



# **Australian Aged Care Quality Agency Act 2013**

**No. 79, 2013**

## **Compilation No. 4**

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**This compilation includes a commenced amendment made by Act No. 126, 2015**

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## About this compilation

### This compilation

This is a compilation of the *Australian Aged Care Quality Agency Act 2013* that shows the text of the law as amended and in force on 5 March 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# An Act to establish the Australian Aged Care Quality Agency, and for related purposes

## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *Australian Aged Care Quality Agency Act 2013*.

### 2 Commencement

This Act commences on 1 January 2014.

### 3 Definitions

In this Act:

**Accreditation Standards** means the Accreditation Standards set out in the Quality of Care Principles made under section 96-1 of the *Aged Care Act 1997*.

**Advisory Council** means the Aged Care Quality Advisory Council established by section 29.

**Advisory Council member** means a member of the Advisory Council and includes the Chair of the Advisory Council.

**aged care** has the meaning given by the Dictionary in Schedule 1 to the *Aged Care Act 1997*.

**Aged Care Complaints Commissioner** means the Aged Care Complaints Commissioner holding office under Part 6.6 of the *Aged Care Act 1997*.

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***Aged Care Pricing Commissioner*** means the Aged Care Pricing Commissioner holding office under Part 6.7 of the *Aged Care Act 1997*.

***aged care service*** has the meaning given by the Dictionary in Schedule 1 to the *Aged Care Act 1997*.

***approved provider*** has the meaning given by the Dictionary in Schedule 1 to the *Aged Care Act 1997*.

***care recipient*** means a person approved under Part 2.3 of the *Aged Care Act 1997* as a recipient of aged care.

***CEO***: see Chief Executive Officer.

***Chair*** means the Chair of the Advisory Council.

***Chief Executive Officer*** or ***CEO*** means the Chief Executive Officer of the Quality Agency.

***home care*** has the meaning given by the Dictionary in Schedule 1 to the *Aged Care Act 1997*.

***home care service*** has the meaning given by the Dictionary in Schedule 1 to the *Aged Care Act 1997*.

***Home Care Standards*** means the Home Care Standards set out in the Quality of Care Principles made under section 96-1 of the *Aged Care Act 1997*.

***people with special needs*** has the meaning given by section 11-3 of the *Aged Care Act 1997*.

***personal information*** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

***protected information*** is information that:



- (a) was acquired in the performance of the functions of the CEO or the Advisory Council; and
- (b) either:
  - (i) is personal information; or
  - (ii) relates to the affairs of an approved provider.

**Quality Agency** means the Australian Aged Care Quality Agency established by section 7.

**Quality Agency Principles** means the Principles made under section 53.

**quality assessor** means a person registered as a quality assessor in accordance with the Quality Agency Principles.

**residential care** has the meaning given by the Dictionary in Schedule 1 to the *Aged Care Act 1997*.

**residential care service** has the meaning given by the Dictionary in Schedule 1 to the *Aged Care Act 1997*.

**Secretary** means the Secretary of the Department.

**vacancy**, in relation to the office of an Advisory Council member, has a meaning affected by section 4.

#### **4 Vacancy in the office of an Advisory Council member**

For the purposes of a reference in:

- (a) this Act to a **vacancy** in the office of an Advisory Council member; or
- (b) the *Acts Interpretation Act 1901* to a **vacancy** in the membership of a body;

there are taken to be 10 offices of Advisory Council members in addition to the Chair.

#### **5 Crown to be bound**

This Act binds the Crown in each of its capacities.

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**6 Extension to external Territories**

- (1) This Act applies in all the States and Territories.
- (2) However, this Act does not apply in any external Territory, except the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands.

## **Part 2—Australian Aged Care Quality Agency**

### **7 Establishment**

- (1) The Australian Aged Care Quality Agency is established by this section.
- (2) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
  - (a) the Quality Agency is a listed entity; and
  - (b) the CEO is the accountable authority of the Quality Agency; and
  - (c) the following persons are officials of the Quality Agency:
    - (i) the CEO;
    - (ii) the staff of the Quality Agency;
    - (iii) persons assisting the CEO referred to in section 27;
    - (iv) consultants engaged under section 28; and
  - (d) the purposes of the Quality Agency include:
    - (i) the function of the Quality Agency referred to in section 9; and
    - (ii) the functions of the CEO referred to in section 12.

### **8 Constitution**

The Quality Agency consists of:

- (a) the CEO; and
- (b) the staff of the Quality Agency.

Note: The Quality Agency does not have a legal identity separate from the Commonwealth.

### **9 Function**

The Quality Agency's function is to assist the CEO in the performance of the CEO's functions.

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**10 Quality Agency to have the privileges and immunities of the Crown**

The Quality Agency has the privileges and immunities of the Crown.

## **Part 3—Chief Executive Officer, staff and consultants**

### **Division 1—Function and powers of the CEO**

#### **11 Chief Executive Officer**

There is to be a Chief Executive Officer of the Quality Agency.

#### **12 Functions of the CEO**

The CEO has the following functions:

- (a) to accredit residential care services in accordance with the Quality Agency Principles, and the Accreditation Standards made under the *Aged Care Act 1997*;
- (b) from 1 July 2014, to conduct the quality review of home care services in accordance with the Quality Agency Principles, and the Home Care Standards made under the *Aged Care Act 1997*;
- (c) to register quality assessors of residential and home care services in accordance with the Quality Agency Principles;
- (d) to advise the Secretary about aged care services that do not meet the Accreditation Standards or the Home Care Standards;
- (e) to promote high quality care, innovation in quality management and continuous improvement amongst approved providers of aged care;
- (f) to provide information, education and training to approved providers of aged care in accordance with the Quality Agency Principles;
- (g) such other functions as are conferred on the CEO by this Act, the *Aged Care Act 1997* or any other Commonwealth law;
- (h) such other functions (if any) as are specified by the Minister by legislative instrument;

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- (i) to do anything incidental to or conducive to the performance of any of the above functions.

### **13 Powers of the CEO**

The CEO has the power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions.

Note: The use and management of public resources must comply with the requirements in the *Public Governance, Performance and Accountability Act 2013*.

### **14 Minister may give directions to the CEO**

- (1) The Minister may, by legislative instrument, give directions to the CEO about the performance of the CEO's functions.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) Directions given by the Minister under subsection (1) must be of a general nature only.
- (3) The CEO must comply with a direction given by the Minister under subsection (1).
- (4) Subsection (3) does not apply to the extent that the direction relates to the CEO's performance of functions or exercise of powers under the *Public Service Act 1999* in relation to the Quality Agency.

Note 1: Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the direction: see regulations made for the purposes of paragraph 44(2)(b) of that Act.

Note 2: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the direction: see regulations made for the purposes of paragraph 54(2)(b) of that Act.

### **15 Fees**

- (1) The CEO may charge fees for services provided by the CEO in performing his or her functions.

(2) A fee must not be such as to amount to taxation.

## Division 2—Appointment of the CEO

### 16 Appointment

- (1) The CEO is to be appointed by the Minister by written instrument, on a full-time basis.
- (2) The appointment of a person as CEO is not invalid merely because of a defect or irregularity in connection with the person's appointment.

### 17 Term of appointment

The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: The CEO is eligible for reappointment: see section 33AA of the *Acts Interpretation Act 1901*.

### 18 Acting CEO

The Minister may appoint a person to act as CEO:

- (a) during a vacancy in the office of CEO, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the CEO is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office of CEO.



## **Division 3—Terms and conditions of the CEO's appointment**

### **19 Remuneration and allowances**

- (1) The CEO 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 CEO is to be paid the remuneration that is prescribed by the regulations.
- (2) The CEO is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **20 Leave of absence**

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant to the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines in writing.

### **21 Outside employment**

The CEO must not engage in paid employment outside the duties of his or her office without the Minister's approval.

### **23 Other terms and conditions**

The CEO holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined, in writing, by the Minister.

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**24 Resignation**

- (1) The CEO may resign his or her appointment by giving the Minister a signed notice of 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.

**25 Termination of appointment**

- (1) The Minister may terminate the appointment of the CEO:
  - (a) for misbehaviour; or
  - (b) if the CEO:
    - (i) is unable to perform the duties of his or her office because of physical or mental incapacity; or
    - (ii) is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
    - (iii) engages, without the Minister's approval, in paid employment outside the duties of his or her office (see section 21); or
    - (iv) fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.
- (2) The Minister must terminate the appointment of the CEO if the CEO:
  - (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.

## **Division 4—Staff and consultants**

### **26 Staff**

- (1) The staff of the Quality Agency are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
  - (a) the CEO and the staff of the Quality Agency together constitute a Statutory Agency; and
  - (b) the CEO is the Head of that Statutory Agency.

### **27 Persons assisting the CEO**

- (1) The CEO may also be assisted by:
  - (a) officers and employees of Agencies (within the meaning of the *Public Service Act 1999*), and of authorities of the Commonwealth, whose services are made available to the Quality Agency in connection with the performance of any of its functions; and
  - (b) persons whose services are so made available under arrangements made under subsection (2).
- (2) The CEO may, on behalf of the Commonwealth, make an arrangement with the appropriate authority or officer of a State or Territory government or government authority under which the government or government authority makes officers or employees available to the CEO to perform services in connection with the performance of any of the CEO's functions.
- (3) An arrangement under subsection (2) may provide for the Commonwealth to reimburse a State or Territory with respect to the services of a person or persons to whom the arrangement relates.
- (4) When performing services for the CEO under this section, a person is subject to the directions of the CEO.

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**28 Consultants**

- (1) The CEO may, on behalf of the Commonwealth, engage persons having suitable qualifications and experience as consultants to the CEO.
- (2) The consultants are to be engaged on the terms and conditions that the CEO determines in writing.

## **Part 4—Aged Care Quality Advisory Council**

### **29 Establishment of the Aged Care Quality Advisory Council**

The Aged Care Quality Advisory Council is established by this section.

### **30 Functions of the Advisory Council**

The Advisory Council's functions are:

- (a) on its own initiative, to provide advice to the CEO in relation to the CEO's functions; and
- (b) at the request of the CEO, to provide advice to the CEO in relation to the CEO's functions; and
- (c) at the request of the Minister, to provide advice to the Minister in relation to the operations of the Quality Agency and matters relating to the performance of the CEO's functions.

### **31 Membership of the Advisory Council**

The Advisory Council consists of the following members:

- (a) a Chair;
- (b) at least 6, and not more than 10, other members.

### **32 Appointment of Advisory Council members**

- (1) Each Advisory Council member is to be appointed by the Minister by written instrument.
- (2) An Advisory Council member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: An Advisory Council member may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

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- (3) An Advisory Council member holds office on a part-time basis.
- (4) A person is not eligible for appointment to the Advisory Council unless the Minister is satisfied that the person has substantial experience or knowledge in at least one of the following fields:
  - (a) evaluation of quality management systems;
  - (b) provision of aged care, including provision of aged care to people with special needs;
  - (c) aged care consumer issues;
  - (d) geriatrics;
  - (e) gerontology;
  - (f) aged care nursing;
  - (g) psychiatry of the older person;
  - (h) adult education;
  - (i) public administration;
  - (j) management;
  - (k) law;
  - (l) health consumer issues;
  - (m) any other appropriate field of expertise.

**33 Procedures of the Advisory Council**

- (1) The Minister may give the Advisory Council written directions about:
  - (a) the way in which the Advisory Council is to carry out its functions; and
  - (b) procedures to be followed in relation to meetings.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

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

**34 Acting appointments—Chair**

- (1) The Minister may appoint a person to act as the Chair of the Advisory Council:
- (a) during a vacancy in the office of the Chair of the Advisory Council (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when the Chair of the Advisory Council:
    - (i) is absent from duty or from Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

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

- (2) A person is not eligible for appointment to act as the Chair of the Advisory Council unless the person is eligible for appointment as an Advisory Council member.

Note: See subsection 32(4).

**35 Acting appointments—members other than the Chair**

- (1) The Minister may appoint a person to act as an Advisory Council member (other than the Chair):
- (a) during a vacancy in the office of an Advisory Council member (other than the Chair), whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when an Advisory Council member (other than the Chair):
    - (i) is absent from duty or from Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

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

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- (2) A person is not eligible for appointment to act as an Advisory Council member unless the person is eligible for appointment as an Advisory Council member.

Note: See subsection 32(4).

**36 Remuneration and allowances**

- (1) An Advisory Council member 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 member is to be paid the remuneration that is prescribed by the regulations.
- (2) However, an Advisory Council member is not entitled to be paid remuneration if he or she holds an office or appointment, or is otherwise employed, on a full-time basis in the service or employment of:
- (a) a State; or
  - (b) a corporation (a *public statutory corporation*) that:
    - (i) is established for a public purpose by a law of a State; and
    - (ii) is not a tertiary education institution; or
  - (c) a company limited by guarantee, where the interests and rights of the members in or in relation to the company are beneficially owned by a State; or
  - (d) a company in which all the stock or shares are beneficially owned by a State or by a public statutory corporation.

Note: A similar rule applies to an Advisory Council member who has a similar relationship with the Commonwealth or a Territory: see subsection 7(11) of the *Remuneration Tribunal Act 1973*.

- (3) An Advisory Council member is to be paid the allowances that are prescribed by the regulations.
- (4) This section (other than subsection (2)) has effect subject to the *Remuneration Tribunal Act 1973*.



**37 Leave of absence**

- (1) The Chair of the Advisory Council may grant leave of absence to any other Advisory Council member on the terms and conditions that the Chair determines.
- (2) The Minister may grant leave of absence to the Chair of the Advisory Council on the terms and conditions that the Minister determines.

**38 Resignation**

- (1) An Advisory Council member 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.

**39 Disclosure of interests to the Minister**

An Advisory Council member must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

**40 Disclosure of interests to the Advisory Council**

- (1) An Advisory Council member who has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Advisory Council must disclose the nature of the interest to a meeting of the Advisory Council.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (3) The disclosure must be recorded in the minutes of the meeting of the Advisory Council.

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- (4) Unless the Advisory Council otherwise determines, the Advisory Council member:
  - (a) must not be present during any deliberation by the Advisory Council on the matter; and
  - (b) must not take part in any decision of the Advisory Council with respect to the matter.
- (5) For the purposes of making a determination under subsection (4), the Advisory Council member:
  - (a) must not be present during any deliberation of the Advisory Council for the purpose of making the determination; and
  - (b) must not take part in making the determination.
- (6) A determination under subsection (4) must be recorded in the minutes of the meeting of the Advisory Council.

**41 Termination of appointment**

- (1) The Minister may terminate the appointment of an Advisory Council member:
  - (a) for misbehaviour; or
  - (b) if the member:
    - (i) is unable to perform the duties of his or her office because of physical or mental incapacity; or
    - (ii) is absent, except on leave of absence, from 3 consecutive meetings of the Advisory Council; or
    - (iii) fails, without reasonable excuse, to comply with section 39 or 40.
- (2) The Minister must terminate the appointment of an Advisory Council member if the member:
  - (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.

**42 Other terms and conditions**

An Advisory Council member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined, in writing, by the Minister.

## Part 5—Corporate and annual operational plans

### 43 Consulting on corporate plans

In preparing a corporate plan under section 35 of the *Public Governance, Performance and Accountability Act 2013*, the CEO must consult the Minister and the Advisory Council.

### 44 Annual operational plans

- (1) The CEO must give the Minister a written annual operational plan for:
  - (a) the period beginning on the day this Act commences and ending on 30 June 2015; and
  - (b) each following 12-month period.
- (2) The plan must:
  - (a) set out particulars of the action that the CEO intends to take during the period to give effect to, or further, the objectives set out in the plan; and
  - (b) set out the CEO's priorities for work to be undertaken during the period; and
  - (c) set out how the CEO will apply the resources of the Quality Agency to achieve those objectives; and
  - (d) include an assessment of risks faced by the Quality Agency for the period together with a plan to manage those risks; and
  - (e) include such performance indicators as the CEO considers appropriate for assessing the performance of the Quality Agency during the period.
- (3) In preparing the plan, the CEO must consult the Minister and the Advisory Council.
- (4) The plan is not a legislative instrument.

## **Part 6—Reporting requirements**

### **45 Minister may require CEO to prepare reports or give information**

#### *Reports*

- (1) The Minister may, by written notice given to the CEO, require the CEO to:
  - (a) prepare a report about one or more specified matters relating to the performance of the CEO's functions; and
  - (b) give copies of the report to the Minister within the period specified in the notice.

#### *Information*

- (2) The Minister may, by written notice given to the CEO, require the CEO to:
  - (a) prepare a document setting out specified information relating to the performance of the CEO's functions; and
  - (b) give copies of the document to the Minister within the period specified in the notice.

#### *Compliance*

- (3) The CEO must comply with a requirement under subsection (1) or (2).

#### *Publication of reports and documents*

- (4) The Minister may publish (whether on the internet or otherwise):
  - (a) a report required under subsection (1); or
  - (b) a document required under subsection (2).

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**47 Annual report**

The annual report prepared by the CEO and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include:

- (a) an assessment of the extent to which the Quality Agency's operations during the period have contributed to the priorities set out in the annual operational plan for the period; and
- (b) particulars of any variations of the annual operational plan during the period; and
- (c) an evaluation of the Quality Agency's overall performance during the period against the performance indicators set out in the annual operational plan for the period.

## **Part 7—Protected information**

### **48 Use of protected information**

- (1) A person commits an offence if:
- (a) the person makes a record of, discloses or otherwise uses information; and
  - (b) the information is protected information; and
  - (c) the information was acquired by the person in the course of performing duties or exercising powers or functions under this Act.

Penalty: Imprisonment for 2 years.

- (2) This section does not apply to:
- (a) conduct that is carried out in the performance of a function or duty under this Act or the *Aged Care Act 1997* or the exercise of a power under, or in relation to, this Act or the *Aged Care Act 1997*; or
  - (b) the disclosure of protected information only to the person to whom it relates; or
  - (c) the disclosure of protected information to the Minister or the Secretary; or
  - (d) conduct carried out by an approved provider; or
  - (e) conduct that is authorised by the person to whom the information relates; or
  - (f) conduct that is otherwise authorised under this or any other Act.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

### **49 Disclosure of protected information for other purposes**

The CEO may disclose protected information:

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- (a) if the CEO certifies, in writing, that it is necessary in the public interest to do so in a particular case—to such people and for such purposes as the CEO determines; and
- (b) to a person who is, in the opinion of the CEO, expressly or impliedly authorised by the person to whom the information relates to obtain it; and
- (c) to the Chief Executive Medicare for the purposes of payment of subsidies under the *Aged Care Act 1997*; and
- (d) if the CEO believes, on reasonable grounds, that disclosure is necessary to prevent or lessen a serious risk to the safety, health or well-being of a care recipient—to such people as the CEO determines, for the purpose of preventing or lessening the risk; and
- (e) if the CEO believes, on reasonable grounds, that:
  - (i) a person's conduct breaches the standards of professional conduct of a profession of which the person is a member; and
  - (ii) the person should be reported to a body responsible for standards of conduct in the profession;  
to that body, for the purposes of maintaining standards of professional conduct in the profession; and
- (f) if a person has temporarily taken over the provision of care through a particular service to care recipients—to the person for the purposes of enabling the person properly to provide that care; and
- (g) if the CEO believes, on reasonable grounds, that disclosure of the information is necessary for:
  - (i) enforcement of the criminal law; or
  - (ii) enforcement of a law imposing a pecuniary penalty; or
  - (iii) protection of the public revenue;  
to an agency whose functions include that enforcement or protection, for the purposes of that enforcement or protection; and
- (h) to the Aged Care Complaints Commissioner, if the CEO believes, on reasonable grounds, that disclosure of the information is necessary to assist the Aged Care Complaints



Commissioner to perform his or her functions under the *Aged Care Act 1997*; and

- (i) to the Aged Care Pricing Commissioner, if the CEO believes, on reasonable grounds, that disclosure of the information is necessary to assist the Aged Care Pricing Commissioner to perform his or her functions under the *Aged Care Act 1997*; and
- (j) to a person of a kind specified in the Quality Agency Principles, for the purposes specified in those Principles in relation to persons of that kind.

## **50 Limits on use of protected information disclosed by the CEO**

A person commits an offence if:

- (a) the person makes a record of, discloses or otherwise uses information; and
- (b) the information is information disclosed to the person under section 49; and
- (c) the purpose for which the person makes a record of, discloses or otherwise uses the information is not the purpose for which the information was disclosed.

Penalty: Imprisonment for 2 years.

## **51 Disclosure to court**

A court, or any other body or person that has power to require the production of documents or the answering of questions, may require a person to disclose protected information only if one of the following applies:

- (a) the disclosure is required for the purposes of this Act or the *Aged Care Act 1997*;
- (b) the information was originally disclosed to the person under section 49 and the disclosure is required for the purpose for which it was disclosed under that section;
- (c) the person to whom the information relates has consented, in writing, to the disclosure.

Section 52

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**52 Information about an aged care service**

- (1) The CEO may make publicly available the following information about an aged care service:
  - (a) the name and address of the service;
  - (b) the number of places included in the service;
  - (c) the services provided by the service;
  - (d) the facilities and activities available to care recipients receiving care through the service;
  - (e) the name of the approved provider of the service;
  - (f) information about the variety and type of service provided by approved providers;
  - (g) information about the service's status under this Act or the *Aged Care Act 1997* (for example, the service's accreditation record);
  - (h) information about the approved provider's performance in relation to responsibilities and standards under this Act or the *Aged Care Act 1997*;
  - (i) any other information of a kind specified in the Quality Agency Principles for the purposes of this section.
- (2) Information disclosed under subsection (1) must not include personal information.

## **Part 8—Miscellaneous**

### **53 Quality Agency Principles**

- (1) The Minister may, by legislative instrument, make Quality Agency 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.
- (2) The Quality Agency Principles must not be inconsistent with the *Aged Care Act 1997* or the Principles made under that Act.

### **54 Delegation by the CEO**

- (1) The CEO may delegate, in writing, all or any of the CEO's functions and powers under this Act or the Quality Agency Principles to a member of the staff of the Quality Agency.
- (2) In exercising his or her powers under subsection (1), the CEO is to have regard to the powers to be exercised by the delegate and the responsibilities of the officer to whom the power is delegated.
- (3) A delegate must comply with any written directions of the CEO.

### **55 Regulations**

- The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Australian Aged Care Quality Agency Act 2013	79, 2013	28 June 2013	1 Jan 2014 (s 2)	
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 6 (items 6, 7), Sch 7 (items 162–167) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
<b>as amended by</b>				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 1 (item 6): 25 Mar 2015 (s 2(1) item 2)	—

*Australian Aged Care Quality Agency Act 2013*

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Compilation No. 4

Compilation date: 5/3/16

Registered: 7/3/16

## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 63, 64): <u>1 July 2016 (s 2(1) item 5)</u> Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 35): 5 Mar 2016 (s 2(1) item 2)	—
Aged Care Amendment (Independent Complaints Arrangements) Act 2015	131, 2015	13 Oct 2015	Sch 1 (items 31–33): 1 Jan 2016 (s 2(1) item 1)	Sch 1 (item 34)



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**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 3 .....	am <u>No 59, 2015</u> ; No 131, 2015
s 6 .....	am <u>No 59, 2015</u>
<b>Part 2</b>	
s 7 .....	am No 62, 2014
<b>Part 3</b>	
<b>Division 1</b>	
s 13 .....	am No 62, 2014
s 14 .....	am No 126, 2015
<b>Division 3</b>	
s 22 .....	rep No 62, 2014
s 25 .....	am No 62, 2014
<b>Part 4</b>	
s 33 .....	am No 5, 2015
<b>Part 5</b>	
Part 5 heading .....	rs No 62, 2014
s 43 .....	rs No 62, 2014
<b>Part 6</b>	
s 46 .....	rep No 62, 2014
s 47 .....	rs No 62, 2014
<b>Part 7</b>	
s 49 .....	am No 131, 2015

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