

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Ageing

Aged Care Act 1997

Sanctions Amendment Principles 2008 (No. 1)

The *Aged Care Act 1997* (the Act) provides for the funding of aged care services. Persons who are approved under the Act to provide aged care services (approved providers) can be eligible to receive subsidy payments in respect of the care they provide to approved care recipients.

Subsection 96-1(1) of the Act allows the Minister to make Principles providing for various matters required or permitted by a Part or section of the Act.

One set of Principles made under the Act is the *Sanctions Principles 1997* (the Sanctions Principles).

The purpose of the *Sanctions Amendment Principles 2008 (No. 1)* (the Amending Principles) is detailed below. The Amending Principles are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Sanctions Amendment Principles 2008 (No. 1)

The purpose of these Amending Principles is to make minor changes to the Sanctions Principles that correspond to changes made to section 65-2 of the *Aged Care Act 1997*, through the *Aged Care Amendment (2008 Measures No. 2) Act 2008*.

Consultation

The policies reflected in the Amending Principles were the subject of consultation with the aged care sector through the Ageing Consultative Committee, which comprises peak industry, professional and consumer bodies. Sector feedback was considered in the development and fine tuning of the complex legislative and policy reform process.

Regulation Impact Statement

The Office of Best Practice Regulation has advised that no Regulation Impact Statement is required (OBPR ID **9978**).

Details of the amendments to the Sanctions Principles are listed at Attachment A.

NOTES ON CLAUSES

Clause 1 states that the name of the Amending Principles is the *Sanctions Amendment Principles 2008 (No. 1)*.

Clause 2 states that the Amending Principles commence on the commencement of the *Aged Care Amendment (2008 Measures No. 2) Act 2008*.

Clause 3 states that Schedule 1 amends the Sanctions Principles.

Schedule 1 Amendments

Item 1

Section 22.17 of the Sanctions Principles specifies matters to which the Secretary must have regard in deciding the length of a sanction period.

These matters broadly reflect those matters described in section 65-2 the *Aged Care Act 1997* that set out the matters the Secretary must consider when deciding whether it is appropriate to impose sanctions.

As a result of the *Aged Care Amendment (2008 Measures No. 2) Act 2008*, changes were made to section 65-2 of the *Aged Care Act 1997* to require the Secretary to consider whether the non-compliance would threaten the health, welfare or interests of future care recipients.

A corresponding change is therefore being made to section 22.17 of the Sanctions Principles to require the Secretary to have regard to whether the non-compliance would threaten the health, welfare or interests of future care recipients, when deciding the length of a sanction period.