 to the extent that they relate to *accommodation contributions.

52F-6 Accommodation agreements may be included in another agreement

The *accommodation agreement may be included in another agreement.

Note: For example, an accommodation agreement could be part of a resident agreement.

52F-7 Effect of accommodation agreements

The *accommodation agreement has effect subject to this Act, and any other law of the Commonwealth.

Division 52G—Rules about accommodation payments and accommodation contributions

52G-1 What this Division is about

*Accommodation payments and *accommodation contributions may be charged only in accordance with this Division.

Rules about *daily payments and *refundable deposits are set out in Divisions 52H and 52J.

Table of Subdivisions

52G-A Rules about accommodation payments
52G-B Rules about accommodation contributions

Subdivision 52G-A—Rules about accommodation payments

52G-2 Rules about charging accommodation payments

The rules for charging *accommodation payment for a residential care service or *eligible flexible care service are as follows:

(a) a person must not be charged an accommodation payment unless:
  (i) the person's *means tested amount, at the date the person *enters the service, is equal to or greater than the *maximum accommodation supplement amount for that day; or
  (ii) the person has not provided sufficient information to allow the person's means tested amount to be worked out;

(b) an accommodation payment must not be charged for *respite care;

(c) an accommodation payment must not exceed the maximum amount determined by the Minister under section 52G-3, or

such higher amount as approved by the *Aged Care Pricing Commissioner under section 52G-4;

(d) accommodation payment must not be charged:
  (i) if it is prohibited under Part 4.4 (see paragraph 66-1(j)); or
  (ii) for a residential care service that is not *certified;

(e) an approved provider must comply with:
  (i) the rules set out this Division; and
  (ii) any rules about charging accommodation payments specified in the Fees and Payments Principles.

52G-3 Minister may determine maximum amount of accommodation payment

(1) The Minister may, by legislative instrument, determine the maximum amount of *accommodation payment that an approved provider may charge a person.

(2) The determination may set out:
  (a) the maximum *daily accommodation payment amount and a method for working out *refundable accommodation deposit amounts; or
  (b) methods for working out both:
    (i) the maximum daily accommodation payment amount; and
    (ii) refundable accommodation deposit amounts.

(3) The approved provider may charge less than the maximum amount.

52G-4 Aged Care Pricing Commissioner may approve higher maximum amount of accommodation payment

(1) An *approved provider may apply to the *Aged Care Pricing Commissioner for approval to charge an *accommodation payment that is higher than the maximum amount of accommodation payment determined by the Minister under section 52G-3 for:
  (a) a residential care service or flexible care service; or
  (b) a *distinct part of such a service.

(2) The application:

(a) must comply with the requirements set out in the Fees and Payments Principles; and

(b) must not be made:

(i) within the period specified in Fees and Payments Principles after the *Aged Care Pricing Commissioner last made a decision under this section in relation to the service, or the part of the service; or

(ii) if no period is specified—within 12 months after that last decision.

(3) If the *Aged Care Pricing Commissioner needs further information to determine the application, the Commissioner may give to the applicant a notice requiring the applicant to give the further information:

(a) within 28 days after the notice is given; or

(b) within such other period as is specified in the notice.

(4) The application is taken to have been withdrawn if the information is not given within whichever of those periods applies. The notice under subsection (3) must contain a statement setting out the effect of this subsection.

(5) The *Aged Care Pricing Commissioner may, in writing and in accordance with the Fees and Payments Principles, approve the higher maximum amount of *accommodation payment specified in the application.

Note: A decision not to approve a higher maximum amount of accommodation payment is reviewable under Part 6.1.

(6) If the *Aged Care Pricing Commissioner approves the higher maximum amount of *accommodation payment, the amount applies only in relation to a person:

(a) who at the date of approval has not entered into an *accommodation agreement with the approved provider; and

(b) whose *entry to the service occurs on or after the date of the approval.

(7) An approval under subsection (5) is not a legislative instrument.

52G-5 Accommodation payments must not be greater than amounts set out in accommodation agreements

An approved provider must not accept a payment that would result in a person paying an amount of *accommodation payment that is greater than the amount set out in the person's *accommodation agreement.

Subdivision 52G-B—Rules about accommodation contributions

52G-6 Rules about charging accommodation contribution

The rules for charging *accommodation contribution for a residential care service are as follows:

(a) a person must not be charged an accommodation contribution unless the person's *means tested amount, at the date the person *enters the service, is less than the *maximum accommodation supplement amount for that day;

(b) an accommodation contribution must not be charged for *respite care;

(c) the amount of accommodation contribution for a day must not exceed:

  (i) the accommodation supplement applicable to the service for the day; or

  (ii) the amount assessed for the person based on the person's means tested amount;

(d) accommodation contribution must not be charged:

  (i) if it is prohibited under Part 4.4 (see paragraph 66-1(j)); or

  (ii) for a residential care service that is not *certified;

(e) an approved provider must comply with:

  (i) the rules set out in this Division; and

  (ii) any rules about charging accommodation contributions specified in the Fees and Payments Principles.

Note: A person who does not provide sufficient information to allow the person's means tested amount to be worked out will be charged an accommodation payment: see paragraph 52G-2(a).

Division 52H—Rules about daily payments

52H-1 Payment in advance

A person must not be required to pay a *daily payment more than 1 month in advance.

52H-2 When daily payments accrue

(1) A *daily payment does not accrue for any day after the provision of care to the person ceases.

(2) A *daily payment does not accrue for a residential care service for any day during which the residential care service is not *certified.

52H-3 Charging interest

(1) A person may be charged interest on the balance of any amount of *daily payment that:
  (a) is payable by the person; and
  (b) has been outstanding for more than 1 month.

(2) Subsection (1) does not apply unless the person's *accommodation agreement provides for the charging of such interest at a specified rate.

(3) However, the rate charged must not exceed the maximum rate determined by the Minister under subsection (4).

(4) The Minister may, by legislative instrument, determine the maximum rate of interest that may be charged on an outstanding amount of *daily payment.

52H-4 The Fees and Payments Principles

The Fees and Payments Principles may specify:
  (a) when *daily payments are to be made; and
  (b) any other matter relating to the payment of daily payments.

Division 52J—Rules about refundable deposits

52J-2 When refundable deposits can be paid

(1) A person may choose to pay a *refundable deposit at any time after the person has entered into an *accommodation agreement.

(2) A person may increase the amount of a *refundable deposit at any time after the person has paid the refundable deposit.

Note: A person cannot overpay a refundable deposit: see section 52G-5 and paragraph 52G-6(c).

(3) This section has effect despite paragraphs 52F-3(1)(e) and (f).

Note: For rules relating to the management of refundable deposits, see Part 3A.3.

52J-3 The Fees and Payments Principles

The Fees and Payments Principles may specify:

(a) how a choice to pay a *refundable deposit is to be made; and

(b) any other matter relating to the payment of refundable deposits.

52J-4 Residential care services that are not certified

Entering a service that is not certified

(1) The provider of a residential care service that is not *certified must not require payment of a *refundable deposit:

(a) before the end of the period specified in the Fees and Payments Principles after the service is certified; or

(b) if no period is specified—before the end of 6 months after the service is certified.

Certification of service is revoked

(2) If a person pays a *refundable deposit for a residential care service and the *certification of the service is later revoked, the provider of the service must pay the person interest, in accordance with the Fees and Payments Principles, on the *refundable deposit balance for each day that the service is not certified.

52J-5 Person must be left with minimum assets

(1) An approved provider must not accept payment of an amount of *refundable deposit from a person if:
  (a) the person provides sufficient information to allow the person's *means tested amount to be worked out; and
  (b) the person pays, or commits to paying, the amount within 28 days after entering the service; and
  (c) payment of the amount would leave the value of the person's remaining assets at less than the *minimum permissible asset value.

(2) The ***minimum permissible asset value*** is:
  (a) the amount obtained by rounding to the nearest $500.00 (rounding $250.00 upwards) the amount equal to 2.25 times the *basic age pension amount at the time the person *enters the residential care service or flexible care service; or
  (b) such higher amount as is specified in, or worked out in accordance with, the Fees and Payments Principles.

(3) The value of a person's assets is to be worked out:
  (a) in the same way as it would be worked out under section 44-26A for the purposes of section 44-22; but
  (b) disregarding subsection 44-26A(7).

52J-6 Approved provider may retain income derived

An approved provider may retain income derived from a *refundable deposit.

52J-7 Amounts to be deducted from refundable deposits

(1) An approved provider must deduct a *daily payment from a *refundable deposit paid by a person if:
  (a) the person has requested the deduction in writing; and
  (b) the daily payment is payable by the person.

(2) An approved provider may deduct the following from a *refundable deposit paid by a person:
  (a) the amounts specified in the Fees and Payments Principles that may be deducted when the person leaves the service;

(b) any amounts that the person has agreed in writing may be deducted;

(c) such other amounts (if any) as are specified in the Fees and Payments Principles.

(3) The approved provider must not deduct any other amount from a *refundable deposit.

Division 52K—Financial hardship

52K-1 Determining cases of financial hardship

(1) The Secretary may, in accordance with the Fees and Payments Principles, determine that a person must not be charged an *accommodation payment or *accommodation contribution more than the amount specified in the determination because payment of more than that amount would cause the person financial hardship.

Note: Refusals to make determinations are reviewable under Part 6.1.

(2) In deciding whether to make a determination under this section, and in determining the specified amount, the Secretary must have regard to the matters (if any) specified in the Fees and Payments Principles. The specified amount may be nil.

(3) The determination ceases to be in force at the end of a specified period or on the occurrence of a specified event, if the determination so provides.

Note: Decisions to specify periods or events are reviewable under Part 6.1.

(4) Application may be made to the Secretary, in the form approved by the Secretary, for a determination under this section. The application may be made by:

(a) a person who is liable to pay an *accommodation payment or *accommodation contribution; or

(b) the approved provider to whom an accommodation payment or accommodation contribution is payable.

(5) If the Secretary needs further information to determine the application, the Secretary may give to the applicant a notice requesting the applicant to give the further information:

(a) within 28 days after receiving the notice; or

(b) within such other period as is specified in the notice.

(6) The application is taken to have been withdrawn if the information is not given within whichever of those periods applies. The notice must contain a statement setting out the effect of this subsection.

Note: The period for giving the further information can be extended—see section 96-7.

(7) The Secretary must notify the person and the approved provider, in writing, of the Secretary's decision on whether to make the determination. The notice must be given:
  (a) within 28 days after receiving the application; or
  (b) if the Secretary has requested further information under subsection (5)—within 28 days after receiving the information.

(8) If the Secretary makes the determination, the notice must set out:
  (a) any period at the end of which; or
  (b) any event on the occurrence of which;
the determination will cease to be in force.

(9) A determination under subsection (1) is not a legislative instrument.

52K-2 Revoking determinations of financial hardship

(1) The Secretary may, in accordance with the Fees and Payments Principles, revoke a determination under section 52K-1.

Note: Revocations of determinations are reviewable under Part 6.1.

(2) Before deciding to revoke the determination, the Secretary must notify the person and the approved provider concerned that revocation is being considered.

(3) The notice must be in writing and must:
  (a) invite the person and the approved provider to make submissions, in writing, to the Secretary within 28 days after receiving the notice; and
  (b) inform them that if no submissions are made within that period, the revocation takes effect on the day after the last day for making submissions.

(4) In making the decision whether to revoke the determination, the Secretary must consider any submissions received within the

period for making submissions. The Secretary must make the decision within 28 days after the end of that period.

(5) The Secretary must notify, in writing, the person and the approved provider of the decision.

(6) The notice must be given to the person and the approved provider within 28 days after the end of the period for making submissions.

(7) If the notice is not given within that period, the Secretary is taken to have decided not to revoke the determination.

(8) A revocation has effect:
  (a) if the person and the approved provider received notice under subsection (5) on the same day—the day after that day; or
  (b) if they received the notice on different days—the day after the later of those days.

Part 3A.3—Managing refundable deposits, accommodation bonds and entry contributions

Division 52L—Introduction

52L-1 What this Part is about

*Refundable deposits, *accommodation bonds and *entry contributions must be managed in accordance with the prudential requirements made under Division 52M and the rules set out in Division 52N (permitted uses) and Division 52P (refunds).

Table of Divisions

52L Introduction
52M Prudential requirements
52N Permitted uses
52P Refunds

Division 52M—Prudential requirements

52M-1 Compliance with prudential requirements

(1) An *approved provider must comply with the Prudential Standards.

(2) The Fees and Payments Principles may set out Prudential Standards providing for:
  (a) protection of *refundable deposit balances, *accommodation bond balances and *entry contribution balances of care recipients; and
  (b) sound financial management of approved providers; and
  (c) provision of information about the financial management of approved providers.

Division 52N—Permitted uses

52N-1 Refundable deposits and accommodation bonds to be used only for permitted purposes

(1) An approved provider must not use a *refundable deposit or *accommodation bond unless the use is permitted.

Permitted use—general

(2) An approved provider is ***permitted*** to use a *refundable deposit or *accommodation bond for the following:
  (a) for capital expenditure of a kind specified in the Fees and Payments Principles and in accordance with any requirements specified in those Principles;
  (b) to invest in a financial product covered by subsection (3);
  (c) to make a loan in relation to which the following conditions are satisfied:
    (i) the loan is not made to an individual;
    (ii) the loan is made on a commercial basis;
    (iii) there is a written agreement in relation to the loan;
    (iv) it is a condition of the agreement that the money loaned will only be used as mentioned in paragraph (a) or (b);
    (v) the agreement includes any other conditions specified in the Fees and Payments Principles;

(d) to refund, or to repay debt accrued for the purposes of refunding, *refundable deposit balances, *accommodation bond balances or *entry contribution balances;

(e) to repay debt accrued for the purposes of capital expenditure of a kind specified in the Fees and Payments Principles;

(f) to repay debt that is accrued before 1 October 2011, if the debt is accrued for the purposes of providing *aged care to care recipients;

(g) for a use permitted by the Fees and Payments Principles.

Note: An approved provider, and the approved provider's key personnel, may commit an offence if the approved provider uses a refundable deposit or accommodation bond otherwise than for a permitted use (see section 52N-2).

Permitted use—financial products

(3) For the purposes of paragraph (2)(b), the following are financial products (within the meaning of section 764A of the *Corporations Act 2001*) covered by this subsection:

(a) any deposit-taking facility made available by an ADI in the course of its banking business (within the meaning of the *Banking Act 1959*), other than an RSA within the meaning of the *Retirement Savings Accounts Act 1997*;

Note 1: ADI is short for authorised deposit-taking institution.

Note 2: RSA is short for retirement savings account.

(b) a debenture, stock or bond issued or proposed to be issued by the Commonwealth, a State or a Territory;

(c) a security, other than a security of a kind specified in the Fees and Payments Principles;

(d) any of the following in relation to a registered scheme:

(i) an interest in the scheme;

(ii) a legal or equitable right or interest in an interest covered by subparagraph (i);

(iii) an option to acquire, by way of issue, an interest or right covered by subparagraph (i) or (ii);

(e) a financial product specified in the Fees and Payments Principles.

Permitted uses specified in Fees and Payments Principles

(4) Without limiting paragraph (2)(g), the Fees and Payments Principles may specify that a use of a *refundable deposit or *accommodation bond is only ***permitted*** for the purposes of that paragraph if:
  (a) specified circumstances apply; or
  (b) the approved provider complies with conditions specified in, or imposed in accordance with, the Fees and Payments Principles.

Note: For paragraph (4)(a), the Fees and Payments Principles might, for example, specify that the use of a *refundable deposit is only permitted if the approved provider obtains the prior consent of the Secretary to the use of the deposit.

52N-2 Offences relating to non-permitted use of refundable deposits and accommodation bonds

Offence for approved provider

(1) A *corporation commits an offence if:
  (a) the corporation is or has been an approved provider; and
  (b) the corporation uses a *refundable deposit or *accommodation bond; and
  (c) the use of the deposit or bond is not *permitted; and
  (d) both of the following apply at a particular time during the period of 2 years after the use of the deposit or bond:
    (i) an insolvency event (within the meaning of the *Aged Care (Accommodation Payment Security) Act 2006*) has occurred in relation to the corporation;
    (ii) there has been at least one outstanding accommodation payment balance (within the meaning of that Act) for the corporation.

Penalty: 300 penalty units.

Note: The Secretary must make a default event declaration under the *Aged Care (Accommodation Payment Security) Act 2006* in relation to the corporation if paragraph (d) of this subsection applies (see section 10 of that Act).

Offence for key personnel

(2) An individual commits an offence if:
  (a) the individual is one of the *key personnel of an entity that is or has been an approved provider; and
  (b) the entity uses a *refundable deposit or *accommodation bond; and
  (c) the use of the deposit or bond is not *permitted; and
  (d) the individual knew that, or was reckless or negligent as to whether:
    (i) the deposit or bond would be used; and
    (ii) the use of the deposit or bond was not permitted; and
  (e) the individual was in a position to influence the conduct of the entity in relation to the use of the deposit or bond; and
  (f) the individual failed to take all reasonable steps to prevent the use of the deposit or bond; and
  (g) both of the following apply at a particular time during the period of 2 years after the use of the deposit or bond:
    (i) an insolvency event (within the meaning of the *Aged Care (Accommodation Payment Security) Act 2006* has occurred in relation to the entity;
    (ii) there has been at least one outstanding accommodation payment balance (within the meaning of that Act) for the entity; and
  (h) at the time the deposit or bond was used, the entity was a *corporation.

Penalty: Imprisonment for 2 years.

Strict liability

(3) Strict liability applies to paragraphs (1)(d) and (2)(g) and (h).

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

Division 52P—Refunds

52P-1 Refunding refundable deposit balances

(1) In this section:

refundable deposit includes an *accommodation bond.

refundable deposit balance includes an *accommodation bond balance.

(2) If a *refundable deposit is paid for care provided by, or for *entry to, a residential care service or flexible care service, the *refundable deposit balance must be refunded if:
  (a) the person who paid the deposit (the ***care recipient***) dies; or
  (b) the care recipient ceases to be provided with:
    (i) residential care by the residential care service (other than because the care recipient is on *leave); or
    (ii) flexible care provided in a residential setting by the flexible care service.

(3) The *refundable deposit balance must be refunded in the way specified in the Fees and Payments Principles.

(4) The *refundable deposit balance must be refunded:
  (a) if the care recipient dies—within 14 days after the day on which the provider is shown the probate of the will of the care recipient or letters of administration of the estate of the care recipient; or
  (b) if the care recipient is to *enter another service to receive residential care:
    (i) if the care recipient has notified the provider of the move more than 14 days before the day on which the provider ceased providing care to the care recipient—on the day on which the provider ceased providing that care; or
    (ii) if the care recipient so notified the provider within 14 days before the day on which the provider ceased providing that care—within 14 days after the day on which the notice was given; or
    (iii) if the care recipient did not notify the provider before the day on which the provider ceased providing that care—within 14 days after the day on which the provider ceased providing that care; or
  (c) in any other case—within 14 days after the day on which the event referred to in paragraph (2)(b) happened.

52P-2 Refunding refundable deposit balances—former approved providers

(1) In this section:

refundable deposit includes an *accommodation bond.

refundable deposit balance includes an *accommodation bond balance.

(2) If:

(a) a *refundable deposit is paid to a person for care provided by, or *entry to, a residential care service or flexible care service; and

(b) the person ceases to be an approved provider in respect of the residential care service or flexible care service;

the person (the ***former approved provider***) must refund the *refundable deposit balance to the person who paid the deposit (the ***care recipient***).

(3) The *refundable deposit balance must be refunded under subsection (2):

(a) if the care recipient dies within 90 days after the day on which the former approved provider ceased to be an approved provider in respect of the residential care service or flexible care service (the ***90 day period***)—within 14 days after the day on which the former approved provider is shown the probate of the will of the care recipient or letters of administration of the estate of the care recipient; or

(b) if the care recipient is to *enter another service to receive residential care within the 90 day period:

(i) if the care recipient has notified the former approved provider of the move more than 14 days before the day on which the former approved provider ceased providing care to the care recipient—on the day on which the former approved provider ceased providing that care; or

(ii) if the care recipient so notified the former approved provider within 14 days before the day on which the former approved provider ceased providing that care—within 14 days after the day on which the notice was given; or

(iii) if the care recipient did not notify the former approved provider before the day on which the former approved provider ceased providing that care—within 14 days after the day on which the former approved provider ceased providing that care; or

(c) in any other case—within the 90 day period.

(4) A person commits an offence if:

(a) the person is required under this section to refund an amount on a particular day or within a particular period; and

(b) the person does not refund the amount before that day or within that period; and

(c) the person is a *corporation.

Penalty for a contravention of this subsection: 30 penalty units.

52P-3 Payment of interest

(1) The Fees and Payments Principles may specify circumstances in which interest is to be paid in relation to the refund of:

(a) a *refundable deposit balance; or

(b) an *accommodation bond balance; or

(c) an *entry contribution balance.

(2) The amount of interest is to be worked out in accordance with the Fees and Payments Principles.

52P-4 Delaying refunds to secure re-entry

(1) This section applies if a person who has paid a *refundable deposit or *accommodation bond for care provided by, or *entry to, a residential care service or flexible care service:

(a) ceases to be provided with residential care by the residential care service (other than because the person is on *leave); or

(b) ceases to be provided with flexible care by the flexible care service.

(2) The person may agree with the approved provider concerned to delay refunding the *refundable deposit balance or *accommodation bond balance on condition that, if the person requests re-entry to the service, the approved provider must:

(a) allow *entry to the person, if:
  (i) there are any *places vacant in the service; and
  (ii) in a case where the service is a residential care service—the person has been approved under Part 2.3 as a recipient of residential care; and
(b) if the person is allowed entry—apply the *refundable deposit balance or *accommodation bond in payment for the service.

150 Section 53-1 (note)

Omit "subsidy is payable under Chapter 3", substitute "subsidy is payable".

151 Paragraph 54-1(1)(c)

Omit "56-1(l), 56-2(i) or 56-3(j)", substitute "56-1(m), 56-2(k) or 56-3(l)".

152 Paragraph 54-1(2)(a)

Omit "subsidy is payable under Chapter 3", substitute "*subsidy is payable".

153 Paragraphs 56-1(a) to (m)

Repeal the paragraphs, substitute:

(a) if the care recipient is not a *continuing care recipient:
  (i) to charge no more for provision of the care and services that it is the approved provider's responsibility to provide under paragraph 54-1(1)(a) than the amount permitted under Division 52C; and
  (ii) to comply with the other rules relating to resident fees set out in section 52C-2; and
  (iii) to comply with the requirements of Part 3A.2 in relation to any *accommodation payment or *accommodation contribution charged to the care recipient;
(b) if the care recipient is a continuing care recipient:
  (i) to charge no more for provision of the care and services that it is the approved provider's responsibility to provide under paragraph 54-1(1)(a) than the amount permitted under Division 58 of the *Aged Care (Transitional Provisions) Act 1997*; and

(ii) to comply with the other rules relating to resident fees set out in section 58-1 of the *Aged Care (Transitional Provisions) Act 1997*; and

(iii) to comply with Division 57 of the *Aged Care (Transitional Provisions) Act 1997* in relation to any *accommodation bond, and Division 57A of that Act in relation to any *accommodation charge, charged to the care recipient;

(c) in relation to an *entry contribution given or loaned under a *formal agreement binding the approved provider and the care recipient—to comply with the requirements of:

(i) the Prudential Standards made under section 52M-1; and

(ii) the Aged Care (Transitional Provisions) Principles made under the *Aged Care (Transitional Provisions) Act 1997*;

(d) to charge no more than the amount permitted under the Fees and Payments Principles by way of a booking fee for *respite care;

(e) to charge no more for any other care or services than an amount agreed beforehand with the care recipient, and to give the care recipient an itemised account of the other care or services;

(f) to provide such security of tenure for the care recipient's *place in the service as is specified in the User Rights Principles;

(g) to comply with the requirements of Division 36 in relation to *extra service agreements;

(h) to offer to enter into a *resident agreement with the care recipient, and, if the care recipient wishes, to enter into such an agreement;

(i) to comply with the requirements of Division 62 in relation to *personal information relating to the care recipient;

(j) to comply with the requirements of section 56-4 in relation to resolution of complaints;

(k) to allow people acting for care recipients to have such access to the service as is specified in the User Rights Principles;

(l) to allow people acting for bodies that have been paid *advocacy grants under Part 5.5, or *community visitors

grants under Part 5.6, to have such access to the service as is specified in the User Rights Principles;

(m) not to act in a way which is inconsistent with any rights and responsibilities of care recipients that are specified in the User Rights Principles;

(n) such other responsibilities as are specified in the Fees and Payments Principles and the User Rights Principles.

154 Paragraphs 56-2(a) to (j)

Repeal the paragraphs, substitute:

(a) not to charge for the care recipient's *entry to the service through which the care is, or is to be, provided;

(b) if the care recipient is not a *continuing care recipient:

(i) to charge no more for provision of the care and services that it is the approved provider's responsibility to provide under paragraph 54-1(1)(a) than the amount permitted under Division 52D; and

(ii) to comply with the other rules relating to home care fees set out in section 52D-1;

(c) if the care recipient is a continuing care recipient:

(i) to charge no more for provision of the care and services that it is the approved provider's responsibility to provide under paragraph 54-1(1)(a) than the amount permitted under Division 60 of the *Aged Care (Transitional Provisions) Act 1997*; and

(ii) to comply with the other rules relating to resident fees set out in section 60-1 of the *Aged Care (Transitional Provisions) Act 1997*;

(d) to charge no more for any other care or services than an amount agreed beforehand with the care recipient, and to give the care recipient an itemised account of the other care or services;

(e) to provide such other care and services in accordance with the agreement between the approved provider and the care recipient;

(f) to provide such security of tenure for the care recipient's *place in the service as is specified in the User Rights Principles;

(g) to offer to enter into a *home care agreement with the care recipient, and, if the care recipient wishes, to enter into such an agreement;

(h) to comply with the requirements of Division 62 in relation to *personal information relating to the care recipient;

(i) to comply with the requirements of section 56-4 in relation to resolution of complaints;

(j) to allow people acting for bodies that have been paid *advocacy grants under Part 5.5 to have such access to the service as is specified in the User Rights Principles;

(k) not to act in a way which is inconsistent with any rights and responsibilities of care recipients that are specified in the User Rights Principles;

(l) such other responsibilities as are specified in the Fees and Payments Principles and the User Rights Principles.

155 Paragraphs 56-3(a) to (k)

Repeal the paragraphs, substitute:

(a) to charge no more than the amount specified in, or worked out in accordance with, the User Rights Principles, for provision of the care and services that it is the approved provider's responsibility under paragraph 54-1(1)(a) to provide;

(b) if the care recipient is not a *continuing care recipient—to comply with the requirements of Part 3A.2 in relation to any *accommodation payment charged to the care recipient;

(c) if the care recipient is a continuing care recipient:

(i) to comply with the requirements of Division 57 of the *Aged Care (Transitional Provisions) Act 1997*, and the Aged Care (Transitional Provisions) Principles made under that Act, in relation to any *accommodation bond charged to the care recipient; and

(ii) to comply with the requirements of those Principles in relation to any *accommodation charge charged to the care recipient;

(d) in relation to an *entry contribution given or loaned under a *formal agreement binding the approved provider and the care recipient—to comply with the requirements of:

(i) the Prudential Standards made under section 52M-1; and

(ii) the Aged Care (Transitional Provisions) Principles made under the *Aged Care (Transitional Provisions) Act 1997*;

(e) to charge no more for any other care or services than an amount agreed beforehand with the care recipient, and to give the care recipient an itemised account of the other care or services;

(f) to provide such security of tenure for the care recipient's *place in the service as is specified in the User Rights Principles;

(g) to comply with any requirements of the Fees and Payments Principles relating to:

(i) offering to enter into an agreement with the care recipient relating to the provision of care to the care recipient; or

(ii) entering into such an agreement if the care recipient wishes;

(h) to comply with the requirements of Division 62 in relation to *personal information relating to the care recipient;

(i) to comply with the requirements of section 56-4 in relation to resolution of complaints;

(j) to allow people acting for care recipients to have such access to the service as is specified in the User Rights Principles;

(k) to allow people acting for bodies that have been paid *advocacy grants under Part 5.5 to have such access to the service as is specified in the User Rights Principles;

(l) not to act in a way which is inconsistent with any rights and responsibilities of care recipients that are specified in the User Rights Principles;

(m) such other responsibilities as are specified in the Fees and Payments Principles and the User Rights Principles.

156 Paragraph 56-5(a)

Omit "subsidy is payable under Chapter 3", substitute "*subsidy is payable".

157 Divisions 57, 57A and 58

Repeal the Divisions.

158 Paragraph 59-1(1)(b)

Omit "levels of".

159 Subsection 59-1(3) (note)

Omit "*accommodation bond agreement (see section 57-10) or *accommodation charge agreement (see section 57A-4)", substitute "accommodation agreement (see section 52F-6)".

160 Division 60

Repeal the Division.

161 Subparagraph 62-1(b)(ii)

Before "*accommodation bond", insert "*refundable deposit balance or".

162 Subparagraph 62-1(b)(ii)

After "section 57-20", insert "of the *Aged Care (Transitional Provisions) Act 1997*".

163 Subparagraph 62-1(b)(ii)

After "pay an", insert "*accommodation payment, *accommodation contribution or".

164 Subparagraph 62-1(b)(iv)

Repeal the subparagraph, substitute:

(iv) for the purpose of complying with an obligation under this Act or the *Aged Care (Transitional Provisions) Act 1997* or any of the Principles made under section 96-1 of this Act or the *Aged Care (Transitional Provisions) Act 1997*;

165 Paragraph 63-1(2)(a)

Omit "subsidy is payable under Chapter 3", substitute "*subsidy is payable".

166 Subsection 63-1AA(9) (subparagraph (b)(i) of the definition of *reportable assault*)

Omit "subsidy is payable under Chapter 3", substitute "*subsidy is payable".

167 Paragraph 63-2(2)(c)

Omit "the Act", substitute "this Act and the *Aged Care (Transitional Provisions) Act 1997*".

168 After paragraph 63-2(2)(c)

Insert:

(ca) the amounts of *accommodation payments and *accommodation contributions paid; and

(cb) the amounts of those accommodation payments and accommodation contributions paid as *refundable deposits and *daily payments; and

169 Paragraph 66-1(c)

Omit "subsidy under Chapter 3", substitute "*subsidy".

170 After paragraph 66-1(i)

Insert:

(ia) prohibiting the charging of *accommodation payments or *accommodating contributions for:

(i) one or more specified residential care services; or

(ii) all residential care services; or

(iii) one or more specified flexible care services; or

(iv) all flexible care services;

conducted by the approved provider;

171 After paragraph 66-1(j)

Insert:

(ja) if the approved provider has charged a care recipient an amount of accommodation payment or accommodation contribution (the ***excess***) that is more than the amount permitted under Division 52G—requiring the provider to refund to the care recipient an amount equal to the excess (together with an amount representing interest worked out in accordance with the Fees and Payments Principles) within the period specified in the notice;

(jb) if the approved provider has not refunded a *refundable deposit balance, an *accommodation bond balance or an *entry contribution balance to a care recipient as required under Division 52P—requiring the provider to refund to the

care recipient an amount equal to the balance (together with an amount representing interest worked out in accordance with the Fees and Payments Principles) within the period specified in the notice;

(jc) restricting, during the period specified in the notice, the use of a refundable deposit balance, an accommodation bond balance or an entry contribution balance paid to the approved provider to one or more uses permitted under Division 52N;

172 Subparagraph 67A-4(2)(a)(iv)

After "Act", insert "and the *Aged Care (Transitional Provisions) Act 1997*".

173 Section 70-2 (heading)

Omit "**Residential Care**".

174 Section 70-2

Omit "Residential Care Grant Principles. The provisions", substitute "Grant Principles. Provisions".

175 Section 70-2 (note)

Omit "Residential Care".

175A Subsection 72-1(2)

Omit "Residential Care".

176 Paragraph 73-1(2)(b)

Omit "Residential Care".

177 Subsection 74-1(1)

Omit "Residential Care".

178 Section 81-3

Omit "Advocacy".

179 Section 81-3 (note)

Omit "Advocacy".

180 Paragraphs 81-4(a) and (b)

Omit “Advocacy”.

181 Subsection 82-2(3)

Omit “Community Visitors”.

182 Subsection 82-2(3) (note)

Omit “Community Visitors”.

183 Section 82-3

Omit “Community Visitors”.

184 Paragraphs 82-4(a) and (b)

Omit “Community Visitors”.

185 Subsection 83-1(3)

Omit “Other Grants”, substitute “Grant”.

186 Subsection 83-1(3) (note)

Omit “Other Grants”, substitute “Grant”.

187 Paragraphs 83-2(a) and (b)

Omit “Other Grants”, substitute “Grant”.

188 Section 85-1 (table items 39A to 41)

Repeal the items.

189 Section 85-1 (table items 44 and 45)

Repeal the items, substitute:

44	To determine compensation payment reductions in respect of residential care subsidy	subsection 44-20A(4)
45	To refuse to make a determination that the care subsidy reduction is zero	subsection 44-23(2)
45A	To specify a period at the end of which a determination that the care subsidy reduction is zero ceases to be in force	subsection 44-23(3)

190 Section 85-1 (table item 47)

Repeal the item, substitute:

47	To determine the value of a person's assets	subsection 44-26C(1)
47A	To revoke a determination of the value of a person's assets	subsection 44-26C(4)

191 Section 85-1 (table item 48)

Omit "supplement", substitute "supplement of a particular amount in respect of residential care".

192 Section 85-1 (after table item 49)

Insert:

49AA	To revoke a determination that a care recipient is eligible for a hardship supplement in respect of residential care	subsection 44-32(1)

193 Section 85-1 (table items 51 to 53C)

Repeal the items, substitute:

50	To determine that a judgement or settlement is to be treated as having taken into account the cost of providing home care	subsection 48-5(5)
51	To determine that a part of the compensation under a settlement is to be treated as relating to the future costs of providing home care	subsection 48-5(6)
52	To determine compensation payment reductions in respect of home care subsidy	subsection 48-6(4)
53	To refuse to make a determination that the care subsidy reduction is zero	subsection 48-8(2)
53A	To specify a period at the end of which a determination that the care subsidy reduction is zero ceases to be in force	subsection 48-8(3)

53B	To refuse to make a determination that a care recipient is eligible for a hardship supplement of a particular amount in respect of home care	subsection 48-11(1)
53C	To specify a period or event at the end of which, or on the occurrence of which, a determination under section 48-11 will cease to be in force	subsection 48-11(3)
53D	To revoke a determination that a care recipient is eligible for a hardship supplement in respect of home care	subsection 48-12(1)
53E	To refuse to approve a higher maximum amount of *accommodation payment than the maximum amount of accommodation payment determined by the Minister under section 52G-3	subsection 52G-4(5)
53F	To refuse to make a determination that paying an accommodation payment or accommodation contribution of more than a particular amount would cause financial hardship	subsection 52K-1(1)
53G	To specify a period or event at the end of which, or on the occurrence of which, a determination under subsection 52K-1(1) ceases to be in force	subsection 52K-1(3)
53H	To revoke a determination that paying an accommodation payment or accommodation contribution would cause financial hardship	subsection 52K-2(1)

194 Section 85-2

Before “If”, insert “(1)”.

195 At the end of section 85-2

Add:

(2) If:

(a) this Act provides for a person to apply to the *Aged Care Pricing Commissioner to make a *reviewable decision; and

(b) a period is specified under this Act for giving notice of the decision to the applicant; and

(c) the Aged Care Pricing Commissioner has not notified the applicant of the Commissioner's decision within that period;

the Aged Care Pricing Commissioner is taken, for the purposes of this Act, to have made a decision to reject the application.

196 Section 85-3 (heading)

Omit "**Secretary must give reasons**", substitute "**Reasons**".

197 Subsections 85-3(1) and (2)

After "Secretary", insert "or the *Aged Care Pricing Commissioner".

198 Section 85-4 (heading)

Repeal the heading, substitute:

85-4 Reconsidering reviewable decisions

199 Subsection 85-4(1)

After "*reviewable decision", insert "(other than a reviewable decision under Division 35 or section 52G-4)".

200 After subsection 85-4(1)

Insert:

(1A) The *Aged Care Pricing Commissioner may reconsider a *reviewable decision under Division 35 or section 52G-4 if the Aged Care Pricing Commissioner is satisfied that there is sufficient reason to reconsider the decision.

201 Subsection 85-4(3)

After "Secretary", insert "or the *Aged Care Pricing Commissioner".

202 Subsection 85-4(4)

After "Secretary", insert "or the *Aged Care Pricing Commissioner".

203 Subsection 85-4(5)

Omit "The Secretary's decision", substitute "The decision of the Secretary or the *Aged Care Pricing Commissioner".

204 Subsection 85-4(6)

After "Secretary", insert "or the *Aged Care Pricing Commissioner".

205 Subsection 85-5(1)

After "*reviewable decision", insert "(other than a reviewable decision under Division 35 or section 52G-4)".

206 After subsection 85-5(1)

Insert:

(1A) A person whose interests are affected by a *reviewable decision under Division 35 or section 52G-4 may request the *Aged Care Pricing Commissioner to reconsider the decision.

207 Subsection 85-5(3)

Repeal the subsection, substitute:

(3) The person's request must be made by written notice:
- (a) for a request that relates to a reviewable decision other than a reviewable decision under Division 35 or section 52G-4—given to the Secretary:
  - (i) within 28 days, or such longer period as the Secretary allows, after the day on which the person first received notice of the decision; or
  - (ii) if the decision is a decision under section 44-24 to make a determination under subsection 44-24(1) or paragraph 44-24(2)(b), (3)(b) or (4)(b)—within 90 days, or such longer period as the Secretary allows, after the day on which the person first received notice of the decision; or
- (b) for a request that relates to a reviewable decision under Division 35 or section 52G-4—given to the *Aged Care Pricing Commissioner within 28 days, or such longer period as the Aged Care Pricing Commissioner allows, after the day on which the person first received notice of the decision.

208 Subsection 85-5(5)

After "Secretary", insert "or the *Aged Care Pricing Commissioner".

209 Subsection 85-5(6)

Omit "The Secretary's decision", substitute "The decision of the Secretary or the *Aged Care Pricing Commissioner".

210 Subsection 85-5(7)

After "Secretary" (wherever occurring), insert "or the *Aged Care Pricing Commissioner".

211 Subsection 85-5(8)

After "Secretary" (wherever occurring), insert "or the *Aged Care Pricing Commissioner".

212 Subsection 85-5(8)

Omit "Secretary's".

213 Paragraph 86-1(a)

After "this Act", insert "or the *Aged Care (Transitional Provisions) Act 1997*".

214 At the end of paragraph 86-2(1)(c)

Add "or the *Aged Care (Transitional Provisions) Act 1997*".

215 Paragraph 86-2(2)(a)

Repeal the paragraph, substitute:

(a) conduct that is carried out in the performance of a function or duty under this Act or the *Aged Care (Transitional Provisions) Act 1997* or the exercise of a power under, or in relation to, this Act or the *Aged Care (Transitional Provisions) Act 1997*; or

216 Paragraph 86-9(1)(e)

After "including", insert "*accommodation payments, *accommodation contributions,".

217 At the end of paragraph 86-9(1)(h)

Add "or the *Aged Care (Transitional Provisions) Act 1997*".

218 Subparagraph 88-1(1)(a)(i)

Omit "subsidy under Chapter 3", substitute "*subsidy".

219 Paragraph 88-1(5)(b)

Omit "subsidy under Chapter 3", substitute "*subsidy".

220 Paragraph 88-3(2)(c)

Omit "subsidy under Chapter 3", substitute "*subsidy".

221 Paragraph 90-4(3)(d)

Repeal the paragraph, substitute:

(d) whether claims for payments under Chapter 3 of this Act or Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997* or other payments under this Act or the *Aged Care (Transitional Provisions) Act 1997* have been properly made;

222 Paragraph 91-1(2)(b)

Repeal the paragraph, substitute:

(b) assessing whether an approved provider's claims for payments under Chapter 3 of this Act or Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997* or other payments under this Act or the *Aged Care (Transitional Provisions) Act 1997* have been properly made;

223 At the end of paragraph 91-1(2)(f)

Add "or the *Aged Care (Transitional Provisions) Act 1997*".

224 Paragraph 92-1(b)

Omit "subsidy under Chapter 3", substitute "*subsidy".

225 Paragraph 92-2(2)(b)

Repeal the paragraph, substitute:

(b) assessing whether an approved provider's claims for payments under Chapter 3 of this Act or Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997* or other payments under this Act or the *Aged Care (Transitional Provisions) Act 1997* have been properly made;

226 Paragraph 93-1(2)(b)

Repeal the paragraph, substitute:

(b) assessing whether an approved provider's claims for payments under Chapter 3 of this Act or Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997* or other payments under this Act or the *Aged Care (Transitional Provisions) Act 1997* have been properly made;

227 At the end of paragraph 93-1(2)(f)

Add "or the *Aged Care (Transitional Provisions) Act 1997*".

228 Paragraph 93-1(3)(b)

Omit "subsidy under Chapter 3", substitute "*subsidy".

229 Subparagraph 93-1(4)(b)(ii)

Omit "subsidy under Chapter 3", substitute "*subsidy".

230 Paragraph 93-4(2)(b)

Omit "subsidy under Chapter 3", substitute "*subsidy".

231 Subparagraph 93-4(3)(b)(ii)

Omit "subsidy under Chapter 3", substitute "*subsidy".

232 Subsection 95-1(1)

Omit "subsidy under Chapter 3", substitute "*subsidy".

233 At the end of section 95-3

Add "or the *Aged Care (Transitional Provisions) Act 1997*".

234 At the end of section 95-4

Add "or the *Aged Care (Transitional Provisions) Act 1997*".

235 Section 96-1 (table items 3, 12 and 13)

Repeal the items.

236 Section 96-1 (table item 15)

Repeal the item, substitute:

15	Grant Principles	Parts 5.1, 5.5, 5.6 and 5.7

237 Section 96-1 (table items 17, 20 and 21)

Repeal the items.

238 Section 96-1 (after table item 22)

Insert:

22A Subsidy Principles Parts 3.1, 3.2 and 3.3

239 Subsection 96-2(2A)

Omit "44-8AA and 44-8AB", substitute "44-26C".

240 Subsection 96-2(2A) (note)

Repeal the note, substitute:

Note: The Secretary's powers under section 44-26C relate to determinations of the value of persons' assets.

241 Subsection 96-2(3) (note)

Repeal the note, substitute:

Note: The calculation of a care recipient's total assessable income is relevant to working out amounts of subsidies, fees and payments.

242 Paragraph 96-2(3A)(c)

Repeal the paragraph.

243 Paragraph 96-2(3A)(d)

Omit "44-8AA(1)", substitute "44-26C(1)".

244 Paragraph 96-2(3A)(e)

Omit "44-8AB", substitute "44-26A".

245 Paragraph 96-2(5)(b)

Omit "Residential Care".

246 Subsection 96-3(1)

After "this Act", insert "and the *Aged Care (Transitional Provisions) Act 1997*".

247 Section 96-5 (note)

Omit "*accommodation bond agreements, *accommodation charge agreements", substitute "accommodation agreements".

248 Subsection 96-10(1)

Omit "subsidies payable under Chapter 3, and amounts payable under subsection 44-8A(6),", substitute "*subsidies".

249 Clause 1 of Schedule 1

Insert:

> ***accommodation agreement*** means an agreement that meets the requirements set out in section 52F-3.

250 Clause 1 of Schedule 1 (at the end of the definition of *accommodation bond*)

Add:

> Note: This Act contains rules about accommodation bonds, which are paid under the *Aged Care (Transitional Provisions) Act 1997*.

251 Clause 1 of Schedule 1 (definition of *accommodation bond agreement*)

Repeal the definition.

252 Clause 1 of Schedule 1 (paragraph (b) of the definition of *accommodation bond balance*)

Omit "section 57-19", substitute "this Act or the *Aged Care (Transitional Provisions) Act 1997*".

253 Clause 1 of Schedule 1 (at the end of the definition of *accommodation charge*)

Add:

> Note: This Act contains rules about accommodation charges, which are paid under the *Aged Care (Transitional Provisions) Act 1997*.

254 Clause 1 of Schedule 1 (definition of *accommodation charge agreement*)

Repeal the definition.

255 Clause 1 of Schedule 1

Insert:

> ***accommodation contribution*** means a contribution paid for accommodation provided with residential care.
>
> ***accommodation payment*** means payment for accommodation provided with residential care or flexible care.

accommodation supplement means the supplement referred to in section 44-28.

256 Clause 1 of Schedule 1 (definition of *assisted resident*)

Repeal the definition.

257 Clause 1 of Schedule 1 (definition of *charge exempt resident*)

Repeal the definition.

258 Clause 1 of Schedule 1 (definition of *close relation*)

Omit "44-11", substitute "44-26B".

259 Clause 1 of Schedule 1

Insert:

combined care subsidy reduction means a care subsidy reduction under section 44-21 or 48-7.

260 Clause 1 of Schedule 1 (definition of *concessional resident*)

Repeal the definition.

261 Clause 1 of Schedule 1

Insert:

continuing care recipient means:

(a) a *continuing residential care recipient; or

(b) a *continuing home care recipient; or

(c) a *continuing flexible care recipient.

continuing flexible care recipient means a person who:

(a) *entered a flexible care service before 1 July 2014; and

(b) has not:

(i) ceased to be provided with flexible care by a flexible care service for a continuous period of more than 28 days (other than because the person is on *leave); or

(ii) before moving to another flexible care service, made a written choice, in accordance with the Fees and

Payments Principles, to be covered by Chapters 3 and 3A of this Act in relation to the other service.

continuing home care recipient means a person who:

(a) *entered a home care service before 1 July 2014; and

(b) has not:

(i) ceased to be provided with home care by a home care service for a continuous period of more than 28 days (other than because the person is on *leave); or

(ii) before moving to another home care service, made a written choice, in accordance with the Fees and Payments Principles, to be covered by Chapters 3 and 3A of this Act in relation to the other service.

continuing residential care recipient means a person who:

(a) *entered a residential care service before 1 July 2014; and

(b) has not:

(i) ceased to be provided with residential care by a residential care service for a continuous period of more than 28 days (other than because the person is on *leave); or

(ii) before moving to another residential care service, made a written choice, in accordance with the Fees and Payments Principles, to be covered by Chapters 3 and 3A of this Act in relation to the other service.

262 Clause 1 of Schedule 1

Insert:

daily accommodation contribution means *accommodation contribution that:

(a) accrues daily; and

(b) is paid by periodic payment.

daily accommodation payment means *accommodation payment that:

(a) accrues daily; and

(b) is paid by periodic payment.

263 Clause 1 of Schedule 1 (definition of *daily income tested reduction*)

Repeal the definition.

264 Clause 1 of Schedule 1

Insert:

daily payment means:

(a) *daily accommodation payment; or

(b) *daily accommodation contribution.

265 Clause 1 of Schedule 1 (definition of *dependent child*)

Omit "44-11", substitute "44-26B".

266 Clause 1 of Schedule 1

Insert:

eligible flexible care service has the meaning given by subsection 52F-1(2).

267 Clause 1 of Schedule 1 (definition of *high level of residential care*)

Repeal the definition.

268 Clause 1 of Schedule 1 (definition of *homeowner*)

Omit "44-11", substitute "44-26B".

269 Clause 1 of Schedule 1 (definition of *low level of residential care*)

Repeal the definition.

270 Clause 1 of Schedule 1

Insert:

maximum accommodation supplement amount has the meaning given by subsection 44-21(6).

271 Clause 1 of Schedule 1

Insert:

maximum home value has the meaning given by section 44-26B.

272 Clause 1 of Schedule 1

Insert:

means tested amount has the meaning given by section 44-22.

273 Clause 1 of Schedule 1 (definition of *member of a couple*)

Omit "44-11", substitute "44-26B".

274 Clause 1 of Schedule 1 (definition of *partner*)

Omit "44-11", substitute "44-26B".

275 Clause 1 of Schedule 1 (definition of *pensioner supplement*)

Repeal the definition.

276 Clause 1 of Schedule 1 (definition of *permitted*)

After "use of", insert, "a *refundable deposit or".

277 Clause 1 of Schedule 1 (definition of *permitted*)

Omit "57-17A", substitute, "52N-1".

278 Clause 1 of Schedule 1 (definition of *post-2008 reform resident*)

Repeal the definition.

279 Clause 1 of Schedule 1 (definition of *post-September 2009 resident*)

Repeal the definition.

280 Clause 1 of Schedule 1 (definition of *pre-2008 reform resident*)

Repeal the definition.

281 Clause 1 of Schedule 1 (definition of *pre-entry leave*)

Omit "section 44-5E", substitute "subsection 42-3(3)".

282 Clause 1 of Schedule 1 (definition of *pre-September 2009 resident*)

Repeal the definition.

283 Clause 1 of Schedule 1 (definition of *protected resident*)

Repeal the definition.

284 Clause 1 of Schedule 1

Insert:

refundable accommodation contribution means *accommodation contribution that:

(a) does not accrue daily; and

(b) is paid as a lump sum.

refundable accommodation deposit means *accommodation payment that:

(a) does not accrue daily; and

(b) is paid as a lump sum.

refundable deposit means:

(a) a *refundable accommodation deposit; or

(b) a *refundable accommodation contribution.

refundable deposit balance, in relation to a *refundable deposit is, at a particular time, an amount equal to the difference between:

(a) the amount of the refundable deposit; and

(b) any amounts that have been, or are permitted to be, deducted at the time from the refundable deposit under this Act as at that time.

285 Clause 1 of Schedule 1 (definition of *standard resident contribution*)

Repeal the definition.

286 Clause 1 of Schedule 1

Insert:

start-date year, for a care recipient, means a year beginning on:

(a) the day on which the care recipient first *entered an aged care service other than as a *continuing care recipient; or

(b) an anniversary of that day.

subsidy means subsidy paid under Chapter 3 of this Act or under Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997*.

287 Clause 1 of Schedule 1 (definition of *supported resident*)

Repeal the definition.

288 Clause 1 of Schedule 1 (definition of *unregulated lump sum*)

Omit "*Bond Security*", substitute "*Accommodation Payment Security*".

289 Clause 1 of Schedule 1 (definition of *unregulated lump sum balance*)

Omit "*Bond Security*", substitute "*Accommodation Payment Security*".

Part 2—Transitional and savings provisions

290 Definitions

In this Part:

commencement time means the time when this Schedule commences.

old law means the *Aged Care Act 1997* as in force immediately before the commencement time.

291 Approval of care recipients limited to low care

An approval to receive residential care that was:

(a) limited to a low level of residential care; and

(b) given under Part 2.3 of the old law; and

(c) in force immediately before the commencement time;

is taken, after the commencement time, to have been given without being limited to a low level of residential care.

292 Determining the status of residential care service buildings

A provision of the Subsidy Principles has effect before it commences as if it had commenced if the provision:

(a) is made for the purposes of section 44-28 of the *Aged Care Act 1997* as amended by item 125 of this Schedule; and

(b) relates to determining, or applying for the determination of, the status of a building.

Schedule 4—Amendments of other Acts

Part 1—Amendments commencing on 1 August 2013

A New Tax System (Goods and Services Tax) Act 1999

1 Section 38-30 (heading)

Omit "**Community**", substitute "**Home**".

2 Subsection 38-30(1)

Omit "*community care is ***GST-free*** if community care", substitute "*home care is ***GST-free*** if home care".

3 Subsection 38-30(3)

Omit "*community care", substitute "*home care".

4 Section 195-1 (definition of *community care*)

Repeal the definition.

5 Section 195-1

Insert:

> ***home care*** has the meaning given by section 45-3 of the *Aged Care Act 1997*.

National Disability Insurance Scheme Act 2013

5A Section 9 (definition of *community care*)

Repeal the definition.

5B Section 9

Insert:

> ***home care*** has the same meaning as in the *Aged Care Act 1997*.

5C Paragraph 29(1)(b)

Omit "community", substitute "home".

5D Subsection 29(1) (note)

Omit "***community***", substitute "***home***".

Part 2—Amendments commencing on 1 July 2014

A New Tax System (Goods and Services Tax) Act 1999

6 Subsection 38-30(1)

Omit "Part 3-2 of the *Aged Care Act 1997*", substitute "Part 3.2 of the *Aged Care Act 1997* or Part 3.2 of the *Aged Care (Transitional Provisions) Act 1997*".

7 Section 38-35

After "that Act", insert "or Part 3.3 of the *Aged Care (Transitional Provisions) Act 1997*".

Health and Other Services (Compensation) Act 1995

8 Subsection 3(1) (definition of *residential care subsidy*)

Repeal the definition, substitute:

residential care subsidy has the same meaning as in:

(a) in relation to residential care under the *Aged Care Act 1997*—the *Aged Care Act 1997*; and

(b) in relation to residential care under the *Aged Care (Transitional Provisions) Act 1997*—the *Aged Care (Transitional Provisions) Act 1997*.

9 Subsection 9(2A)

After "*1997*", insert "and Part 3.1 of the *Aged Care (Transitional Provisions) Act 1997*".

10 Paragraph 42(1)(f)

Repeal the paragraph, substitute:

(f) whether the Secretary should make a determination under:

(i) subsection 44-20(5) or (6) or 48-5(5) or (6) of the *Aged Care Act 1997*; or

(ii) subsection 44-20(5) or (6) of the *Aged Care (Transitional Provisions) Act 1997*.

Human Services (Medicare) Act 1973

11 After subparagraph 41G(a)(iv)

Insert:

(iva) the *Aged Care (Transitional Provisions) Act 1997*; or

Social Security Act 1991

12 Subsection 4(9)

Omit all the words after "the person is", substitute:

eligible for:

(a) a respite supplement in respect of that day under the Subsidy Principles made for the purposes of subparagraph 44-5(1)(a)(i) of the *Aged Care Act 1997*; or

(b) a respite care supplement in respect of that day under section 44-12 of the *Aged Care (Transitional Provisions) Act 1997*.

13 At the end of paragraph 8(8)(zna)

Add:

Note 1: For ***rent***, see subsection 13(2).

Note 2: Under subsections 11A(8) and (9), the principal home of a person in a care situation may be a place other than the place where the person receives care.

14 After paragraph 8(8)(zna)

Insert:

(znaa) while a person is liable to pay all or some of a daily accommodation payment or a daily accommodation contribution—any rent from the person's principal home that the person, or the person's partner, earns, derives or receives from another person;

Note 1: For ***rent***, see subsection 13(2).

Note 2: Under subsections 11A(8) and (9), the principal home of a person in a care situation may be a place other than the place where the person receives care.

15 Subsection 9(1D)

Repeal the subsection, substitute:

(1D) To avoid doubt, none of the following is a financial investment for the purposes of this Act:

(a) an accommodation bond;

(b) an accommodation bond balance;

(c) a refundable deposit;

(d) a refundable deposit balance.

16 Subsection 11(1) (definition of *charge exempt resident*)

After "*Care*", insert "*(Transitional Provisions)*".

17 Subsection 11(1)

Insert:

daily accommodation contribution has the same meaning as in the *Aged Care Act 1997*.

daily accommodation payment has the same meaning as in the *Aged Care Act 1997*.

18 Subsection 11(1)

Insert:

refundable deposit has the same meaning as in the *Aged Care Act 1997*.

refundable deposit balance has the same meaning as in the *Aged Care Act 1997*.

19 After subsection 11(3A)

Insert:

(3AA) To avoid doubt, a refundable deposit balance in respect of a refundable deposit paid by a person is taken to be an asset of the person.

20 Paragraph 11A(8)(a) (note 2)

After "*Care*", insert "*(Transitional Provisions)*".

21 After paragraph 11A(8)(b)

Insert:

(ba) if the Secretary is satisfied that the residence was previously the person's principal home but that the person left it for the purpose of going into a care situation—any period during which:

(i) the person is liable to pay all or some of a daily accommodation payment or a daily accommodation contribution (or would be so liable to do so, assuming that no sanctions under Part 4.4 of the *Aged Care Act 1997* were currently being imposed on the provider of the care concerned); and

(ii) the person, or the person's partner, is earning, deriving or receiving rent for the residence from another person; and

22 Paragraph 11A(8)(c)

Omit "or (b)", substitute ", (b) or (ba)".

23 Paragraph 1099E(1)(b)

After "*Care*", insert "*(Transitional Provisions)*".

24 Subsection 1099J(1)

After "*1997*", insert "(as in force before 1 July 2014)".

25 Subsection 1099J(2)

Omit "that Act", substitute "the *Aged Care (Transitional Provisions) Act 1997*".

26 At the end of subsection 1118(1)

Add:

; (v) the amount of any refundable deposit balance in respect of a refundable deposit paid by the person.

Social Security (Administration) Act 1999

27 At the end of paragraph 126(1)(e)

Add "or".

28 After paragraph 126(1)(e)

Insert:

(f) a decision under section 44-24 of the *Aged Care (Transitional Provisions) Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act;

29 At the end of paragraph 129(1)(e)

Add "or".

30 After paragraph 129(1)(e)

Insert:

(f) a decision under section 44-24 of the *Aged Care (Transitional Provisions) Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act;

31 At the end of subsection 140(1)

Add:

; and (g) all decisions under section 44-24 of the *Aged Care (Transitional Provisions) Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act.

32 At the end of subsection 178(1)

Add:

; and (c) all decisions under section 44-24 of the *Aged Care (Transitional Provisions) Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act.

Veterans' Entitlements Act 1986

33 Section 5 (index)

Insert:

accommodation bond balance	5L(1)

34 Section 5 (index)

Insert:

daily accommodation contribution	5L(1)
daily accommodation payment	5L(1)

35 Section 5 (index)

Insert:

refundable deposit	5L(1)
refundable deposit balance	5L(1)

36 Paragraph 5H(8)(na)

Repeal the paragraph, substitute:

(na) a payment of subsidy under Part 3.1 of the *Aged Care Act 1997* or Part 3.1 of the *Aged Care (Transitional Provisions) Act 1997* made to an approved provider (within the meaning of those Acts) in respect of care provided to the person;

37 After paragraph 5H(8)(nd)

Insert:

(ne) a refundable deposit balance refunded to the person under the *Aged Care Act 1997*;

(nf) while a person is liable to pay a daily accommodation payment or a daily accommodation contribution—any rent from the person's principal home that the person, or the person's partner, earns, derives or receives from another person;

Note 1: For ***rent***, see subsection 5N(2).

Note 2: Under subsections 5LA(8) and (9), the principal home of a person in a care situation may be a place other than the place where the person receives care.

38 Subsection 5J(2C)

Repeal the subsection, substitute:

(2C) To avoid doubt, none of the following is a financial investment for the purposes of this Act:

(a) an accommodation bond;
(b) an accommodation bond balance;
(c) a refundable deposit;
(d) a refundable deposit balance.

Note: These expressions are defined in section 5L.

39 Subsection 5L(1)

Insert:

accommodation bond balance has the same meaning as in the *Aged Care Act 1997*.

40 Subsection 5L(1)

Insert:

daily accommodation contribution has the same meaning as in the *Aged Care Act 1997*.

daily accommodation payment has the same meaning as in the *Aged Care Act 1997*.

41 Subsection 5L(1)

Insert:

refundable deposit has the same meaning as in the *Aged Care Act 1997*.

refundable deposit balance has the same meaning as in the *Aged Care Act 1997*.

42 After subsection 5L(3B)

Insert:

(3BA) To avoid doubt, a refundable deposit balance (within the meaning of the *Aged Care Act 1997*) in respect of a refundable deposit (within the meaning of that Act: see subsection (1) of this section) paid by a person is taken to be an asset of the person.

43 After paragraph 5LA(8)(b)

Insert:

(ba) if the Commission is satisfied that the residence was previously the person's principal home but that the person left it for the purpose of going into a care situation or becoming an aged care resident—any period during which:

(i) the person is liable to pay all or some of a daily accommodation payment or a daily accommodation contribution (or would be liable to do so, assuming that no sanctions under Part 4.4 of the *Aged Care Act 1997* were currently being imposed on the provider of the care concerned); and

(ii) the person, or the person's partner, is earning, deriving or receiving rent for the residence from another person; and

44 Paragraph 5LA(8)(c)

Omit "or (b)", substitute ", (b) or (ba)".

45 Subsection 5LA(8) (note 4)

After "*Care*", insert "*(Transitional Provisions)*".

46 Subsection 5NC(8)

Omit all the words after "the person is", substitute:

eligible for:

(a) a respite supplement in respect of that day under the Subsidy Principles made for the purposes of subparagraph 44-5(1)(a)(i) of the *Aged Care Act 1997*; or

(b) a respite care supplement in respect of that day under section 44-12 of the *Aged Care (Transitional Provisions) Act 1997*.

47 After paragraph 52(1)(p)

Insert:

(pa) the amount of any refundable deposit balance in respect of a refundable deposit paid by the person;

48 Paragraph 13(1)(b) of Schedule 5

After "*Care*", insert "*(Transitional Provisions)*".

49 Subclause 13(1) of Schedule 5 (note)

Repeal the note, substitute:

Note 1: ***Accommodation bond*** and ***accommodation charge*** have the same meanings as in the *Aged Care Act 1997*: see subsection 5L(1) of this Act.

Note 2: ***Charge exempt resident*** has the same meaning as in the *Aged Care (Transitional Provisions) Act 1997*: see clause 17 of this Schedule.

50 Paragraph 13(2)(b) of Schedule 5

After "*Care*", insert "*(Transitional Provisions)*".

51 Subclause 13(2) of Schedule 5 (note)

Repeal the note, substitute:

Note 1: ***Accommodation bond*** and ***accommodation charge*** have the same meanings as in the *Aged Care Act 1997*: see subsection 5L(1) of this Act.

Note 2: ***Charge exempt resident*** has the same meaning as in the *Aged Care (Transitional Provisions) Act 1997*: see clause 17 of this Schedule.

52 Part 2A of Schedule 5 (heading)

Omit "**Aged Care Act 1997**", substitute "**Aged Care (Transitional Provisions) Act 1997**".

53 Clause 17 of Schedule 5 (definition of *charge exempt resident*)

After "*Care*", insert "*(Transitional Provisions)*".

54 Subclause 17B(1) of Schedule 5

After "the *Aged Care Act 1997*", insert "(as in force before 1 July 2014)".

55 Subclause 17B(2) of Schedule 5

Omit "that Act", substitute "the *Aged Care (Transitional Provisions) Act 1997*".

Schedule 5—Aged Care (Transitional Provisions) Act 1997

Part 1—Enactment

1 Enactment of the *Aged Care (Transitional Provisions) Act 1997*

(1) Without limiting the effect of the *Aged Care Act 1997* apart from this item, that Act, as in force immediately before the commencement of this item, is re-enacted as the *Aged Care (Transitional Provisions) Act 1997*.

Note: This item creates a second version of the *Aged Care Act 1997*. This second version will be amended by Part 2 of this Schedule, and will continue in force provisions relating to subsidies, fees and payments for care recipients who were receiving care on 30 June 2014.

(2) For the purposes of paragraph 40(1)(a) of the *Acts Interpretation Act 1901*, the secular year in which the *Aged Care (Transitional Provisions) Act 1997* was passed is taken to be 1997 and its number is taken to be 223.

Note: This means that the *Aged Care (Transitional Provisions) Act 1997* may be cited as Act No. 223 of 1997.

(3) Subitem (2) has effect despite section 39 of the *Acts Interpretation Act 1901*.

Part 2—Amendments

Aged Care (Transitional Provisions) Act 1997

2 Title

Omit "**relating to aged care**", substitute "**to deal with transitional matters in connection with the *Aged Care (Living Longer Living Better) Act 2013***".

3 Section 1-1

Omit "*Aged Care Act 1997*", substitute "*Aged Care (Transitional Provisions) Act 1997*".

4 Section 1-2

Repeal the section, substitute:

1-2 Commencement

This Act commences on 1 July 2014.

1-2A Act applies to continuing care recipients

This Act applies only in relation to *continuing care recipients.

5 Subsection 2-1(1)

After "this Act", insert ", in conjunction with the *Aged Care Act 1997*,".

6 Paragraph 2-1(2)(a)

After "this Act", insert "and the *Aged Care Act 1997*".

7 Section 3-1

After "This Act", insert ", in conjunction with the *Aged Care Act 1997*,".

8 Section 3-1

Omit "Chapter 3", substitute "Chapter 3 of this Act and Chapter 3 of the *Aged Care Act 1997*".

9 Section 3-1

Omit "Chapters 2 and 4", substitute "Chapters 2 and 4 of the *Aged Care Act 1997* and Chapter 4 of this Act".

10 Section 3-1

After "Chapter 5", insert "of the *Aged Care Act 1997*".

11 Section 3-2 (heading)

Omit "**(Chapter 2)**".

12 Section 3-2

After "Chapter 3", insert "of this Act".

13 Section 3-2

After "Chapter 2", insert "of the *Aged Care Act 1997*".

14 Section 3-3

After "Chapter 3", insert "of this Act".

15 Paragraph 3-3(a)

After "Chapter 2", insert "of the *Aged Care Act 1997*".

16 Section 3-4 (heading)

Omit "**(Chapter 4)**".

17 Section 3-4

Omit "Chapter 4", substitute "Chapter 4 of this Act and Chapter 4 of the *Aged Care Act 1997*".

18 Section 3-4

After "Chapter 2", insert "of the *Aged Care Act 1997*".

19 Section 3-5 (heading)

Omit "**(Chapter 5)**".

20 Section 3-5

After "Chapter 5", insert "of the *Aged Care Act 1997*".

21 Subsection 4-1(3)

Omit "Parts 2.2, 2.5 and 3.1 apply", substitute "Part 3.1 applies".

22 Subsection 4-1(3) (note)

Omit "Parts 2.2, 2.5 and", substitute "Part 3.1".

23 Subsection 4-1(3) (note)

Omit "those Parts", substitute "that Part".

24 Chapter 2

Repeal the Chapter.

25 Section 40-1

After "Chapter 2", insert "of the *Aged Care Act 1997*".

26 Section 40-1

After "section 5-2", insert "of that Act".

27 Section 40-1

Omit "Chapter 4", substitute "Chapter 4 of this Act and Chapter 4 of the *Aged Care Act 1997*".

28 Section 41-2

Repeal the section, substitute:

41-2 Residential care subsidy also dealt with in Aged Care (Transitional Provisions) Principles

*Residential care subsidy is also dealt with in the Aged Care (Transitional Provisions) Principles. Provisions in this Part indicate when a particular matter is or may be dealt with in those Principles.

Note: The Aged Care (Transitional Provisions) Principles are made by the Minister under section 96-1.

29 Paragraphs 41-3(1)(b) and (2)(d)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

30 Paragraph 42-1(1)(a)

After "Part 2.2", insert "of the *Aged Care Act 1997*".

31 Paragraph 42-1(1)(b)

After "Part 2.3", insert "of the *Aged Care Act 1997*".

32 Paragraph 42-1(1)(c)

After "section 42-4", insert "of the *Aged Care Act 1997*".

33 Subsection 42-1(1) (note 2)

After "Part 2.3", insert "of the *Aged Care Act 1997*".

34 Paragraph 42-1(4)(b)

Omit "Part 2.3 is not limited under subsection 22-2(3)", substitute "Part 2.3 of the *Aged Care Act 1997* is not limited under subsection 22-2(3) of that Act".

35 Subsection 42-1(4) (note)

Omit "Division 7 (relating to a person's approval as a provider of aged care services) or Division 20", substitute "Division 7 of the *Aged Care Act 1997* (relating to a person's approval as a provider of aged care services) or Division 20 of that Act".

36 Subsection 42-2(1)

After "section 67A-5", insert "of the *Aged Care Act 1997*".

37 Paragraph 42-2(3A)(b)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

38 Paragraph 42-3(3)(b)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

39 Sections 42-4, 42-5 and 42-6

Repeal the sections.

40 Subsection 43-1(3)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

41 Paragraph 43-2(b)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

42 Subsection 43-3(4)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

43 At the end of subsection 43-3(5)

Add "of the *Aged Care Act 1997*".

44 Paragraph 43-6(1)(a)

After "Division 32", insert "of the *Aged Care Act 1997*".

45 Subsection 43-6(2) (note)

After "32-8(5)(b)", insert "of the *Aged Care Act 1997*".

46 Subsection 43-6(3)

Omit "Residential Care Subsidy" (wherever occurring), substitute "Aged Care (Transitional Provisions)".

47 Subsection 43-6(5) (paragraph (g) of the definition of *capital payment*)

Repeal the paragraph, substitute:

(b) a payment of a kind specified in the Aged Care (Transitional Provisions) Principles.

48 Subsection 43-8(1)

After "section 14-5 or 14-6", insert "of the *Aged Care Act 1997*".

49 Subsections 43-8(2) and (4)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

50 At the end of section 43-9

Add "of the *Aged Care Act 1997*".

51 Paragraph 44-3(3)(aa)

Omit "Part 2.3 is limited under subsection 22-2(3)", substitute "Part 2.3 of the *Aged Care Act 1997* is limited under subsection 22-2(3) of that Act".

52 Paragraph 44-3(3)(cb)

After "paragraph 26-1(a) or (b)", insert "of the *Aged Care Act 1997*".

53 At the end of paragraph 44-3(3)(cc)

Add "of the *Aged Care Act 1997*".

54 Paragraph 44-3(3)(e)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

55 At the end of paragraph 44-5A(2)(d)

Add "of the *Aged Care Act 1997*".

56 Paragraph 44-5A(4)(b)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

57 Paragraph 44-5B(1)(c)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

58 At the end of paragraph 44-6(2)(d)

Add "of the *Aged Care Act 1997*".

59 Paragraph 44-6(5)(d)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

60 Subparagraph 44-7(1)(c)(ii)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

61 Subparagraphs 44-8(1)(c)(ii) and (iv)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

62 At the end of paragraph 44-8A(2)(c)

Add "of the *Aged Care Act 1997*".

63 Paragraph 44-8A(4)(c)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

64 Subsection 44-8A(5)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

65 Paragraph 44-8A(6)(a)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

66 Subsection 44-10(1)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

67 Subsection 44-11(1) (paragraph (d) of the definition of *child*)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

68 Subsection 44-11(1) (paragraph (c) of the definition of *close relation*)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

69 Subsection 44-11(1) (definition of *homeowner*)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

70 Paragraph 44-11(2)(aa)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

71 Subparagraph 44-11(2)(b)(iii)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

72 Paragraph 44-11(3)(c)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

73 Subparagraph 44-12(2)(a)(ii)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

74 Paragraph 44-12(2)(b)

After "Part 2.3", insert "of the *Aged Care Act 1997*".

75 Paragraphs 44-12(2)(c) and (d)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

76 At the end of paragraph 44-12(4)(a)

Add "of the *Aged Care Act 1997*".

77 Paragraph 44-12(4)(f)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

78 Paragraph 44-13(1)(c)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

79 Subsection 44-13(3)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

80 Paragraph 44-14(1)(c)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

81 Subsection 44-14(3)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

82 Subsections 44-16(1) and (2)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

83 Paragraph 44-18(1)(b)

After "Division 31", insert "of the *Aged Care Act 1997*".

84 Paragraph 44-18(1)(b)

After "paragraph 32-8(3)(b)", insert "of the *Aged Care Act 1997*".

85 At the end of subsection 44-18(2)

Add "of the *Aged Care Act 1997*".

86 Subsections 44-20(5), (6) and (8)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

87 Paragraph 44-22(1)(c)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

88 Subsections 44-22(2) and (4)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

89 Subsection 44-24(5)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

90 Subparagraphs 44-24(6)(c)(ii) and (7)(b)(ii)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

91 Subsection 44-24(11)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

92 Paragraph 44-27(e)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

93 Subparagraphs 44-28(2)(b)(iv) and (c)(iii)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

94 Subsection 44-29(2)

Omit "Residential Care Subsidy" (wherever occurring), substitute "Aged Care (Transitional Provisions)".

95 Paragraph 44-30(2)(a)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

96 Subsection 44-30(4)

After "Division 36", insert "of the *Aged Care Act 1997*".

97 Subsections 44-31(1) and (2)

Omit "Residential Care Subsidy", substitute "Aged Care (Transitional Provisions)".

98 Section 45-2

Repeal the section, substitute:

45-2 Home care subsidy also dealt with in Aged Care (Transitional Provisions) Principles

*Home care subsidy is also dealt with in the Aged Care (Transitional Provisions) Principles. Provisions of this Part indicate when a particular matter is or may be dealt with in those Principles.

Note: The Aged Care (Transitional Provisions) Principles are made by the Minister under section 96-1.

99 Subsection 45-3(2)

Omit "Home Care Subsidy", substitute "Aged Care (Transitional Provisions)".

100 Paragraph 46-1(1)(a)

After "Part 2.2", insert "of the *Aged Care Act 1997*".

101 Paragraph 46-1(1)(b)

After "Part 2.3", insert "of the *Aged Care Act 1997*".

102 Subsection 46-1(2) (note)

Omit "Division 7 (relating to a person's approval as a provider of *aged care services) or Division 20", substitute "Division 7 of the *Aged Care Act 1997* (relating to a person's approval as a provider of aged care services) or Division 20 of that Act".

103 Subsection 46-2(3)

Omit "Home Care Subsidy", substitute "Aged Care (Transitional Provisions)".

104 Paragraph 47-2(b)

Omit "Home Care Subsidy", substitute "Aged Care (Transitional Provisions)".

105 Subsection 47-3(4)

Omit "Home Care Subsidy", substitute "Aged Care (Transitional Provisions)".

106 At the end of section 47-5

Add "of the *Aged Care Act 1997*".

107 Section 49-2

Repeal the section, substitute:

49-2 Flexible care subsidy also dealt with in Aged Care (Transitional Provisions) Principles

*Flexible care subsidy is also dealt with in the Aged Care (Transitional Provisions) Principles. Provisions of this Part indicate when a particular matter is or may be dealt with in those Principles.

Note: The Aged Care (Transitional Provisions) Principles are made by the Minister under section 96-1.

108 Paragraph 50-1(1)(a)

After "Part 2.2", insert "of the *Aged Care Act 1997*".

109 Subparagraph 50-1(1)(b)(i)

After "Part 2.3", insert "of the *Aged Care Act 1997*".

110 Subparagraph 50-1(1)(b)(ii)

Omit "Flexible Care Subsidy", substitute "Aged Care (Transitional Provisions)".

111 Subparagraph 50-1(1)(b)(ii)

After "Part 2.3", insert "of the *Aged Care Act 1997*".

112 Subparagraph 50-1(1)(b)(iii)

Omit "Flexible Care Subsidy", substitute "Aged Care (Transitional Provisions)".

113 Subsection 50-1(2) (note)

Omit "Division 7 (relating to a person's approval as a provider of *aged care services) or Division 20", substitute "Division 7 of the *Aged Care Act 1997* (relating to a person's approval as a provider of aged care services) or Division 20 of that Act".

114 Subsection 50-2(1)

Omit "Flexible Care Subsidy", substitute "Aged Care (Transitional Provisions)".

115 Subsections 51-1(1) and (2)

Omit "Flexible Care Subsidy", substitute "Aged Care (Transitional Provisions)".

116 Division 53

Repeal the Division.

117 Part 4.1

Repeal the Part.

118 Divisions 55 and 56

Repeal the Divisions.

119 Division 57 (heading)

Omit "**and entry contributions**".

120 Section 57-1

Omit "The rules set out in this Division", substitute "Rules set out in Part 3A.3 of the *Aged Care Act 1997*".

121 Paragraph 57-2(1)(c)

Omit "section 57-3", substitute "section 52M-1 of the *Aged Care Act 1997*".

122 Paragraph 57-2(1)(d)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

123 Paragraph 57-2(1)(k)

Omit "(see section 57-17A)", substitute "(see section 52N-1 of the *Aged Care Act 1997*)".

124 Paragraph 57-2(1)(ka)

Omit "section 57-3", substitute "section 52M-1 of the *Aged Care Act 1997*".

125 Paragraph 57-2(1)(o)

Omit "Part 4.4 from doing so (see paragraph 66-1(j))", substitute "Part 4.4 of the *Aged Care Act 1997* from doing so (see paragraph 66-1(j) of that Act)".

126 Paragraph 57-2(1)(p)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

127 Subdivision 57-B

Repeal the Subdivision.

128 Paragraph 57-9(1)(l)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

129 Paragraph 57-12(1)(c)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

130 Subparagraphs 57-12(3)(a)(ii) and (b)(ii)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

131 Section 57-13

Omit "section 57-21", substitute "Division 52P of the *Aged Care Act 1997*".

132 Subsections 57-14(1) and (2)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

133 Subsection 57-15(1)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

134 Paragraphs 57-16(1)(a) and (2)(a)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

135 Subsections 57-17(2) and (3)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

136 Subdivision 57-EA

Repeal the Subdivision.

137 Subsections 57-18(3), (4) and (5)

Omit "User Rights" (wherever occurring), substitute "Aged Care (Transitional Provisions)".

138 Paragraph 57-19(1)(c)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

139 Subsections 57-20(1), (2), (4), (6) and (7)

Omit "User Rights" (wherever occurring), substitute "Aged Care (Transitional Provisions)".

140 Subdivision 57-G

Repeal the Subdivision.

141 Paragraph 57-23(2)(b)

Omit "section 57-21", substitute "Division 52P of the *Aged Care Act 1997*".

142 Subparagraph 57A-2(1)(a)(ii)

After "section 22-2", insert "of the *Aged Care Act 1997*".

143 Paragraph 57A-2(1)(d)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

144 Paragraph 57A-2(1)(m)

Omit "Part 4.4 from doing so (see paragraph 66-1(j))", substitute "Part 4.4 of the *Aged Care Act 1997* from doing so (see paragraph 66-1(j) of that Act)".

145 Paragraph 57A-2(1)(n)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

146 Subsection 57A-2(2)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

147 Paragraph 57A-3(1)(g)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

148 Subsection 57A-3(2)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

149 Paragraph 57A-6(1)(c)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

150 Subsections 57A-9(1) and (2)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

151 Subsection 57A-10(1)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

152 Subsection 57A-12(2)

Omit "User Rights", substitute "Aged Care (Transitional Provisions)".

153 Section 58-1

After “paragraph 54-1(1)(a)”, insert “of the *Aged Care Act 1997*”.

154 Section 58-1

Omit “User Rights” (wherever occurring), substitute “Aged Care (Transitional Provisions)”.

155 Section 58-2 (step 5)

Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

156 Paragraph 58-5(a)

After “Division 35”, insert “of the *Aged Care Act 1997*”.

157 Division 59

Repeal the Division.

158 Section 60-1

After “paragraph 54-1(1)(a)”, insert “of the *Aged Care Act 1997*”.

159 Paragraph 60-1(d)

Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

160 Subsections 60-2(1) and (2)

Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

161 Divisions 61 and 62

Repeal the Divisions.

162 Parts 4.3 and 4.4

Repeal the Parts.

163 Chapter 5

Repeal the Chapter.

164 Section 84-1

Repeal the section, substitute:

84-1 What this Chapter is about

> This Chapter deals with the reconsideration and administrative review of decisions (see Part 6.1).

165 Section 85-1 (table items 1 to 39)

Repeal the items.

166 Section 85-1 (table items 54 to 59)

Repeal the items, substitute:

54	A decision under the Aged Care (Transitional Provisions) Principles made under section 96-1 that is specified in the Principles to be a decision reviewable under this section	the provision specified in the Principles as the provision under which the decision is made

167 Parts 6.2 to 6.7

Repeal the Parts.

168 Section 96-1

Repeal the section, substitute:

96-1 Aged Care (Transitional Provisions) Principles

The Minister may, by legislative instrument, make Aged Care (Transitional Provisions) Principles providing for matters:

(a) required or permitted by this Act to be provided; or

(b) necessary or convenient to be provided in order to carry out or give effect to this Act.

169 Subsections 96-2(5) and (6)

Repeal the subsections.

170 Section 96-3

Repeal the section.

171 Section 96-4 (note)

Omit "Chapter 4", substitute "Chapter 4 of this Act and Chapter 4 of the *Aged Care Act 1997*".

172 Section 96-5 (note)

Omit ", *accommodation charge agreements, *home care agreements, *extra service agreements and *resident agreements", substitute "and accommodation charge agreements".

173 Sections 96-8, 96-9 and 96-10

Repeal the sections.

174 Clause 1 of Schedule 1 (definition of *accommodation bond*)

Repeal the definition, substitute:

> ***accommodation bond*** has the same meaning as in the *Aged Care Act 1997*.

175 Clause 1 of Schedule 1 (definition of *accommodation bond balance*)

Repeal the definition, substitute:

> ***accommodation bond balance*** has the same meaning as in the *Aged Care Act 1997*.

176 Clause 1 of Schedule 1 (definition of *accommodation charge*)

Repeal the definition, substitute:

> ***accommodation charge*** has the same meaning as in the *Aged Care Act 1997*.

177 Clause 1 of Schedule 1 (definition of *accreditation requirement*)

Repeal the definition, substitute:

> ***accreditation requirement*** has the same meaning as in the *Aged Care Act 1997*.

178 Clause 1 of Schedule 1 (definition of *advocacy grant*)

Repeal the definition.

179 Clause 1 of Schedule 1 (definitions of *Aged Care Commissioner* and *Aged Care Pricing Commissioner*)

Repeal the definitions.

180 Clause 1 of Schedule 1 (definition of *approved provider*)

Repeal the definition, substitute:

> ***approved provider*** has the same meaning as in the *Aged Care Act 1997*.

181 Clause 1 of Schedule 1 (definition of *authorised officer*)

Repeal the definition.

182 Clause 1 of Schedule 1 (definition of *available for allocation*)

Repeal the definition.

183 Clause 1 of Schedule 1 (definition of *capital expenditure*)

Repeal the definition.

184 Clause 1 of Schedule 1 (definition of *capital works costs*)

Repeal the definition.

185 Clause 1 of Schedule 1 (definition of *certified*)

Repeal the definition, substitute:

> ***certified*** has the same meaning as in the *Aged Care Act 1997*.

186 Clause 1 of Schedule 1 (definition of *classification level*)

Repeal the definition, substitute:

> ***classification level*** has the same meaning as in the *Aged Care Act 1997*.

187 Clause 1 of Schedule 1 (definition of *community visitors grant*)

Repeal the definition.

188 Clause 1 of Schedule 1

Insert:

continuing care recipient has the same meaning as in the *Aged Care Act 1997*.

189 Clause 1 of Schedule 1 (definition of *corporation*)

Repeal the definition.

190 Clause 1 of Schedule 1 (definition of *disqualified individual*)

Repeal the definition.

191 Clause 1 of Schedule 1 (definition of *distinct part*)

Repeal the definition, substitute:

distinct part has the same meaning as in the *Aged Care Act 1997*.

192 Clause 1 of Schedule 1 (definitions of *entry contribution balance* and *expiry date*)

Repeal the definitions.

193 Clause 1 of Schedule 1 (definition of *extra service agreement*)

Repeal the definition, substitute:

extra service agreement has the same meaning as in the *Aged Care Act 1997*.

194 Clause 1 of Schedule 1 (definition of *extra service place*)

Repeal the definition, substitute:

extra service place has the same meaning as in the *Aged Care Act 1997*.

195 Clause 1 of Schedule 1 (definition of *extra service status*)

Repeal the definition, substitute:

extra service status has the same meaning as in the *Aged Care Act 1997*.

196 Clause 1 of Schedule 1 (definition of *formal agreement*)

Repeal the definition.

197 Clause 1 of Schedule 1 (definition of *high level of residential care*)

Omit "Classification", substitute "Aged Care (Transitional Provisions)".

198 Clause 1 of Schedule 1 (definition of *home care agreement*)

Repeal the definition, substitute:

> ***home care agreement*** has the same meaning as in the *Aged Care Act 1997*.

199 Clause 1 of Schedule 1 (definition of *key personnel*)

Repeal the definition.

200 Clause 1 of Schedule 1 (definition of *lowest applicable classification level*)

Repeal the definition, substitute:

> ***lowest applicable classification level*** has the same meaning as in the *Aged Care Act 1997*.

201 Clause 1 of Schedule 1 (definition of *low level of residential care*)

Omit "Classification", substitute "Aged Care (Transitional Provisions)".

202 Clause 1 of Schedule 1 (definitions of *Military Rehabilitation and Compensation Commission*, *monitoring powers* and *operator*)

Repeal the definitions.

203 Clause 1 of Schedule 1 (definition of *people with special needs*)

Repeal the definition, substitute:

> ***people with special needs*** has the same meaning as in the *Aged Care Act 1997*.

204 Clause 1 of Schedule 1 (definition of *permitted*)

Repeal the definition, substitute:

permitted has the same meaning as in the *Aged Care Act 1997*.

205 Clause 1 of Schedule 1 (definition of *personal information*)

Repeal the definition.

206 Clause 1 of Schedule 1 (definition of *pre-allocation lump sum*)

Repeal the definition.

207 Clause 1 of Schedule 1 (definition of *protected information*)

Repeal the definition.

208 Clause 1 of Schedule 1 (definition of *provisional allocation*)

Repeal the definition, substitute:

provisional allocation has the same meaning as in the *Aged Care Act 1997*.

209 Clause 1 of Schedule 1 (definitions of *provisional allocation period*, *provisionally allocated*, *recoverable amount*, *region* and *relinquish*)

Repeal the definitions.

210 Clause 1 of Schedule 1 (definition of *reportable assault*)

Repeal the definition.

211 Clause 1 of Schedule 1 (definition of *resident agreement*)

Repeal the definition, substitute:

resident agreement has the same meaning as in the *Aged Care Act 1997*.

212 Clause 1 of Schedule 1 (definition of *residential care grant*)

Repeal the definition.

213 Clause 1 of Schedule 1 (definition of *section 67-5 notice time*)

Repeal the definition.

214 Clause 1 of Schedule 1 (definitions of *unregulated lump sum* and *unregulated lump sum balance*)

Repeal the definitions.

Part 3—Transitional and savings provisions

215 Definitions

In this Part:

first commencement time means the time when Part 1 of this Schedule commences.

second commencement time means the time when this Part commences.

216 Instruments under the *Aged Care Act 1997*

(1) This item applies if:

(a) an instrument made under a provision of the *Aged Care Act 1997* was in force immediately before the first commencement time; and

(b) immediately after the second commencement time, there is a corresponding provision in the *Aged Care (Transitional Provisions) Act 1997*.

(2) Without limiting its effect apart from this item, the instrument is also taken, after the second commencement time, to have been made under the corresponding provision.

217 Applications, requests and other processes begun under the *Aged Care Act 1997*

(1) This item applies if:

(a) a process begun (including by application or request) under a provision of the *Aged Care Act 1997* before the first commencement time was not completed by that time; and

(b) immediately after the second commencement time, there is a corresponding provision in the *Aged Care (Transitional Provisions) Act 1997*.

(2) Without limiting its effect apart from this item, the process is also taken, after the second commencement time, to have been begun under the corresponding provision.

[*Minister's second reading speech made in—*
House of Representatives on 13 March 2013
Senate on 17 June 2013]

(35/13)