



# Grant Principles 2014

made under section 96-1 of the

*Aged Care Act 1997*

## Compilation No. 1

**Compilation date:** 16 June 2021

**Includes amendments up to:** F2021L00758

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Grant Principles 2014* that shows the text of the law as amended and in force on 16 June 2021 (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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1 Name of principles

These principles are the *Grant Principles 2014*.

### 3 Authority

These principles are made under section 96-1 of the *Aged Care Act 1997*.

### 4 Definitions

In these principles:

*Act* means the *Aged Care Act 1997*.

*community visitor* means an individual who:

- (a) is employed or otherwise engaged by a body that carries out one or more of the purposes mentioned in paragraphs 82-1(1)(a), (b) and (c) of the Act; and
- (b) implements the purposes by direct contact with care recipients.

*community visitors grant agreement* means an agreement with a body corporate made under subsection 82-1(1) of the Act.

*low-means care recipient* has the meaning given by section 5.

*major city* means one of the major cities of Australia within the meaning of the Australian Statistical Geography Standard (ASGS): Volume 5—Remoteness Structure, July 2011, produced by the Australian Bureau of Statistics.

*police certificate*, for a person, means a report about the person's criminal conviction record prepared by:

- (a) the Australian Federal Police; or
- (b) the Australian Criminal Intelligence Commission; or
- (c) an agency accredited by the Australian Criminal Intelligence Commission; or
- (d) the police force or police service of a State or Territory.

Note: A number of expressions used in these principles are defined in the Act, including:

- (a) advocacy grant;
- (b) capital works costs;
- (c) care;
- (d) community visitors grant;
- (e) people with special needs.

### 5 Meaning of *low-means care recipient*

A care recipient is a *low-means care recipient* on a day if:

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Section 5

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- (a) the care recipient is being provided with residential care through a residential care service on that day; and
- (b) either:
  - (i) the care recipient is eligible for accommodation supplement under section 44-28 of the Act for that day; or
  - (ii) on the day (the *entry day*) on which the care recipient entered the residential care service, the care recipient's means tested amount was less than the maximum accommodation supplement amount for the entry day.

Note: *Maximum accommodation supplement amount* has the meaning given by subsection 44-21(6) of the Act.

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## Part 2—Residential care grants

### 6 Purpose of this Part

For subsections 72-1(2) and 74-1(1) of the Act, this Part specifies matters relating to the allocation of residential care grants, including the following:

- (a) the criteria that must be met for allocations;
- (b) the criteria for determining priority between applications for allocations;
- (c) working out the amounts to be allocated.

### 7 Residential care grants—criteria for allocations

- (1) For subsection 72-1(2) of the Act, this section and section 8 specify the criteria that must be met for allocations by the Secretary of residential care grants in respect of projects for the provision of residential care.
- (2) A majority of the care recipients who receive, or who will receive, the care to which the grant relates must be one or more of the following:
  - (a) supported residents, concessional residents or assisted residents;
  - (b) people with special needs;
  - (c) low-means care recipients;
  - (d) people who live in a location where there is a demonstrated need for additional residential care services;
  - (e) people who do not live in a major city.
- (3) The Secretary must be satisfied that the applicant for the grant:
  - (a) has demonstrated its ongoing financial and organisational viability; and
  - (b) has demonstrated that it does not have the capacity to fund all or part of the project to which the grant relates without a residential care grant; and
  - (c) is not a State or Territory or an authority of a State or Territory; and
  - (d) if the applicant is, or has been, a provider of aged care for which any payment was or is payable under a law of the Commonwealth—has a very good record, or a demonstrated commitment to improvement, in respect of:
    - (i) its conduct as such a provider; and
    - (ii) compliance with its responsibilities as such a provider; and
    - (iii) meeting its obligations arising from the receipt of any payment from the Commonwealth for providing aged care.
- (4) The Secretary must also be satisfied that no contracts for the construction of premises to be used to provide the residential care to which the project relates have been entered into, and no work has started on the construction of such premises.

Section 8

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**8 Residential care grants—criteria for determining priority between applications**

- (1) The Secretary must consider the following matters in determining the priority to be given to an application for the allocation of a residential care grant in respect of a project for the provision of residential care:
  - (a) the proportion of care recipients to whom the grant relates who are, or will be:
    - (i) supported residents, concessional residents or assisted residents; or
    - (ii) people with special needs; or
    - (iii) low-means care recipients;
  - (b) the location of the residential care service to which the grant relates (the *relevant residential care service*), in particular whether it is not in a major city;
  - (c) the availability of other aged care services in the area in which the relevant residential care service is, or will be, located;
  - (d) the need for the grant to assist in establishing or upgrading the relevant residential care service;
  - (e) whether there is an urgent need for the grant due to unforeseen circumstances;
  - (f) the extent to which the project will meet the needs of care recipients living with dementia;
  - (g) whether the project will provide high quality accommodation for care recipients;
  - (h) whether the project will provide significantly improved operational efficiency;
  - (i) the adequacy of any arrangements proposed for the care of care recipients and other residents while the project is being completed.
- (2) The Secretary must give priority to an application for the allocation of a residential care grant in respect of the following:
  - (a) projects that meet an urgent need for building, rebuilding, renovation or restoration work in order to improve or maintain access to residential care, including meeting changing care needs arising from the increased frailty of care recipients or the increased prevalence of dementia;
  - (b) projects that offer the Commonwealth best value for money compared with other projects for which applications for the allocation of residential care grants have been made.

**9 Residential care grants—working out amount to be allocated**

- (1) For subsection 74-1(1) of the Act, the amount of a residential care grant in respect of a project for the provision of residential care is the amount worked out by the Secretary in accordance with this section.

Note: The amount of a grant to an approved provider must not exceed the difference between:

- (a) the capital works cost of the project in respect of which the grant is payable; and



- (b) the sum of the money (if any) spent, and the money presently available for expenditure, by the approved provider towards the capital works cost of the project.

See subsection 74-1(2) of the Act.

- (2) In working out the amount of a residential care grant in respect of a project for the provision of residential care, the Secretary may have regard to the following:
  - (a) the purpose for which the grant is required;
  - (b) the capacity of the approved provider to borrow money for the project (including the capacity to borrow money on short notice for urgent building, rebuilding, renovation or restoration work to be carried out to meet Commonwealth, State, Territory or local government fire, safety, health or occupational health and safety standards or because of fire, flood, earthquake or other unforeseen circumstances);
  - (c) the capacity of the approved provider, or the proposed care recipients of the residential care when the project is completed, to contribute to funding the project;
  - (d) the value of any non-monetary contribution by the approved provider to the project;
  - (e) the kind of people who are to be care recipients of the residential care.
- (3) For the purpose of applying subsection 74-1(2) of the Act in working out the amount of a residential care grant in respect of a project for the provision of residential care, none of the following are to be treated as capital works costs of the project:
  - (a) costs of routine administration of the residential care service to which the grant relates, whether or not the costs are related to the project;
  - (b) the cost of acquiring and operating vehicles;
  - (c) the cost of rent, insurance and State, Territory and local government statutory charges (for example, rates);
  - (d) normal overhead and operating costs;
  - (e) any tax payable by the residential care service to which the grant relates, including any tax payable as a result of receiving the grant;
  - (f) costs associated with obtaining finance for the project;
  - (g) the cost of interest related to any finance obtained for the project.

## **Part 3—Advocacy grants**

### **10 Purpose of this Part**

For section 81-3 of the Act, this Part sets out matters relating to the making of advocacy grants, including the following:

- (a) the criteria the Secretary must take into account in deciding whether to make an advocacy grant;
- (b) requirements for notifying applicants for grants of the Secretary's decision.

### **11 Advocacy grants—criteria for deciding whether to make grant**

For section 81-3 of the Act, the criteria that the Secretary must take into account in deciding whether to make an advocacy grant in respect of a project are as follows:

- (a) whether the applicant has adequate and appropriate experience, skills, infrastructure and resources to enable it to carry out its project;
- (b) whether the applicant can meet the needs of any people with special needs to which its project relates.

Note: The Act specifies the purposes for which advocacy grants may be made, who may make an application for a grant and how an application must be made (see sections 81-1 and 81-2 of the Act).

### **12 Advocacy grants—notifying applicants of decision**

- (1) The Secretary must notify an applicant for an advocacy grant, in writing, of the decision made on the application.
- (2) If the decision is to make an advocacy grant to the applicant, the notice must state:
  - (a) the amount of the grant; and
  - (b) the period for which the grant is given.

## **Part 4—Community visitors grants**

### **13 Purpose of this Part**

For subsection 82-2(3), section 82-3 and paragraph 82-4(a) of the Act, this Part sets out matters relating to the making of community visitors grants, including the following:

- (a) eligibility to apply for a community visitors grant;
- (b) criteria the Secretary must take into account in deciding whether to make grants;
- (c) requirements for notifying applicants for grants of the Secretary's decision;
- (d) conditions of grants.

### **14 Community visitors grants—eligibility to apply**

For subsection 82-2(3) of the Act, a body mentioned in that subsection is eligible to apply for a community visitors grant if the body is:

- (a) a local government authority; or
- (b) a charitable or religious body.

Note: A body corporate that is an approved provider or a body that is directly associated with an approved provider is not eligible to make an application for a community visitors grant unless the body is a body mentioned in paragraph (a) or (b) (see subsection 82-2(3) of the Act).

### **15 Community visitors grants—criteria for deciding whether to make grant**

- (1) For section 82-3 of the Act, the criteria that the Secretary must take into account in deciding whether to make a community visitors grant in relation to a project are as follows:
  - (a) whether the applicant has adequate and appropriate experience, skills, infrastructure and resources to enable it to carry out its project;
  - (b) whether the applicant can meet the needs of any people with special needs to which its project relates;
  - (c) whether the applicant's principal place of business is located in an area that is not a major city;
  - (d) whether all or part of the project is to be carried out at facilities located in an area that is not a major city;
  - (e) if the applicant for the grant is a body that is directly associated with an approved provider—whether the association with the approved provider would, if a community visitor grant were made to the applicant, adversely affect the way in which the applicant would:
    - (i) undertake its project; and
    - (ii) meet the conditions to which the community visitors grant is subject.

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Note: The Act specifies the purposes for which community visitors grants may be made, who may make an application for a grant and how an application must be made (see sections 82-1 and 82-2 of the Act).

- (2) In deciding whether to make a community visitors grant, the Secretary must have due regard to considerations of equity and merit in allocating money appropriated by Parliament for the purpose.

### 16 Community visitors grants—notifying applicants of decision

- (1) The Secretary must notify an applicant for a community visitors grant, in writing, of the decision made on the application.
- (2) If the decision is to make a community visitors grant to the applicant, the notice must state:
  - (a) the amount of the grant; and
  - (b) the period for which the grant is given.

### 17 Community visitors grants—conditions of grant

- (1) For paragraph 82-4(a) of the Act, this section sets out conditions that a community visitors grant is subject to.

Note: A community visitors grant may also be subject to conditions set out in the community visitors grant agreement under which the grant is made (see paragraphs 82-4(b) and (c) of the Act).

- (2) A body to which a community visitors grant has been made must not employ or otherwise engage a person to be a community visitor on and after a day unless:
  - (a) the body is satisfied that the person meets the requirements in subsection (2A) in relation to that day; and
  - (b) if the person has been, at any time after turning 16, a citizen or permanent resident of a country other than Australia—the person has made a statutory declaration stating that the person has never been:
    - (i) convicted of murder or sexual assault; or
    - (ii) convicted of, and sentenced to imprisonment for, any other form of assault.
- (2A) A person meets the requirements in this subsection in relation to a day if:
  - (a) there is for the person a police certificate that:
    - (i) is dated not more than 3 years before that day; and
    - (ii) does not record that the person has been convicted of murder or sexual assault or convicted of, and sentenced to imprisonment for, any other form of assault; or
  - (b) the person has an NDIS worker screening clearance that:
    - (i) was issued not more than 5 years before that day; and
    - (ii) is not suspended.
- (3) Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from

the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

## **Part 5—Transitional provisions**

### **18 Applications for grants made, but not decided, before 1 July 2014**

- (1) This section applies if:
  - (a) an application for an allocation of a residential care grant under section 71-1 of the Act; or
  - (b) an application for an advocacy grant under section 81-2 of the Act; or
  - (c) an application for a community visitors grant under section 82-2 of the Act; was made before 1 July 2014, but was not decided before that date.
- (2) These principles apply in relation to the application.

### **19 Expiry of this Part**

This Part expires on 30 June 2015 as if it had been repealed by another legislative instrument.

## 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 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)<br>/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

| Name  | Registration               | Commencement   | Application, saving and transitional provisions |
|---|----------------------------|--|---|
| Grant Principles 2014   | 12 June 2014 (F2014L00697) | 1 July 2014 (s 2)  |   |
| Aged Care Legislation Amendment (Requirements for Staff Members and Volunteers) Instrument 2021 | 15 June 2021 (F2021L00758) | Sch 1 (items 7, 8, 24, 25): 16 June 2021 (s 2(1) item 1) | —   |

## Endnotes

### Endnote 4—Amendment history

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#### Endnote 4—Amendment history

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| <b>Provision affected</b> | <b>How affected</b>     |
|---------------------------|-------------------------|
| <b>Part 1</b>             |                         |
| s 2 .....                 | rep LA s 48D            |
| s 4 .....                 | am F2021L00758          |
| <b>Part 4</b>             |                         |
| s 17 .....                | am F2021L00758          |
| Part 5 .....              | exp 30 June 2015 (s 19) |
| s 18 .....                | exp 30 June 2015 (s 19) |
| s 19 .....                | exp 30 June 2015 (s 19) |

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