



Allocation Principles 2014

I, Mitch Fifield, Assistant Minister for Social Services, make the following principles.

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Assistant Minister for Social Services

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Part 1—Preliminary

1 Name of principles

These principles are the *Allocation Principles 2014*.

2 Commencement

These principles commence on 1 July 2014.

3 Authority

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

4 Definitions

In these principles:

Accreditation Standards means the Accreditation Standards in Schedule 2 to the *Quality of Care Principles 2014*.

Act means the *Aged Care Act 1997*.

assisted resident has the meaning given by clause 1 of Schedule 1 to the *Aged Care (Transitional Provisions) Act 1997*.

Committee means an Aged Care Planning Advisory Committee established under subsection 12-7(1) of the Act.

concessional resident has the meaning given by clause 1 of Schedule 1 to the *Aged Care (Transitional Provisions) Act 1997*.

concessional resident supplement means the supplement referred to in section 44-6 of the *Aged Care (Transitional Provisions) Act 1997*.

government officer means an officer or employee of the Commonwealth, a State or Territory or a local government authority.

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

planning objectives means the objectives of the aged care planning process referred to in section 12-2 of the Act.

Note: The planning objectives relate to providing an open and clear planning process, identifying community needs and allocating places in a way that best meets the identified needs of the community.

representative, of a care recipient, has the meaning given by section 6.

supported resident has the meaning given by clause 1 of Schedule 1 to the *Aged Care (Transitional Provisions) Act 1997*.

Note: A number of expressions used in these principles are defined in the Act, including the following:
(a) key personnel;

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- (b) people with special needs;
- (c) region;
- (d) relinquish;
- (e) subsidy.

5 Meaning of *low-means care recipient*

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

- (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.

6 Meaning of *representative*

- (1) In these principles, ***representative***, of a care recipient, means:
 - (a) a person nominated by the care recipient as a person to be told about matters affecting the care recipient; or
 - (b) a person:
 - (i) who nominates himself or herself as a person to be told about matters affecting a care recipient; and
 - (ii) who the relevant approved provider is satisfied has a connection with the care recipient, and is concerned for the safety, health and well-being of the care recipient.
- (2) Without limiting subparagraph (1)(b)(ii), a person has a connection with a care recipient if:
 - (a) the person is a partner, close relation or other relative of the care recipient; or
 - (b) the person holds an enduring power of attorney given by the care recipient; or
 - (c) the person has been appointed by a State or Territory guardianship board (however described) to deal with the care recipient's affairs; or
 - (d) the person represents the care recipient in dealings with the approved provider.

Note: Nothing in this section is intended to affect the powers of a substitute decision-maker appointed for a person under a law of a State or Territory.

Part 2—Planning the allocation of places

Division 1—Distributing available places among regions

7 Purpose of this Division

For subsection 12-4(2) of the Act, this Division specifies a requirement with which the Secretary must comply in distributing for a financial year, for each type of subsidy, the places available for allocation in a State or Territory among the regions within the State or Territory.

Note: Regions are determined under section 12-6 of the Act.

8 Requirement

If the Secretary has asked an Aged Care Planning Advisory Committee for advice about the distribution of the places, the Secretary must have regard to the advice in distributing the places.

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Division 2—Determining proportion of care

9 Purpose of this Division

For section 12-5 of the Act, this Division specifies:

- (a) the kinds of people in respect of whom the Secretary may determine the proportion of care that must be provided; and
- (b) the criteria that the Secretary must consider in determining that proportion.

10 Kinds of people in respect of whom Secretary may determine proportion of care

For subsection 12-5(1) of the Act, the following kinds of people are specified:

- (a) people with special needs;
- (b) low-means care recipients;
- (c) supported residents, concessional residents and assisted residents;
- (d) recipients of respite care;
- (e) people needing a particular level of care.

11 Criteria that must be considered in making determination

For subsection 12-5(2) of the Act, the Secretary must consider the following criteria:

- (a) the need for places in each region for the kinds of people specified in section 10;
- (b) the current service provision levels, including provisional allocations for those kinds of people;
- (c) the existing provision of extra service places in each region;
- (d) the need to distribute places equitably in each region, and in each State and Territory, as far as practicable.

Part 3—Aged Care Planning Advisory Committees

Division 1—Purpose of this Part

12 Purpose of this Part

For subsection 12-7(3) of the Act, this Part specifies, for Aged Care Planning Advisory Committees:

- (a) the Committees' functions; and
- (b) the Committees' membership; and
- (c) other matters relevant to the Committees' operations.

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Division 2—Functions and powers of Committees

13 Function of Committees

- (1) A Committee's function is to advise the Secretary on:
 - (a) the distribution of places among regions for different types of subsidy; and
 - (b) the proportions of care to be provided to certain kinds of people.
- (2) In performing its function, a Committee must act with as little formality and as quickly as the requirements of these principles, and a proper consideration of the issues before the Committee, allow.

14 Powers of Committees

A Committee may do anything necessary or convenient to be done for, or in connection with, performing its function.

15 Advice about distribution of places among regions

- (1) If the Secretary requests advice from a Committee about the distribution of places among the regions within a State or Territory, the Committee must assess, and report to the Secretary on, the extent and priority of need among the regions.
- (2) In advising the Secretary, the Committee must take the following matters into account:
 - (a) the planning objectives;
 - (b) the findings of any relevant working party established by the Committee to investigate the needs of particular regions or groups of people;
 - (c) demographic and other statistical data on the balance of care in each region;
 - (d) relevant information obtained by the Committee from local and regional sources.

16 Advice about making certain determinations

- (1) This section applies if the Secretary requests advice from a Committee about making a determination under section 12-5 of the Act.

Note: Under section 12-5 of the Act, the Secretary may, for each type of subsidy, determine for the places available for allocation the proportion of care that must be provided to the kinds of people specified in section 10 of these principles.
- (2) The Committee must do the following things, and provide advice to the Secretary about them:
 - (a) identify community needs, including the needs of particular groups nominated by the Committee;
 - (b) rank the identified needs in priority order;
 - (c) consider the types of care that should be provided in particular regions;
 - (d) consider the most appropriate proportion of places for the different kinds of people specified in section 10.

- (3) In advising the Secretary, the Committee must take into account Government policy and the planning objectives.

17 Directions by Secretary

- (1) The Secretary may give a Committee written directions about:
- (a) the way in which the Committee is to carry out its functions; and
 - (b) procedures to be followed in relation to meetings.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) Directions given by the Secretary under subsection (1) must relate to administrative matters only and be of a general nature.
- (3) A Committee must comply with a direction given to the Committee by the Secretary under subsection (1).
- (4) A direction given under subsection (1) is not a legislative instrument.
- (5) In the absence of any directions under subsection (1), a Committee may determine its own procedures.

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Division 3—Membership of Committees

18 Members

- (1) A Committee consists of the following members:
 - (a) a Chair;
 - (b) a Deputy Chair;
 - (c) at least 6, and not more than 9, other members.
- (2) At least 2 members of a Committee must be government officers.
- (3) At least 6 members of a Committee must be persons who are not government officers.

19 Appointment

- (1) A member of a Committee is to be appointed by the Secretary by written instrument.
- (2) A member of a Committee holds office for the period specified in the instrument of appointment. The period must not exceed 2 years.
- (3) However, a member of a Committee is eligible for reappointment.
- (4) A member of a Committee holds office on a part-time basis.
- (5) The Secretary must ensure, as far as practicable, that the members of a Committee, between them, have knowledge of, or experience in, the following:
 - (a) the operations of aged care providers;
 - (b) aged care services from the perspective of consumers of the services;
 - (c) the delivery of aged care services to people with special needs;
 - (d) aged care policy;
 - (e) aged care funding programs;
 - (f) aged care planning processes.

20 Leave of absence

- (1) The Secretary may grant leave of absence to the Chair of a Committee.
- (2) The Chair of a Committee may grant leave of absence to any other member.

21 Resignation

- (1) A member of a Committee may resign his or her appointment by giving the Secretary a written resignation.
- (2) The resignation takes effect on the day it is received by the Secretary or, if a later day is specified in the resignation, on that later day.

22 Termination of appointment

- (1) The Secretary may terminate the appointment of a member of a Committee:
 - (a) for misbehaviour; or
 - (b) if the member:
 - (i) is unable to perform the duties of his or her office because of physical or mental incapacity; or
 - (ii) is absent, without reasonable excuse, from 2 consecutive meetings of the Committee; or
 - (iii) fails, without reasonable excuse, to comply with section 23 (disclosure of interests).
- (2) The Secretary must terminate the appointment of a member of a Committee if the member:
 - (a) becomes bankrupt; or
 - (b) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (c) compounds with his or her creditors; or
 - (d) makes an assignment of his or her remuneration for the benefit of his or her creditors.

Section 23

Division 4—Other Committee matters

23 Disclosure of interests—members of Committee

- (1) If:
 - (a) a member of a Committee has a direct or indirect financial interest in an issue being considered, or about to be considered, by the Committee; and
 - (b) the interest could conflict with the proper performance of the member's duties in relation to the issue;the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to a meeting.
- (2) The disclosure must be recorded in the Committee's minutes and, unless the Committee otherwise decides, the member must not:
 - (a) be present when the Committee considers the issue; or
 - (b) take part in a decision of the Committee on the issue.
- (3) The member must not:
 - (a) be present when the Committee is considering whether to allow the member to do the things referred to in paragraphs (2)(a) and (b); or
 - (b) take part in making a decision in relation to this.

24 Disclosure of interests—invited persons

- (1) This section applies if a person has been invited to attend a meeting of a Committee to inform or advise it about anything.
- (2) If the person has a direct or indirect financial interest in an issue being considered, or about to be considered, by the Committee, the person must, as soon as practicable after the relevant facts come to the person's knowledge, disclose the nature of the interest to a meeting.
- (3) The disclosure must be recorded in the Committee's minutes and, unless the Committee otherwise decides, the person must not be present when the Committee considers the issue.

Part 4—The allocation process

Division 1—Invitations to apply for allocation of places

25 Purpose of this Division

For paragraph 13-2(3)(e) of the Act, this Division specifies the kinds of people that may be specified in an invitation to apply for an allocation of places.

26 Proportion of care for specified kinds of people

The kinds of people that may be specified in an invitation to apply for an allocation of places are as follows:

- (a) people with special needs;
- (b) low-means care recipients;
- (c) supported residents, concessional residents and assisted residents;
- (d) recipients of respite care;
- (e) people needing a particular level of care.

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Division 2—Assessment of applications

27 Purpose of this Division

For section 14-2 of the Act, this Division sets out the matters that the Secretary must consider in deciding, in relation to each application for the allocation of places in respect of residential care subsidy or home care subsidy, which allocation of places would best meet the needs of the aged care community in a region.

28 Competitive assessment of applications for allocations

- (1) The Secretary must consider the following matters:
 - (a) whether the people who manage, or propose to manage, the aged care service that is providing, or would provide, the care to which the places relate have the necessary expertise and experience to do so;
 - (b) if applicable, whether the premises used, or intended to be used, to provide the care to which the places relate are suitably planned and located for the provision of aged care;
 - (c) the ability of the applicant to provide the appropriate level of care;
 - (d) if the applicant has been a provider of aged care—the applicant's:
 - (i) conduct as a provider; and
 - (ii) compliance with its responsibilities as a provider and its obligations arising from the receipt of any payments from the Commonwealth for providing that aged care;
 - (e) if the applicant has relevant key personnel in common with a person who is or has been an approved provider—that person's:
 - (i) conduct as a provider of aged care; and
 - (ii) compliance with its responsibilities as a provider and its obligations arising from the receipt of any payments from the Commonwealth for providing that aged care;
 - (f) the measures that the applicant proposes to implement:
 - (i) to protect the rights of care recipients; and
 - (ii) for the provision of appropriate care for care recipients who are people with special needs.
- (2) The reference in paragraphs (1)(d) and (e) to aged care includes a reference to any care for the aged, whether provided before or after the commencement of this section, in relation to which any payment was or is payable under a law of the Commonwealth.
- (3) For paragraph (1)(e), the applicant has **relevant key personnel in common** with a person who is or has been an approved provider (the **other provider**) if:
 - (a) at the time the other provider provided aged care, another person was one of the other provider's key personnel; and
 - (b) that other person is one of the applicant's key personnel.

29 Diversity of choice for care recipients

The Secretary must consider whether, if the application is approved, the allocation will increase diversity of choice for current and future care recipients, and their carers and families, having regard to the different kinds of services offered in the region.

Example: Diversity of choice for different kinds of services might be promoted, for instance, in relation to any of the following:

- (a) service in a particular location;
- (b) service for people with special needs;
- (c) service for care recipients affected by dementia;
- (d) ageing in place service;
- (e) service to meet the needs of couples;
- (f) service to provide care on a consumer directed care basis.

30 Continuity of care

The Secretary must consider whether, if the application is approved, the service to which the application relates would be more likely to be able to offer continuity of care to current and future care recipients.

31 Secretary may also consider other matters

The Secretary may also consider any other relevant matters.

Division 3—Conditions of allocation of places

32 Purpose of this Division

For section 14-6 of the Act, this Division specifies matters to which the Secretary must have regard:

- (a) in determining conditions in respect of allocations of places generally; or
- (b) in determining conditions, in respect of allocations of places, relating to the proportion of care to be provided to recipients of respite care.

33 Conditions of allocation—generally

- (1) For subsection 14-6(2) of the Act, the Secretary must determine conditions to the following effect:

- (a) that a care recipient cannot be discharged and readmitted:
 - (i) to attract the accommodation supplement under the Act; or
 - (ii) to attract the accommodation supplement or the concessional resident supplement under the *Aged Care (Transitional Provisions) Act 1997*; or
 - (iii) to enable an aged care service to charge the care recipient an accommodation bond;
- (b) that an aged care service will be recognised as a new service only if the service relocates to:
 - (i) a facility built for the service's relocation; or
 - (ii) a location that has no part of its catchment area in common with the catchment area of the location from which it moves;
- (c) that Part III of Determination No. ADPCA 10F 3/1995 made under the *Aged or Disabled Persons Care Act 1954*, as in force on 30 September 1997, applies to a care recipient who was a resident of an approved hostel under that Act on that date.

Example: A service will not be recognised as a new service only because of any of the following:

- (a) a change of approved provider for the service;
- (b) a change in the number of places allocated to the service;
- (c) a temporary relocation of the service;
- (d) an amalgamation of co-located services.

- (2) The Secretary may determine other relevant conditions.

34 Conditions of allocation—proportion of care for respite care recipients

- (1) For subsection 14-6(2) of the Act, the Secretary must have regard to the following matters in determining conditions, in respect of allocations of places, relating to the proportion of care to be provided to recipients of respite care:
- (a) the demand in the region concerned for respite care;
 - (b) the demand in the region for permanent care;
 - (c) the needs of carers and care recipients;
 - (d) equity in the respite care provided in different regions.

- (2) The Secretary may also have regard to any other matter relevant to the effective provision of respite care.

Part 5—When allocations take effect

Division 1—When allocations take effect

35 Purpose of this Division

For section 15-1 of the Act, this Division specifies matters to which the Secretary must have regard in deciding whether to determine that a person is in a position to provide care, in respect of places allocated to the person, for which residential care subsidy may be paid.

36 Matters to which Secretary must have regard

- (1) The matters to which the Secretary must have regard are as follows:
 - (a) whether the person has received, from authorities in the State or Territory where the residential care service is located, authorisation that the service's premises can be occupied;
 - (b) whether the person has applied for accreditation of the service, and has paid all application fees;
 - (c) whether the person has made arrangements for the efficient management and operation of the service;
 - (d) the results of any inspection of the premises by officers of the Department.
- (2) The Secretary may also have regard to any other relevant matter.

Division 2—Provisional allocation periods

37 Purpose of this Division

For section 15-7 of the Act, this Division specifies, in relation to places for which residential care subsidy may be paid:

- (a) requirements that must be met for the provisional allocation period for the places to be extended; and
- (b) the criteria that must be met for increasing or decreasing the period of extension of the provisional allocation period for the places.

38 Requirements for extending provisional allocation period

- (1) For paragraph 15-7(3)(d) of the Act, the requirements that must be met for the provisional allocation period for the places to be extended are:
 - (a) that, at the end of the extended period, there will still be a need for the provision of residential care by the approved provider in accordance with the allocation; and
 - (b) that granting the extension is necessary because no other provider is ready and able to satisfy the need.
- (2) If premises are being built to accommodate the places, the Secretary must also be satisfied that at least one of the following results is likely to happen by granting the extension:
 - (a) work on the premises will be substantially finished before the end of the extended period;
 - (b) reasonable progress towards the construction of the premises will be made by the end of the extended period;
 - (c) a substantial amount will be spent by the approved provider, in connection with work on the premises, to meet the conditions to which the allocation was subject;
 - (d) if work on the premises has been delayed by circumstances beyond the approved provider's control—work on the premises will proceed satisfactorily within a reasonable period.

39 Criteria for decreasing extension of provisional allocation period

For subsection 15-7(6) of the Act, the criteria that must be met for decreasing the period of extension of the provisional allocation period for the places are:

- (a) that the applicant has substantially completed construction of the relevant premises; or
- (b) that there is another reason that makes decreasing the period appropriate.

40 Criteria for increasing extension of provisional allocation period

For subsection 15-7(6) of the Act, the criteria that must be met for increasing the period of extension of the provisional allocation period for the places are that the person to whom the provisional allocation has been made needs an extension of more than 12 months for one or more of the following reasons:

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- (a) the need to start or continue construction of the relevant premises at a time that is related to the maturity of invested funds;
- (b) the need to comply with a condition of the provisional allocation that was not imposed as part of the original allocation;
- (c) a substantial change in the factors associated with the provisional allocation, or a likely change in the factors;
- (d) a change to the business relationship between parties involved in the construction of the relevant premises;
- (e) a natural disaster.

Part 6—Transfer of places other than provisionally allocated places

Division 1—Application of this Part

41 Application of this Part

This Part applies to places other than provisionally allocated places.

Division 2—Applications for transfer of places

42 Purpose of this Division

For section 16-2 of the Act, this Division:

- (a) specifies other information that is to be included in an application for the transfer of a place from an approved provider to another person (the *proposed transferee*); and
- (b) sets out matters that the Secretary must consider:
 - (i) in deciding whether to determine another period for paragraph 16-2(4)(a) or (b) of the Act; and
 - (ii) in determining another period.

43 Other information to be included in application—places in respect of residential care or flexible care subsidy

- (1) For subparagraph 16-2(3)(i) of the Act, an application by an approved provider to transfer places in respect of residential care or flexible care subsidy must include the following other information:
 - (a) whether the provider has notified the affected care recipients about the proposed transfer and, if so:
 - (i) when they were notified; and
 - (ii) whether the notification was in writing;
 - (b) if the provider has met the affected care recipients to discuss the proposed transfer:
 - (i) when the meeting was held; and
 - (ii) whether there is written evidence of the issues discussed at the meeting; and
 - (iii) whether any concerns about the proposed transfer were expressed to the provider by care recipients, and, if so, the measures the provider and proposed transferee propose to take to deal with the concerns;
 - (c) whether representatives of the affected care recipients have been notified about the proposed transfer;
 - (d) for care recipients who have indicated that they do not want to move to the aged care service to which the places are proposed to be transferred—the measures that the provider proposes to take to help the care recipients find suitable alternative care and accommodation of their choice;
 - (e) the measures that the provider proposes to take, while transferring the places, to maintain services for the affected care recipients;
 - (f) for a relocation of places—the way in which the provider proposes to help the affected care recipients move (with their personal possessions);
 - (g) the guarantees that the provider proposes to give that the affected care recipients will not be disadvantaged because of the proposed transfer;
 - (h) the measures that the provider proposes to take to settle the accounts of the affected care recipients, and refund their refundable deposit balances as required by section 52P-1 of the Act;

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- (i) whether any of the following payments have been made in respect of the aged care service in which the places being transferred are included:
 - (i) capital payments of a kind specified in the *Aged Care (Transitional Provisions) Principles 2014* for the purposes of section 43-6 of the *Aged Care (Transitional Provisions) Act 1997*;
 - (ii) capital payments of a kind specified in the *Subsidy Principles 2014* for the purposes of section 43-6 of the Act.
 - (2) The application must also include the following information, given by the proposed transferee:
 - (a) how the transferee proposes to undertake the responsibilities of an approved provider under Parts 4.1 and 4.2 of the Act and Part 4.2 of the *Aged Care (Transitional Provisions) Act 1997*;
 - (b) what the transferee proposes to do to ensure that the service is financially viable;
 - (c) how the transferee proposes to:
 - (i) protect the rights of individual care recipients; and
 - (ii) ensure the quality of care for care recipients; and
 - (iii) maintain the independence of care recipients; and
 - (iv) provide continuing assessment services and evaluation programs for care recipients; and
 - (v) support the social functioning of care recipients, including maintaining contact with family, friends and the community; and
 - (vi) provide accommodation and care that meet the needs of individual care recipients; and
 - (vii) provide accommodation and care for care recipients with special needs; and
 - (viii) provide a non-institutional environment in which care recipients will be encouraged to keep personal possessions; and
 - (ix) provide varying levels of care relevant to the needs of individual care recipients; and
 - (x) decide criteria for admission to the proposed aged care service (for example, whether the transferee would only admit people from a particular area);
 - (d) if the transferee proposes to construct or develop premises to accommodate the transferred places:
 - (i) a description of the project; and
 - (ii) an estimate of the total cost and the means by which the transferee proposes to meet that cost; and
 - (iii) a detailed description of the site, including size, suitability, topography and any heritage issues; and
 - (iv) the ownership arrangements of the proposed site; and
 - (v) how the land around the site is being used; and
 - (vi) whether there are any proposals before an authority in the State or Territory concerned about the use of the site (for example, proposals to rezone the site); and
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- (vii) the characteristics of the neighbourhood of the site, including location of shops, and the availability of public transport and community services; and
 - (viii) a detailed timetable for calling tenders, planning and construction and development of the service, the factors likely to affect the achievement of the timetable, and an indication of the transferee's ability to meet the timetable; and
 - (ix) how the transferee intends to comply with any existing conditions of allocation and any conditions that are varied as part of the application to transfer the places.
- (3) The last audited company statements of the proposed transferee's aged care services (if any) must also be included with the application.

44 Other information to be included in application—places in respect of home care subsidy

- (1) For paragraph 16-2(3)(i) of the Act, an application by an approved provider to transfer places in respect of home care subsidy must include the following other information:
 - (a) whether the provider has notified the affected care recipients about the proposed transfer and, if so:
 - (i) when they were notified; and
 - (ii) whether the notification was in writing;
 - (b) if the provider has met the affected care recipients to discuss the proposed transfer:
 - (i) when the meeting was held; and
 - (ii) whether there is written evidence of the issues discussed at the meeting; and
 - (iii) whether any concerns about the proposed transfer were expressed to the provider by care recipients and, if so, the measures the provider and proposed transferee propose to take to deal with the concerns;
 - (c) whether representatives of the affected care recipients have been notified about the proposed transfer;
 - (d) the measures that the provider proposes to take while transferring the places, to maintain services for the affected care recipients;
 - (e) the guarantees that the provider proposes to give that the affected care recipients will not be disadvantaged because of the proposed transfer.
- (2) The application must also include the following information, given by the proposed transferee:
 - (a) how the transferee proposes to undertake the responsibilities of an approved provider under Parts 4.1 and 4.2 of the Act and Part 4.2 of the *Aged Care (Transitional Provisions) Act 1997*;
 - (b) details of the financial viability of the transferee's aged care service, including a detailed business plan showing operational revenue and expenditure;
 - (c) how the transferee proposes to:
 - (i) protect the rights of individual care recipients; and

- (ii) ensure the quality of care for care recipients; and
 - (iii) maintain the independence of care recipients; and
 - (iv) ensure that each care recipient is given a planned, coordinated package of care services designed to meet the care recipient's needs; and
 - (v) provide ongoing assessment and review of care needs; and
 - (vi) support the social functioning of care recipients; and
 - (d) a timetable for implementing the provision of care before, during and after the transfer, including details of any suspension or reduction of care;
 - (e) details of the transferee's case management arrangements;
 - (f) how the transferee will ensure continuing consumer consultation and involvement in the provision of care;
 - (g) if the transfer will extend the transferee's existing service structure—how the transferee will integrate existing and new services;
 - (h) details of relationships between the transferee's aged care service and community organisations in the region concerned.
- (3) The last audited company statements of the proposed transferee's aged care services (if any) must also be included with the application.

45 Matters to be considered in deciding whether to determine different application period

- (1) For subsection 16-2(6) of the Act, the Secretary must consider the following matters in deciding whether to determine another application period for paragraph 16-2(4)(a) or (b) of the Act:
- (a) the reasons why the different period has been requested;
 - (b) for a relocation of residential care places—whether the applicant's proposal to relocate care recipients, and the proposed timetable for the relocation, are adequate;
 - (c) whether the services that have been provided by the applicant's aged care service will continue to operate until all care recipients have been transferred;
 - (d) any conditions relevant to the places proposed to be transferred;
 - (e) any concerns about the application expressed by care recipients in the applicant's aged care service;
 - (f) if there are 2 or more proposed transferees—whether any of the proposed transfer days would have an unacceptable effect on the provision of care to care recipients who it is proposed will remain with the aged care service;
 - (g) any concerns about the application expressed by care recipients who receive care through the applicant's aged care service.
- (2) The Secretary may also consider any other relevant matter.

46 Matters to be considered in determining different application period

- (1) For subsection 16-2(6) of the Act, if the Secretary has decided to determine another application period for paragraph 16-2(4)(a) or (b) of the Act, the

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Secretary must consider the following matters in determining the other application period:

- (a) any conditions relevant to the places that are proposed to be transferred;
- (b) any concerns about the application expressed by care recipients who receive care through the applicant's aged care service;
- (c) whether the period:
 - (i) is too short or long to allow for an efficient transition; or
 - (ii) would have an unacceptable effect on the provision of care to care recipients who it is proposed will remain with the aged care service;
or
 - (iii) will be adequate to allow for the normal processing of the transfer;
- (d) whether the services that have been provided by the aged care service will continue to operate until all care recipients have been transferred.

- (2) The Secretary may also consider any other relevant matters.

Division 3—Consideration of applications

47 Purpose of this Division

For paragraph 16-4(1)(f) of the Act, this Division sets out other matters that the Secretary must consider in deciding whether the transfer of a place is justified in the circumstances.

48 Other matters that must be considered

- (1) The Secretary must consider the effect of the proposed transfer, if the application is approved, on the current and future care recipients in:
 - (a) the region from which the places will be transferred; and
 - (b) the region to which the places will be transferred.
- (2) In considering the effect of the proposed transfer on current and future care recipients, the Secretary must take into account the following:
 - (a) the extent to which the provision of aged care in the region to which the places are to be transferred will benefit as a result of the transfer;
 - (b) the extent to which the provision of aged care in the region from which the places are to be transferred will be adversely affected as a result of the transfer;
 - (c) whether the transfer would increase or lessen the diversity of choice available to care recipients in the regions, having regard to the different kinds of services available in the region;
 - (d) whether the transfer will increase the likelihood of care recipients receiving continuity of care in a region;
 - (e) any concerns about the transfer expressed by care recipients who are provided with care through the applicant's aged care service;
 - (f) any issue raised by the transferor or transferee in the application to transfer places;
 - (g) if, after the transfer, the places would relate to the same aged care service:
 - (i) the suitability of the premises being used by the transferor, and proposed to be used by the transferee, to provide care through the aged care service, in particular, whether the premises would meet the Accreditation Standards or the criteria for certification under the Act; and
 - (ii) for a transferee who owns the premises being used by the transferor, and proposed to be used by the transferee, to provide care through the aged care service, being premises that would not meet the Accreditation Standards or the criteria for certification under the Act—the failure of the transferee to have improved the premises.

Example for paragraphs (2)(a) and (b):

The Secretary may consider whether the transfer would affect the provision, in the regions, of aged care services that meet particular needs, including the provision of the following:

- (a) respite care services;
- (b) services for those affected by dementia;
- (c) ageing in place services;

Part 6 Transfer of places other than provisionally allocated places

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- (d) services for couples with differing care needs.

The Secretary may also consider the effect of the transfer on the quality of services provided in the regions and, in the case of home care places, whether there will be an effect on the hours of care available, and the days on which it will be provided.

Example for paragraph (2)(c):

In considering choice, kinds of services available in the region may include the following:

- (a) services that have extra service status;
- (b) ageing in place services;
- (c) service for care recipients affected by dementia;
- (d) services for people with special needs.

Example for paragraph (2)(d):

The Secretary may take into account whether the service has demonstrated its long-term financial and organisational viability.

- (3) The Secretary may consider any other relevant matter.

Division 4—Other matters

49 Purpose of this Division

This Division specifies other matters relating to the transfer of places from one person (the *transferor*) to another person (the *transferee*).

50 Matters that must be specified in notice of decision on transfer

For paragraph 16-6(e) of the Act, a notice of an approved transfer of allocated places must set out the proportion of care, in respect of the places to be transferred, to be provided to the following kinds of people:

- (a) people with special needs;
- (b) low-means care recipients;
- (c) supported residents, concessional residents and assisted residents;
- (d) recipients of respite care;
- (e) people needing a particular level of care.

51 Information that may be given to transferee and time for giving information

Information that may be given to transferee

- (1) For section 16-9 of the Act, the Secretary may give the transferee information about the following matters:
 - (a) the types of subsidies paid to the transferor for the aged care service in which places being transferred are included;
 - (b) the likely future adjustments to the subsidy payments;
 - (c) for residential care places—the amount of respite care (if any) to be provided by the transferor’s aged care service;
 - (d) if the aged care service in which the places being transferred are included is a residential care service:
 - (i) matters relating to the certification of the service; and
 - (ii) matters relating to whether the service meets its accreditation requirement; and
 - (iii) matters relating to the residential care grants (if any) made in respect of the service;
 - (e) matters relating to any of the following payments that have been made in respect of the aged care service in which the places being transferred are included:
 - (i) capital payments of a kind specified in the *Aged Care (Transitional Provisions) Principles 2014* for the purposes of section 43-6 of the *Aged Care (Transitional Provisions) Act 1997*;
 - (ii) capital payments of a kind specified in the *Subsidy Principles 2014* for the purposes of section 43-6 of the Act;
 - (f) compliance by the transferor with the transferor’s responsibilities under Chapter 4 of the Act in relation to the aged care service referred to in paragraph (e), including any action that has been taken or is proposed to be taken, under Part 4.4 of the Act, in relation to that aged care service;

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- (g) for care recipients who are receiving residential care from the transferor's aged care service:
 - (i) their current classification levels of care (if applicable); and
 - (ii) their classification histories; and
 - (iii) their financial status;
 - (h) the conditions to which the places being transferred are subject;
 - (i) any other matters about the transferor's aged care service of which the Secretary considers the transferee should be informed.
- (2) However, the Secretary must not give the transferee information that would, or would be likely to, disclose the identity of any care recipient.

When information is to be given

- (3) If the Secretary decides to give the transferee information under subsection (1), the Secretary must give the information to the transferee at least 28 days before the transfer day.

Note: The transfer day is the day when the transfer of an allocated place from one person to another takes effect. The day is set under section 16-7 of the Act.

- (4) However, if the transferor requests the Secretary, in writing, to give the information to the transferee, the Secretary must comply with the request within 28 days after receiving it.

52 Records to be given by transferor to transferee

For paragraph 16-10(2)(h) of the Act, the transferor must give the transferee the records of the name and contact details of each representative of a care recipient who is receiving care in respect of a place being transferred.

Part 7—Transfer of provisionally allocated places

Division 1—Application of this Part

53 Application of this Part

This Part applies to provisionally allocated places.

Division 2—Applications for transfer of provisionally allocated places

54 Purpose of this Division

For section 16-4 of the Act, this Division:

- (a) specifies other information to be included in an application for the transfer of a provisionally allocated place from an approved provider to another person (the *proposed transferee*); and
- (b) sets out matters that the Secretary must consider:
 - (i) in deciding whether to determine another period for paragraph 16-14(4)(a) or (b) of the Act; and
 - (ii) in determining another period.

55 Other information to be included in application

- (1) For paragraph 16-14(3)(k) of the Act, an application by an approved provider (the *transferor*) to transfer provisionally allocated places must include the following other information:
 - (a) the reasons why the transferor:
 - (i) has not been able to apply to the Secretary to have the provisional allocations take effect under section 15-1 of the Act; and
 - (ii) seeks to have the provisional allocations transferred;
 - (b) the exceptional circumstances that the transferor considers will justify the transfer in meeting the needs of the aged care community in the region for which the places were provisionally allocated.
- (2) The application must also include the following information, given by the proposed transferee:
 - (a) how the transferee proposes to undertake the responsibilities of an approved provider under Parts 4.1 and 4.2 of the Act and Part 4.2 of the *Aged Care (Transitional Provisions) Act 1997*;
 - (b) what the transferee proposes to do to ensure that the service is financially viable;
 - (c) how the transferee proposes:
 - (i) to protect the rights of individual care recipients; and
 - (ii) to ensure the quality of care for care recipients; and
 - (iii) to maintain the independence of care recipients; and
 - (iv) to provide continuing assessment services and evaluation programs for care recipients; and
 - (v) to support the social functioning of care recipients, including maintaining contact with family, friends and the community; and
 - (vi) to provide accommodation and care that meet the needs of individual care recipients; and
 - (vii) to provide accommodation and care for care recipients with special needs; and
 - (viii) to provide a non-institutional environment in which care recipients will be encouraged to keep personal possessions; and

- (ix) to provide varying levels of care relevant to the needs of individual care recipients; and
- (x) to decide criteria for admission to the proposed aged care service (for example, whether the transferee would admit people only from a particular area);
- (d) if the transferee proposes to complete construction or development of premises where the places are to be located:
 - (i) a description of the project; and
 - (ii) an estimate of the total cost and the means by which the transferee proposes to meet that cost; and
 - (iii) a detailed timetable for the project, the factors likely to affect the achievement of the timetable, and an indication of the transferee's ability to meet the timetable; and
 - (iv) the ownership arrangements of the proposed site and premises; and
 - (v) how the land around the site is being used; and
 - (vi) whether there are any proposals before an authority in the State or Territory concerned about the use of the site; and
 - (vii) how the transferee intends to ensure that the places become operational in a timely manner; and
 - (viii) how the transferee intends to comply with any existing conditions of allocation and any conditions that are varied as part of the application to transfer the places.
- (3) The last audited company statements of the proposed transferee's aged care services (if any) must be included with the application.

56 Matters to be considered in deciding whether to determine different application period

- (1) For subsection 16-14(6) of the Act, the Secretary must consider the following matters in deciding whether to determine another application period for paragraph 16-14(4)(a) or (b) of the Act:
 - (a) the reasons why the different period has been requested;
 - (b) any conditions relevant to the places that are proposed to be transferred.
- (2) The Secretary may also consider any other relevant matter.

57 Matters to be considered in determining different application period

- (1) For subsection 16-14(6) of the Act, if the Secretary has decided to determine another application period for paragraph 16-14(4)(a) or (b) of the Act, the Secretary must consider the following matters in determining the other application period:
 - (a) any conditions relevant to the places that are proposed to be transferred;
 - (b) whether the period:
 - (i) is too short or long to allow for an efficient transition; or
 - (ii) will be adequate to allow for the normal processing of the transfer.
- (2) The Secretary may also consider any other relevant matters.

Division 3—Consideration of applications

58 Purpose of this Division

For paragraph 16-16(1)(m) of the Act, this Division sets out other matters that the Secretary must consider in deciding whether the needs of the aged care community in the region for which places were provisionally allocated are best met by the transfer of the places.

59 Other matters that must be considered

- (1) The Secretary must consider the following:
 - (a) whether the residential care needs of the region have changed since the provisional allocation of the places;
 - (b) how far the development of the service to which the provisional allocation of places was made has progressed;
 - (c) the extent to which the care needs of the region would be better met by transferring the provisionally allocated places to the transferee than by not transferring the places.
- (2) In considering the effect of the proposed transfer on future care recipients, the Secretary must take into account the following:
 - (a) whether the transfer would increase or lessen the diversity of choice available to care recipients in the region, having regard to the different kinds of services available in the region;
 - (b) whether the transfer will increase the likelihood of care recipients receiving continuity of care in a region;
 - (c) any issue raised by the transferor or transferee in the application to transfer places;
 - (d) if, after the transfer, the places would relate to the same aged care service:
 - (i) the suitability of the premises being used by the transferor, and proposed to be used by the transferee, to provide care through the aged care service, in particular whether the premises would meet the Accreditation Standards or the criteria for certification under the Act; and
 - (ii) for a transferee who owns the premises being used by the transferor, and proposed to be used by the transferee, to provide care through the aged care service, being premises that would not meet the Accreditation Standards or the criteria for certification under the Act—the failure of the transferee to have improved the premises.

Example for paragraph (2)(a):

In considering choice, kinds of services available in the region may include the following:

- (a) services that have extra service status;
- (b) ageing in place services;
- (c) service for those affected by dementia;
- (d) services for people with special needs.

Example for paragraph (2)(b):

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The Secretary may take into account whether the service has demonstrated its long-term financial and organisational viability.

Note: The Secretary must not approve the transfer if the location for which the place is provisionally allocated will change as a result of the transfer (see paragraph 16-13(2)(e) of the Act).

- (3) The Secretary may consider any other relevant matter.

Division 4—Other matters

60 Purpose of this Division

This Division specifies other matters relating to the transfer of provisionally allocated places from one person (the *transferor*) to another person (the *transferee*).

61 Matters that must be specified in notice of decision on transfer

For paragraph 16-18(e) of the Act, a notice of an approved transfer of provisionally allocated places must set out the proportion of care, in respect of the places to be transferred, to be provided to the following kinds of people:

- (a) people with special needs;
- (b) low-means care recipients;
- (c) supported residents, concessional residents and assisted residents;
- (d) recipients of respite care;
- (e) people needing a particular level of care.

62 Information that may be given to transferee and time for giving information

Information that may be given to transferee

- (1) For section 16-21 of the Act, the Secretary may give the transferee information about the following matters:
 - (a) the amount of respite care (if any) to be provided by the transferor's aged care service;
 - (b) matters relating to the certification of the aged care service;
 - (c) matters relating to whether the aged care service meets its accreditation requirement;
 - (d) matters relating to the residential care grants (if any) made for the aged care service;
 - (e) matters relating to any grants under the *Aged or Disabled Persons Care Act 1954*, or Part VAB of the *National Health Act 1953*, that have been made for the aged care service;
 - (f) compliance by the transferor with the transferor's responsibilities under Chapter 4 of the Act in relation to the aged care service, including any action that has been taken or is proposed to be taken, under Part 4.4 of the Act, for the aged care service;
 - (g) the conditions to which the places being transferred are subject;
 - (h) any other matters about the transferor's aged care service of which the Secretary considers the transferee should be informed.

When information is to be given

- (2) If the Secretary decides to give the transferee information under subsection (1), the Secretary must give the information to the transferee at least 28 days before the transfer day.

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Note: The transfer day is the day when the transfer of a provisionally allocated place from one person to another takes effect. The day is set under section 16-19 of the Act.

- (3) However, if the transferor asks the Secretary, in writing, to give the information to the transferee, the Secretary must comply with the request within 28 days after receiving it.

Part 8—Variation of conditions for allocations of places

Division 1—Applications for variation of conditions

63 Purpose of this Division

For paragraph 17-2(2)(b) of the Act, this Division specifies the information that must be included in an application to vary the conditions of an allocation of places.

64 Information that must be included in application

- (1) The following information must be included in the application:
 - (a) the applicant's name;
 - (b) the aged care service to which the allocation relates, and:
 - (i) for home care places—its business address; and
 - (ii) for other places—its location;
 - (c) the number of places to which the variation relates, and the conditions to which they are subject under Division 14 of the Act;
 - (d) whether any of the places is:
 - (i) an adjusted subsidy place; or
 - (ii) a place included in a residential care service, or a distinct part of a residential care service, that has extra service status; or
 - (iii) a home care place;
 - (e) if the places are residential care places and, after the variation, the care in respect of the places would be provided at a different location:
 - (i) the address of the new location; and
 - (ii) the proposals for ensuring that care needs are appropriately met for care recipients who are being provided with care in respect of the places;
 - (f) the conditions of the allocation to be varied and the proposed variation;
 - (g) the proposed variation day;
 - (h) if the application is made less than 60 days before the proposed variation day—the reason for this;
 - (i) the applicant's assessment of the effect of the proposed variation on care recipients.

Note: Under subsection 15-1(1) of the Act, an allocation of places to an approved provider takes effect when the Secretary determines that the approved provider is in a position to provide care, in respect of those places, for which subsidy may be paid.

- (2) If the application is to change the location of the allocation, and the applicant proposes to construct or develop premises to accommodate the relocated places at the new location, the following information must also be included in the application:
 - (a) a description of the project;
 - (b) an estimate of the total cost;

- (c) a detailed description of the site, including size, suitability, topography and any heritage issues;
- (d) the ownership arrangements of the proposed site;
- (e) how the land around the site is being used;
- (f) whether there are any proposals before an authority in the State or Territory concerned about the use of the site (for example, proposals to rezone the site);
- (g) the characteristics of the neighbourhood of the site, including location of shops, and the availability of public transport and community services;
- (h) a detailed timetable for calling tenders, planning and construction, and an indication of the applicant's ability to meet the timetable.

Division 2—Consideration of applications

65 Purpose of this Division

For paragraph 17-4(g) of the Act, this Division sets out other matters that the Secretary must consider in deciding whether a variation of the conditions of an allocation is justified in the circumstances.

66 Other matters to be considered

- (1) If an application for a variation proposes to change the location of an allocation of places, the Secretary must consider the effect of the proposed change of location, if the application is approved, on current and future care recipients in:
 - (a) the region from which the places will be transferred; and
 - (b) the region to which the places will be transferred.
- (2) In considering the effect of the proposed variation, the Secretary must take into account:
 - (a) the extent to which, after the variation, current and future care recipients in the region in which the service operates will have access to respite care; and
 - (b) the extent to which, after the variation, current and future care recipients in the region in which the service operates will benefit; and
 - (c) whether the variation will increase or lessen the diversity of choice available to current and future care recipients in the region, having regard to the different kinds of services available in the region; and
 - (d) whether the variation will increase the likelihood of current and future care recipients receiving continuity of care in the local area within the region.

Example for paragraphs (2)(a) and (b)

The Secretary may consider whether the variation would affect the provision of aged care services that meet particular needs, including the provision of the following:

- (a) respite care services;
- (b) services for those affected by dementia;
- (c) ageing in place services;
- (d) services for couples with differing care needs.

The Secretary may also consider the effect of the variation on the quality of services provided in the regions and, in the case of home care places, whether there will be an effect on the hours of care available, and the days on which it will be provided.

Example for paragraph (2)(c):

In considering choice, kinds of services available in the region may include the following:

- (a) services that have extra service status;
- (b) ageing in place services;
- (c) service for care recipients affected by dementia;
- (d) services for people with special needs.

Example for paragraph (2)(d):

The Secretary may take into account whether the service has demonstrated its long-term financial and organisational viability.

- (3) The Secretary may also consider any other relevant matter.

Part 9—Allocations ceasing to have effect

Division 1—Relinquishing places in respect of residential care subsidy

67 Purpose of this Division

This Division specifies:

- (a) for subsection 18-2(3) of the Act—the matters that must be dealt with in the proposals of an approved provider for ensuring that care needs are appropriately met for those care recipients (if any) who are being provided with residential care in respect of places that are to be relinquished by the provider; and
- (b) for subsection 18-3(2) of the Act—the matters that the Secretary must take into account in deciding whether those proposals are satisfactory.

Note: The proposals are required to be included in the notice of relinquishment given to the Secretary under subsection 18-2(1) of the Act.

68 Matters that must be dealt with by proposals

For subsection 18-2(3) of the Act, the approved provider's proposals must deal with the following matters in relation to the places that are to be relinquished:

- (a) whether the provider has notified the affected care recipients about the relinquishing of the places and, if so:
 - (i) when they were notified; and
 - (ii) whether the notification was in writing;
- (b) if the provider has met the affected care recipients to discuss the relinquishing of the places:
 - (i) when the meeting was held; and
 - (ii) whether there is written evidence of the issues discussed at the meeting; and
 - (iii) whether any concerns about the relinquishing of the places were expressed to the provider by care recipients and, if so, the measures the provider proposes to take to deal with the concerns;
- (c) whether representatives of the affected care recipients have been notified about the relinquishing of the places;
- (d) whether the provider has helped the affected care recipients find suitable alternative care and accommodation of their choice;
- (e) for affected care recipients who are not able to choose premises:
 - (i) the measures (if any) that the provider has taken to find suitable care for them at other premises; and
 - (ii) if the provider has taken such measures—whether the provider considered all aspects of the accommodation and services that the care recipients currently have, and the location of the provider's premises, before taking the measures;
- (f) the measures that the provider proposes to take, while relinquishing the places:

- (i) to maintain services for the affected care recipients; and
- (ii) to provide care services to the affected care recipients who will stay at the provider's premises;
- (g) the way (if any) in which the provider proposes to help the affected care recipients move (with their personal possessions);
- (h) the guarantees that the provider gives that the affected care recipients will not be disadvantaged, or discriminated against, before they move to new premises;
- (i) whether the provider is prepared to offer help to the affected care recipients that is additional to the current standard of care and other services (for example, giving the care recipient an audited statement of accounts);
- (j) the measures that the provider proposes to take to settle the accounts of the affected care recipients and refund their refundable deposit balances as required by section 52P-1 of the Act.

69 Matters that Secretary must take into account in deciding if proposals are satisfactory

- (1) For subsection 18-3(2) of the Act, the Secretary must take the following matters into account:
 - (a) whether the care recipients have been given sufficient notice, by letters, meetings or otherwise, about the relinquishing of the places and relocating;
 - (b) whether representatives of the care recipients have been notified about the relinquishing of the places and relocating;
 - (c) whether the approved provider is helping the care recipients find suitable accommodation and care that meets their assessed long-term needs and is affordable by them;
 - (d) whether the approved provider is maintaining the same standard of care and other services for the care recipients before the relocation day;
 - (e) whether the approved provider is offering help to the care recipients that is additional to the current standard of care and other services being provided to the care recipients;
 - (f) whether the approved provider has indicated that financial arrangements for the care recipients may be finalised before the time required by section 52P-1 of the Act;
 - (g) whether the interests of care recipients in their accommodation and care will be protected;
 - (h) whether the care recipients will be unduly disadvantaged financially after relocation;
 - (i) whether the needs and expectations of the care recipients will be satisfied or improved after relocation.
- (2) The Secretary may also take other relevant matters into account.

Division 2—Relinquishing places in respect of home care subsidy

70 Purpose of this Division

This Division specifies:

- (a) for subsection 18-2(3) of the Act—the matters that must be dealt with in the proposals of an approved provider for ensuring that care needs are appropriately met for those care recipients (if any) who are being provided with home care in respect of places that are to be relinquished by the provider; and
- (b) for subsection 18-3(2) of the Act—the matters that the Secretary must take into account in deciding whether those proposals are satisfactory.

Note: The proposals are required to be included in the notice of relinquishment given to the Secretary under subsection 18-2(1) of the Act.

71 Matters that must be dealt with by proposals

For subsection 18-2(3) of the Act, the approved provider's proposals must deal with the following matters in relation to the places that are to be relinquished:

- (a) whether the provider has notified the affected care recipients about the relinquishing of the places and, if so:
 - (i) when they were notified; and
 - (ii) whether the notification was in writing;
- (b) if the provider has met the affected care recipients to discuss the relinquishing of the places:
 - (i) when the meeting was held; and
 - (ii) whether there is written evidence of the issues discussed at the meeting; and
 - (iii) whether any concerns about the relinquishing of the places were expressed to the provider by care recipients and, if so, the measures the provider proposes to take to deal with the concerns;
- (c) whether representatives of the affected care recipients have been notified about the relinquishing of the places;
- (d) whether the provider has helped the affected care recipients find suitable alternative care;
- (e) the measures that the provider proposes to take, while relinquishing the places, to maintain services for the affected care recipients;
- (f) the way (if any) in which the provider proposes to help the affected care recipients make alternative care arrangements.

72 Matters that Secretary must take into account in deciding if proposals are satisfactory

- (1) For subsection 18-3(2) of the Act, the Secretary must take the following matters into account:
 - (a) whether the care recipients have been given sufficient notice, by letters, meetings or otherwise, about the relinquishing of the places;

- (b) whether representatives of the care recipients have been notified about the relinquishing of places;
 - (c) whether the approved provider is helping the care recipients find another provider;
 - (d) whether the approved provider is maintaining the same standard of care and other services for the care recipients before the proposed relinquishment date;
 - (e) whether the approved provider is offering help to the care recipients that is additional to the current standard of care and other services being provided to the care recipients.
- (2) The Secretary may also take any other relevant matter into account.

Division 3—Revocation of unused allocations of places

73 Purpose of this Division

For paragraph 18-5(3)(b) of the Act, this Division specifies the matters that the Secretary must consider in deciding whether to revoke the allocation of a place to an approved provider.

74 Matters that must be considered

- (1) The Secretary must consider the following matters:
 - (a) whether the decision not to use the place is temporary, and whether the approved provider intends to use the place in the near future;
 - (b) why the place has not been used;
 - (c) whether the place can only be operated by the approved provider because of the specialised nature of the provider's service and the place's subsidy type;
 - (d) whether revoking the allocation would have detrimental effects on the community that the place is intended to service;
 - (e) whether revoking the place would unduly affect the approved provider's economic viability;
 - (f) whether allocating the place to another provider would better serve the interests of the community;
 - (g) whether revoking the place and reallocating it is warranted;
 - (h) whether any conditions of allocation under Division 14 of the Act could be varied to better serve the interests of the community;
 - (i) demographic factors, including temporary movements in population, that may affect the place's viability.
- (2) The Secretary may also take any other relevant matter into account.

Part 10—Transitional provisions

75 Application of these principles to certain applications etc. that were made, but not decided, before 1 July 2014

- (1) These principles apply in relation to the following:
 - (a) an application for an allocation of places that was made under section 13-1 of the Act before 1 July 2014 but was not decided before that date;
 - (b) an application for approval to transfer a place to another person that was made under section 16-2 or 16-14 of the Act before 1 July 2014 but was not decided before that date;
 - (c) an application to vary the conditions to which an allocation of a place is subject that was made under section 17-2 of the Act before 1 July 2014 but was not decided before that date.
- (2) These principles also apply in relation to a notice relinquishing a place that was given to the Secretary under section 18-2 of the Act before 1 July 2014 if the Secretary had not decided before that date whether the proposals included in the notice under paragraph 18-2(2)(e) of the Act are satisfactory.

76 Expiry of this Part

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