

Complaints Principles 2015

made under section 96‑1 of the

Aged Care Act 1997

**Compilation No. 1**

**Compilation date:** 30 May 2018

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**About this compilation**

**This compilation**

This is a compilation of the *Complaints Principles 2015* that shows the text of the law as amended and in force on 30 May 2018 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

**Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

These are the *Complaints Principles 2015*.

3 Authority

This instrument is made under the following:

(a) section 96‑1 of the *Aged Care Act 1997*;

(b) item 34 of Part 2 of Schedule 1 to the *Aged Care Amendment (Independent Complaints Arrangements) Act 2015*.

3A Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

4 Definitions

In this instrument:

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

***CHSP*** means the program administered by the Commonwealth and known as the Commonwealth Home Support Programme.

***complainant*** means a person who makes a complaint to the Aged Care Complaints Commissioner under section 6.

***funding agreement*** means a CHSP or NATSIFACP funding agreement between the Commonwealth and a service provider.

***NATSIFACP*** means the program administered by the Commonwealth and known as the National Aboriginal and Torres Strait Islander Flexible Aged Care Program.

***resolution process*** means the process undertaken by the Aged Care Complaints Commissioner under section 12 to resolve an issue that is:

(a) raised by a complaint made under section 6; or

(b) raised as referred to in section 11.

***service provider*** means an entity that provides services through the CHSP or NATSIFACP programmes under a funding agreement with the Commonwealth.

Note: An entity may be both an approved provider under the Act and a service provider. The appropriate approach will depend on whether the issue relates to a CHSP or NATSIFACP funding agreement, or not.

**5 Purpose of this instrument**

(1) For Division 94A of the Act, this instrument provides a scheme for the management and resolution of complaints and other concerns about aged care services through which aged care is provided by approved providers.

(2) For paragraph 95A‑1(2)(c) of the Act, this instrument confers on the Aged Care Complaints Commissioner:

(a) other functions related to the management and resolution of complaints and other concerns about CHSP and NATSIFACP services through which care is provided by service providers;

(b) the function to educate people about, and develop resources relating to, best practice in the handling of:

(i) complaints relating to a service provider’s responsibilities under a CHSP or NATSIFACP funding agreement; and

(ii) matters arising from such complaints.

Part 2—Complaints

6 Making a complaint

(1) A person may make a complaint to the Aged Care Complaints Commissioner raising an issue or issues about:

(a) an approved provider’s responsibilities under the Act or under the principles made under section 96‑1 of the Act; or

(b) a service provider’s responsibilities under a funding agreement.

(2) A complaint may be made orally or in writing, and may be made anonymously.

(3) A complainant may ask the Aged Care Complaints Commissioner to keep the following information confidential:

(a) the identity of the complainant;

(b) the identity of a person identified in the complaint;

(c) any other details included in the complaint.

7 Dealing with a complaint

If the Aged Care Complaints Commissioner receives a complaint under subsection 6(1), the Commissioner must, in relation to each issue raised in the complaint:

(a) decide to take no further action on the issue on the basis that section 8 applies to the issue; or

(b) quickly resolve the issue to the satisfaction of the complainant by giving assistance and advice to the complainant, approved provider, or service provider to which the issue relates; or

(c) undertake a resolution process.

Note 1: A decision under paragraph (a) may be reconsidered under Part 7.

Note 2: The following are examples for paragraph (b):

(a) assist the complainant to clarify the issues to enable the complainant to raise them directly with the approved provider or service provider;

(b) telephone the approved provider or service provider on behalf of the complainant to discuss and resolve the issue raised by the complainant;

(c) advise the approved provider of the approved provider’s rights and responsibilities under the Act and, in doing so, facilitate the resolution of the issue;

(d) advise the service provider of the service provider’s rights and responsibilities under a funding agreement with the Commonwealth and responsibilities relating to compliance with the Home Care Standards.

8 No further action on an issue

The Aged Care Complaints Commissioner may decide to take no further action in relation to an issue raised in a complaint if the Commissioner is satisfied that one or more of the following circumstances apply:

(a) the issue was not raised in good faith;

(b) the issue is, or has been, the subject of a legal proceeding;

(c) the issue has been dealt with under:

(i) this instrument; or

(ii) the administrative scheme for resolution of complaints about service providers as it existed immediately before the commencement of the *Complaints Amendment (Other Functions) Principles 2018*;

(d) the issue is raised in another complaint that is already being dealt with under this instrument;

(e) the issue relates to an event:

(i) that occurred more than 1 year before the complaint was made to the Commissioner; and

(ii) that is not ongoing;

(f) the complaint has been withdrawn under section 9;

(g) the issue is subject to a coronial inquiry;

(h) a care recipient named in the complaint does not wish the issue to be considered by the Commissioner;

(i) the issue is better dealt with by another organisation;

(j) having regard to all the circumstances, a resolution process in relation to the issue is not warranted.

9 Withdrawal of complaint

(1) A complainant may withdraw his or her complaint, either orally or in writing, at any time.

(2) The Aged Care Complaints Commissioner may deal, or continue to deal, with the complaint despite the withdrawal of the complaint.

Note: A complainant who withdraws his or her complaint ceases to have a right to be given feedback or to apply for reconsideration of the Commissioner’s decision (see sections 16, 17 and 22).

10 Confidentiality

(1) The Aged Care Complaints Commissioner must ensure that a request for confidentiality under subsection 6(3) is complied with unless the Commissioner considers that doing so will, or is likely to, place the safety, health or wellbeing of the complainant, a care recipient or any other person at risk.

(2) The Aged Care Complaints Commissioner must take all reasonable steps to notify the complainant before deciding not to keep information confidential that the complainant has requested be kept confidential under subsection 6(3).

Part 3—Resolution process

11 Aged Care Complaints Commissioner may undertake resolution process on own initiative

If the Aged Care Complaints Commissioner receives information (whether in a complaint or otherwise) that raises an issue about the responsibilities of:

(a) one or more approved providers under the Act or under principles made under section 96‑1 of the Act; or

(b) one or more service providers under a funding agreement;

the Commissioner may undertake a resolution process in relation to the issue.

12 Resolution process

(1) If the Aged Care Complaints Commissioner undertakes a resolution process in relation to an issue, the Commissioner may adopt one or more of the following approaches to resolve the issue:

(a) request the approved provider or service provider to which the issue relates to examine and attempt to resolve the issue and report back to the Commissioner;

(b) request the complainant (if any), the approved provider or service provider and any other person to participate in a conciliation process;

(c) undertake an investigation of the issue;

(d) refer the issue to mediation.

(2) In adopting any of the approaches in subsection (1), the Aged Care Complaints Commissioner may do one or more of the following:

(a) analyse and review documents;

(b) visit the location at which the aged care services are provided by the approved provider or the offices of the approved provider;

(ba) visit the location at which the CHSP or NATSIFACP services are provided by the service provider or the offices of the service provider;

(c) discuss the issue with the complainant (if any), the approved provider or service provider or any other person, in person or by other means;

(d) request information from any person.

13 Notifying approved provider or service provider

(1) If the Aged Care Complaints Commissioner undertakes a resolution process in relation to an issue, the Commissioner must notify the approved provider or service provider to which the issue relates about the issue as soon as practicable, unless the Commissioner considers that the notification will, or is likely to:

(a) impede the resolution of the issue; or

(b) place the safety, health or wellbeing of the complainant (if any), a care recipient or any other person at risk; or

(c) place the complainant (if any) or a care recipient at risk of intimidation or harassment.

(2) If the Aged Care Complaints Commissioner decides to make an unannounced visit to the location at which aged care services, CHSP or NATSIFACP services are provided by the approved provider or service provider or to the offices of the approved provider or service provider, the Commissioner need not notify the approved provider or service provider of the issue until the time of the unannounced visit.

Part 4—Outcome of resolution process

14 Ending resolution process

The Aged Care Complaints Commissioner may decide to end a resolution process in relation to an issue if one or more of the following circumstances apply:

(a) if the issue was raised in a complaint—the issue has been resolved because the complainant, and the approved provider or service provider to which the issue relates, have agreed on an outcome;

(b) the approved provider or service provider has addressed the issue to the satisfaction of the Commissioner;

(c) the Commissioner, in accordance with section 15, has directed the approved provider or service provider to take stated action in relation to the issue;

(d) the Commissioner, for an issue relating to an approved provider, has been notified that the Secretary has initiated action under Part 4.4 of the Act which relates to the issue;

(da) the Commissioner, for an issue relating to a service provider, has been notified that the Commonwealth has initiated action under a funding agreement which relates to the issue;

(e) the complaint has been withdrawn under section 9;

(f) the issue is better dealt with by another organisation;

(g) continuation of the resolution process is not warranted because the Commissioner is satisfied that:

(i) despite reasonable inquiry by the Commissioner, the circumstances giving rise to the issue cannot be determined; or

(ii) information given by the complainant (if any) was not given in good faith; or

(iii) the issue is, or has been, the subject of a legal proceeding; or

(iv) the issue is already being dealt with under this instrument or has already been dealt with under this instrument or the *Complaints Principles 2014*; or

(v) the issue is subject to a coronial inquiry; or

(vi) if the issue was raised in a complaint—a care recipient named in the complaint does not wish the resolution process to continue;

(vii) for an issue relating to a service provider—the issue has already been dealt with under the administrative scheme for resolution of complaints about service providers as it existed immediately before the commencement of the *Complaints Amendment (Other Functions) Principles 2018*;

(h) having regard to all the circumstances, continuation of the resolution process is not warranted.

Note: Requirements for feedback following a decision under this section to end a resolution process are in Part 5.

15 Directions to approved provider or service provider

(1) If, as part of a resolution process in relation to one or more issues, the Aged Care Complaints Commissioner is satisfied that:

(a) for an issue relating to an approved provider—the approved provider to which the issues relate is not meeting the approved provider’s responsibilities under the Act or under principles made under section 96‑1 of the Act; or

(b) for an issue relating to a service provider—the service provider to which the issues relate is not meeting the service provider’s responsibilities under a funding agreement;

the Commissioner may give directions to the approved provider or service provider.

(2) For an issue relating to an approved provider, the directions must require the approved provider to take stated actions in order to meet the approved provider’s responsibilities under the Act or under principles made under section 96‑1 of the Act.

(2A) For an issue relating to a service provider, the directions must require the service provider to take stated actions in order to meet the service provider’s responsibilities under a funding agreement with the Commonwealth.

(3) Before the Aged Care Complaints Commissioner gives directions to the approved provider or service provider, the Commissioner must give a written notice of intention to issue directions to the approved provider or service provider.

(4) The notice of intention to issue directions must:

(a) state:

(i) the preliminary findings of the Aged Care Complaints Commissioner; and

(ii) for an issue relating to an approved provider—the concerns of the Commissioner about the apparent failure of the approved provider to meet the approved provider’s responsibilities under the Act or under principles made under section 96‑1 of the Act; and

(iii) for an issue relating to a service provider—the concerns of the Commissioner about the apparent failure of the service provider to meet the service provider’s responsibilities under a funding agreement; and

(b) give the approved provider or service provider the opportunity to respond to those findings by identifying how the approved provider or service provider has addressed or will address the concerns identified; and

(c) state the timeframe the approved provider or service provider has for responding to the notice.

(5) The approved provider or service provider may respond to the notice of intention to give directions.

(6) If the approved provider or service provider responds to the notice under subsection (5), the approved provider or service provider must give the response, in writing, to the Aged Care Complaints Commissioner:

(a) within 14 days after receiving the notice; or

(b) within such other time as specified in the notice.

(7) The Aged Care Complaints Commissioner may, after considering any response given under subsection (5):

(a) for an issue relating to an approved provider—give written directions to the approved provider directing the approved provider to take stated actions in order to meet its responsibilities under the Act or under principles made under section 96‑1 of the Act; or

(b) for an issue relating to a service provider—give written directions to the service provider directing the service provider to take stated actions in order to meet its responsibilities under a funding agreement.

Note: If the Aged Care Complaints Commissioner is satisfied that the approved provider or service provider has addressed the issue, the Commissioner may decide to end the resolution process under paragraph 14(b).

(8) If the Aged Care Complaints Commissioner gives directions to an approved provider or service provider, the approved provider or service provider must comply with the directions.

(9) If the approved provider or service provider fails to comply with a direction, the Aged Care Complaints Commissioner must:

(a) notify the approved provider or service provider, in writing, of the reasons why the Commissioner is satisfied that the approved provider or service provider has not taken the actions stated in the direction; and

(b) provide a copy of the notice to the Secretary.

(10) A notice under subsection (9) must:

(a) include details of information that the Aged Care Complaints Commissioner relied upon in deciding that the approved provider or service provider had not taken the actions stated in the direction; and

(b) include a statement that a copy of the notice will be provided to the Secretary.

Note 1: The Secretary may initiate action under Part 4.4 of the Act in relation to an approved provider who fails to comply with a direction.

Note 2: The Commonwealth may initiate action under the funding agreement in relation to a service provider who fails to comply with a direction.

Part 5—Feedback

16 Feedback on no further action

(1) If the Aged Care Complaints Commissioner decides to take no further action on an issue under paragraph 7(a), the Commissioner must, as soon as practicable, give the complainant:

(a) feedback about the Commissioner’s decision to take no further action and the reasons for that decision; and

(b) information about how the complainant may apply for reconsideration of the decision by the Commissioner; and

(c) any other appropriate feedback.

(2) However, the Aged Care Complaints Commissioner is not required to comply with subsection (1) if:

(a) the complaint was made anonymously; or

(b) the complaint was withdrawn under section 9; or

(c) the complainant has requested the Commissioner not to provide feedback in relation to the complaint made by the complainant.

17 Feedback on resolution process

(1) If the Aged Care Complaints Commissioner decides to end a resolution process in relation to an issue under section 14, the Commissioner must, as soon as practicable, give the complainant (if any), and the approved provider or service provider to which the issue relates:

(a) feedback about:

(i) any key findings; and

(ii) the Commissioner’s decision to end the resolution process and the reasons for that decision; and

(b) information about how the complainant or the approved provider or service provider may apply for reconsideration of the Commissioner’s decision; and

(c) any other appropriate feedback.

(2) However, the Aged Care Complaints Commissioner is not required to comply with subsection (1) in relation to the complainant if:

(a) the complaint was made anonymously; or

(b) the complaint was withdrawn under section 9; or

(c) the complainant has requested the Commissioner not to provide feedback in relation to the complaint made by the complainant.

(3) The Aged Care Complaints Commissioner may give different feedback to the complainant and to the approved provider or service provider.

18 Feedback to other persons

The Aged Care Complaints Commissioner may give feedback about a resolution process to any other person or organisation that the Commissioner considers has a sufficient interest in the matter.

Part 6—Other actions

19 Referral to other organisations

(1) Nothing in this instrument prevents the Aged Care Complaints Commissioner from referring an issue raised in a complaint to the Secretary or another organisation.

(2) The Aged Care Complaints Commissioner may continue to deal with an issue raised in a complaint even if the Commissioner has referred the issue under subsection (1).

20 Use of information obtained during the administration of this instrument

Nothing in this instrument prevents the use of information that was obtained during the administration of this instrument for any other purpose related to the administration of either:

(a) the Act or principles made under section 96-1 of the Act; or

(b) the funding agreement.

21 Secretary may take action under the Act

Nothing in this instrument prevents the Secretary from taking action under Part 4.4 of the Act in relation to an issue raised in a complaint or an issue raised in information received by the Aged Care Complaints Commissioner.

**21A Commonwealth may take action under the funding agreement**

Nothing in this instrument prevents the Commonwealth from taking action under a funding agreement in relation to an issue raised in a complaint or an issue raised in information received by the Aged Care Complaints Commissioner.

Part 7—Reconsideration of decisions

22 Application for reconsideration by Aged Care Complaints Commissioner

Reconsideration of a decision made under paragraph 7(a)

(1) A complainant may apply to the Aged Care Complaints Commissioner for reconsideration of a decision by the Commissioner under paragraph 7(a) to take no further action on an issue raised in a complaint made by the complainant.

(2) However, an application cannot be made under subsection (1) for reconsideration of a decision to take no further action on an issue raised in a complaint if the decision was made because of the circumstance mentioned in paragraph 8(f) (complaint has been withdrawn).

Reconsideration of a decision made under section 14

(3) If the Aged Care Complaints Commissioner makes a decision under section 14 to end a resolution process in relation to an issue, any of the following persons may apply to the Commissioner for reconsideration of the decision:

(a) if the issue was raised in a complaint—the complainant who made the complaint;

(b) the approved provider or service provider to which the issue relates.

(4) However, an application cannot be made under subsection (3) for reconsideration of a decision by the Aged Care Complaints Commissioner to:

(a) end the resolution process because of the circumstance mentioned in paragraph 14(e); or

(b) end a new resolution process undertaken following a decision under paragraph 23(1)(b) because of a circumstance mentioned in paragraph 14(a), (b), (d), (da), (e), (f), (g) or (h); or

(c) end a new resolution process undertaken following a decision under paragraph 23(1)(b) if both of the following apply:

(i) the decision under paragraph 23(1)(b) was made in relation to an application for reconsideration of a decision to end a resolution process because of the circumstance mentioned in paragraph 14(c);

(ii) the decision to end the new resolution process was made because of the circumstance mentioned in paragraph 14(c).

Note: Paragraph (c) does not prevent an application being made for reconsideration of a decision to end a new resolution process because of the circumstance mentioned in paragraph 14(c) if the original resolution process undertaken in relation to the issue ended other than because of the circumstance mentioned in paragraph 14(c).

Applications

(5) An application under subsection (1) or (3) for reconsideration of a decision must:

(a) state the reasons (other than dissatisfaction with the decision) why reconsideration is sought; and

(b) be made within 42 days of the applicant being notified of the decision.

(6) An application under subsection (1) or (3) may be made orally or in writing.

23 Reconsideration by Aged Care Complaints Commissioner

(1) Within 28 days of receiving an application under section 22 to reconsider a decision, the Aged Care Complaints Commissioner must:

(a) confirm the decision to take no further action or to end the resolution process; or

(b) decide to undertake a new resolution process.

(2) If the Aged Care Complaints Commissioner confirms the original decision under paragraph (1)(a), the Commissioner must notify the applicant for reconsideration, in writing, of the Commissioner’s decision.

(3) If the Aged Care Complaints Commissioner decides to undertake a new resolution process in relation to an issue under paragraph (1)(b):

(a) the Commissioner must notify the complainant and the approved provider or service provider to which the issue relates, in writing, of the Commissioner’s decision; and

(b) the Commissioner must complete the new resolution process:

(i) in accordance with Parts 3 to 5; and

(ii) within 90 days of receiving the application under section 22 to reconsider the decision.

(4) The timeframe referred to in subparagraph (3)(b)(ii) may be extended by a further 14 days if the Aged Care Complaints Commissioner notifies the complainant (if any) and the approved provider or service provider to which the issue relates, before the end of the original 90 days, that the timeframe is to be extended and the reasons for the extension.

Part 8—Application and transitional provisions

24 Definitions

In this Part:

***ACC*** has the same meaning as in the old Principles.

***old arrangements*** means the administrative scheme for management and resolution of complaints about service providers, as it existed immediately before the commencement of the *Complaints Amendment (Other Functions) Principles 2018*.

***old Principles*** means the *Complaints Principles 2014*, as in force immediately before 1 January 2016.

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

25 Transitional—complaints made before 1 January 2016

(1) This section applies in relation to a complaint if:

(a) the complaint was made under section 6 of the old Principles before 1 January 2016; and

(b) either of the following apply:

(i) before 1 January 2016, each issue raised in the complaint was not dealt with under section 7 of the old Principles;

(ii) before 1 January 2016, a decision to undertake a resolution process was made under section 7 of the old Principles, but the resolution process was not completed before that date.

(2) The Aged Care Complaints Commissioner must deal with each issue raised in the complaint or complete the resolution process (as the case may be) under this instrument. For this purpose, Parts 1 to 7 of this instrument apply as if:

(a) the complaint were a complaint made to the Aged Care Complaints Commissioner under section 6 of this instrument; and

(b) if the circumstance mentioned in subparagraph (1)(b)(ii) of this section applies—any notification given under subsection 11(1) of the old Principles in relation to the resolution process were given by the Aged Care Complaints Commissioner under subsection 13(1) of this instrument.

26 Transitional—applications for reconsideration made before 1 January 2016

(1) This section applies in relation to an application for reconsideration of a decision if:

(a) the application was made under section 22 of the old Principles before 1 January 2016; and

(b) either of the following apply:

(i) before 1 January 2016, the application was not dealt with under section 23 of the old Principles;

(ii) before 1 January 2016, a decision to undertake a new resolution process was made under section 23 of the old Principles in relation to the application, but the new resolution process was not completed before that date.

(2) The Aged Care Complaints Commissioner must deal with the application or complete the new resolution process (as the case may be) under this instrument. For this purpose, Parts 1 to 7 of this instrument apply as if:

(a) the application were an application made to the Aged Care Complaints Commissioner under section 22 of this instrument in relation to a decision by the Commissioner; and

(b) the Aged Care Complaints Commissioner received the application on 1 January 2016; and

(c) if the circumstance mentioned in subparagraph (1)(b)(ii) of this section applies—the decision to undertake the new resolution process were made by the Aged Care Complaints Commissioner under section 23 of this instrument and any notification given under paragraph 23(3)(a) of the old Principles in relation to the new resolution process were given by the Aged Care Complaints Commissioner under paragraph 23(3)(a) of this instrument.

27 Transitional—reconsideration of certain decisions made by the Secretary

Reconsideration of decision to take no further action

(1) A complainant may apply to the Aged Care Complaints Commissioner for reconsideration of a decision by the Secretary under paragraph 7(a) of the old Principles to take no further action on an issue raised in a complaint made by the complainant.

Reconsideration of decision to end a resolution process

(2) Any of the following persons may apply to the Aged Care Complaints Commissioner for reconsideration of a decision by the Secretary under section 14 of the old Principles to end a resolution process:

(a) if the issue was raised in a complaint made under section 6 of the old Principles—the complainant who made the complaint;

(b) the approved provider to which the complaint relates.

(3) However, an application cannot be made under subsection (2) for reconsideration of a decision by the Secretary to end a new resolution process undertaken following a decision under paragraph 23(1)(b) of the old Principles.

Application

(4) An application under subsection (1) or (2) must:

(a) state the reasons (other than dissatisfaction with the decision) why reconsideration is sought; and

(b) be made within 42 days of the applicant being notified, in writing, of the decision.

(5) An application under subsection (1) or (2) may be made orally or in writing.

Reconsideration by Aged Care Complaints Commissioner

(6) Section 23 of this instrument applies in relation to an application made under subsection (1) or (2) as if the application was an application made under section 22 of this instrument for reconsideration of a decision by the Aged Care Complaints Commissioner.

28 Transitional—examination of decisions made by the Secretary

(1) This section applies if:

(a) an application (the ***old application***) for examination of a decision was made by a complainant or an approved provider (the ***applicant***) under section 24 of the old Principles before 1 January 2016; and

(b) any of the following apply:

(i) before 1 January 2016, the old application had not been dealt with under section 25 of the old Principles;

(ii) before 1 January 2016, a decision was made under paragraph 25(1)(b) of the old Principles to examine the decision, but the examination was not completed before that date;

(iii) before 1 January 2016, the ACC examined the decision and, under paragraph 26(2)(c) of the old Principles, directed the Secretary to undertake a new resolution process, but the new resolution process had not been completed before that date.

(2) The old application is taken to be an application for reconsideration of a decision by the Aged Care Complaints Commissioner, made by the applicant under section 22 of this instrument.

(3) Section 23 of this instrument applies in relation to the old application as if the Aged Care Complaints Commissioner received the application on 1 January 2016.

29 Transitional—decisions to examine complaints about processes of Secretary or Quality Agency

(1) This section applies if:

(a) a complaint (the ***old complaint***) was made under section 28 of the old Principles before 1 January 2016; and

(b) before 1 January 2016, the complainant had not been notified, in accordance with subsection 30(1) of the old Principles, of a decision to examine or not examine the complaint.

(2) Despite the repeal of the old Principles by Schedule 1 to this instrument, Division 3 of Part 7 of the old Principles (as modified by subsection (3)) continues to apply in relation to the old complaint as if that repeal had not happened.

(3) Division 3 of Part 7 of the old Principles applies under subsection (2) as if:

(a) the Aged Care Complaints Commissioner received the old complaint on 1 January 2016; and

(b) a reference to a function of the ACC were a reference to a function of the ACC immediately before 1 January 2016; and

(c) any other reference to the ACC were a reference to the Aged Care Complaints Commissioner.

30 Transitional—examination of complaints about processes of Secretary or Quality Agency

(1) This section applies if:

(a) a complaint (the ***old complaint***) was made under section 28 of the old Principles before 1 January 2016; and

(b) before 1 January 2016, the complainant was notified, under subsection 30(1) of the old Principles, of a decision to examine the old complaint; and

(c) before 1 January 2016, the complainant had not been notified, under section 32 of the old Principles, of the outcome of the examination.

(2) Despite the repeal of the old Principles by Schedule 1 to this instrument, sections 31 and 32 of the old Principles (as modified by subsection (3)) continue to apply in relation to the old complaint as if that repeal had not happened.

(3) Sections 31 and 32 of the old Principles apply under subsection (2) as if a reference to the ACC were a reference to the Aged Care Complaints Commissioner.

31 Transitional—annual reports

(1) Despite the amendments of section 95A‑12 of the Act made by Schedule 1 to the *Aged Care Amendment (Independent Complaints Arrangements) Act 2015*, that section continues to apply in relation to the financial year beginning on 1 July 2015 (for the purpose of reporting on the ACC’s operations during the first half of that year), as if those amendments had not been made.

(2) However, the obligation to prepare the report and give it to the Minister is imposed on the Aged Care Complaints Commissioner.

**32 Transitional—complaints about service providers**

(1) This section applies to a complaint relating to a service provider if:

(a) the complaint is being handled under the old arrangements before the commencement of the *Complaints Amendment (Other Functions) Principles 2018*; and

(b) immediately before the commencement of the *Complaints Amendment (Other Functions) Principles 2018*, each issue raised in the complaint was not dealt with under the old arrangements.

(2) The Aged Care Complaints Commissioner must deal with the complaint as if it were a complaint made to the Aged Care Complaints Commissioner under section 6 of this instrument.

**33 Transitional—requests for review of decisions regarding complaints about service providers**

(1) This section applies to a request for review of a decision regarding a complaint relating to a service provider if:

(a) the request was made under the old arrangements before the commencement of the *Complaints Amendment (Other Functions) Principles 2018*; and

(b) immediately before the commencement of the *Complaints Amendment (Other Functions) Principles 2018*:

(i) the request was not dealt with under the old arrangements; or

(ii) a decision to undertake a new resolution process was made under the old arrangements in relation to the request, but the new resolution process was not yet completed.

(2) The Aged Care Complaints Commissioner must deal with the request or complete the new resolution process (as the case may be) under this instrument. For this purpose, Parts 1 to 7 of this instrument apply as if:

(a) the request were an application made to the Aged Care Complaints Commissioner under section 22 of this instrument in relation to a decision made by the Commissioner; and

(b) the Aged Care Complaints Commissioner received the application immediately after commencement of the *Complaints Amendment (Other Functions) Principles 2018*.

Schedule 1—Repeals

Complaints Principles 2014

1 The whole of the Principles

Repeal the Principles.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Complaints Principles 2015 | 24 Dec 2015 (F2015L02125) | 1 Jan 2016 (s 2(1) item 1) |  |
| Complaints Amendment (Other Functions) Principles 2018 | 29 May 2018 (F2018L00668) | 30 May 2018 (s 2) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| **Part 1** |  |
| s 2 | rep LA s 48D |
| s 4 | am F2018L00668 |
| s 5 | rs F2018L00668 |
| **Part 2** |  |
| s 6 | rs F2018L00668 |
| s 7 | am F2018L00668 |
| s 8 | am F2018L00668 |
| **Part 3** |  |
| s 11 | rs F2018L00668 |
| s 12 | am F2018L00668 |
| s 13 | am F2018L00668 |
| **Part 4** |  |
| s 14 | am F2018L00668 |
| s 15 | am F2018L00668 |
|  | ed C1 |
| **Part 5** |  |
| s 17 | am F2018L00668 |
| **Part 6** |  |
| s 20 | rs F2018L00668 |
| s 21A | ad F2018L00668 |
| **Part 7** |  |
| s 22 | am F2018L00668 |
| s 23 | am F2018L00668 |
| **Part 8** |  |
| s 24 | am F2018L00668 |
| s 32 | ad F2018L00668 |
| s 33 | ad F2018L00668 |

Endnote 5—Editorial Changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

**Subsection 15(6)**

**Kind of editorial change**

Give effect to misdescribed amendments as intended

**Details of editorial change**

Schedule 1 item 28 of the *Complaints Amendment (Other Functions) Principles 2018* instructs “After ‘approved provider’, insert ‘or service provider’” in subsection 15(6). There are two occurrences of “approved provider” in subsection 15(6).

The compilation was editorially changed to add the words “or service provider” after the second occurring “approved provider”.