



Accountability Principles 2014

made under section 96-1

Aged Care Act 1997

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About this compilation

This compilation

This is a compilation of the *Accountability Principles 2014* that shows the text of the law as amended and in force on 17 January 2015 (the **compilation date**).

This compilation was prepared on 21 January 2015.

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 ComLaw (www.comlaw.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 ComLaw 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.

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 ComLaw 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Name of principles	1
3 Authority	1
4 Definitions	1
Part 2—Access to aged care services	3
Division 1—Access to residential care services	3
Subdivision A—Access by certification assessors	3
5 Purpose of this Subdivision	3
6 Notice of access	3
7 Consent to access service	3
8 Certification assessor must show identification	4
Subdivision B—Access by CEO of Quality Agency and quality assessors	4
9 Purpose of this Subdivision	4
10 Consent to access service	4
11 CEO of the Quality Agency or quality assessor must show identification	5
Subdivision C—Access by the Aged Care Commissioner	5
12 Purpose of this Subdivision	5
13 Notice of access	5
14 Consent to access service	5
15 Aged Care Commissioner must show identification	6
Division 2—Access to home care services	7
16 Purpose of this Division	7
17 Consent to access service	7
18 CEO of the Quality Agency or quality reviewer must show identification	7
Division 3—General provisions relating to access	9
19 Purpose of this Division	9
20 Hours of access	9
21 Access to premises, documents etc.	9
22 Access to staff members and other persons	10
23 Refusal of access	10
Part 3—Information to be given to Minister or Secretary	12
Division 1—Information about residential care services	12
24 Purpose of this Division	12
25 Information about unexplained absence of care recipients	12
26 Information about accommodation payments, contributions, bonds and charges	12
27 Information about building, upgrading and refurbishment	13
28 Period for notifying Secretary about entry of care recipient to residential care service	13
Division 2—Information about home care services	14
29 Purpose of this Division	14
30 Notification of start of home care	14

Part 4—Financial reports	15
Division 1—Preliminary	15
31 Purpose of this Part	15
32 What is an approved provider's financial year	15
33 Reviewable decision	16
Division 2—Responsibilities of approved providers of residential care services other than State or Territory approved providers	17
34 Purpose of this Division	17
35 Approved provider must prepare financial report	17
36 Auditing of financial reports	18
37 Provision of financial reports to Secretary etc.	18
38 Circumstances in which approved provider is taken to have complied with this Division	18
Division 3—Responsibilities of State or Territory approved providers of residential care services	20
39 Purpose of this Division	20
40 Approved provider must give segment report to Secretary	20
41 Circumstances in which approved provider is taken to have complied with this Division	20
Division 4—Responsibilities of approved providers of home care services	21
42 Purpose of this Division	21
43 Approved provider must give financial report to Secretary	21
44 Circumstances in which approved provider is taken to have complied with this Division	21
Part 5—Participation in aged care workforce census	22
45 Purpose of this Part	22
46 Participation in aged care workforce census	22
Part 6—Responsibilities in relation to certain staff members and volunteers	23
47 Purpose of this Part	23
48 Requirements in relation to new staff members and volunteers	23
49 Arrangements for new staff members or volunteers who do not yet have police certificates	23
50 Continuing responsibilities of approved providers	24
51 Spent convictions	24
Part 7—Circumstances in which requirement to report allegation or suspicion of reportable assault does not apply	25
52 Purpose of this Part	25
53 Circumstances in which approved provider is not required to report alleged or suspected reportable assault	25
Endnotes	27
Endnote 1—About the endnotes	27
Endnote 2—Abbreviation key	28
Endnote 3—Legislation history	29
Endnote 4—Amendment history	30

Part 1—Preliminary

1 Name of principles

These principles are the *Accountability 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*.

business hours means the hours between 9 am and 5 pm on a business day.

certification assessor means a person or body authorised by the Secretary under subsection 39-4(3) of the Act to assess a residential care service for the purposes of a review of the certification of the service under section 39-4 of the Act.

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

CrimTrac means the CrimTrac Agency, established as an Executive Agency by the Governor-General by order under section 65 of the *Public Service Act 1999*.

financial year, for an approved provider of a residential care service or a home care service, has the meaning given by subsection 32(1).

police certificate, for a person, means a report prepared by the Australian Federal Police, CrimTrac or the police force or police service of a State or Territory, about the person's criminal conviction record.

premises:

- (a) of a residential care service, means any place where the operation or administration of the service occurs; and
- (b) of a home care service, means the premises of the approved provider of the service.

Quality Agency means the Australian Aged Care Quality Agency established by the *Australian Aged Care Quality Agency Act 2013*.

quality assessor means a person registered as a quality assessor in accordance with the *Quality Agency Principles 2013*.

quality reviewer has the meaning given by the *Quality Agency Principles 2013*.

relevant official:

Section 4

- (a) in relation to a residential care service, means:
 - (i) a certification assessor; or
 - (ii) the CEO of the Quality Agency; or
 - (iii) a quality assessor; or
 - (iv) the Aged Care Commissioner; and
- (b) in relation to a home care service, means:
 - (i) the CEO of the Quality Agency; or
 - (ii) a quality reviewer.

staff member, of an approved provider, means a person who:

- (a) is at least 16 years old; and
- (b) is employed, hired, retained or contracted by the approved provider (whether directly or through an employment or recruitment agency) to provide care or other services under the control of the approved provider; and
- (c) has, or is reasonably likely to have, access to care recipients.

Examples of persons who are staff members of an approved provider:

- (a) key personnel of the approved provider; and
- (b) employees and contractors of the approved provider who provide care to care recipients; and
- (c) allied health professionals contracted by the approved provider to provide care to care recipients; and
- (d) kitchen, laundry, garden and office personnel employed by the approved provider; and
- (e) consultants, trainers and advisors for accreditation support or systems improvement who are under the control of the approved provider.

Examples of persons who are not staff members of an approved provider:

- (a) visiting medical practitioners, pharmacists and other allied health professionals who have been requested by, or on behalf of, a care recipient but are not contracted by the approved provider; and
- (b) tradespeople who perform work otherwise than under the control of the approved provider (that is, as independent contractors).

volunteer, for an approved provider, means a person who:

- (a) is not a staff member of the approved provider; and
- (b) offers his or her services to the approved provider; and
- (c) provides care or other services on the invitation of the approved provider and not solely on the express or implied invitation of a care recipient; and
- (d) has, or is reasonably likely to have, unsupervised access to care recipients; and
- (e) is at least 16 years old or, if the person is a full-time student, is at least 18 years old.

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

- (a) daily payment;
- (b) refundable deposit;
- (c) reportable assault.

Part 2—Access to aged care services

Division 1—Access to residential care services

Subdivision A—Access by certification assessors

5 Purpose of this Subdivision

For paragraph 63-1(1)(j) of the Act, this Subdivision makes provision in relation to the responsibilities of an approved provider of a residential care service to allow a certification assessor access to the service in order to review the certification of the service under section 39-4 of the Act.

6 Notice of access

- (1) If a certification assessor requires access to a residential care service for the purpose of a review of the certification of the service under section 39-4 of the Act, the certification assessor must give written notice of the requirement to the approved provider of the service.
- (2) The notice must include the following statements:
 - (a) that the approved provider may refuse to give consent, or may withdraw consent, to the access to the service;
 - (b) that the approved provider may not be complying with its responsibilities under paragraph 63-1(1)(j) of the Act if it refuses to consent, or withdraws consent, to the access to the service;
 - (c) that failure to comply with a responsibility under paragraph 63-1(1)(j) of the Act may result in a sanction being imposed under Part 4.4 of the Act, but that an act referred to in paragraph 23(b) or (c) of these principles will not constitute non-compliance with a responsibility under paragraph 63-1(1)(j) of the Act.

7 Consent to access service

- (1) A certification assessor must not access the premises of a residential care service unless the approved provider of the service has consented to the access.
- (2) The approved provider must not unreasonably withhold consent if access to the premises of the service is required in circumstances where the certification assessor reasonably believes that there is a serious risk to the safety, health or wellbeing of a person who is being provided with care through the service.
- (3) The approved provider may withdraw consent at any time.
- (4) The certification assessor must leave the premises of the service if the approved provider asks the certification assessor to do so.

Section 8

8 Certification assessor must show identification

Before accessing the premises of a residential care service, a certification assessor must show the approved provider of the service:

- (a) evidence of the certification assessor's name and position; and
- (b) photographic identification of the certification assessor; and
- (c) a copy of the notice given under section 6.

Subdivision B—Access by CEO of Quality Agency and quality assessors

9 Purpose of this Subdivision

For paragraph 63-1(1)(l) of the Act, this Subdivision makes provision in relation to the responsibilities of an approved provider of a residential care service to allow the CEO of the Quality Agency or a quality assessor access to the service for the purpose of performing functions or duties, or exercising powers, as the CEO of the Quality Agency or a quality assessor.

10 Consent to access service

- (1) The CEO of the Quality Agency or a quality assessor must not access the premises of a residential care service for a purpose referred to in section 9 unless the approved provider of the service has consented to the access.

Note: The CEO of the Quality Agency or a quality assessor is not required to give the approved provider notice of a requirement to access the service.

- (2) Before obtaining the approved provider's consent, the CEO of the Quality Agency or the quality assessor must inform the approved provider of the following:
 - (a) that the approved provider may refuse to give consent or may withdraw consent at any time;
 - (b) that the approved provider may not be complying with its responsibilities under paragraph 63-1(1)(l) of the Act if it refuses to consent, or withdraws consent, to the access to the service;
 - (c) that failure to comply with a responsibility under paragraph 63-1(1)(l) of the Act may result in a sanction being imposed under Part 4.4 of the Act, but that an act referred to in paragraph 23(b) or (c) of these principles will not constitute failure to comply with a responsibility under paragraph 63-1(1)(l) of the Act.
- (3) The approved provider must not unreasonably withhold consent if access to the premises of the service is required in circumstances where the CEO of the Quality Agency or the quality assessor reasonably believes that there is a serious risk to the safety, health or wellbeing of a person who is being provided with care through the service.
- (4) The approved provider may withdraw consent at any time.

- (5) The CEO of the Quality Agency or the quality assessor must leave the premises of the service if the approved provider asks the CEO of the Quality Agency or the quality assessor to do so.

11 CEO of the Quality Agency or quality assessor must show identification

Before accessing the premises of a residential care service, the CEO of the Quality Agency or a quality assessor must show the approved provider of the service:

- (a) evidence of the name and position of the CEO or quality assessor; and
- (b) photographic identification of the CEO or quality assessor.

Subdivision C—Access by the Aged Care Commissioner

12 Purpose of this Subdivision

For paragraph 63-1(1)(m) of the Act, this Subdivision makes provision in relation to the responsibilities of an approved provider of a residential care service to allow the Aged Care Commissioner access to the service for the purpose of performing functions or duties, or exercising powers, under the Act or the *Complaints Principles 2014*.

13 Notice of access

- (1) If the Aged Care Commissioner requires access to a residential care service for a purpose referred to in section 12, the Commissioner must notify the approved provider of the service of the requirement.
- (2) The Aged Care Commissioner must also inform the approved provider of the following:
 - (a) that the approved provider may refuse to give consent, or may withdraw consent, to the access to the service;
 - (b) that the approved provider may not be complying with its responsibilities under paragraph 63-1(1)(m) of the Act if it refuses to consent, or withdraws consent, to the access to the service;
 - (c) that failure to comply with a responsibility under paragraph 63-1(1)(m) of the Act may result in a sanction being imposed under Part 4.4 of the Act, but that an act referred to in paragraph 23(b) or (c) of these principles will not constitute non-compliance with a responsibility under paragraph 63-1(1)(m) of the Act.

14 Consent to access service

- (1) The Aged Care Commissioner must not access the premises of a residential care service unless the approved provider of the service has consented to the access.
- (2) The approved provider must not unreasonably withhold consent if access to the premises of the service is required in circumstances where the Aged Care

Section 15

Commissioner reasonably believes that there is a serious risk to the safety, health or wellbeing of a person who is being provided with care through the service.

- (3) The approved provider may withdraw consent at any time.
- (4) The Aged Care Commissioner must leave the premises of the service if the approved provider asks the Commissioner to do so.

15 Aged Care Commissioner must show identification

Before accessing the premises of a residential care service, the Aged Care Commissioner must show the approved provider of the service:

- (a) evidence of the Commissioner's name and position; and
- (b) photographic identification of the Commissioner.

Division 2—Access to home care services

16 Purpose of this Division

For paragraph 63-1(1)(m) of the Act, this Division makes provision in relation to the responsibilities of an approved provider of a home care service to allow the CEO of the Quality Agency or a quality reviewer access to the service for the purpose of performing functions or duties, or exercising powers, as the CEO of the Quality Agency or a quality reviewer.

17 Consent to access service

- (1) The CEO of the Quality Agency or a quality reviewer must not access the premises of a home care service unless the approved provider of the service has consented to the access.

Note: **Premises** of a home care service means the premises of the approved provider of the service (see section 4).
- (2) Before obtaining the approved provider's consent, the CEO of the Quality Agency or the quality reviewer must inform the approved provider of the following:
 - (a) that the approved provider may refuse to give consent or may withdraw consent at any time;
 - (b) that the approved provider may not be complying with its responsibilities under paragraph 63-1(1)(m) of the Act if it refuses to consent, or withdraws consent, to the access to the service;
 - (c) that failure to comply with a responsibility under paragraph 63-1(1)(m) of the Act may result in a sanction being imposed under Part 4.4 of the Act, but that an act referred to in paragraph 23(b) or (c) of these principles will not constitute failure to comply with a responsibility under paragraph 63-1(1)(m) of the Act.
- (3) The approved provider must not unreasonably withhold consent if access to the premises of the service is required in circumstances where the CEO of the Quality Agency or the quality reviewer reasonably believes that there is a serious risk to the safety, health or wellbeing of a person who is being provided with care through the service.
- (4) The approved provider may withdraw consent at any time.
- (5) The CEO of the Quality Agency or the quality reviewer must leave the premises of the service if the approved provider asks the CEO of the Quality Agency or the quality reviewer to do so.

18 CEO of the Quality Agency or quality reviewer must show identification

Before accessing the premises of a home care service, the CEO of the Quality Agency or a quality reviewer must show the approved provider of the service:

- (a) evidence of the name and position of the CEO or quality reviewer; and

Section 18

- (b) photographic identification of the CEO or quality reviewer.

Division 3—General provisions relating to access

19 Purpose of this Division

For subsection 63-1(1) of the Act, this Division:

- (a) specifies other responsibilities that an approved provider of a residential care service or a home care service must comply with if the approved provider has given consent to a relevant official, under Division 1 or 2, to access the service; and
- (b) provides that certain acts by an approved provider of a residential care service or a home care service do not constitute non-compliance with the approved provider's responsibilities under paragraph 63-1(1)(j) or (m) of the Act.

Note: *Relevant official* is defined in section 4.

20 Hours of access

- (1) An approved provider of a residential care service or a home care service must allow a relevant official access to the premises of the service:
 - (a) during business hours; and
 - (b) at any time outside business hours if:
 - (i) the official is acting on a serious complaint where a care recipient's safety, health or wellbeing may be at risk; or
 - (ii) the official needs to examine a process or practice of the service that does not occur during business hours; or
 - (iii) access during that time is undertaken by the official in a manner that does not unreasonably disrupt the quality of care and services being provided through the service.
- (2) If an approved provider of a residential care service or a home care service refuses to allow a relevant official access to the premises of the service at any time outside business hours, in circumstances other than those set out in subparagraph (1)(b)(i) or (ii), because access during that time, and in the manner proposed by the official, would unreasonably disrupt the quality of care and services being provided through the service, the approved provider and the official must agree on an alternative time for the official to access the premises that is suitable for the purposes of the access.

21 Access to premises, documents etc.

- (1) An approved provider of a residential care service or a home care service must allow a relevant official to do any of the following:
 - (a) inspect any part of the premises of the service;
 - (b) take photographs (including a video recording), or make sketches, of the premises or any substance or thing at the premises;
 - (c) inspect, examine and take samples of, any substance or thing on or in the premises;

Section 22

- (d) inspect any document or record kept by the approved provider;
 - (e) take extracts from, or copies of, any document or record kept by the approved provider;
 - (f) operate any equipment on the premises to see whether the equipment, or a disk, tape or other storage device on the premises that is associated with the equipment, contains any information relevant to the performance of the functions of the official;
 - (g) take copies, in documentary form or on a disk, tape or other storage device, of information obtained under paragraph (f) that is relevant to the performance of the functions of the official.
- (2) The approved provider must allow a relevant official to take onto the premises of the service any equipment or material reasonably necessary for the purpose of doing a thing referred to in paragraph (1)(a), (b), (c), (d), (e) or (g).
- (3) However, the approved provider may refuse to allow a relevant official to do a thing referred to in paragraph (1)(b), (c), (d), (e) or (g) if the substance, thing, document or record referred to in the paragraph is not relevant to the operation or administration by the approved provider of the service.
- (4) Also, the approved provider may refuse to allow a relevant official to do:
- (a) a thing referred to in paragraph (1)(b), (c), (d), (e) or (g) in relation to a care recipient, or a care recipient's property, if the care recipient has not consented to the thing being done; or
 - (b) a thing referred to in paragraph (1)(b) in relation to a staff member, or a staff member's property, if the staff member has not consented to the thing being done.

22 Access to staff members and other persons

An approved provider of a residential care service or a home care service must not obstruct a relevant official from accessing or questioning any person (including staff members, care recipients and visitors) on the premises of the service, if:

- (a) the access or questioning is relevant to the official's functions; and
- (b) the official considers that the access or questioning:
 - (i) is relevant to the operation or administration by the approved provider of the service; or
 - (ii) is necessary to obtain information about whether the approved provider is meeting its obligations under the Act.

23 Refusal of access

None of the following acts by an approved provider of a residential care service or a home care service constitutes non-compliance with the approved provider's responsibilities under paragraph 63-1(1)(j) or (m) of the Act:

- (a) refusing to allow a relevant official access to the premises of the service because the official has not complied with (as the case requires):
 - (i) section 6 or 8; or

- (ii) subsection 10(2) or section 11; or
- (iii) section 13 or 15; or
- (iv) subsection 17(2) or section 18;
- (b) refusing to allow a relevant official access to the premises of the service outside business hours, other than in circumstances referred to in subparagraph 20(1)(b)(i) or (ii), because access during that time, and in the manner proposed by the official, would unreasonably disrupt the quality of care and services being provided through the service;
- (c) refusing to allow a relevant official to do a thing under subsection 21(3) or (4);
- (d) refusing to allow a relevant official to access or question a person on the premises of the service in circumstances other than those referred to in paragraph 22(a) or (b).

Part 3—Information to be given to Minister or Secretary

Division 1—Information about residential care services

24 Purpose of this Division

This Division specifies:

- (a) for paragraph 63-1(1)(m) of the Act—the responsibilities of an approved provider of a residential care service to give certain information to the Secretary or the Minister about the service; and
- (b) for subsection 63-1B(2) of the Act—the period within which an approved provider of a residential care service must notify the Secretary of the entry of a care recipient into the service.

25 Information about unexplained absence of care recipients

- (1) For paragraph 63-1(1)(m) of the Act, an approved provider of a residential care service must inform the Secretary if:
 - (a) a care recipient is absent from the service; and
 - (b) the absence is unexplained; and
 - (c) the absence has been reported to the police.
- (2) The information must be given to the Secretary as soon as reasonably practicable, but not later than 24 hours after the care recipient's absence was reported to the police.

26 Information about accommodation payments, contributions, bonds and charges

- (1) This section applies if the Minister requests, in writing, an approved provider to give the Minister information about any of the following:
 - (a) accommodation payments;
 - (b) accommodation contributions;
 - (c) accommodation bonds;
 - (d) accommodation charges;that the Minister needs to prepare a report under section 63-2 of the Act.
- (2) For paragraph 63-1(1)(m) of the Act, the approved provider must comply with the request within the time specified in the request (provided the time specified is reasonable).
- (3) The information given under subsection (1) may relate to any of the following:
 - (a) the amount (which may be nil) of accommodation payments and accommodation contributions paid as refundable deposits and daily payments;
 - (b) the repayment of refundable deposits;

- (c) the amount (which may be nil) of accommodation bonds paid;
 - (d) the repayment of accommodation bonds;
 - (e) the amount (which may be nil) of accommodation charges paid.
- (4) The Minister must not request, and the approved provider must not give the Minister, personal information relating to an individual care recipient.

Note: The disclosure of personal information is, generally speaking, prohibited (see section 62-1 of the Act).

27 Information about building, upgrading and refurbishment

- (1) This section applies if the Minister requests, in writing, an approved provider of an aged care service to give the Minister information about the extent of building, upgrading and refurbishment of the service that the Minister needs to prepare a report under section 63-2 of the Act.
- (2) For paragraph 63-1(1)(m) of the Act, the approved provider must comply with the request within the time specified in the request (provided the time specified is reasonable).

28 Period for notifying Secretary about entry of care recipient to residential care service

For subsection 63-1B(2) of the Act, the period within which an approved provider of a residential care service must notify the Secretary of the entry of a care recipient (other than as a recipient of respite care) into the service is 28 days after the day on which the care recipient enters the service.

Section 29

Division 2—Information about home care services

29 Purpose of this Division

For paragraph 63-1(1)(m) of the Act, this Division specifies the responsibility of an approved provider of a home care service to notify the Secretary of certain information about care recipients who start to be provided with home care through the service on or after 1 July 2014.

30 Notification of start of home care

- (1) An approved provider of a home care service must notify the Secretary, in writing, of each care recipient who starts to be provided with home care through the service on or after 1 July 2014.
- (2) The notice under subsection (1) must:
 - (a) be in a form approved by the Secretary; and
 - (b) be given within 28 days after the care recipient starts to be provided with home care through the service.

Part 4—Financial reports

Division 1—Preliminary

31 Purpose of this Part

For paragraph 63-1(1)(m) of the Act, this Part:

- (a) specifies responsibilities in relation to financial reporting of:
 - (i) an approved provider of a residential care service; and
 - (ii) an approved provider of a home care service; and
- (b) makes provision in relation to the period that is a financial year for an approved provider of a residential care service or a home care service.

32 What is an approved provider's financial year

- (1) A **financial year** for an approved provider of a residential care service, or a home care service, is:
 - (a) a period of 12 months beginning on 1 July; or
 - (b) if, under subsection (3), the Secretary determines another period of 12 months (being a period that begins on the first day of a month)—that other period.
- (2) An approved provider of a residential care service, or a home care service, may apply to the Secretary to determine a period of 12 months, other than the period starting on 1 July, to be the approved provider's financial year.
- (3) If the Secretary receives an application from an approved provider for a determination under subsection (2), the Secretary must:
 - (a) make, or refuse to make, the determination; and
 - (b) notify the approved provider, in writing, of the Secretary's decision:
 - (i) within 28 days; or
 - (ii) if the Secretary has requested further information in relation to the application—within 28 days, excluding the period within which the information is requested and received.

Note: A decision to refuse to make a determination is a reviewable decision under section 33.

- (4) The Secretary may determine another period to be the approved provider's financial year under subsection (3) only if the Secretary is satisfied, on reasonable grounds, that it would be impracticable for the approved provider to comply with the requirements of Division 2, 3 or 4 (as the case requires) in relation to a period of 12 months starting on 1 July.
- (5) If the Secretary's decision is to refuse to make a determination for the approved provider under subsection (3), the Secretary must also give the approved provider a written statement of the reasons for the decision.

Section 33

33 Reviewable decision

- (1) A decision under subsection 32(3) to refuse to make a determination that a period of 12 months, other than the period starting on 1 July, be an approved provider's financial year is a reviewable decision under section 85-1 of the Act.
- (2) Part 6.1 of the Act applies to a reviewable decision mentioned in subsection (1) as if a reference in that Part to this Act included a reference to these principles.

Division 2—Responsibilities of approved providers of residential care services other than State or Territory approved providers

34 Purpose of this Division

This Division specifies responsibilities in relation to financial reporting of an approved provider of a residential care service if the approved provider is not a State or Territory or an authority of a State or Territory.

35 Approved provider must prepare financial report

- (1) An approved provider of a residential care service must, for each financial year for the approved provider, prepare a financial report, in accordance with this section, in relation to either of the following (in this Division called the *entity*):

- (a) the residential care service;
- (b) the approved provider in relation to the residential care service.

Note 1: An approved provider of 2 or more residential care services may prepare:

- (a) a separate financial report in relation to each service; or
- (b) a single financial report in relation to the approved provider and some or all of those services.

Note 2: In certain circumstances, the approved provider may be taken to have complied with the requirement in this subsection (see section 38).

- (2) The financial report for a financial year for the approved provider must:
- (a) be a general purpose financial report within the meaning of the *Statement of Accounting Concepts SAC 2 Objective of General Purpose Financial Reporting*, as in force on 1 July 2014; and
 - (b) be written as if the entity were a reporting entity within the meaning of the *Statement of Accounting Concepts SAC 1 Definition of the Reporting Entity*, as in force on 1 July 2014; and
 - (c) be prepared in accordance with the Australian accounting standards relevant to the report as in force at the time the report is prepared; and
 - (d) give a true and fair view of the financial position and performance of the reporting entity for the financial year; and
 - (e) treat residential care as a reportable segment within the meaning of the Australian accounting standard relating to segment reporting that applies to the financial year; and
 - (f) for the Australian accounting standard relating to segment reporting that applies to the financial year, if the entity is not an entity to which the standard applies—be written as if the entity were a reporting entity to which the standard applies.

Note: In 2014, the *Statement of Accounting Concepts SAC 1* and the *Statement of Accounting Concepts SAC 2* were accessible at <http://www.aasb.gov.au>.

Section 36

36 Auditing of financial reports

- (1) An approved provider of a residential care service must have a financial report prepared under section 35 audited by:
 - (a) a registered company auditor within the meaning of the *Corporations Act 2001*; or
 - (b) a person approved by the Secretary under subsection (3).
- (2) The approved provider must obtain an audit opinion about the financial report, from a registered company auditor or a person approved under subsection (3), that includes the following statements:
 - (a) whether the financial report is in accordance with the Australian accounting standards relevant to the report as in force at the time the report was made;
 - (b) whether the financial report gives a true and fair view of the financial position and performance of the entity to which the report relates for the relevant financial year.
- (3) The Secretary may approve a person to audit a financial report prepared under section 35 if the Secretary is satisfied that the person has appropriate qualifications and experience.

37 Provision of financial reports to Secretary etc.

Provision of financial report and audit opinion to Secretary

- (1) An approved provider of a residential care service must give a copy of the audited financial report and the audit opinion, referred to in section 36, to the Secretary within 4 months after the end of the financial year to which the report relates.

Provision of financial report to care recipient or intending care recipient

- (2) The approved provider must give a copy of the most recent audited financial report prepared under section 35 to each person who asks for a copy and who is:
 - (a) a care recipient of a residential care service to which the report relates; or
 - (b) approved as a recipient of residential care and who is considering receiving residential care through a residential care service to which the report relates; or
 - (c) a representative of a person mentioned in paragraph (a) or (b).

38 Circumstances in which approved provider is taken to have complied with this Division

If an approved provider of a residential care service was responsible for the operations of the service during part only of a financial year for the approved provider, the approved provider is taken to have complied with sections 35, 36 and 37 in relation to the service for the financial year if the approved provider

complied with those sections in relation to the service and that part of the financial year.

Division 3—Responsibilities of State or Territory approved providers of residential care services

39 Purpose of this Division

This Division specifies responsibilities in relation to financial reporting of an approved provider of a residential care service if the approved provider is a State or Territory or an authority of a State or Territory.

40 Approved provider must give segment report to Secretary

- (1) An approved provider of a residential care service must, within 4 months after the end of each financial year for the approved provider, give the Secretary a segment report in relation to the service for the financial year.

Note 1: An approved provider of 2 or more residential care services may prepare:

- (a) a separate segment report in relation to each service; or
- (b) a single segment report in relation to the approved provider and some or all of those services.

Note 2: In certain circumstances, the approved provider may be taken to have complied with the requirement in this subsection (see section 41).

- (2) The segment report must treat the residential care service as a reportable segment within the meaning of the Australian accounting standard relating to segment reporting that applies to the financial year.
- (3) The segment report must set out details of revenue, expenses, assets and liabilities of the approved provider in relation to the residential care service for the financial year.
- (4) The segment report is not required to be audited.

41 Circumstances in which approved provider is taken to have complied with this Division

If an approved provider of a residential care service was responsible for the operations of the service during part only of a financial year for the approved provider, the approved provider is taken to have complied with section 40 in relation to the service for the financial year if the approved provider complied with that section in relation to the service and that part of the financial year.

Division 4—Responsibilities of approved providers of home care services

42 Purpose of this Division

This Division specifies responsibilities in relation to financial reporting of an approved provider of a home care service.

43 Approved provider must give financial report to Secretary

- (1) An approved provider of a home care service must, within 4 months after the end of each financial year for the approved provider, give the Secretary a financial report in relation to the service for the financial year.

Note 1: An approved provider of 2 or more home care services may prepare:

- (a) a separate financial report in relation to each service; or
- (b) a single financial report in relation to the approved provider and some or all of those services.

Note 2: In certain circumstances, the approved provider may be taken to have complied with the requirement in this subsection (see section 44).

- (2) The financial report must be in a form approved by the Secretary.
- (3) The financial report is not required to be audited.

44 Circumstances in which approved provider is taken to have complied with this Division

If an approved provider of a home care service was responsible for the operations of the service during part only of a financial year for the approved provider, the approved provider is taken to have complied with section 43 in relation to the service for the financial year if the approved provider complied with that section in relation to the service and that part of the financial year.

Part 5—Participation in aged care workforce census

45 Purpose of this Part

For paragraph 63-1(1)(m) of the Act, this Part specifies responsibilities of an approved provider of an aged care service to participate in an aged care workforce census.

46 Participation in aged care workforce census

- (1) If an approved provider of an aged care service receives an aged care workforce census form sent by or on behalf of the Department, the approved provider must complete the form and return it to the Department by the date specified in the form.
- (2) If an approved provider of an aged care service was not responsible for the operations of the service during all or some of a period covered by an aged care workforce census, the approved provider is taken to have complied with subsection (1) in relation to the service and the census.

Part 6—Responsibilities in relation to certain staff members and volunteers

47 Purpose of this Part

For paragraph 63-1(1)(m) of the Act, this Part specifies the responsibilities of an approved provider to ensure:

- (a) that each person who is a staff member of the approved provider, or a volunteer for the approved provider, has been issued with a police certificate and, if necessary, has made a statutory declaration stating that the person has not been convicted of certain offences; and
- (b) that persons with certain criminal convictions do not provide aged care.

48 Requirements in relation to new staff members and volunteers

An approved provider must not allow a person to become a staff member of the approved provider, or a volunteer for the approved provider, unless the approved provider is satisfied that:

- (a) subject to section 49, there is for the person a police certificate that is dated not more than 3 years before the day on which the person would first become a staff member or volunteer; and
- (b) the police certificate does not record that the person has been:
 - (i) convicted of murder or sexual assault; or
 - (ii) convicted of, and sentenced to imprisonment for, any other form of assault; and
- (c) 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.

49 Arrangements for new staff members or volunteers who do not yet have police certificates

Despite paragraph 48(a), an approved provider may allow a person to become a staff member of the approved provider, or a volunteer for the approved provider, if:

- (a) a police certificate has not been issued for the person; and
- (b) the care or other service to be provided by the person is essential; and
- (c) an application for a police certificate for the person has been made before the day on which the person would first become a staff member or volunteer; and

Section 50

- (d) until the police certificate is issued, the person will be subject to appropriate supervision during periods when the person has access to care recipients; and
- (e) the person makes 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.

50 Continuing responsibilities of approved providers

- (1) An approved provider must ensure that, except for any period during which a person did not have a police certificate as permitted by section 49:
 - (a) there is a police certificate for each person who is a staff member of the approved provider or a volunteer for the approved provider; and
 - (b) the certificate is not more than 3 years old; and
 - (c) the certificate does not record that the person has been:
 - (i) convicted of murder or sexual assault; or
 - (ii) convicted of, and sentenced to imprisonment for, any other form of assault.
- (2) An approved provider must ensure that each person who is a staff member of the approved provider, or a volunteer for the approved provider, is not allowed to continue as a staff member or volunteer unless the approved provider is satisfied that a police certificate issued for the person, or a statutory declaration made by the person, does not record that the person has been:
 - (a) convicted of murder or sexual assault; or
 - (b) convicted of, and sentenced to imprisonment for, any other form of assault.
- (3) An approved provider must take reasonable measures to require each person who is a staff member of the approved provider, or a volunteer for the approved provider, to notify the approved provider if the staff member or volunteer is:
 - (a) convicted of murder or sexual assault; or
 - (b) convicted of, and sentenced to imprisonment for, any other form of assault.
- (4) An approved provider must ensure that a staff member of the approved provider, or a volunteer for the approved provider, is not allowed to continue as a staff member or volunteer if the approved provider is satisfied on reasonable grounds that the staff member or volunteer has been:
 - (a) convicted of murder or sexual assault; or
 - (b) convicted of, and sentenced to imprisonment for, any other form of assault.

51 Spent convictions

Nothing in this Part 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 7—Circumstances in which requirement to report allegation or suspicion of reportable assault does not apply

52 Purpose of this Part

For subsection 63-1AA(3) of the Act, this Part specifies:

- (a) circumstances in which an approved provider is not responsible for reporting an alleged or suspected reportable assault under subsection 63-1AA(2) of the Act; and
- (b) requirements that the approved provider must comply with in relation to those circumstances or an alleged or suspected reportable assault.

Note: Subsection 63-1AA(2) of the Act states that if the approved provider receives an allegation of, or starts to suspect on reasonable grounds, a reportable assault, the approved provider is responsible for reporting the allegation or suspicion as soon as reasonably practicable, and in any case within 24 hours, to:

- (a) a police officer with responsibility relating to an area including the place where the assault is alleged or suspected to have occurred; and
- (b) the Secretary.

53 Circumstances in which approved provider is not required to report alleged or suspected reportable assault

- (1) Subsection 63-1AA(2) of the Act does not apply to an approved provider in relation to an allegation or suspicion of a reportable assault if:
 - (a) within 24 hours after the receipt of the allegation, or the start of the suspicion, the approved provider forms an opinion that the assault was committed by a care recipient to whom the approved provider provides residential care; and
 - (b) before the receipt of the allegation or the start of the suspicion, the care recipient had been assessed by an appropriate health professional as suffering from a cognitive or mental impairment; and
 - (c) within 24 hours after the receipt of the allegation or the start of the suspicion, the approved provider puts in place arrangements for management of the care recipient's behaviour; and
 - (d) the approved provider has:
 - (i) a copy of the assessment or other documents showing the care recipient's cognitive or mental impairment; and
 - (ii) a record of the arrangements put in place under paragraph (c).

Examples of appropriate health professional for paragraph (b):

- (a) geriatrician;
- (b) other medical practitioner;
- (c) registered nurse (in Victoria, Division 1 registered nurse).

Section 53

Note: Under the *Records Principles 2014*, an approved provider must also keep consolidated records of all incidents involving allegations or suspicions of reportable assaults.

- (2) Subsection 63-1AA(2) of the Act does not apply in relation to an allegation or suspicion (the ***later allegation or suspicion***) of a reportable assault if:
- (a) the later allegation or suspicion relates to the same, or substantially the same, factual situation or event as an earlier allegation or suspicion of a reportable assault; and
 - (b) the earlier allegation or suspicion was reported to a police officer and the Secretary under subsection 63-1AA(2) of the Act.

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

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

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.

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 amendment is set out in the endnotes.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

A = Act	orig = original
ad = added or inserted	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
am = amended	pres = present
amdt = amendment	prev = previous
c = clause(s)	(prev...) = previously
C[x] = Compilation No. x	Pt = Part(s)
Ch = Chapter(s)	r = regulation(s)/rule(s)
def = definition(s)	Reg = Regulation/Regulations
Dict = Dictionary	reloc = relocated
disallowed = disallowed by Parliament	renum = renumbered
Div = Division(s)	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislative Instruments	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LI = Legislative Instrument	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md) = misdescribed amendment	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
o = order(s)	<u>underlining</u> = whole or part not commenced or to be commenced
Ord = Ordinance	

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
Accountability Principles 2014	26 June 2014 (F2014L00831)	1 July 2014 (s 2)	
Accountability Amendment Principle 2014 (No. 1)	16 Jan 2015 (F2015L00050)	17 Jan 2015 (s 2)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 2	rep LIA s 48D
s 9	am F2015L00050
s 10	am F2015L00050