

## **EXPLANATORY STATEMENT**

**Issued by the authority of the Minister for Mental Health and Ageing**

***Aged Care Act 1997***

***Aged Care (Residential Care Subsidy – Amount of Viability Supplement)  
Determination 2012 (No. 1)***

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

The residential care subsidy which is payable in a particular case includes a basic amount and can also include various supplements, which are intended to deal with particular circumstances. One such supplement is the viability supplement, which is available to eligible providers of aged care services in recognition of the particular difficulties faced by such services as a result of their isolation, small size, characteristics of the majority of their residents, and consequentially higher cost structures. The viability supplement primarily benefits small services operating in rural, remote and isolated areas.

Subsection 44-29(8) of the Act provides that the viability supplement for a particular day is the amount determined by the Minister by legislative instrument or worked out in accordance with a method determined by the Minister by legislative instrument. Subsection 44-29(9) of the Act provides that the Minister may determine different amounts or methods based upon certain matters, including the number of places in services, the degree of isolation of the services, and any other matters determined by the Minister by legislative instrument.

In essence, there are three viability supplement schemes – the 1997 scheme (which was put in place when the Act commenced operation); a modified scheme which was put in place in 2001; and a scheme which commenced operation on 1 January 2005 – which run in parallel. Each scheme has its own criteria for payment and each pays different amounts of viability supplement, depending on the circumstances of the residential care service. For example, the 2005 scheme provides increased assistance to the more rural and remote residential care services.

The purpose of the *Aged Care (Residential Care Subsidy – Amount of Viability Supplement) Determination 2012 (No. 1)* (the Determination) is to set the amount of the viability supplement payable under each of the three schemes, with rates effective 1 July 2012. This Determination also revokes *Aged Care (Residential Care Subsidy – Amount of Viability Supplement) Determination 2011 (No. 1)*.

The difference between the Determinations is that the daily amount of viability supplement has been increased in accordance with standard indexation arrangements. For eligible providers, this Determination also enables the ongoing provision of funds available under the 2012-13 Budget measure *‘Living Longer. Living Better. – Ensuring the sustainability of aged care services in regional, rural and remote areas’*“ This initiative will see a continuation of the 40 per cent increase to the viability supplement, and the allocation of ongoing funding for specialist service providers (provided in the 2011-12 Budget Measure *Aged Care - Residential aged care viability supplement - continuation and expansion*).

### **Consultation**

As the increase to the viability supplement for eligible residential care providers is in accordance with the 2009-10 Budget Measure *Measures to Support Older Australians – Aged care viability supplements increase* and the outcomes of the Review of the Aged Care Funding Instrument, no specific consultation was undertaken with respect to this increase.

Routine indexation of the supplement uses a well established formula based on the Consumer Price Index as a measure of the movements in the non-labour costs of providers and the decisions of Fair Work Australia as a measure of non-productivity based movements of the wage costs of providers. As this is in accordance with policy upon which extensive consultation was undertaken, no specific consultation was undertaken with respect to this indexation.

Information about the increase in the amount of the supplement will be disseminated via electronic media to approved providers.

This Determination commences on 1 July 2012.

The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Aged Care (Residential Care Subsidy – Amount of Viability Supplement) Determination 2012 (No. 1)***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of Legislative Instrument**

The purpose of the *Aged Care (Residential Care Subsidy – Amount of Viability Supplement) Determination 2012 (No. 1)* (the Determination) is to set the amount of the viability supplement payable under each of the three schemes, with rates effective 1 July 2012. This Determination also revokes *Aged Care (Residential Care Subsidy – Amount of Viability Supplement) Determination 2011 (No. 1)*.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Mark Butler**

**Minister for Mental Health and Ageing**