

## EXPLANATORY STATEMENT

Issued by the authority of the Minister for Ageing

*Aged Care Act 1997*

*Allocation Amendment Principles 2009 (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 *Allocation Principles 1997* (the Allocation Principles).

The purpose of the *Allocation Amendment Principles 2009 (No. 1)* (the Amending Principles) is detailed below. The Amending Principles are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

***Allocation Amendment Principles 2009 (No. 1)***

An approved provider can only receive subsidy under Chapter 3 of the Act for providing aged care in respect of which a place has been allocated. The Commonwealth plans the distribution between regions of the available places in respect of types of subsidies. It then invites applications and allocates the places to approved providers.

One of the matters that the Secretary of the Department of Health and Aging can determine when allocating places is the proportion of care that must be provided to people with special needs.

Section 11-3 defines 'people with special needs' as follows:

- a) people from Aboriginal and Torres Strait Islander communities;
- b) people from non-English speaking backgrounds;
- c) people who live in people in rural or remote areas;
- d) people who are financially or socially disadvantaged; and
- e) people of a kind (if any) specified in Allocation Principles.

Currently the Allocation Principles specify veterans as another group of people who have special needs for the purpose of the Act.

The purpose of these Amending Principles is to specify a further class of people, namely people who are homeless or at risk of becoming homeless. This ensures that the Secretary can cater for the needs of homeless people (or people at risk of becoming homeless) when making allocations of places to approved providers.

This amendment fulfils an undertaking made by the Government in the White Paper: Homelessness: *The Road Home* to amend the aged care legislation to recognise older people who are homeless as a special needs group.

### Consultation

As noted above, this amendment reflects an undertaking given by the Government in the White Paper. Extensive consultation was undertaken in relation to undertakings made in the White Paper including this one.

### Regulation Impact Statement

The Office of Best Practice Regulation has advised that no Regulation Impact Statement is required.

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

NOTES ON CLAUSES

**Section 1** states that the name of the instrument is the *Allocation Amendment Principles 2009 (No.1)* (the Amending Principles).

**Section 2** states that the Amending Principles commence on 1 June 2009.

**Section 3** states that the Amending Principles amend the *Allocation Principles 1997* in accordance with the Schedule.

**Schedule 1 Amendment**

**Item 1**

This item inserts a new subsection (subsection 4.4C Homeless people) in the Allocation Principles. The effect of the amendment is to include people who are homeless or at risk of becoming homeless within the definition of “people with special needs” in section 11-3 of the *Aged Care Act 1997* (the Act). Other people defined as “people with special needs” for the purpose of the Act are:

- people from Aboriginal and Torres Strait Islander communities;
- people from non-English speaking backgrounds;
- people who live in people in rural or remote areas;
- people who are financially or socially disadvantaged; and
- veterans.