



# **Aged Care Amendment (2008 Measures No. 1) Act 2008**

**No. 1, 2008**

**An Act to amend the law relating to aged care, and  
for related purposes**

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



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**No. 1, 2008**

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## **An Act to amend the law relating to aged care, and for related purposes**

*[Assented to 18 February 2008]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Aged Care Amendment (2008  
Measures No. 1) Act 2008*.

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	18 February 2008
2. Schedule 1, items 1 to 12	20 March 2008.	20 March 2008
3. Schedule 1, item 13	At the same time as item 16 of Schedule 1 to the <i>Aged Care Amendment (Residential Care) Act 2007</i> commences.	20 March 2008
4. Schedule 1, items 14 to 170	20 March 2008.	20 March 2008
5. Schedule 1, Part 2	20 March 2008.	20 March 2008
6. Schedules 2 and 3	20 March 2008.	20 March 2008

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Aged Care Act 1997

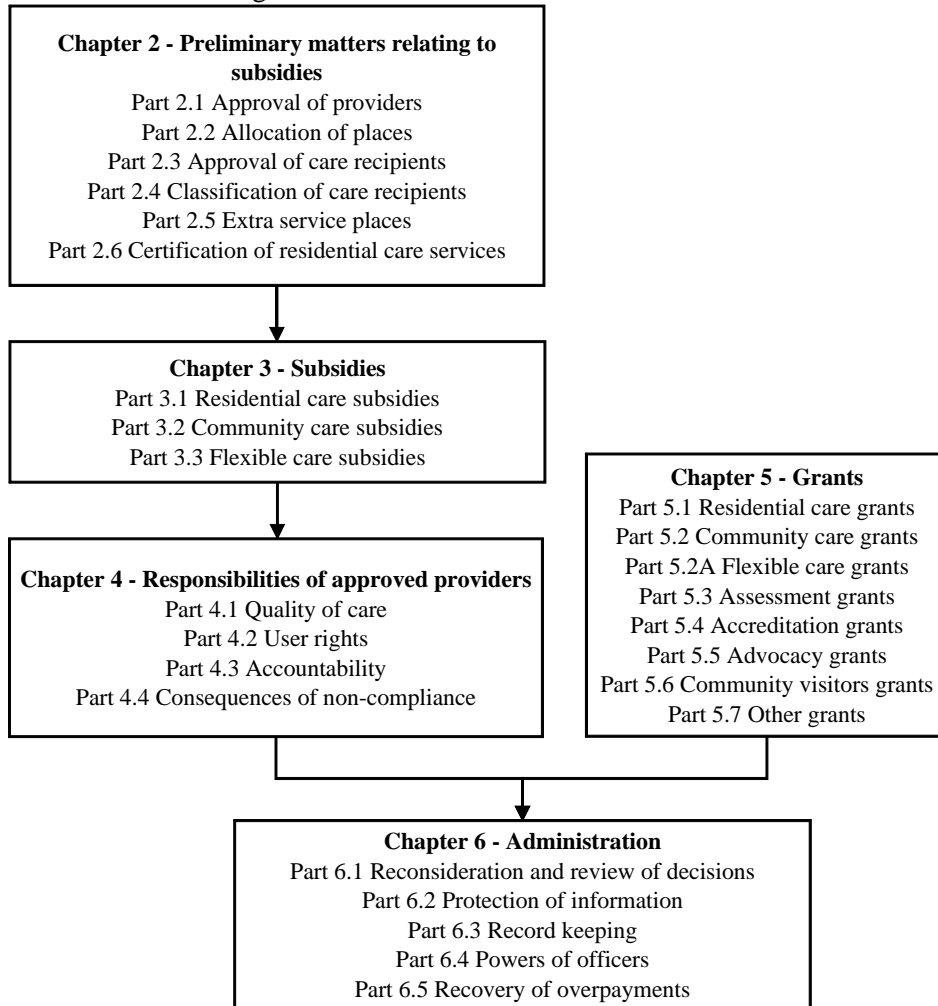
### Part 1—Amendments

#### 1 Section 3-6

Repeal the section, substitute:

#### 3-6 The structure of this Act

This diagram sets out the basic structure of this Act.



**2 At the end of subsection 4-1(2)**

Add “, except the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands”.

**3 At the end of section 4-1**

Add:

- (3) Despite subsection (1), Parts 2.2, 2.5 and 3.1 apply in relation to the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands as if those Territories were part of Western Australia and were not Territories.

Note: This has the effect that references in Parts 2.2, 2.5 and 3.1 to a Territory do not apply to the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands, and that references in those Parts to a State will be relevant to Western Australia as if it included those Territories.

**4 Section 5-2 (note 2)**

Repeal the note, substitute:

Note 2: Allocation of funding for \*residential care grants, \*community care grants and \*flexible care grants is dealt with in Parts 5.1, 5.2 and 5.2A respectively, and not in this Chapter.

**5 Paragraph 12-5(1)(b)**

Before “\*concessional residents”, insert “\*supported residents,”.

**6 Subparagraph 12-5(3)(d)(ii)**

After “to be”, insert “\*supported residents,”.

**7 After subsection 12-6(1)**

Insert:

- (1A) If the Secretary determines the \*regions within Western Australia, he or she must determine that one of those regions consists of the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands.

**8 Subparagraph 13-2(3)(e)(ii)**

Before “\*concessional residents”, insert “\*supported residents,”.

**9 Subparagraph 14-5(4)(a)(ii)**

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Before “\*concessional residents”, insert “\*supported residents,”.

**10 Subsection 15-4(4)**

Repeal the subsection, substitute:

- (4) In deciding whether to vary or revoke the \*provisional allocation, the Secretary must consider:
- (a) any submissions made within that period; and
  - (b) any matters specified in the Allocation Principles.

**11 At the end of section 15-5**

Add:

- (7) In deciding whether to vary the \*provisional allocation, the Secretary must have regard to any matters specified in the Allocation Principles.

**12 Subparagraph 16-6(e)(ii)**

Before “\*concessional residents”, insert “\*supported residents,”.

**13 Subsections 25-4D(1) and (2)**

Omit “14 days”, substitute “28 days”.

**14 Subsections 32-3(3) and (4)**

Omit “14 days”, substitute “28 days”.

**15 Subparagraph 32-4(1)(a)(i)**

Repeal the subparagraph, substitute:

- (i) are \*supported residents, \*concessional residents or \*assisted residents; or

**16 Section 37-1**

Before “concessional resident supplements”, insert “accommodation supplements or”.

**17 Paragraph 38-5(1)(b)**

Omit “14 days”, substitute “28 days”.

**18 After subsection 42-5(4)**

Insert:

- (4A) A determination made under subsection (1) is not a legislative instrument.

**19 Section 42-8**

Before “If:”, insert “(1)”.

**20 At the end of section 42-8**

Add:

- (2) A notice given under subsection (1) is not a legislative instrument.

**21 After section 43-4**

Insert:

**43-4A Variations of claims for residential care subsidy**

- (1) An approved provider may vary the claim made in respect of a \*payment period within:
- (a) 2 years after the end of the payment period; or
  - (b) such longer period as is determined in respect of the claim by the Secretary.
- (2) In determining a longer period for the purposes of paragraph (1)(b), the Secretary must be satisfied that a variation is required:
- (a) due to an administrative error made by the Commonwealth or an agent of the Commonwealth; or
  - (b) because the Commonwealth or an agent of the Commonwealth considers that the circumstances of a care recipient are different from those on the basis of which subsidy was claimed.

Note: Determinations of periods under paragraph (1)(b) are reviewable under Part 6.1.

- (3) A determination made under paragraph (1)(b) is not a legislative instrument.

**22 Paragraph 43-8(1)(a)**

Before “\*concessional residents”, insert “\*supported residents,”.

**23 After subsection 43-8(3)**

Insert:

(3A) A notice given under subsection (3) is not a legislative instrument.

**24 Subsection 44-3(2)**

Omit “in writing”, substitute “by legislative instrument”.

**25 Before paragraph 44-5(a)**

Insert:

(aaa) the accommodation supplement (see section 44-5A);

**26 After section 44-5**

Insert:

**44-5A 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 an accommodation supplement.
- (2) The care recipient is eligible for an accommodation supplement on a particular day if, on that day:
  - (a) the care recipient’s \*classification level is not the lowest applicable classification level; and
  - (b) the care recipient is a \*supported resident; and
  - (c) the residential care service is \*certified; and
  - (d) the residential care provided to the care recipient is not provided on an extra service basis for the purposes of Division 36.
- (3) 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.

- (4) The Minister may determine different amounts (including nil amounts) or methods based on any one or more of the following:
- (a) the value of assets held by a care recipient;
  - (b) any other matter specified in the Residential Care Subsidy Principles.

**44-5B Meaning of *supported resident***

- (1) A person is a ***supported resident*** on a particular day if:
- (a) on that day, the person is being provided with residential care (other than \*respite care) through a residential care service; and
  - (b) on that day, the person is a \*post-2008 reform resident; and
  - (c) the amount determined by the Secretary by legislative instrument in relation to that day for the purposes of this paragraph is equal to or more than the value of the person's assets at the time at which the person \*entered the residential care service or such other time specified in the Residential Care Subsidy Principles.

Note: Some \*supported residents may be required to pay an \*accommodation bond or an \*accommodation charge—see sections 57-12 and 57A-6.

*If there is financial hardship*

- (2) A person is also a ***supported resident*** if:
- (a) a determination is in force under section 57-14 or 57A-9 in respect of the person; and
  - (b) the person is a \*post-2008 reform resident.

**44-5C Meaning of *post-2008 reform resident***

A person is a ***post-2008 reform resident*** if the person is being provided with residential care through a residential care service and the person is not a \*pre-2008 reform resident.

**44-5D Meaning of *pre-2008 reform resident***

- (1) A person is a ***pre-2008 reform resident*** if:
- (a) the person is being provided with residential care through a residential care service; and

- (b) either:
    - (i) the person \*entered a residential care service before 20 March 2008; or
    - (ii) the person was on \*pre-entry leave from a residential care service immediately before 20 March 2008 and the person entered the residential care service on or after 20 March 2008 at the end of that pre-entry leave; and
  - (c) the person has not had a break in residential care of more than 28 days between:
    - (i) the last residential care service through which residential care was provided, or taken to be provided, to the person before 20 March 2008 and the next residential care service through which residential care is provided, or taken to be provided, to the person; and
    - (ii) any residential care service through which residential care is provided, or taken to be provided, to the person on or after 20 March 2008 and the next residential care service through which residential care is provided, or taken to be provided, to the person.
- (2) The period:
- (a) beginning on the day on which a person ceases to be provided with residential care through a residential care service (other than because the person is on \*leave from the residential care service); and
  - (b) ending on the day on which the person \*enters, or begins \*pre-entry leave, with the next residential care service through which residential care is provided, or taken to be provided, to the person;
- is a ***break in residential care*** for the person.
- (3) For the purposes of subsections (1) and (2), a person is not provided, or taken to be provided, with residential care during any period during which the person is being provided with \*respite care.

#### **44-5E Meaning of *pre-entry leave***

A care recipient is on ***pre-entry leave*** from a residential care service on a particular day if, on that day, the care recipient is taken to be provided with residential care by the residential care

service because the care recipient is on \*leave under section 42-2 because of subsection 42-3(3).

**27 Subsection 44-6(4)**

Omit “in writing”, substitute “by legislative instrument”.

**28 Subsection 44-7(1A)**

Repeal the subsection, substitute:

- (1A) A person is also a *concessional resident* if:
- (a) the person is being provided with residential care (other than \*respite care) through a residential care service; and
  - (b) the applicable time under subsection (2) is on or after 1 July 2005; and
  - (c) the person is a \*pre-2008 reform resident; and
  - (d) there is in force a determination covered by subsection (1B) or (1C).

**29 Subsection 44-7(3)**

Repeal the subsection, substitute:

*If there is financial hardship (whatever the applicable time)*

- (3) A person is also a *concessional resident* if:
- (a) a determination is in force under section 57-14 or section 57A-9 in respect of the person; and
  - (b) the person is a \*pre-2008 reform resident.

**30 Subsection 44-8(1A)**

Repeal the subsection, substitute:

- (1A) A person is also an *assisted resident* if:
- (a) the person is being provided with residential care (other than \*respite care) through a residential care service; and
  - (b) the applicable time under subsection (2) is on or after 1 July 2005; and
  - (c) the person is a \*pre-2008 reform resident; and
  - (d) there is in force a determination covered by subsection (1B) or (1C).

**31 Subsection 44-8AA(4)**

Repeal the subsection.

**32 At the end of section 44-8AA**

Add:

- (8) A resident status determination made under subsection (1) is not a legislative instrument.

**33 Subsection 44-8AB(1) (note)**

After “as well as whether the person is”, insert “a \*supported resident under section 44-5B,”.

**34 At the end of section 44-8AB**

Add:

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

**35 Paragraph 44-8A(3)(b)**

Omit “in writing”, substitute “by legislative instrument”.

**36 Before paragraph 44-8A(4)(a)**

Insert:

- (aa) the maximum rate of accommodation supplement;

**37 After paragraph 44-8A(4)(b)**

Insert:

- (ba) if the care recipient is a \*supported resident—the amount of the accommodation supplement that is payable in respect of the care recipient on a particular day;

**38 Paragraph 44-9(b)**

After “to determine whether the care recipient is”, insert “a \*supported resident,”.

Note: The heading to section 44-9 is altered by inserting “a **supported resident**,” before “a **concessional resident**”.

**39 Section 44-9**

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After “not to be”, insert “a supported resident under subsection 44-5B(1),”.

**40 Subsection 44-10(1)**

After “for the purposes of section”, insert “44-5A, 44-5B,”.

Note: The heading to section 44-11 is altered by inserting “*supported residents*,” before “*concessional residents*”.

**41 At the end of section 44-10**

Add:

- (5) A determination under paragraph (1A)(a), (1A)(b), (1B)(a) or (1B)(b) or subsection (1C) is not a legislative instrument.

**42 Subsection 44-12(3)**

Omit “in writing”, substitute “by legislative instrument”.

**43 After subsection 44-13(2)**

Insert:

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

**44 Paragraph 44-13(6)(a)**

Omit “in writing”, substitute “by legislative instrument”.

**45 Paragraph 44-13(6)(b)**

Omit “in writing”, substitute “by legislative instrument”.

**46 Subsection 44-13(7)**

After “(including nil amounts)”, insert “or methods”.

**47 Subsection 44-13(7)**

Omit “in writing”, substitute “by legislative instrument”.

**48 After subsection 44-14(2)**

Insert:

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



**49 Paragraph 44-14(6)(a)**

Omit “in writing”, substitute “by legislative instrument”.

**50 Paragraph 44-14(6)(b)**

Omit “in writing”, substitute “by legislative instrument”.

**51 Subsection 44-14(7)**

After “(including nil amounts)”, insert “or methods”.

**52 Subsection 44-14(7)**

Omit “in writing”, substitute “by legislative instrument”.

**53 Paragraph 44-15(1)(b)**

Omit “14 days”, substitute “28 days”.

**54 Subsection 44-16(3)**

Omit “in writing”, substitute “by legislative instrument”.

**55 After subsection 44-19(1)**

Insert:

(1A) A determination made under paragraph (1)(b) is not a legislative instrument.

**56 Subsections 44-19(2) and (3)**

Omit “in writing”, substitute “by legislative instrument”.

**57 After subsection 44-20(7)**

Insert:

(7A) A determination under subsection (5) or (6) is not a legislative instrument.

**58 Subsection 44-21(3) (Income tested reduction calculator, step 1)**

Omit “\*ordinary income”, substitute “\*total assessable income”.

**59 Subsection 44-21(3) (Income tested reduction calculator, step 2)**

Omit “\*ordinary income free area”, substitute “\*total assessable income free area”.

**60 Subsection 44-21(3) (Income tested reduction calculator, step 3)**

Omit “\*ordinary income” (first occurring), substitute “\*total assessable income”.

**61 Subsection 44-21(3) (Income tested reduction calculator, step 3)**

Omit “\*ordinary income free area”, substitute “\*total assessable income free area”.

**62 Subsection 44-21(3) (Income tested reduction calculator, step 4)**

Omit “\*ordinary income” (first occurring), substitute “\*total assessable income”.

**63 Subsection 44-21(3) (Income tested reduction calculator, step 4)**

Omit “\*ordinary income free area”, substitute “\*total assessable income free area”.

**64 Subsection 44-21(3) (Income tested reduction calculator, step 4, paragraph (a))**

Omit “25%”, substitute “<sup>5</sup>/<sub>12</sub>”.

**65 Subsection 44-21(3) (Income tested reduction calculator, step 4, paragraph (b))**

Omit “worked out by subtracting the care recipient’s \*standard resident contribution from an amount equal to 3 times the \*standard pensioner contribution”, substitute “equal to 150% of the \*basic age pension amount for that day (worked out on a per day basis)”.

**66 At the end of section 44-22**

Add:

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

**67 Subsection 44-23(1)**

Omit “44-24(5)”, substitute “44-24(8)”.

**68 Subsection 44-23(1)**

Omit “\*ordinary income”, substitute “\*total assessable income”.

**69 Subsection 44-23(2)**

Omit “\*ordinary income”, substitute “\*total assessable income”.

**70 Subsection 44-23(3)**

Omit “\*ordinary income”, substitute “\*total assessable income”.

**71 Paragraph 44-23(4)(a)**

Repeal the paragraph, substitute:

- (a) the amount equal to 150% of the \*basic age pension amount for that day (worked out on a per day basis);

**72 Section 44-24**

Repeal the section, substitute:

**44-24 The care recipient’s *total assessable income***

- (1) If the care recipient is not entitled to an \*income support payment, his or her ***total assessable income*** is the amount the Secretary determines to be the amount that would be worked out as the care recipient’s ordinary income for the purpose of applying Module E of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991*.

Note: Determinations are reviewable under Part 6.1.

- (2) If the care recipient is entitled to a \*service pension, his or her ***total assessable income*** is the sum of:
  - (a) the amount of the care recipient’s service pension; and
  - (b) the amount the Secretary determines to be the amount that would be worked out as the care recipient’s ordinary/adjusted income for the purpose of applying Module E of the Rate Calculator in Schedule 6 to the *Veterans’ Entitlements Act 1986*.

Note: Determinations are reviewable under Part 6.1.

- (3) If the care recipient is entitled to an \*income support supplement, his or her **total assessable income** is the sum of:
- (a) the amount of the care recipient's income support supplement; and
  - (b) the amount the Secretary determines to be the amount that would be worked out as the care recipient's ordinary/adjusted income for the purpose of applying Module E of the Rate Calculator in Schedule 6 to the *Veterans' Entitlements Act 1986*.

Note: Determinations are reviewable under Part 6.1.

- (4) If the care recipient is entitled to an \*income support payment (other than an \*income support supplement or a \*service pension), his or her **total assessable income** is the sum of:
- (a) the amount of the care recipient's income support payment; and
  - (b) the amount the Secretary determines to be the amount that would be worked out as the care recipient's ordinary income for the purpose of applying Module E of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991*.

Note: Determinations are reviewable under Part 6.1.

- (5) The Residential Care Subsidy Principles may specify amounts that are to be taken, in relation to specified kinds of care recipients, to be excluded from determinations under subsection (1) or paragraph (2)(b), (3)(b) or (4)(b).
- (6) For the purpose of making a determination under subsection (1) or paragraph (4)(b) of the amount that would be worked out as the care recipient's ordinary income for the purpose referred to in that subsection or paragraph, the relevant provisions of the *Social Security Act 1991* apply as if:
- (a) paragraph 8(8)(zc) of that Act were omitted; and
  - (b) section 1176 of that Act were omitted; and
  - (c) any other provision of the social security law (within the meaning of the *Social Security Act 1991*) were omitted:
    - (i) that has the direct or indirect effect of excluding an amount from a person's ordinary income (within the meaning of that Act); and

- (ii) that is specified in the Residential Care Subsidy Principles.

Note: The effect of this subsection is that certain amounts that would not be included when working out a person's ordinary income under the *Social Security Act 1991* will be included for the purposes of working out a care recipient's total assessable income under this section.

- (7) For the purpose of making a determination under paragraph (2)(b) or (3)(b) of the amount that would be worked out as the care recipient's ordinary/adjusted income for the purpose referred to in the relevant paragraph, the relevant provisions of the *Veterans' Entitlements Act 1986* apply as if:

- (a) section 59X of that Act were omitted; and
- (b) any other provision of the *Veterans' Entitlements Act 1986* were omitted:
  - (i) that has the direct or indirect effect of excluding an amount from a person's ordinary/adjusted income (within the meaning of that Act); and
  - (ii) that is specified in the Residential Care Subsidy Principles.

Note: The effect of this subsection is that certain amounts that would not be included when working out a person's ordinary/adjusted income under the *Veterans' Entitlements Act 1986* will be included for the purposes of working out a care recipient's total assessable income under this section.

- (8) The Secretary may, by notice in writing, request one or more of the following:

- (a) the care recipient;
- (b) a person acting for or on behalf of the care recipient;
- (c) any other person whom the Secretary believes has information that would assist the Secretary in making the determination;

to give, within the period specified in the notice, to the Secretary such information as is specified in the notice for the purposes of making the determination.

Note: A person is not obliged to provide the information.

- (9) A determination under subsection (1) or paragraph (2)(b), (3)(b) or (4)(b) takes effect on the day specified by the Secretary. The day may be earlier than the day on which the determination is made.

- (10) The Secretary must notify, in writing, the care recipient of any determination under subsection (1) or paragraph (2)(b), (3)(b) or (4)(b).
- (11) The notice must include such matters as are specified in the Residential Care Subsidy Principles.
- (12) A determination made under subsection (1) or paragraph (2)(b), (3)(b) or (4)(b) is not a legislative instrument.

Note: The Secretary can delegate functions related to determinations under subsection (1) or paragraph (2)(b), (3)(b) or (4)(b) to the Secretary of the Department administered by the Minister who administers the *Social Security Act 1991* and to the \*Repatriation Commission—see subsection 96-2(3).

**73 Section 44-25**

Repeal the section.

**74 Section 44-26**

Repeal the section, substitute:

**44-26 The care recipient's *total assessable income free area***

The *total assessable income free area* for the care recipient is the sum of:

- (a) the amount worked out by applying point 1064-B1 of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991*; and
- (b) the amount worked out by applying points 1064-BA1 to 1064-BA6 of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991*; and
- (c) the amount worked out by applying points 1064-C1 to 1064-C8 of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991*; and
- (d) the amount worked out by applying points 1064-E4 to 1064-E9 of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991*.

**75 Subsection 44-28(2)**

Repeal the subsection, substitute:

- (2) Subject to subsections (3), (5) and (6), the care recipient is eligible for a pensioner supplement on a particular day if:
- (a) the care recipient is a \*pre-2008 reform resident; and
  - (b) if the day falls before 20 March 2008—on that particular day any of the following apply to the care recipient:
    - (i) the care recipient was receiving an \*income support payment;
    - (ii) the care recipient had a \*dependent child;
    - (iii) the care recipient was provided with \*respite care;
    - (iv) the care recipient was included in a class of people specified in the Residential Care Subsidy Principles; and
  - (c) if the day falls on or after 20 March 2008—on that particular day any of the following apply to the care recipient:
    - (i) the care recipient was receiving an income support payment;
    - (ii) the care recipient had a dependent child;
    - (iii) the care recipient was included in a class of people specified in the Residential Care Subsidy Principles.

**76 Subsection 44-28(5)**

Omit “\*ordinary income”, substitute “\*total assessable income”.

**77 Subsection 44-28(6)**

Omit “\*ordinary income”, substitute “\*total assessable income”.

**78 Subsections 44-28(7) and (8)**

Omit “in writing”, substitute “by legislative instrument”.

**79 Subsection 44-29(2)**

After “make a determination”, insert “by legislative instrument”.

**80 Paragraph 44-29(5)(b)**

Omit “14 days”, substitute “28 days”.

**81 Paragraph 44-29(8)(a)**

Omit “in writing”, substitute “by legislative instrument”.

**82 Paragraph 44-29(8)(b)**

Omit “in writing”, substitute “by legislative instrument”.

**83 Subsection 44-29(9)**

After “different amounts”, insert “or methods”.

**84 Paragraph 44-29(9)(e)**

Omit “in writing”, substitute “by legislative instrument”.

**85 Paragraph 44-30(5)(a)**

Omit “in writing”, substitute “by legislative instrument”.

**86 Paragraph 44-30(5)(b)**

Omit “in writing”, substitute “by legislative instrument”.

**87 Subsection 44-30(6)**

After “(including nil amounts)”, insert “or methods”.

**88 Subsection 44-30(6)**

Omit “in writing”, substitute “by legislative instrument”.

**89 At the end of section 44-31**

Add:

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

**90 Section 46-4**

Before “If:”, insert “(1)”.

**91 At the end of section 46-4**

Add:

- (2) A notice given under subsection (1) is not a legislative instrument.

**92 After section 47-4**

Insert:



**47-4A Variations of claims for community care subsidy**

- (1) An approved provider may vary the claim made in respect of a \*payment period within:
  - (a) 2 years after the end of that payment period; or
  - (b) such longer period as is determined in respect of the claim by the Secretary.
  
- (2) In determining a longer period for the purposes of paragraph (1)(b), the Secretary must be satisfied that a variation is required:
  - (a) due to an administrative error made by the Commonwealth or an agent of the Commonwealth; or
  - (b) because the Commonwealth or an agent of the Commonwealth considers that the circumstances of a care recipient are different from those on the basis of which subsidy was claimed.

Note: Determinations of periods under paragraph (1)(b) are reviewable under Part 6.1.
  
- (3) A determination made under paragraph (1)(b) is not a legislative instrument.

**93 Paragraph 48-1(3)(a)**

Omit “in writing”, substitute “by legislative instrument”.

**94 Paragraph 48-1(3)(b)**

Omit “in writing”, substitute “by legislative instrument”.

**95 Subsection 48-1(4)**

After “rates of”, insert “or methods for working out”.

**96 Subsection 48-1(4)**

Omit “in writing”, substitute “by legislative instrument”.

**97 Subsection 50-2(2) (note)**

Omit “small or rural”, substitute “small, rural or remote”.

**98 Section 50-4**

Before “If:”, insert “(1)”.

**99 At the end of section 50-4**

Add:

(2) A notice given under subsection (1) is not a legislative instrument.

**100 Paragraph 52-1(1)(a)**

Omit “in writing”, substitute “by legislative instrument”.

**101 Paragraph 52-1(1)(b)**

Omit “in writing”, substitute “by legislative instrument”.

**102 Subsection 52-1(2)**

After “rates of”, insert “or methods for working out”.

**103 Subsection 52-1(2)**

Omit “in writing”, substitute “by legislative instrument”.

**104 Paragraph 57-2(1)(aa) (note)**

Repeal the note, substitute:

Note: If a care recipient’s assets at the time of the care recipient’s \*entry to the residential care service or \*flexible care service are less than the care recipient’s minimum permissible asset value (as defined in subsection 57-12(3)), the care recipient cannot be required to pay an \*accommodation bond—see section 57-12.

**105 Subsection 57-12(4)**

After “for the purposes of section”, insert “44-5B,”.

**106 Paragraph 57A-2(1)(a) (note)**

Repeal the note, substitute:

Note: If a care recipient’s assets at the time of the care recipient’s \*entry to the residential care service are less than the care recipient’s minimum permissible asset value (as defined in subsection 57-12(3)), the care recipient cannot be required to pay an \*accommodation charge—see section 57A-6.

**107 Subsection 57A-6(1)**

After “Subject to subsection (2)”, insert “and section 57A-8A”.

**108 Paragraph 57A-6(1)(b)**

After “the amount” (first occurring), insert “(rounded down to the nearest cent)”.

**109 Subparagraph 57A-6(1)(b)(ii)**

Omit “1,825”, substitute “2,080”.

**110 Subsection 57A-6(3)**

After “for the purposes of section”, insert “44-5B,”.

**111 After section 57A-8**

Insert:

**57A-8A Maximum amount of accommodation charge if care recipient moves between aged care services**

If:

- (a) an \*accommodation charge is payable by a care recipient for \*entry to an \*aged care service (the *prior service*) that is a residential care service; and
- (b) the care recipient ceases being provided with residential care through the prior service (other than because the care recipient is on \*leave) on or after 20 March 2008; and
- (c) the care recipient enters another aged care service that is a residential care service within 28 days after the day on which the care recipient ceased being provided with care by the prior service;

the maximum daily amount at which the accommodation charge accrues for the entry of the care recipient to the other service is the maximum daily amount of accommodation charge that accrued under section 57A-6 for entry of the care recipient to the prior service.

**112 Section 58-2 (Resident fee calculator, step 1)**

Omit “or 58-4”, substitute “, 58-4 or 58-4A”.

**113 Subsection 58-3(1)**

After “for a care recipient”, insert “who is a \*pre-2008 reform resident and”.

Note: The heading to section 58-3 is altered by omitting “people” and substituting “pre-2008 reform residents”.

**114 Subsection 58-3(2)**

After “for a care recipient”, insert “who is a \*pre-2008 reform resident and”.

**115 Subsection 58-4(1)**

After “for a care recipient”, insert “who is a \*pre-2008 reform resident and”.

Note: The heading to section 58-4 is altered by omitting “people” and substituting “pre-2008 reform residents”.

**116 Subsection 58-4(2)**

Repeal the subsection, substitute:

- (2) However, the *standard resident contribution* for a care recipient who:
- (a) is receiving an \*income support payment; and
  - (b) is a \*pre-2008 reform resident; and
  - (c) does not have a \*dependent child;
- is the amount worked out under section 58-3 if:
- (d) for \*entry to the residential care service in question, the care recipient paid an \*accommodation bond that exceeded the amount obtained by rounding to the nearest \$500.00 (rounding \$250.00 upwards) an amount equal to 10 times the \*basic age pension amount at the time of entry; or
  - (e) the \*daily income tested reduction in respect of the care recipient is an amount worked out under section 44-23.

**117 Subsection 58-4(3)**

Omit “paragraph (2)(a)”, substitute “paragraph (2)(d)”.

**118 After section 58-4**

Insert:

**58-4A Standard resident contribution—post-2008 reform residents**

The *standard resident contribution* for a care recipient who is a \*post-2008 reform resident is the amount obtained by rounding down to the nearest cent an amount equal to 85% of the \*basic age pension amount (worked out on a per day basis).

## **119 After section 63-1A**

Insert:

### **63-1B Responsibility relating to recording entry of new residents**

- (1) The responsibility of an approved provider in relation to the recording of the \*entry of a care recipient into a residential care service (other than as a recipient of \*respite care) is to comply with subsection (2).
- (2) An approved provider must, in the form approved by the Secretary and within the period specified in the Accountability Principles, notify the Secretary of each care recipient who \*enters a residential care service (other than as a recipient of \*respite care) operated by the approved provider on or after 20 March 2008.

## **120 Subsections 68-5(1) and (2)**

Omit “14 days”, substitute “28 days”.

## **121 Section 69-1**

Repeal the section, substitute:

### **69-1 What this Chapter is about**

The Commonwealth makes grants to contribute to costs associated with the establishment or enhancement of \*aged care services, with assessments or approvals related to \*aged care or with support services related to the provision of aged care. These grants are:

- \*residential care grants (see Part 5.1);
- \*community care grants (see Part 5.2);
- \*flexible care grants (see Part 5.2A);
- \*assessment grants (see Part 5.3);
- \*accreditation grants (see Part 5.4);

- \*advocacy grants (see Part 5.5);
- \*community visitors grants (see Part 5.6);
- other grants (see Part 5.7).

Grants are (in most cases) payable under agreements with the recipients of the grants, and may be subject to conditions.

### **122 Subsections 71-3(1) and (2)**

Omit “14 days”, substitute “28 days”.

### **123 Paragraph 72-1(4)(b)**

Omit “places” (first occurring), substitute “\*places”.

### **124 Section 72-2**

Repeal the section, substitute:

#### **72-2 Criteria for allocations**

The criteria for allocation of a \*residential care grant are:

- (a) a majority of the care recipients who receive, or who will receive, the care to which the grant relates are either or both of the following:
  - (i) \*supported residents, \*concessional residents or \*assisted residents;
  - (ii) \*people with special needs or people of a kind specified in the Residential Care Grant Principles; and
- (b) such other criteria as are specified in the Residential Care Grant Principles.

### **125 Paragraph 72-3(1)(a)**

Before “\*concessional residents”, insert “\*supported residents,”.

### **126 Paragraph 73-2(b)**

Before “\*concessional residents”, insert “\*supported residents,”.

### **127 Paragraph 76-1(1)(b)**

Omit “to cover additional areas”.

**128 At the end of subsection 76-1(1)**

Add:

; or (c) such other kinds of projects as are described in the  
Community Care Grant Principles.

**129 Paragraph 76-3(2)(b)**

Omit “14 days”, substitute “28 days”.

**130 After Part 5.2**

Insert:

**Part 5.2A—Flexible care grants**

**Division 78A—Introduction**

**78A-1 What this Part is about**

The Commonwealth makes \*flexible care grants to contribute towards the costs associated with some projects undertaken by approved providers to establish flexible care services or to enhance their capacity to provide flexible care.

**Table of Divisions**

78A	Introduction
78B	How are flexible care grants allocated?
78C	On what basis are flexible care grants paid?
78D	How much is a flexible care grant?

**78A-2 The Flexible Care Grant Principles**

\*Flexible care grants are also dealt with in the Flexible Care Grant Principles. The provisions in this Part indicate when a particular matter is or may be dealt with in these Principles.

Note: The Flexible Care Grant Principles are made by the Minister under section 96-1.

## **Division 78B—How are flexible care grants allocated?**

### **78B-1 Allocation of flexible care grants**

- (1) The Secretary may allocate \*flexible care grants to approved providers in respect of the costs of projects for:
  - (a) establishing new flexible care services; or
  - (b) extending existing flexible care services; or
  - (c) such other kinds of projects as are described in the Flexible Care Grant Principles.
- (2) The allocation must meet the criteria for allocations (see section 78B-2).
- (3) A person may apply for an allocation of \*flexible care grants (see section 78B-3).

Note: An applicant who is not an approved provider must become an approved provider for a flexible care grant to be allocated (see subsection (1)).

- (4) A \*flexible care grant can only be allocated to an approved provider:
  - (a) whose approval under Part 2.1 includes flexible care (see subsection 8-1(2)); and
  - (b) who holds an allocation of \*places for \*flexible care subsidy under Part 2.2 (whether or not it is a \*provisional allocation), being places that are, or are to be, included in the flexible care service in respect of which the grant is payable.

### **78B-2 Criteria for allocations**

The criteria for allocation of a \*flexible care grant are as follows:

- (a) whether there is a need for the \*flexible care service, or proposed flexible care service, to which the grant would relate;
- (b) whether the grant would assist:
  - (i) people in rural or remote areas; or
  - (ii) Aboriginal and Torres Strait Islander communities;
- (c) such other criteria as are specified in the Flexible Care Grant Principles.



### **78B-3 Applications for flexible care grants**

- (1) An application for the allocation of a \*flexible care grant must be in a form approved by the Secretary.
- (2) If the Secretary needs further information to determine the application, the Secretary may give to the applicant a notice requesting the further information:
  - (a) within the period specified in the notice; or
  - (b) if no period is specified in the notice—within 28 days after receiving the notice.
- (3) The application is taken to be withdrawn if the applicant does not give the further information within whichever of those periods applies.

Note: The period for giving the further information can be extended—see section 96-7.
- (4) The notice must contain a statement setting out the effect of subsection (3).

### **78B-4 Notification of allocation**

- (1) The Secretary must notify, in writing, each applicant to whom a \*flexible care grant has been allocated. The notice must be given within 14 days after the Secretary's decision under section 78B-1 is made.
- (2) The notice must specify:
  - (a) the amount of the grant (see Division 78D); and
  - (b) the project to which the grant relates; and
  - (c) when the grant, or the instalments of the grant, will be paid (see Division 78C); and
  - (d) if the grant is to be paid in more than one instalment—the amounts of the instalments or how they will be worked out (see Division 78C); and
  - (e) the conditions on which the grant is payable (see Division 78C).

### **78B-5 Notice to unsuccessful applicants**

- (1) The Secretary must notify, in writing, each applicant to whom a \*flexible care grant has not been allocated. The notice must be given within 14 days after the Secretary's decision under section 78B-1 is made.
- (2) The notice must set out the reasons for the applicant not being allocated a grant.

## **Division 78C—On what basis are flexible care grants paid?**

### **78C-1 Basis on which flexible care grants are paid**

- (1) A \*flexible care grant is payable to an approved provider:
  - (a) at such time as the Secretary determines in writing; and
  - (b) in full or in such instalments as the Secretary determines in writing.
- (2) The grant is subject to such conditions (if any) as the Secretary determines in writing (see section 78C-2).
- (3) The grant is not payable unless the approved provider enters into an agreement with the Commonwealth under which the approved provider agrees to comply with the conditions to which the grant is subject.

### **78C-2 Conditions of flexible care grants**

The following are examples of matters with which the conditions of a \*flexible care grant may deal:

- (a) the kinds of people who are to be provided with care when the project, in respect of which the grant is payable, is completed;
- (b) the period within which one or more conditions must be complied with by the approved provider;
- (c) the period within which the \*flexible care service in respect of which the grant is payable is to be operational;
- (d) the amount of money to be provided by the approved provider for the project;
- (e) information to be given to the Commonwealth by the approved provider;

- (f) the approved provider's compliance with:
  - (i) any responsibilities of the approved provider under Chapter 4; and
  - (ii) conditions imposed in respect of other payments made under this Chapter to the approved provider;
- (g) the circumstances in which the grant must be repaid.

### **78C-3 Grants payable only if certain conditions met**

- (1) The Secretary may specify which of the conditions of a \*flexible care grant must be met before the grant is payable.
- (2) The grant is not payable unless the approved provider complies with those conditions.
- (3) However, payment of the grant to the approved provider does not affect the approved provider's obligation to comply with any other conditions to which the grant is subject.

### **78C-4 Variation or revocation of allocations**

- (1) The Secretary may vary or revoke an allocation of a \*flexible care grant if the Secretary is satisfied that a condition to which the allocation is subject has not been met.

Note: Variations or revocations of allocations are reviewable under Part 6.1.
- (2) A variation of the allocation may be either or both of the following:
  - (a) a reduction of the amount of the grant;
  - (b) a variation of any of the conditions to which the allocation is subject.
- (3) Before deciding to vary or revoke the allocation, the Secretary must notify the approved provider that it is being considered. The notice:
  - (a) must be in writing; and
  - (b) must invite the approved provider to make submissions, in writing, to the Secretary within 28 days after receiving the notice; and
  - (c) must inform the approved provider that, if no submissions are made within that period, the variation or revocation takes effect on the day after the last day for making submissions.

- (4) In making the decision whether to vary or revoke the allocation, the Secretary must consider any submissions made within that period.
- (5) The Secretary must notify, in writing, the approved provider of the decision.
- (6) The notice must be given to the approved provider within 28 days after the end of the period for making submissions. If the notice is not given within that period, the Secretary is taken to have decided not to vary or revoke the allocation, as the case requires.
- (7) A variation or revocation has effect:
  - (a) if no submissions were made within the 28 day period—on the day after the last day for making submissions; or
  - (b) if submissions were made within that period—on the day after the approved provider receives a notice under subsection (5).

#### **78C-5 Variation of allocations on application of approved provider**

- (1) An approved provider may at any time apply to the Secretary for a variation of an allocation of a \*flexible care grant to the approved provider.
- (2) A variation of the allocation may be either or both of the following:
  - (a) a reduction of the amount of the grant;
  - (b) a variation of any of the conditions to which the allocation is subject.
- (3) The application must be in the form approved by the Secretary.
- (4) The Secretary must, within 28 days after receiving the application:
  - (a) make a variation; or
  - (b) reject the application;and, within that period, notify the approved provider accordingly.

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

### **78C-6 Agreement taken to be varied**

If the Secretary varies, under section 78C-4 or 78C-5, one or more of the conditions of an allocation, the agreement entered into under subsection 78C-1(3) is taken to be varied accordingly.

### **78C-7 Appropriation**

Payments by the Commonwealth under this Part are to be made out of money appropriated by the Parliament for the purpose.

## **Division 78D—How much is a flexible care grant?**

### **78D-1 The amount of a flexible care grant**

- (1) The amount of a \*flexible care grant is the amount specified in, or worked out in accordance with, the Flexible Care Grant Principles.
- (2) The following are examples of matters with which the Flexible Care Grant Principles may deal in relation to the amounts of \*flexible care grants:
  - (a) the circumstances of approved providers to which the grants are payable;
  - (b) the purposes for which the grants are payable;
  - (c) the locations of the \*flexible care services to which the grants relate;
  - (d) the kinds of people who will be provided with flexible care through the services;
  - (e) limits on the amounts of the grants.

### **131 Section 85-1 (after table item 39)**

Insert:

- |      |   |               |
|------|---|---------------|
| 39AA | To extend the period within which a variation of a claim for residential care subsidy can be made           | section 43-4A |
| 39AB | To refuse to extend the period within which a variation of a claim for residential care subsidy can be made | section 43-4A |

### **132 Section 85-1 (table item 46)**

Repeal the table item, substitute:

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- |    |  |   |
|----|--|---|
| 46 | To make a determination for the purposes of working out a care recipient's total assessable income | subsection 44-24 (1) or paragraph 44-24(2)(b), (3)(b) or (4)(b) |
|----|--|---|

**133 Section 85-1 (after table item 49)**

Insert:

- |     |   |               |
|-----|---|---------------|
| 49A | To extend the period within which a variation of a claim for community care subsidy can be made           | section 47-4A |
| 49B | To refuse to extend the period within which a variation of a claim for community care subsidy can be made | section 47-4A |

**134 Section 85-1 (at the end of the table)**

Add:

- |    |   |                     |
|----|---|---------------------|
| 62 | To vary or revoke an allocation of a flexible care grant                | subsection 78C-4(1) |
| 63 | To vary an allocation of a flexible care grant                          | subsection 78C-5(4) |
| 64 | To reject an application to vary an allocation of a flexible care grant | subsection 78C-5(4) |

**135 Subsection 85-4(2)**

Omit “of a care recipient’s \*ordinary income”, substitute “for the purposes of working out a care recipient’s \*total assessable income”.

**136 Paragraphs 85-4(2)(a) and (b)**

Omit “Secretary to the Department of Social Security”, substitute “Secretary of the Department administered by the Minister who administers the *Social Security Act 1991*”.

**137 Subsection 85-5(2)**

Omit “of a care recipient’s \*ordinary income”, substitute “for the purposes of working out a care recipient’s \*total assessable income”.

**138 Paragraphs 85-5(2)(a) and (b)**

Omit “Secretary to the Department of Social Security”, substitute “Secretary of the Department administered by the Minister who administers the *Social Security Act 1991*”.

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**139 Paragraph 85-5(3)(b)**

Omit “to determine a care recipient’s \*ordinary income”, substitute “to make a determination under subsection 44-24(1) or paragraph 44-24(2)(b), (3)(b) or (4)(b)”.

**140 Subsection 85-6(1)**

Omit “of a person’s \*ordinary income”, substitute “for the purposes of working out a person’s \*total assessable income”.

**141 Paragraph 85-6(3)(a)**

Omit “as the person’s \*ordinary income”.

**142 Paragraph 85-6(3)(b)**

Omit “as the person’s ordinary income”.

**143 Paragraph 85-6(4)(a)**

Omit “as the person’s \*ordinary income”.

**144 Paragraph 85-7(1)(a)**

Omit “of a person’s \*ordinary income”, substitute “for the purposes of working out a person’s \*total assessable income”.

**145 Subsection 85-7(2)**

Omit “44-24(7)”, substitute “44-24(10)”.

**146 Subsections 85-7(3) and (4)**

Omit “as the person’s \*ordinary income”.

**147 Paragraph 86-3(cb)**

Repeal the paragraph, substitute:

(cb) to the Secretary of the Department administered by the Minister who administers the *Social Security Act 1991*; and

**148 Section 86-7**

Omit “Department of Social Security”, substitute “Department administered by the Minister who administers the *Social Security Act 1991*”.

**149 Section 86-7**

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Omit “Department of Veterans’ Affairs”, substitute “Department administered by the Minister who administers the *Veterans’ Entitlements Act 1986*”.

Note: The heading to section 86-7 is altered by omitting “Departments of Social Security and Veterans’ Affairs” and substituting “certain Departments”.

**150 Subsection 96-1(1) (after table item 14)**

Insert:

14A Flexible Care Grant Principles Part 5.2A

**151 Paragraph 96-2(2A)(b)**

Repeal the paragraph, substitute:

(b) the Secretary of the Department administered by the Minister who administers the *Veterans’ Entitlements Act 1986*.

**152 Paragraph 96-2(3)(a)**

Repeal the paragraph, substitute:

(a) the Secretary of the Department administered by the Minister who administers the *Social Security Act 1991*;

**153 Subsection 96-2(3)**

Omit “of a care recipient’s \*ordinary income”, substitute “for the purposes of working out a care recipient’s \*total assessable income”.

**154 Subsection 96-2(3) (note)**

Repeal the note, substitute:

Note: The calculation of a care recipient’s \*total assessable income is relevant to applying the income test under Subdivision 44-E.

**155 Paragraph 96-2(3A)(b)**

Repeal the paragraph, substitute:

(b) the Secretary of the Department administered by the Minister who administers the *Veterans’ Entitlements Act 1986*;

**156 Subsection 96-2(6B)**

Omit “Department administering the *Veterans’ Entitlements Act 1986*”, substitute “Department administered by the Minister who administers the *Veterans’ Entitlements Act 1986*”.

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**157 Subsection 96-2(7)**

Omit “the Secretary to the Department of Social Security” (wherever occurring), substitute “the Secretary of the Department administered by the Minister who administers the *Social Security Act 1991*”.

**158 Section 96-12**

Repeal the section.

**159 Clause 1 of Schedule 1**

Insert:

*flexible care grant* means a grant payable under Part 5.2A.

**160 Clause 1 of Schedule 1 (paragraph (b) of the definition of *income support payment*)**

Repeal the paragraph.

**161 Clause 1 of Schedule 1 (definition of *ordinary income*)**

Repeal the definition.

**162 Clause 1 of Schedule 1 (definition of *ordinary income free area*)**

Repeal the definition.

**163 Clause 1 of Schedule 1**

Insert:

*post-2008 reform resident* has the meaning given in section 44-5C.

**164 Clause 1 of Schedule 1**

Insert:

*pre-2008 reform resident* has the meaning given in section 44-5D.

**165 Clause 1 of Schedule 1**

Insert:

*pre-entry leave* has the meaning given in section 44-5E.

**166 Clause 1 of Schedule 1 (definition of *Secretary*)**

Repeal the definition, substitute:

*Secretary* means the Secretary of the Department.

**167 Clause 1 of Schedule 1 (definition of *standard resident contribution*)**

Omit “or 58-4”, substitute “, 58-4 or 58-4A”.

**168 Clause 1 of Schedule 1**

Insert:

*supported resident* has the meaning given in section 44-5B.

**169 Clause 1 of Schedule 1**

Insert:

*total assessable income* has the meaning given in section 44-24.

**170 Clause 1 of Schedule 1**

Insert:

*total assessable income free area* has the meaning given in section 44-26.

## **Part 2—Application and transitional provisions**

### **171 Application of item 10**

The amendment made by item 10 of this Schedule applies to provisional allocations in respect of which notification under subsection 15-4(3) of the *Aged Care Act 1997* is given on or after 20 March 2008.

### **172 Application of item 11**

The amendment made by item 11 of this Schedule applies to applications for variations of provisional allocations made on or after 20 March 2008.

### **173 Application of items 14, 17, 53, 80, 120, 122 and 129**

The amendments made by items 14, 17, 53, 80, 120, 122 and 129 of this Schedule apply to requests for further information made on or after 20 March 2008.

### **174 Application of item 31**

The amendment made by item 31 of this Schedule applies to resident status determinations made under subsection 44-8AA(1) of the *Aged Care Act 1997* on or after 20 March 2008.

### **175 Application of items 58 to 65 and 72 to 74**

The amendments made by items 58 to 65 and 72 to 74 of this Schedule apply to the calculation of the daily income tested reduction under section 44-21 of the *Aged Care Act 1997* for a day that falls on or after 20 March 2008.

### **176 Application of items 67 to 70**

The amendments made by items 67 to 70 of this Schedule apply in relation to requests made for the purposes of determining a matter under section 44-24 of the *Aged Care Act 1997* for the purposes of calculating the daily income tested reduction for a day that falls on or after 20 March 2008.

### **177 Application of item 71**

The amendment made by item 71 of this Schedule applies in relation to the calculation of the daily income tested reduction under subsection 44-23(4) of the *Aged Care Act 1997* for a day that falls on or after 20 March 2008.

**178 Application of item 76**

The amendment made by item 76 of this Schedule applies in relation to requests made for the purposes of determining a matter under section 44-24 of the *Aged Care Act 1997* for the purposes of calculating the daily income tested reduction for a day that falls on or after 20 March 2008.

**179 Application of item 77**

The amendment made by item 77 of this Schedule applies in relation to elections made for the purposes of determining a matter under section 44-24 of the *Aged Care Act 1997* for the purposes of calculating the daily income tested reduction for a day that falls on or after 20 March 2008.

**180 Application of items 108 and 109**

The amendments made by items 108 and 109 of this Schedule apply in relation to a calculation of the maximum daily amount at which an accommodation charge accrues for a care recipient if:

- (a) the care recipient enters a residential care service for the first time on or after 20 March 2008; or
- (b) the care recipient enters a residential care service for the first time before 20 March 2008, but there is a break in residential care (as defined in subsection 44-5D(2) of the *Aged Care Act 1997*, inserted by item 26 of this Schedule) of more than 28 days between:
  - (i) the last residential care service through which residential care was provided, or taken to be provided, to the care recipient before 20 March 2008 and the next residential care service through which residential care is provided, or taken to be provided, to the care recipient; and
  - (ii) any residential care service through which residential care is provided, or taken to be provided, to the care recipient on or after 20 March 2008 and the next

residential care service through which residential care is provided, or taken to be provided, to the care recipient.

### **181 Application of item 124**

The amendment made by item 124 of this Schedule applies in relation to residential care grants allocated on or after 20 March 2008.

### **182 Application of items 127 and 128**

The amendments made by items 127 and 128 of this Schedule apply in relation to community care grants allocated on or after 20 March 2008.

### **183 Application of items 132, 135, 137 and 139 to 146**

The amendments made by items 132, 135, 137 and 139 to 146 of this Schedule apply in relation to decisions in relation to the determination of matters under section 44-24 of the *Aged Care Act 1997* for the purposes of calculating the daily income tested reduction for a day that falls on or after 20 March 2008.

### **184 Application of items 153 and 154**

The amendments made by items 153 and 154 of this Schedule apply in relation to the determination of matters under section 44-24 of the *Aged Care Act 1997* for the purposes of calculating the daily income tested reduction for a day that falls on or after 20 March 2008.

### **185 Transitional provision**

- (1) This item applies to claims for subsidy made under section 43-4 before 20 March 2008.
- (2) Section 43-4A (as inserted by item 21 of this Schedule) applies to those claims as if the reference in paragraph 43-4A(1)(a) of the *Aged Care Act 1997* to the end of the payment period were a reference to 20 March 2008.

### **186 Transitional provision**

- (1) This item applies to claims for subsidy made under section 47-4 before 20 March 2008.
- (2) Section 47-4A of the *Aged Care Act 1997* (as inserted by item 93 of this Schedule) applies to those claims as if the reference in paragraph

**Schedule 1** Aged Care Act 1997

**Part 2** Application and transitional provisions

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47-4A(1)(a) of that Act to the end of the payment period were a reference to 20 March 2008.

## **Schedule 2—Aged Care (Bond Security) Act 2006**

### **1 At the end of subsection 4(2)**

Add “, except the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands”.

## **Schedule 3—Aged Care (Bond Security) Levy Act 2006**

### **1 At the end of subsection 3(2)**

Add “, except the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands”.

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*[Minister’s second reading speech made in—  
House of Representatives on 13 February 2008  
Senate on 14 February 2008]*

(14/08)

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