

## EXPLANATORY STATEMENT

**Issued by the authority of the Assistant Minister for Social Services**

*Aged Care Act 1997*

*Quality of Care Amendment Principle 2014 (No. 1)*

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

Section 96-1 of the Act allows for the Minister to make Principles providing for various matters required or permitted by a Part or section of the Act. Among the Principles made under section 96-1 are the *Quality of Care Principles 2014* (the Principles).

The Principles deal with the responsibilities of approved providers, accreditation standards, home care standards and flexible care standards in relation to the quality of aged care detailed in Part 4.1 of the Act.

The Principles require that if an approved provider of residential care is notified by a State, Territory or local government authority that an aged care service is not compliant with fire safety laws, the approved provider must notify the Secretary of the Department of Social Services. The Principles also require that the notice be given within 28 days, in an approved form.

The *Quality of Care Amendment Principle 2014 (No.1)* (Amending Principle) is intended to remove this notification requirement.

The Accreditation Standards will continue to require residential care providers to demonstrate systems to ensure compliance with their regulatory responsibilities, including in respect of fire safety.

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

### Consultation

Removal of the fire safety declaration was discussed and agreed as a useful change by the Aged Care Sector Committee (ACSC). As the amendments in the Amending Principles are of a minor or machinery nature, no specific consultation was undertaken in relation to this instrument.

### Regulation Impact Statement

The Office of Best Practice Regulation has advised that no Regulatory Impact Statement is required (OBPR ID 17120).

### Commencement

The Amending Principle commences on the day after it is registered.

**Details of the *Quality of Care Amendment Principle 2014 (No. 1)***

**Clause 1** states that the name of the Amending Principle is the *Quality of Care Amendment Principle 2014 (No.1)*.

**Clause 2** states the Amending Principle is to commence on the day after it is registered.

**Clause 3** provides that the authority for the making of the Amending Principle is the *Aged Care Act 1997*.

**Clause 4** provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**Schedule 1 – Amendments**

**Item 1 - Section 8**

This Section amends the *Quality of Care Principles 2014* to repeal the requirement for a fire safety exception notice, for a given residential care service, to be provided to the Secretary if an approved provider is notified by a State, Territory or local government authority that the approved provider is not complying with any applicable State or Territory laws relating to fire safety in relation to the service.

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

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

### ***Quality of Care Amendment Principle 2014 (No. 1)***

The *Quality of Care Amendment Principle 2014 (No. 1)* (the Amending Principle) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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

The purpose of the Amending Principle is to repeal the requirement for a fire safety exception notice, for a given residential care service, to be provided to the Secretary if an approved provider is notified by a State, Territory or local government authority that the approved provider is not complying with any applicable State or Territory laws relating to fire safety in relation to the service.

### **Human Rights Implications**

The removal of this reporting requirement would not impede on human rights as the monitoring of fire safety is a State or Territory government responsibility and notification to the Secretary duplicates State or Territory government regulation. It is an unnecessary regulatory burden on approved providers.

### **Conclusion**

This legislative instrument is compatible with human rights as it maintains the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

**Senator the Hon Mitch Fifield**  
**Assistant Minister for Social Services**