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 Transitional Accommodation Supplement) Determination 2013 (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.

Subsection 44-16(1) of the Act provides that the *Residential Care Subsidy Principles 1997* (the Principles) may provide for additional primary supplements.

Subsection 44-16(3) of the Act provides that the Minister may determine by legislative instrument in respect of each supplement, the amount of the supplement, or the way in which the amount of the supplement is to be worked out.

Section 21.25E of the Principles provides for the transitional accommodation supplement (TAS) which is a type of additional primary supplement. That section also sets out the circumstances in which TAS is payable.

The purpose of TAS is to smooth the introduction of the new accommodation payment arrangements, which took effect from 20 March 2008. To this end, the Commonwealth pays aged care providers TAS in respect of certain post-2008 reform residents who enter
low-level care (for which the resident is eligible to pay an accommodation bond) between 20 March 2008 and 19 September 2011 inclusive.

The purpose of the *Aged Care (Residential Care Subsidy – Amount of Transitional Accommodation Supplement) Determination 2013 (No. 1)* (the Determination) is to set the increased maximum amount of TAS with effect from 20 March 2013. This Determination also revokes *Aged Care (Residential Care Subsidy – Amount of Transitional Accommodation Supplement) Determination 2012 (No. 2)*.

The difference between the Determinations is that the maximum amount of TAS for a day has been increased in accordance with the increase in the pensioner supplement, which in turn is being indexed using a well established formula based on the Consumer Price Index as a measure of the movements in the non-labour costs of providers.

**Consultation**

Indexation of the supplement is in accordance with the general policy for indexation of aged care payments upon which extensive consultation was undertaken. No specific consultation was undertaken with respect to this instrument.

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

This Determination commences on 20 March 2013.

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 Transitional Accommodation Supplement) Determination 2013 (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 Transitional Accommodation Supplement) Determination 2013 (No. 1)* (the Determination) is to set the increased maximum amount of TAS with effect from 20 March 2013. This Determination also revokes *Aged Care (Residential Care Subsidy – Amount of Transitional Accommodation Supplement) Determination 2012 (No. 2)*.

**Human Rights Implications**

This Legislative Instrument promotes the human right to health contained in article 12 of the International Covenant on Economic Social and Cultural Rights. The legislative instrument engages the right of everyone to the enjoyment of the highest attainable standard of physical and mental health by ensuring that the amount of the transitional accommodation supplement payable to approved providers of residential aged care services is increased in line with the increase in the non-labour costs of providers. This helps to ensure that the standard of care and services provided to recipients of residential aged care services is maintained.

**Conclusion**

This Legislative Instrument is compatible with human rights as it promotes the human right to health.

**The Hon Mark Butler MP, Minister for Mental Health and Ageing**