



Aged Care Legislation Amendment (Residential Aged Care Funding) Instrument 2022

I, Anika Wells, Minister for Aged Care, make the following instrument.

Dated 28 September 2022

Anika Wells
Minister for Aged Care

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules	1
Schedule 1—Residential care subsidy paid under the Aged Care Act 1997		2
	<i>Aged Care (Subsidy, Fees and Payments) Determination 2014</i>	2
	<i>Classification Principles 2014</i>	24
	<i>Subsidy Principles 2014</i>	27
Schedule 2—Residential care subsidy paid under the Aged Care (Transitional Provisions) Act 1997		30
	<i>Aged Care (Transitional Provisions) Principles 2014</i>	30
	<i>Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014</i>	32
	<i>Records Principles 2014</i>	46
	<i>User Rights Principles 2014</i>	47
Schedule 3—Other amendments		48
	<i>Accountability Principles 2014</i>	48
	<i>Aged Care (Subsidy, Fees and Payments) Determination 2014</i>	49
	<i>Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014</i>	50
	<i>Allocation Principles 2014</i>	50
	<i>Approval of Care Recipients Principles 2014</i>	52
	<i>Quality of Care Principles 2014</i>	52

1 Name

This instrument is the *Aged Care Legislation Amendment (Residential Aged Care Funding) Instrument 2022*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 October 2022.	1 October 2022

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *Aged Care Act 1997*;
- (b) the *Aged Care (Transitional Provisions) Act 1997*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Residential care subsidy paid under the Aged Care Act 1997

Aged Care (Subsidy, Fees and Payments) Determination 2014

1 Chapter 2 (at the end of the heading)

Add “for payment periods beginning before 1 October 2022”.

2 Before Part 1 of Chapter 2

Insert:

Part 1A—Application of this Chapter

4A Application of this Chapter

This Chapter applies in relation to a payment period that begins before 1 October 2022.

3 Section 6 (definition of *ACFI classification*)

After “recipient under”, insert “Part 2.4 of”.

4 Section 49 (definition of *relevant resident*)

Repeal the definition, substitute:

relevant resident means a care recipient to whom residential care as non-respite care is being provided through a residential care service and who:

- (a) is not being provided with care on an extra service basis (within the meaning of subsection 36-1(1) of the Act); and
- (b) enters the service:
 - (i) if the service was certified under Part 2.6 of the Act (as in force before 17 October 2014) on 1 October 1997—after 30 September 1997; or
 - (ii) if the service was certified under that Part after 1 October 1997—after the date the service is certified; or
 - (iii) on or after 17 October 2014.

5 After Chapter 2

Insert:

Chapter 2A—Residential care subsidy for payment periods beginning on or after 1 October 2022

Part 1—Preliminary

64G Application of this Chapter

This Chapter applies in relation to a payment period that begins on or after 1 October 2022.

64H Definitions

In this Chapter:

applicable amount for a day for a care recipient: see section 64J.

ATSI care percentage for a residential care service: see subsection 64X(2).

ATSI transition period for a residential care service: see subsection 64N(2).

classification means a classification under Part 2.4A of the Act.

has specialised ATSI status on a day: see subsections 64N(1) and (3).

has specialised homeless status on a day: see subsections 64R(1), (2) and (4).

homeless care percentage for a residential care service: see subsection 64Y(2).

homeless supplement means:

- (a) the homeless supplement set out in Subdivision E of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*; or
- (b) the homeless supplement set out in Subdivision D of Division 8 of Part 3 of Chapter 2 of the *Aged Care (Transitional Provisions) Principles 2014*.

homeless transition period for a residential care service: see subsection 64R(3).

MM category means a category for an area provided for by the Modified Monash Model and known as MM 1, MM 2, MM 3, MM 4, MM 5, MM 6 or MM 7.

Modified Monash Model means the model known as the Modified Monash Model (MMM) 2019 developed by the Department to categorise areas according to geographical remoteness and population size, as the model exists on 1 October 2022.

national efficient price: the ***national efficient price*** for residential care activity is \$216.80.

newly built residential care service: see section 50.

non-respite classification amount for a care recipient for a day: see section 64K.

NW AU (short for National Weighted Activity Unit) means a measure of residential care activity, expressed as a common unit, against which the national efficient price is set.

operational places: see subsection 64M(2).

residential care percentage for a residential care service: see subsection 64ZP(3).

respite classification amount for a care recipient for a day: see section 64L.

service amount for a care recipient for a day: see section 64M.

significantly refurbished residential care service has the same meaning as in the *Subsidy Principles 2014*.

specialist ATSI programs means specialist programs for Aboriginal or Torres Strait Islander persons and includes, but is not limited to, the following:

- (a) programs to deliver care and services that are culturally safe for, and tailored to meet the particular needs of, the Aboriginal or Torres Strait Islander persons being provided with residential care through the residential care service in question;
- (b) programs to promote social and cultural engagement and participation of Aboriginal or Torres Strait Islander persons;
- (c) any other relevant programs that the Secretary considers appropriate.

specialist homeless programs means specialist programs for persons with a background as a homeless person and includes, but is not limited to, the following:

- (a) programs and interventions to manage complex behavioural needs of persons with that background;
- (b) programs to promote social engagement and participation of persons with that background;
- (c) any other relevant programs that the Secretary considers appropriate.

64J Meaning of *applicable amount* for a day for a care recipient

(1) If:

- (a) a care recipient is provided with residential care through a residential care service on a day; and
- (b) on the day, the service meets the building requirements specified in Schedule 1 to the *Aged Care (Transitional Provisions) Principles 2014*; and
- (c) the service is:
 - (i) a newly built residential care service; or
 - (ii) a significantly refurbished residential care service;

the ***applicable amount*** for the day for the recipient is \$63.14.

(2) If:

- (a) a care recipient is provided with residential care through a residential care service on a day; and
- (b) on the day, the service meets the building requirements specified in Schedule 1 to the *Aged Care (Transitional Provisions) Principles 2014*; and
- (c) the service is not:
 - (i) a newly built residential care service; or

(ii) a significantly refurbished residential care service;
the **applicable amount** for the day for the recipient is \$41.17.

(3) If:

- (a) a care recipient is provided with residential care through a residential care service on a day; and
 - (b) on the day, the service does not meet the building requirements specified in Schedule 1 to the *Aged Care (Transitional Provisions) Principles 2014*;
- the **applicable amount** for the day for the recipient is \$34.58.

64K Meaning of *non-respite classification amount* for a care recipient for a day

The ***non-respite classification amount*** for a care recipient for a day is the amount worked out by multiplying the national efficient price by the NWAU worked out using the following table.

NWAU		
Item	If the classification level for the classification of the recipient for non-respite care that is in effect on the day is ...	the NWAU is ...
1	Class 1	1.00
2	Class 2	0.19
3	Class 3	0.31
4	Class 4	0.21
5	Class 5	0.37
6	Class 6	0.35
7	Class 7	0.49
8	Class 8	0.54
9	Class 9	0.54
10	Class 10	0.87
11	Class 11	0.83
12	Class 12	0.81
13	Class 13	1.00

Note: The classification levels for classifications for non-respite care are those provided for by section 40 of the *Classification Principles 2014*.

64L Meaning of *respite classification amount* for a care recipient for a day

The ***respite classification amount*** for a care recipient for a day is the amount worked out by multiplying the national efficient price by the NWAU worked out using the following table.

NWAU		
Item	If the classification level for the classification of the recipient for respite care that is in effect on the day is ...	the NWAU is ...
1	Respite Class 1	0.304
2	Respite Class 2	0.404
3	Respite Class 3	0.864

Note: The classification levels for classifications for respite care are those provided for by section 39 of the *Classification Principles 2014*.

64M Meaning of *service amount* for a care recipient for a day

(1) If:

- (a) a care recipient is provided with residential care on a day through a residential care service; and
- (b) on the day, the service meets the requirements set out in column 1 of an item of the following table;

the *service amount* for the recipient for the day is the amount worked out in accordance with column 2 of the item.

Requirements and amount		
Item	Column 1 Requirements	Column 2 Amount
1	The service: (a) has specialised ATSI status; and (b) has a street address that is in the MM category known as MM 7	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 1.80
2	The service: (a) has specialised ATSI status; and (b) has a street address that is in the MM category known as MM 6	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.78
3	All of the following apply: (a) the service does not have specialised ATSI status or specialised homeless status; (b) the service has a street address that is in the MM category known as MM 6 or MM 7; (c) the number of operational places in respect of the service is less than 30	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.68
4	All of the following apply: (a) the service does not have specialised ATSI status or specialised homeless status; (b) the service has a street address that is in the MM category known as MM 6 or MM 7; (c) the number of operational places in respect of the service is 30 or more	The sum of the following amounts: (a) the amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.68 and that the number of operational places were 29; (b) the amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.52 and that the number of operational places were reduced by 29
5	The service: (a) does not have specialised homeless status; and (b) has a street address that is in the MM category known as MM 5	The amount worked out by multiplying the national efficient price by the NWAU of 0.55
6	The service: (a) has specialised homeless status; and (b) has a street address that is in any of the	The amount worked out by multiplying the national efficient price by the NWAU of 0.92

Requirements and amount		
Item	Column 1 Requirements	Column 2 Amount
	MM categories	
7	The service: (a) does not have specialised homeless status; and (b) has a street address that is in an MM category known as MM 1, MM 2, MM 3 or MM 4	The amount worked out by multiplying the national efficient price by the NWAU of 0.49

(2) For the purposes of items 1 to 4 of the table in subsection (1), the formula is:

$$\text{National efficient price} \times \text{NWAU} \times \frac{\text{Operational places}}{\text{Occupied places}}$$

where:

occupied places means the total number of places allocated under Part 2.2 of the Act to a person in respect of the relevant residential care service to which all of the following apply:

- (a) the places are not provisionally allocated on the relevant day;
- (b) the places are places in respect of which:
 - (i) residential care is provided through the service to a care recipient on the relevant day; and
 - (ii) subsidy is payable for the provision of that care under Part 3.1 of the Act or Part 3.1 of the *Aged Care (Transitional Provisions) Act 1997*.

Note: A care recipient who is on leave from the service is taken to be provided with residential care by the approved provider operating the service (see section 42-2 of the Act and section 42-2 of the *Aged Care (Transitional Provisions) Act 1997*).

operational places means the total number of places allocated under Part 2.2 of the Act to a person in respect of the relevant residential care service to which all of the following apply:

- (a) the places are not provisionally allocated on the relevant day;
- (b) if a notice relating to the service has been given under subsection 27B(2) of the *Accountability Principles 2014*—the places are not places specified in the notice as offline places (within the meaning of paragraph 27B(3)(b) of those principles) for a period in which the relevant day occurs;
- (c) the places are places in respect of which subsidy would be payable under Part 3.1 of the Act, or Part 3.1 of the *Aged Care (Transitional Provisions) Act 1997*, if a care recipient were provided with residential care through the service on the relevant day.

Part 2—Specialised ATSI or homeless status

Division 1—Specialised ATSI status

64N Specialised ATSI status

Specialised ATSI status during ATSI transition period

- (1) A residential care service **has specialised ATSI status** on each day during the ATSI transition period for the service if:
 - (a) the service had a street address that is in the MM category known as MM 6 or MM 7 on a day (the **test day**) during the payment period beginning on 1 June 2022; and
 - (b) either:
 - (i) on the test day; or
 - (ii) on a day during at least 8 of the payment periods occurring between 1 July 2021 and 30 June 2022;
at least 50% of the care recipients (including continuing care recipients) provided with residential care as non-respite care through the service were Aboriginal or Torres Strait Islander persons; and
 - (c) if an election in relation to the service may be given to Secretary under section 64S—no such election has been given to Secretary.
- (2) The **ATSI transition period** for a residential care service is the period that:
 - (a) begins on 1 October 2022; and
 - (b) ends at the earliest of the following:
 - (i) the end of 31 March 2023;
 - (ii) if the specialised ATSI status of the service is revoked under Division 3 of this Part—when the revocation takes effect;
 - (iii) if an election in relation to the service has been given to the Secretary in accordance with section 64S—immediately before the first day of the first payment period that begins after the election is given.

Determination of specialised ATSI status

- (3) A residential care service **has specialised ATSI status** on a day if:
 - (a) a determination has been made under subsection 64Q(2) in relation to the service; and
 - (b) the day is a day during the period specified in the notice relating to the determination that was given under subsection 64Q(4).

Note: The period specified in the notice may end earlier if the specialised ATSI status of the service is revoked under Division 3 of this Part.

64P Application for determination that residential care service has specialised ATSI status

- (1) An approved provider may apply to the Secretary for a determination that a residential care service operated by the provider has specialised ATSI status.
- (2) The application must:
 - (a) be made in writing; and

- (b) be in a form approved by the Secretary (if any); and
- (c) be accompanied by any documents or information specified by the Secretary.

Request for further information

- (3) If the Secretary needs further information to make a decision on the application, the Secretary may, by written notice, request the approved provider to give further information to the Secretary within 28 days after the notice is given.
- (4) If the approved provider does not give the requested further information within the period mentioned in subsection (3), the application is taken to be withdrawn at the end of that period.
- (5) A notice given under subsection (3) must set out the effect of subsection (4).

Bar on application if previous specialised ATSI status revoked

- (6) If:
 - (a) the residential care service previously had specialised ATSI status on a day; and
 - (b) that status of the service was revoked under section 64X;
 the approved provider must not make an application in relation to the service under subsection (1) until at least 3 months have passed since that revocation took effect.
- (7) If subsection (6) applies in relation to an approved provider in respect of a residential care service, then both of the following apply:
 - (a) the Secretary is not required to consider an application made under subsection (1) in relation to the service before the end of the period specified in subsection (6);
 - (b) the application is taken to be withdrawn.

64Q Determination that residential care service has specialised ATSI status

- (1) This section applies if an approved provider makes an application under subsection 64P(1) for a determination that a residential care service has specialised ATSI status.

Determination by Secretary

- (2) The Secretary must determine that the residential care service has specialised ATSI status if the Secretary is satisfied that:
 - (a) on the day before the application was made, the service had a street address that is in the MM category known as MM 6 or MM 7; and
 - (b) on the day before the application was made, at least 50% of the care recipients (including continuing care recipients) provided with residential care as non-respite care through the service were Aboriginal or Torres Strait Islander persons; and
 - (c) the approved provider, or an individual who is one of the key personnel of the provider, has demonstrated experience in providing, or the capacity to provide, specialist ATSI programs; and
 - (d) either:

- (i) the service is providing specialist ATSI programs; or
 - (ii) the provider has given a written undertaking that the service will begin providing specialist ATSI programs within 3 months after the application is made.
- (3) In deciding whether to make a determination under subsection (2), the Secretary may have regard to any information that the Secretary considers relevant (including information that has become available since the application was made).

Notice of making of determination

- (4) If the Secretary decides to make a determination under subsection (2) that the residential care service has specialised ATSI status, the Secretary must give the approved provider written notice of the following:
 - (a) the decision;
 - (b) that the service has specialised ATSI status on each day during the period that:
 - (i) begins on the first day of the first payment period that begins after the date of the notice; and
 - (ii) ends at the end of the 3 year period beginning on that first day unless that status of the service is revoked earlier under Division 3 of this Part.

Notice of decision not to make determination

- (5) If the Secretary decides not to make a determination under subsection (2) that the residential care service has specialised ATSI status, the Secretary must give the approved provider written notice of the following:
 - (a) the decision;
 - (b) the reasons for the decision;
 - (c) that the provider may apply for reconsideration of the decision under section 64Z.

Division 2—Specialised homeless status

64R Specialised homeless status

Specialised homeless status during homeless transition period

- (1) A residential care service **has specialised homeless status** on each day during the homeless transition period for the service if:
 - (a) either:
 - (i) the homeless supplement applied to a care recipient for a day (the **test day**) during the payment period beginning on 1 June 2022; or
 - (ii) the homeless supplement applied to a care recipient for a day (the **test days**) during at least 8 of the payment periods occurring between 1 July 2021 and 30 June 2022; and
 - (b) the recipient was provided with residential care through the service on the test day or test days (as the case may be).

Note: A residential care service may be taken not to have specialised homeless status in certain circumstances (see section 64S).

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- (2) A residential care service *has specialised homeless status* on each day during the homeless transition period for the service if an election in relation to the service has been given to the Secretary in accordance with section 64S.
- (3) The *homeless transition period* for a residential care service is the period that:
- (a) begins on:
 - (i) if the service has specialised homeless status under subsection (1)—1 October 2022; or
 - (ii) if the service has specialised homeless status under subsection (2)—the first day of the first payment period that begins after the election referred to in that subsection is given to the Secretary; and
 - (b) ends at the end of 31 March 2023 unless the specialised homeless status of the service is revoked earlier under Division 3 of this Part.

Determination of specialised homeless status

- (4) A residential care service *has specialised homeless status* on a day if:
- (a) a determination has been made under subsection 64U(2) in relation to the service; and
 - (b) the day is a day during the period specified in the notice relating to the determination that was given under subsection 64U(4).

Note: The period specified in the notice may end earlier if the specialised homeless status of the service is revoked under Division 3 of this Part.

64S Circumstances in which residential care service may not have specialised homeless status

- (1) If, on 1 October 2022, a residential care service:
- (a) has specialised ATSI status under subsection 64N(1); and
 - (b) has specialised homeless status under subsection 64R(1);
- the service is taken, despite subsection 64R(1), not to have specialised homeless status unless an election under subsection (2) of this section is given in relation to the service.
- (2) The approved provider that operates the residential care service may elect to have subsection 64R(1) apply in relation to the service.
- (3) The election must:
- (a) be made in writing; and
 - (b) be given to the Secretary before the end of the ATSI transition period for the residential care service.

64T Application for determination that residential care service has specialised homeless status

- (1) An approved provider may apply to the Secretary for a determination that a residential care service operated by the provider has specialised homeless status.
- (2) The application must:
- (a) be made in writing; and
 - (b) be in a form approved by the Secretary (if any); and

- (c) be accompanied by any documents or information specified by the Secretary.

Request for further information

- (3) If the Secretary needs further information to make a decision on the application, the Secretary may, by written notice, request the approved provider to give further information to the Secretary within 28 days after the notice is given.
- (4) If the approved provider does not give the requested further information within the period mentioned in subsection (3), the application is taken to be withdrawn at the end of that period.
- (5) A notice given under subsection (3) must set out the effect of subsection (4).

Bar on application if previous specialised homeless status revoked

- (6) If:
 - (a) the residential care service previously had specialised homeless status on a day; and
 - (b) that status of the service was revoked under section 64Y;the approved provider must not make an application in relation to the service under subsection (1) until at least 3 months have passed since that revocation took effect.
- (7) If subsection (6) applies in relation to an approved provider in respect of a residential care service, then both of the following apply:
 - (a) the Secretary is not required to consider an application made under subsection (1) in relation to the service before the end of the period specified in subsection (6);
 - (b) the application is taken to be withdrawn.

64U Determination that residential care service has specialised homeless status

- (1) This section applies if an approved provider makes an application under subsection 64T(1) for a determination that a residential care service has specialised homeless status.

Determination by Secretary

- (2) The Secretary must determine that the residential care service has specialised homeless status if the Secretary is satisfied that:
 - (a) on the day before the application was made, at least 50% of the care recipients (including continuing care recipients) provided with residential care as non-respite care through the service demonstrated complex behavioural needs and social disadvantage associated with their background as a homeless person; and
 - (b) the approved provider, or an individual who is one of the key personnel of the provider, has demonstrated experience in providing, or the capacity to provide, specialist homeless programs; and
 - (c) either:
 - (i) the service is providing specialist homeless programs; or

- (ii) the provider has given a written undertaking that the service will begin providing specialist homeless programs within 3 months after the application is made.
- (3) In deciding whether to make a determination under subsection (2), the Secretary may have regard to any information that the Secretary considers relevant (including information that has become available since the application was made).

Notice of making of determination

- (4) If the Secretary decides to make a determination under subsection (2) that the residential care service has specialised homeless status, the Secretary must give the approved provider written notice of the following:
 - (a) the decision;
 - (b) that the service has specialised homeless status on each day during the period that:
 - (i) begins on the first day of the first payment period that begins after the date of the notice; and
 - (ii) ends at the end of the 3 year period beginning on that first day unless that status of the service is revoked earlier under Division 3 of this Part.

Notice of decision not to make determination

- (5) If the Secretary decides not to make a determination under subsection (2) that the residential care service has specialised homeless status, the Secretary must give the approved provider written notice of the following:
 - (a) the decision;
 - (b) the reasons for the decision;
 - (c) that the provider may apply for reconsideration of the decision under section 64Z.

Division 3—Revocation of specialised ATSI or homeless status

64V Automatic revocation of specialised ATSI or homeless status

Automatic revocation of specialised ATSI status

- (1) If:
 - (a) a determination is made under subsection 64U(2) that a residential care service has specialised homeless status; and
 - (b) the service would, apart from this subsection, have specialised ATSI status on the first day of the period specified in the notice relating to the determination that was given under subsection 64U(4);
 the specialised ATSI status of the service is revoked immediately before that day.

Automatic revocation of specialised homeless status

- (2) If:
 - (a) a determination is made under subsection 64Q(2) that a residential care service has specialised ATSI status; and

- (b) the service would, apart from this subsection, have specialised homeless status on the first day of the period specified in the notice relating to the determination that was given under subsection 64Q(4);
- the specialised homeless status of the service is revoked immediately before that day.

64W Revocation of specialised ATSI or homeless status on request by the approved provider

- (1) If a residential care service operated by an approved provider has specialised ATSI status, or specialised homeless status, on a day, the provider may, in writing, request the Secretary to revoke that status of the service.
- (2) If a request for the revocation of the specialised ATSI status or specialised homeless status of the service is made under subsection (1), the Secretary must revoke that status and give the approved provider written notice of the following:
 - (a) the revocation;
 - (b) that the revocation takes effect on the first day of the first payment period that begins after the date of the notice.

64X Revocation of specialised ATSI status by the Secretary

- (1) If:
 - (a) a residential care service operated by an approved provider has specialised ATSI status on a day; and
 - (b) the Secretary is satisfied that:
 - (i) the ATSI care percentage for the service for 3 consecutive payment periods is less than 50%; or
 - (ii) if a determination was made under subsection 64Q(2) in relation to the service—the service did not provide specialist ATSI programs on any day after the end of the period of 3 months after the application for that determination was made;
- the Secretary may revoke that status of the service.

ATSI care percentage

- (2) The ***ATSI care percentage*** for a residential care service for a payment period is worked out using the following formula:

$$\frac{\text{Care for ATSI residents}}{\text{Care for all residents}} \times 100$$

where:

care for all residents means the total number of days in the payment period on which the residential care service provided residential care as non-respite care to each care recipient who is approved under Part 2.3 of the Act as a recipient of that kind of care.

care for ATSI residents means the total number of days in the payment period on which the residential care service provided residential care as non-respite care to each care recipient:

- (a) who the Secretary is satisfied is an Aboriginal or Torres Strait Islander person; and
- (b) who is approved under Part 2.3 of the Act as a recipient of that kind of care.

Notice of revocation of specialised ATSI status

- (3) If the Secretary decides to revoke the specialised ATSI status of a residential care service under subsection (1), the Secretary must give the approved provider written notice of the following:
 - (a) the decision;
 - (b) the reasons for the decision;
 - (c) that the revocation takes effect on the first day of the first payment period that begins after the date of the notice;
 - (d) the effect of subsections 64P(6) and (7);
 - (e) that the provider may apply for reconsideration of the decision under section 64Z.

64Y Revocation of specialised homeless status by the Secretary

- (1) If:
 - (a) a residential care service operated by an approved provider has specialised homeless status on a day; and
 - (b) the Secretary is satisfied that:
 - (i) the homeless care percentage for the service for 3 consecutive payment periods is less than 50%; or
 - (ii) if a determination was made under subsection 64U(2) in relation to the service—the service did not provide specialist homeless programs on any day after the end of the period of 3 months after the application for that determination was made;
 the Secretary may revoke that status of the service.

Homeless care percentage

- (2) The **homeless care percentage** for a residential care service for a payment period is worked out using the following formula:

$$\frac{\text{Care for homeless residents}}{\text{Care for all residents}} \times 100$$

where:

care for all residents means the total number of days in the payment period on which the residential care service provided residential care as non-respite care to each care recipient who is approved under Part 2.3 of the Act as a recipient of that kind of care.

care for homeless residents means the total number of days in the payment period on which the residential care service provided residential care as non-respite care to each care recipient:

- (a) who the Secretary is satisfied demonstrates complex behavioural needs and social disadvantage associated with the recipient's background as a homeless person; and

- (b) who is approved under Part 2.3 of the Act as a recipient of that kind of care.

Notice of revocation of specialised homeless status

- (3) If the Secretary decides to revoke the specialised homeless status of a residential care service under subsection (1), the Secretary must give the approved provider written notice of the following:
 - (a) the decision;
 - (b) the reasons for the decision;
 - (c) that the revocation takes effect on the first day of the first payment period that begins after the date of the notice;
 - (d) the effect of subsections 64T(6) and (7);
 - (e) that the provider may apply for reconsideration of the decision under section 64Z.

Division 4—Reconsideration of decisions

64Z Reconsideration of certain decisions on request

Request for reconsideration

- (1) An approved provider that operates a residential care service may request the Secretary to reconsider a decision (the **reviewable decision**) of the following kind:
 - (a) a decision not to make a determination under subsection 64Q(2) in relation to the service;
 - (b) a decision not to make a determination under subsection 64U(2) in relation to the service;
 - (c) a decision to revoke the specialised ATSI status of the service under subsection 64X(1);
 - (d) a decision to revoke the specialised homeless status of the service under subsection 64Y(1).
- (2) The request must:
 - (a) be made in writing; and
 - (b) set out the reasons for the request; and
 - (c) be given to the Secretary within 28 days after the approved provider is notified of the reviewable decision.

Reconsideration by the Secretary

- (3) If an approved provider makes a request under subsection (1) for the reconsideration of a reviewable decision, the Secretary must:
 - (a) personally reconsider the decision; or
 - (b) cause the decision to be reconsidered by a delegate of the Secretary who:
 - (i) was not involved in making the decision; and
 - (ii) occupies a position that is at least the same level as that occupied by the person who made the decision.

-
- (4) After reconsidering the reviewable decision, the Secretary or delegate (as the case may be) must:
 - (a) affirm the decision; or
 - (b) vary the decision; or
 - (c) set the decision aside and substitute a new decision.
 - (5) The Secretary or delegate (as the case may be) must give written notice of the following to the approved provider:
 - (a) the decision made under subsection (4);
 - (b) the date that decision takes effect;
 - (c) the reasons for that decision.
 - (6) The Secretary or delegate (as the case may be) is taken to have affirmed the reviewable decision if a notice under subsection (5) is not given to the approved provider within 28 days after the provider's request was received by the Secretary.

Part 3—Basic subsidy amount

Division 1—Purpose of this Part

64ZA Purpose of this Part

This Part is made for the purposes of subsection 44-3(2) of the Act.

Division 2—Basic subsidy amount for care recipient provided with residential care as non-respite care

64ZB Basic subsidy amount—classification of care recipient is in effect

- (1) If a classification of a care recipient for non-respite care is in effect on a day (the **relevant day**), the basic subsidy amount for the recipient for the relevant day is the amount equal to the sum of:
 - (a) the non-respite classification amount for the recipient for that day; and
 - (b) the service amount for the recipient for that day.

Note: For when a classification of a care recipient is in effect, see Part 11A of Chapter 3 of the *Classification Principles 2014*.

- (2) If:
 - (a) the care recipient is on extended hospital leave on the relevant day; and
 - (b) the relevant day is on or after the 29th day of the recipient's leave;then, despite subsection (1), the basic subsidy amount for the recipient for that day is the service amount for the recipient for that day.

64ZC Basic subsidy amount—care recipient not classified

- (1) If, on a day (the **relevant day**), a care recipient has not yet been classified for non-respite care under Part 2.4A of the Act, then, subject to this section, the basic subsidy amount for the recipient for the relevant day is the amount equal to the sum of:

- (a) the amount equal to the non-respite classification amount that would be worked out for the recipient for that day if it were assumed that:
 - (i) a classification of the recipient for non-respite care were in effect on that day; and
 - (ii) the classification level for the classification of the recipient were Class 8; and
- (b) the service amount for the recipient for that day.

Note: See section 40 of the *Classification Principles 2014* for the classification levels for classifications for non-respite care.

Entry for palliative care

- (2) If:
 - (a) on the relevant day, the care recipient is provided with residential care as non-respite care in the form of palliative care through the residential care service in question; and
 - (b) the approved provider of the service notified, in accordance with section 63-1B of the Act, the Secretary of the recipient's entry into that service for the provision of such care; and
 - (c) the recipient is not on extended hospital leave on the relevant day;then the basic subsidy amount for the recipient for the relevant day is the amount equal to the sum of:
 - (d) the amount equal to the non-respite classification amount that would be worked out for the recipient for that day if it were assumed that:
 - (i) a classification of the recipient for non-respite care were in effect on that day; and
 - (ii) the classification level for the classification of the recipient were Class 1; and
 - (e) the service amount for the recipient for that day.

Note: See section 40 of the *Classification Principles 2014* for the classification levels for classifications for non-respite care.

Extended hospital leave

- (3) If:
 - (a) the care recipient is on extended hospital leave on the relevant day; and
 - (b) the relevant day is on or after the 29th day of the recipient's leave;then the basic subsidy amount for the recipient for that day is the service amount for the recipient for that day.

Care recipient classified after the relevant day

- (4) If:
 - (a) the care recipient is classified for non-respite care under Part 2.4A of the Act after the relevant day; and
 - (b) the classification has effect on the relevant day;this section is to be taken not to have applied in relation to the recipient in respect of that day.

Note: A classification may take effect on a day that is before the day a care recipient is classified (see Part 11A of Chapter 3 of the *Classification Principles 2014*).

Division 3—Basic subsidy amount for care recipient provided with residential care as respite care

64ZD Basic subsidy amount—classification of care recipient is in effect

- (1) This section applies in relation to a care recipient for a day (the **relevant day**) if a classification of the recipient for respite care is in effect on the relevant day.

Note: For when a classification of a care recipient is in effect, see Part 11A of Chapter 3 of the *Classification Principles 2014*.

- (2) If:

- (a) the care recipient has previously been provided with residential care as respite care on a number of days during the financial year in which the relevant day occurs; and
- (b) that number of days is less than the number applicable under paragraph 23(1)(c) of the *Subsidy Principles 2014*;

then the basic subsidy amount for the recipient for the relevant day is the amount equal to the sum of the respite classification amount, and the service amount, for the recipient for that day.

- (3) If:

- (a) the care recipient has previously been provided with residential care as respite care on a number of days during the financial year in which the relevant day occurs; and
- (b) that number of days is equal to, or greater than, the number applicable under paragraph 23(1)(c) of the *Subsidy Principles 2014*;

then the basic subsidy amount for the recipient for the relevant day is nil.

64ZE Basic subsidy amount—care recipient not classified

- (1) If, on a day (the **relevant day**), a care recipient has not yet been classified for respite care under Part 2.4A of the Act, then, subject to this section, the basic subsidy amount for the recipient for the relevant day is the amount equal to the sum of:

- (a) the amount equal to the respite classification amount that would be worked out for the recipient for that day if it were assumed that:
 - (i) a classification of the recipient for respite care were in effect on that day; and
 - (ii) the classification level for the classification of the recipient were Respite Class 2; and
- (b) the service amount for the recipient for that day.

Note: See section 39 of the *Classification Principles 2014* for the classification levels for classifications for respite care.

- (2) If:

- (a) the care recipient is classified for respite care under Part 2.4A of the Act after the relevant day; and
- (b) the classification has effect on the relevant day;

this section is to be taken not to have applied in relation to the recipient in respect of that day.

Note: A classification may take effect on a day that is before the day a care recipient is classified (see Part 11A of Chapter 3 of the *Classification Principles 2014*).

Part 4—Adjusted basic subsidy amount

64ZF Purpose of this Part

This Part is made for the purposes of subsection 44-21(6A) of the Act.

64ZG Adjusted basic subsidy amount—care recipient provided with residential care as non-respite care

The adjusted basic subsidy amount for a care recipient for a day on which the recipient is provided with residential care as non-respite care through a residential care service is the amount equal to the sum of the following amounts:

- (a) the non-respite classification amount for the recipient for the day;
- (b) the amount equal to the service amount that would be worked out for the recipient for the day under subsection 64M(1) if it were assumed that the service meets, on the day, the requirements set out in column 1 of item 7 of the table in that subsection.

Part 5—Amounts of primary supplements

Division 1—Purpose of this Part

64ZH Purpose of this Part

This Part is made for the purposes of subsection 44-5(3) of the Act.

Division 2—Respite supplement

64ZI Amount of respite supplement

The amount of the respite supplement for a day for a care recipient is the applicable amount for the day for the recipient.

Note: The respite supplement is set out in Subdivision A of Division 3 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*. Eligibility for the supplement is dealt with in that Subdivision.

Division 3—Oxygen supplement

64ZJ Amount of oxygen supplement

The amount of the oxygen supplement for a day for a care recipient is \$12.73.

Note: The oxygen supplement is set out in Subdivision B of Division 3 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*. Eligibility for the supplement is dealt with in that Subdivision.

Division 4—Enteral feeding supplement

64ZK Amount of enteral feeding supplement

The amount of the enteral feeding supplement for a day for a care recipient is:

- (a) for bolus feeding—\$20.17; and
- (b) for non-bolus feeding—\$22.65.

Note: The enteral feeding supplement is set out in Subdivision C of Division 3 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*. Eligibility for the supplement is dealt with in that Subdivision.

Part 6—Reductions in subsidy

64ZL Care subsidy reduction—annual cap

For the purposes of subsection 44-21(7) of the Act, the annual cap is \$30,574.33.

64ZM Care subsidy reduction—lifetime cap

For the purposes of subsection 44-21(8) of the Act, the lifetime cap is \$73,378.49.

64ZN Care subsidy reduction—first asset threshold and second asset threshold

For the purposes of subsection 44-22(3) of the Act:

- (a) the first asset threshold is \$186,331.20; and
- (b) the second asset threshold is \$448,993.60.

64ZO Care subsidy reduction—maximum home value

For the purposes of the definition of *maximum home value* in subsection 44-26B(1) of the Act, the amount is \$186,331.20.

Part 7—Amounts of other supplements

Division 1—Accommodation supplement

64ZP Amount of accommodation supplement

- (1) This section is made for the purposes of subsection 44-28(4) of the Act.

Note: Subdivision A of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014* also deals with the accommodation supplement.

- (2) Subject to subsections (4), (5) and (6), the amount of the accommodation supplement for a day for a care recipient provided with residential care as non-respite care through a residential care service is:
- (a) if the residential care percentage for the service for the payment period in which the day occurs is 40% or more—the applicable amount for the day for the recipient; or

- (b) otherwise—the amount worked out by reducing the applicable amount for the day for the recipient by 25%.

Residential care percentage

- (3) The **residential care percentage** for a residential care service for a payment period is worked out using the following formula:

$$\frac{\text{Care for relevant residents}}{\text{Care for all residents}} \times 100$$

where:

care for all residents means the total number of days, in the payment period, on which the residential care service provided residential care as non-respite care to each care recipient:

- (a) who is approved under Part 2.3 of the Act as a recipient of that kind of care; and
- (b) who is not an excluded resident.

care for relevant residents means the total number of days, in the payment period, on which the residential care service provided residential care as non-respite care to each care recipient:

- (a) who is approved under Part 2.3 of the Act as a recipient of that kind of care; and
- (b) who is a relevant resident; and
- (c) who is not an excluded resident.

excluded resident: a care recipient is an **excluded resident** if both of the following apply in relation to the recipient:

- (a) the recipient is provided with residential care as non-respite care on an extra service basis (within the meaning of subsection 36-1(1) of the Act) on a day;
- (b) a determination is not in force under section 52K-1 of the Act in relation to the recipient on the day.

relevant resident means each of the following:

- (a) a care recipient who is eligible for a concessional resident supplement for a day under section 44-6 of the *Aged Care (Transitional Provisions) Act 1997*;
- (b) a supported resident (within the meaning of that Act);
- (c) a low-means care recipient (within the meaning of the *Subsidy Principles 2014*).

Reduced amount—means tested amount for the care recipient

- (4) If the means tested amount for the care recipient on the day is equal to, or more than, the amount of the accommodation supplement that would, apart from this subsection, apply under subsection (2) for the day for the recipient, then the amount of the accommodation supplement for the day for the recipient is nil.
- (5) If the means tested amount (the **first amount**) for the care recipient on the day is greater than zero but less than the amount of the accommodation supplement (the **second amount**) that would, apart from this subsection, apply under

subsection (2) for the day for the recipient, then the amount of the accommodation supplement for the day for the recipient is the amount equal to the difference between:

- (a) the first amount; and
- (b) the second amount.

Reduced amount—financial hardship

- (6) If a determination is in force under section 52K-1 of the Act in relation to the care recipient on the day, then the amount of the accommodation supplement for the day for the recipient is the amount equal to the difference between:
 - (a) the amount of the accommodation supplement that would, apart from this subsection, apply under subsection (2) of this section for the day for the recipient; and
 - (b) the amount specified in the determination.

Division 2—Hardship supplement

64ZQ Amount of hardship supplement

For the purposes of subsection 44-30(5) of the Act, the amount of the hardship supplement for a day for a care recipient in relation to whom a determination is in force under section 44-31 of the Act is the amount equal to the difference between:

- (a) the maximum daily amount of resident fees (within the meaning of section 52C-3 of the Act) payable by the recipient; and
- (b) the amount specified in the determination.

Note: Subdivision B of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014* also deals with the hardship supplement.

Division 3—Veterans’ supplement

64ZR Amount of veterans’ supplement

For the purposes of subsection 44-27(3) of the Act, the amount of the veterans’ supplement for a day for a care recipient is \$7.50.

Note: The veterans’ supplement is set out in Subdivision D of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*. Eligibility for the supplement is dealt with in that Subdivision.

Division 4—Initial entry adjustment supplement

64ZS Amount of initial entry adjustment supplement

For the purposes of subsection 44-27(3) of the Act, the amount of the initial entry adjustment supplement for a care recipient in respect of a payment period is the amount worked out by multiplying the national efficient price by 5.28.

Note: The initial entry adjustment supplement is set out in Subdivision I of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*. Eligibility for the supplement is dealt with in that Subdivision.

Classification Principles 2014

6 Section 4

Insert:

applicable day for a classification means:

- (a) if the classification was made before 1 October 2022—the day the classification was made; or
- (b) if the classification is made on or after 1 October 2022—the day the classification takes effect.

break period for a care recipient has the meaning given by subsection 33C(3).

7 Chapter 2 (at the end of the heading)

Add “before 1 October 2022”.

8 At the end of section 5

Add “on a day before 1 October 2022”.

9 At the end of section 10

Add “on a day before 1 October 2022”.

10 Paragraph 13(a)

After “residential care”, insert “on a day before 1 October 2022”.

11 Section 18

After “provided”, insert “on a day before 1 October 2022”.

12 At the end of section 24

Add “on a day before 1 October 2022”.

13 Chapter 3 (at the end of the heading)

Add “on or after 1 October 2022”.

14 Section 30

Repeal the section, substitute:

30 Purpose of this Part

For the purposes of subsection 29C-2(3) of the Act, this Part specifies the procedure the Secretary must follow in determining the appropriate classification level for a care recipient for respite care or non-respite care.

15 Section 33

Repeal the section, substitute:

Part 11A—When classifications take effect

33 Purpose of this Part

For the purposes of subsection 29C-2(6) of the Act, this Part specifies the day on which classifications of care recipients under Part 2.4A of the Act take effect.

Note: Classifications under Part 2.4A of the Act affect an amount of subsidy payable on or after 1 October 2022.

33A Classification made and in effect before 1 October 2022

If:

- (a) a classification of a care recipient for respite care or non-respite care under Part 2.4A of the Act was made before 1 October 2022; and
 - (b) the classification was in effect immediately before 1 October 2022;
- the classification takes effect on 1 October 2022.

33B Classification made on or after 1 October 2022—entry for residential care as non-respite care before that day

If:

- (a) a care recipient entered a residential care service to be provided with residential care as non-respite care before 1 October 2022; and
 - (b) the recipient is classified for non-respite care under Part 2.4A of the Act on or after 1 October 2022;
- the classification takes effect on 1 October 2022.

33C Classification made on or after 1 October 2022—entry for residential care as non-respite care on or after that day

(1) If:

- (a) a care recipient enters a residential care service to be provided with residential care as non-respite care on or after 1 October 2022; and
- (b) the recipient is classified for non-respite care under Part 2.4A of the Act on or after 1 October 2022;

the classification takes effect on the day the recipient first enters a residential care service to be provided with residential care as non-respite care on or after 1 October 2022.

(2) However, if the care recipient has a break period of more than 28 days before the recipient is classified for non-respite care, the classification takes effect on the day the break period for the recipient ends.

(3) A **break period** for a care recipient:

- (a) begins on the day on which the recipient ceases to be provided with residential care as non-respite care through a residential care service (other than because the recipient is on leave from the service); and
- (b) ends on the day on which the recipient next enters a residential care service to be provided with residential care as non-respite care.

33D Classification made on or after 1 October 2022—entry for residential care as respite care on or after that day

If:

- (a) a care recipient enters a residential care service to be provided with residential care as respite care on or after 1 October 2022; and
- (b) the recipient is classified for respite care under Part 2.4A of the Act on or after 1 October 2022;

the classification takes effect on the day the recipient first enters a residential care service to be provided with residential care as respite care on or after 1 October 2022.

33E Reclassification of care recipient

Reclassification requested before 1 October 2022

(1) If:

- (a) before 1 October 2022, an approved provider or a care recipient requests that the Secretary reclassify the recipient under subsection 29D-1(1) of the Act; and
- (b) the Secretary decides to reclassify the recipient under that subsection; and
- (c) as a result, the recipient is classified under Part 2.4A of the Act on or after 1 October;

the classification takes effect on 1 October 2022.

Reclassification requested on or after 1 October 2022

(2) If:

- (a) on or after 1 October 2022, an approved provider or a care recipient requests that the Secretary reclassify the recipient under subsection 29D-1(1) of the Act; and
- (b) the Secretary decides to reclassify the recipient under that subsection; and
- (c) as a result, the recipient is classified under Part 2.4A of the Act on or after 1 October;

the classification takes effect on the day the request was made.

16 Paragraph 34(a)

Repeal the paragraph, substitute:

- (a) where the Secretary may assess the level of care needed by a care recipient; and
- (aa) procedures that the Secretary must follow in making such an assessment; and

17 After section 34

Insert:

34A Where the Secretary may make an assessment

For the purposes of paragraph 29C-3(2)(a) of the Act, the Secretary may assess the level of care needed by a care recipient at a residential care service or any other place (as appropriate).

18 Subsections 35(1) and 36(1)

Omit “subsection 29C-3(2)”, substitute “paragraph 29C-3(2)(b)”.

19 Sections 42 and 43

Omit “day the existing classification of the care recipient took effect”, substitute “applicable day for the existing classification of the care recipient”.

20 After Chapter 3

Insert:

Chapter 4—Application, transitional and saving provisions

46 Conversion of classification for respite care made under Part 2.4 of the Act before 1 October 2022

- (1) This section applies if:
 - (a) a classification (the *original classification*) of a care recipient for respite care has been made under Part 2.4 of the Act before 1 October 2022; and
 - (b) immediately before that day, both of the following apply:
 - (i) the original classification is in effect;
 - (ii) the recipient has not been classified for respite care under Part 2.4A of the Act.
- (2) The original classification of the care recipient is taken, on and after 1 October 2022, to be a classification (the *new classification*) for respite care under Part 2.4A of the Act.
- (3) If the classification level for the care recipient for the original classification was low level residential respite care, the classification level for the recipient for the new classification is taken, on and after 1 October 2022, to be Respite Class 1.
- (4) If the classification level for the care recipient for the original classification was high level residential respite care, the classification level for the recipient for the new classification is taken, on and after 1 October 2022, to be Respite Class 2.
- (5) To avoid doubt, the new classification of the care recipient may, on and after 1 October 2022, be dealt with under Part 2.4A of the Act as a classification for respite care.

Subsidy Principles 2014

21 Section 4

Repeal the following definitions:

- (a) the definition of *care day deficit*;
- (b) the definition of *relevant resident*.

22 Paragraphs 13(a) and (b)

Repeal the paragraphs, substitute:

- (a) working out the proportion of the amounts equal to the capital payments that are to be deducted for the purposes of subsection 43-6(3) of the Act;
- (b) the kinds of payments that are capital payments for the purposes of subsection 43-6(5) of the Act.

23 Division 3 of Part 2 of Chapter 2

Repeal the Division.

24 At the end of paragraph 20(e)

Add:

- ; (vii) the initial entry adjustment supplement.

25 Section 21

Repeal the section, substitute:

21 Matter on which determination of basic subsidy amount may be based

For purposes of paragraph 44-3(3)(e) of the Act, the Minister may determine a basic subsidy amount (including a nil amount) for a care recipient for a day based on whether:

- (a) the recipient has previously been provided with residential care as respite care on a number of days during the financial year in which the day occurs; and
- (b) that number of days is equal to, or greater than, the number applicable under paragraph 23(1)(c) of these principles.

26 Paragraphs 50(c) and (d)

Repeal the paragraphs, substitute:

- (c) whether or not the residential care percentage (within the meaning of subsection 64ZP(3) of the *Aged Care (Subsidy, Fees and Payments) Determination 2014*) for the service for the payment period in which the day occurs is 40% or more.

27 Section 50 (note 1)

Repeal the note.

28 Section 50 (note 2)

Omit “Note 2”, substitute “Note”.

29 Subdivision C of Division 5 of Part 3 of Chapter 2 (at the end of the heading)

Add “for payment periods beginning before 1 October 2022”.

30 Section 63

After “payment period”, insert “beginning before 1 October 2022”.

31 Subdivision E of Division 5 of Part 3 of Chapter 2 (at the end of the heading)

Add “for payment periods beginning before 1 October 2022”.

32 Section 69

After “payment period”, insert “beginning before 1 October 2022”.

33 At the end of Division 5 of Part 3 of Chapter 2

Add:

Subdivision I—Initial entry adjustment supplement

70AH Initial entry adjustment supplement

For the purposes of paragraph 44-27(1)(c) of the Act, the initial entry adjustment supplement applies to a care recipient in respect of a payment period if:

- (a) the payment period begins on or after 1 October 2022; and
- (b) the first day on which the recipient entered the residential care service in question to be provided with residential care as non-respite care occurred during the payment period; and
- (c) the recipient was provided with that care on that day through that service.

34 Chapter 5

Repeal the Chapter.

Schedule 2—Residential care subsidy paid under the Aged Care (Transitional Provisions) Act 1997

Aged Care (Transitional Provisions) Principles 2014

1 Section 4 (definition of *ACFI classification*)

After “recipient under”, insert “Part 2.4 of”.

2 Section 4 (definition of *care day deficit*)

Repeal the definition.

3 Section 4 (note to the definition of *enteral feeding supplement*)

Repeal the note.

4 Section 4 (note to the definition of *oxygen supplement*)

Repeal the note.

5 Section 4 (definition of *relevant resident*)

Repeal the definition, substitute:

relevant resident means a care recipient to whom residential care as non-respite care is being provided through a residential care service and who:

- (a) is not being provided with care on an extra service basis (within the meaning of subsection 36-1(1) of the *Aged Care Act 1997*); and
- (b) enters the service:
 - (i) if the service was certified on 1 October 1997—after 30 September 1997; or
 - (ii) if the service was certified after 1 October 1997—after the date the service is certified; or
 - (iii) on or after 17 October 2014.

6 Section 6

Repeal the section.

7 Paragraphs 11(a) and (b)

Repeal the paragraphs, substitute:

- (a) working out the proportion of the amounts equal to the capital payments that are to be deducted for the purposes of subsection 43-6(3) of the Transitional Provisions Act;
- (b) the kinds of payments that are capital payments for the purposes of subsection 43-6(5) of the Transitional Provisions Act.

8 Division 3 of Part 2 of Chapter 2

Repeal the Division.

9 Subparagraphs 17(b)(iii) and (c)(ii)

Repeal the subparagraphs.

10 Paragraph 17(g)

Repeal the paragraph, substitute:

- (g) other matters relating to the hardship supplement that may apply to the care recipient (Division 8); and

11 At the end of paragraph 17(h)

Add:

- ; (vi) the initial entry adjustment supplement.

12 Division 2 of Part 3 of Chapter 2

Repeal the Division.

13 Subsection 19(1)

After “accommodation supplement”, insert “payable for a day”.

14 Paragraphs 19(1)(c) and (d)

Repeal the paragraphs, substitute:

- (c) whether or not the residential care percentage (within the meaning of subsection 91(3) of the *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014*) for the service for the payment period in which the day occurs is 40% or more.

15 Section 20

Omit “for a concessional resident or an assisted resident (the *care recipient*)”, substitute “payable for a day for a care recipient”.

16 Paragraph 20(c)

Repeal the paragraph, substitute:

- (c) whether or not the residential care percentage (within the meaning of subsection 91(3) of the *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014*) for the service for the payment period in which the day occurs is 40% or more.

17 Subdivision C of Division 3 of Part 3 of Chapter 2

Repeal the Subdivision.

18 Subdivision B of Division 4 of Part 3 of Chapter 2

Repeal the Subdivision.

19 Subsection 51(2) (note 3)

Omit “Section 16 of the Social Security Act and section 17A of the Veterans’ Entitlements Act describe how, for the purposes of each Act”, substitute “Clause 17A of Schedule 5 to the Veterans’ Entitlements Act describes how, for the purposes of that Act”.

20 Subdivision A of Division 8 of Part 3 of Chapter 2

Repeal the Subdivision.

21 Subdivision D of Division 8 of Part 3 of Chapter 2 (at the end of the heading)

Add “for payment periods beginning before 1 October 2022”.

22 Section 62

After “payment period”, insert “beginning before 1 October 2022”.

23 At the end of Division 8 of Part 3 of Chapter 2

Subdivision H—Initial entry adjustment supplement

64D Initial entry adjustment supplement

For the purposes of paragraph 44-27(1)(e) of the Transitional Provisions Act, the initial entry adjustment supplement applies to a care recipient in respect of a payment period if:

- (a) the payment period begins on or after 1 October 2022; and
- (b) the first day on which the recipient entered the residential care service in question to be provided with residential care as non-respite care occurred during the payment period; and
- (c) the recipient was provided with that care on that day through that service.

24 Paragraph 107(1)(a)

Omit “or a charge exempt resident”.

25 Chapter 5

Repeal the Chapter, substitute:

Chapter 5—Application, transitional and saving provisions

131 Saving—transitional supplement

Despite the repeal of Subdivision B of Division 4 of Part 3 of Chapter 2 of these principles by Schedule 2 to the *Aged Care Legislation Amendment (Residential Aged Care Funding) Instrument 2022*, that Subdivision, as in force immediately before 1 October 2022, continues to apply, on and after that day, in relation to a payment period that began before that day.

Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014

26 Section 5

Insert:

certified, in relation to a residential care service, has the same meaning as in the Transitional Provisions Principles.

27 Section 5 (definition of *relevant resident*)

Omit “*Subsidy Principles 2014*”, substitute “Transitional Provisions Principles”.

28 Chapter 2 (at the end of the heading)

Add “for payment periods beginning before 1 October 2022”.

29 Before Part 1 of Chapter 2

Insert:

Part 1A—Application of this Chapter

5A Application of this Chapter

This Chapter applies in relation to a payment period that begins before 1 October 2022.

30 Section 7 (definition of *ACFI classification*)

After “recipient under”, insert “Part 2.4 of”.

31 Section 20 (definition of *certified*)

Repeal the definition.

32 Section 24 (note)

Repeal the note, substitute:

Note: Despite the repeal of section 44-8A of the Transitional Provisions Act by Schedule 1 to the *Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022*, that section and this Division, as in force immediately before 1 October 2022, continue to apply in relation to a payment period that starts before that day: see item 98 of that Schedule.

33 Section 25 (at the end of the definition of *eligible charge exempt resident*)

Add:

Note: ***Charge exempt resident*** has the meaning given by section 44-8B of the Transitional Provisions Act, as in force immediately before 1 October 2022: see item 98 of Schedule 1 to the *Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022*.

34 Subsection 52(2)

After “set out in”, insert “repealed”.

35 At the end of section 64

Add:

Note: Despite the repeal of section 44-19 of the Transitional Provisions Act by Schedule 1 to the *Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022*, that section and this Part, as in force immediately before 1 October 2022, continue to apply in relation to a payment period that starts before that day: see item 100 of that Schedule.

36 Section 68 (note)

Repeal the note, substitute:

Note: Despite the repeal of section 44-29 of the Transitional Provisions Act by Schedule 1 to the *Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022*, that section and this Division, as in force immediately before 1 October 2022, continue to apply in relation to a payment period that starts before that day: see item 98 of that Schedule.

37 Subsection 72(2) (note 1)

After “given by”, insert “repealed”.

38 After Chapter 2

Insert:

Chapter 3—Residential care subsidy for payment periods beginning on or after 1 October 2022

Part 1—Preliminary

80 Application of this Chapter

This Chapter applies in relation to a payment period that begins on or after 1 October 2022.

81 Definitions

In this Chapter:

applicable amount for a day for a care recipient: see section 82.

classification means a classification under Part 2.4A of the *Aged Care Act 1997*.

has specialised ATSI status on a day has the same meaning as in Chapter 2A of the *Aged Care (Subsidy, Fees and Payments) Determination 2014*.

has specialised homeless status on a day has the same meaning as in Chapter 2A of the *Aged Care (Subsidy, Fees and Payments) Determination 2014*.

minimum permissible asset value has the same meaning as in subsection 57-12(3) of the Transitional Provisions Act.

MM category means a category for an area provided for by the Modified Monash Model and known as MM 1, MM 2, MM 3, MM 4, MM 5, MM 6 or MM 7.

Modified Monash Model means the model known as the Modified Monash Model (MMM) 2019 developed by the Health Department to categorise areas according to geographical remoteness and population size, as the model exists on 1 October 2022.

national efficient price: the ***national efficient price*** for residential care activity is \$216.80.

non-respite care has the same meaning as in the *Aged Care Act 1997*.

non-respite classification amount for a care recipient for a day: see section 83.

NWAAU (short for National Weighted Activity Unit) means a measure of residential care activity, expressed as a common unit, against which the national efficient price is set.

operational places: see subsection 84(2).

reduced applicable amount for a day for a care recipient: see subsection 91(4).

residential care percentage for a residential care service: see subsection 91(3).

service amount for a care recipient for a day: see section 84.

82 Meaning of *applicable amount* for a day for a care recipient

(1) If:

- (a) a care recipient is provided with residential care through a residential care service on a day; and
- (b) on the day, the service meets the building requirements specified in Schedule 1 to the Transitional Provisions Principles; and
- (c) the service is:
 - (i) a newly built residential care service; or
 - (ii) a significantly refurbished residential care service;

the ***applicable amount*** for the day for the recipient is \$63.14.

(2) If:

- (a) a care recipient is provided with residential care through a residential care service on a day; and
- (b) on the day, the service meets the building requirements specified in Schedule 1 to the Transitional Provisions Principles; and
- (c) the service is not:
 - (i) a newly built residential care service; or
 - (ii) a significantly refurbished residential care service;

the ***applicable amount*** for the day for the recipient is \$41.17.

(3) If:

- (a) a care recipient is provided with residential care through a residential care service on a day; and
- (b) on the day, the service does not meet the building requirements specified in Schedule 1 to the Transitional Provisions Principles;

the ***applicable amount*** for the day for the recipient is \$34.58.

83 Meaning of *non-respite classification amount* for a care recipient for a day

The ***non-respite classification amount*** for a care recipient for a day is the amount worked out by multiplying the national efficient price by the NWAAU worked out using the following table.

NWAU		
Item	If the classification level for the classification of the recipient for non-respite care that is in effect on the day is ...	the NWAU is ...
1	Class 1	1.00
2	Class 2	0.19
3	Class 3	0.31
4	Class 4	0.21
5	Class 5	0.37
6	Class 6	0.35
7	Class 7	0.49
8	Class 8	0.54
9	Class 9	0.54
10	Class 10	0.87
11	Class 11	0.83
12	Class 12	0.81
13	Class 13	1.00

Note: The classification levels for classifications for non-respite care are those provided for by section 40 of the *Classification Principles 2014*.

84 Meaning of *service amount* for a care recipient for a day

(1) If:

- (a) a care recipient is provided with residential care on a day through a residential care service; and
- (b) on the day, the service meets the requirements set out in column 1 of an item of the following table;

the *service amount* for the recipient for the day is the amount worked out in accordance with column 2 of the item.

Requirements and amount		
Item	Column 1 Requirements	Column 2 Amount
1	The service: (a) has specialised ATSI status; and (b) has a street address that is in the MM category known as MM 7	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 1.80
2	The service: (a) has specialised ATSI status; and (b) has a street address that is in the MM category known as MM 6	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.78
3	All of the following apply: (a) the service does not have specialised ATSI status or specialised homeless status; (b) the service has a street address that is in the MM category known as MM 6 or MM 7;	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.68

Requirements and amount		
Item	Column 1 Requirements	Column 2 Amount
	(c) the number of operational places in relation to the service is less than 30	
4	<p>All of the following apply:</p> <p>(a) the service does not have specialised ATSI status or specialised homeless status;</p> <p>(b) the service has a street address that is in the MM category known as MM 6 or MM 7;</p> <p>(c) the number of operational places in relation to the service is 30 or more</p>	<p>The sum of the following amounts:</p> <p>(a) the amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.68 and that the number of operational places were 29;</p> <p>(b) the amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.52 and that the number of operational places were reduced by 29</p>
5	<p>The service:</p> <p>(a) does not have specialised homeless status; and</p> <p>(b) has a street address that is in the MM category known as MM 5</p>	The amount worked out by multiplying the national efficient price by the NWAU of 0.55
6	<p>The service:</p> <p>(a) has specialised homeless status; and</p> <p>(b) has a street address that is in any of the MM categories</p>	The amount worked out by multiplying the national efficient price by the NWAU of 0.92
7	<p>The service:</p> <p>(a) does not have specialised homeless status; and</p> <p>(b) has a street address that is in an MM category known as MM 1, MM 2, MM 3 or MM 4</p>	The amount worked out by multiplying the national efficient price by the NWAU of 0.49

(2) For the purposes of items 1 to 4 of the table in subsection (1), the formula is:

$$\text{National efficient price} \times \text{NWAU} \times \frac{\text{Operational places}}{\text{Occupied places}}$$

where:

occupied places means the total number of places allocated under Part 2.2 of the *Aged Care Act 1997* to a person in respect of the relevant residential care service to which all of the following apply:

- (a) the places are not provisionally allocated on the relevant day;
- (b) the places are places in respect of which:
 - (i) residential care is provided through the service to a care recipient on the relevant day; and
 - (ii) subsidy is payable for the provision of that care under Part 3.1 of the *Aged Care Act 1997* or Part 3.1 of the Transitional Provisions Act.

Note: A care recipient who is on leave from the service is taken to be provided with residential care by the approved provider operating the service (see section 42-2 of the *Aged Care Act 1997* and section 42-2 of the Transitional Provisions Act).

operational places means the total number of places allocated under Part 2.2 of the *Aged Care Act 1997* to a person in respect of the relevant residential care service to which all of the following apply:

- (a) the places are not provisionally allocated on the relevant day;
- (b) if a notice relating to the service has been given under subsection 27B(2) of the *Accountability Principles 2014*—the places are not places specified in the notice as offline places (within the meaning of paragraph 27B(3)(b) of those principles) for a period in which the relevant day occurs;
- (c) the places are places in respect of which subsidy would be payable under Part 3.1 of the *Aged Care Act 1997*, or Part 3.1 of the Transitional Provisions Act, if a care recipient were provided with residential care through the service on the relevant day.

Part 2—Basic subsidy amount

Division 1—Purpose of this Part

85 Purpose of this Part

This Part is made for the purposes of subsection 44-3(2) of the Transitional Provisions Act.

Division 2—Basic subsidy amount for care recipient provided with residential care as non-respite care

86 Basic subsidy amount—classification of care recipient is in effect

- (1) If a classification of a care recipient for non-respite care is in effect on a day (the **relevant day**), the basic subsidy amount for the recipient for the relevant day is the amount equal to the sum of:
 - (a) the non-respite classification amount for the recipient for that day; and
 - (b) the service amount for the recipient for that day.

Note: For when a classification of a care recipient is in effect, see Part 11A of Chapter 3 of the *Classification Principles 2014*.

- (2) If:
 - (a) the care recipient is on extended hospital leave on the relevant day; and
 - (b) the relevant day is on or after the 29th day of the recipient's leave;then, despite subsection (1), the basic subsidy amount for the recipient for that day is the service amount for the recipient for that day.

87 Basic subsidy amount—care recipient not classified

- (1) If, on a day (the **relevant day**), a care recipient has not yet been classified for non-respite care under Part 2.4A of the *Aged Care Act 1997*, then, subject to this section, the basic subsidy amount for the recipient for the relevant day is the amount equal to the sum of:
 - (a) the amount equal to the non-respite classification amount that would be worked out for the recipient for that day if it were assumed that:

- (i) a classification of the recipient for non-respite care were in effect on that day; and
- (ii) the classification level for the classification of the recipient were Class 8; and
- (b) the service amount for the recipient for that day.

Note: See section 40 of the *Classification Principles 2014* for the classification levels for classifications for non-respite care.

Entry for palliative care

- (2) If:
- (a) on the relevant day, the care recipient is provided with residential care as non-respite care in the form of palliative care through the residential care service in question; and
 - (b) the approved provider of the service notified, in accordance with section 63-1B of the *Aged Care Act 1997*, the Secretary of the recipient's entry into that service for the provision of such care; and
 - (c) the recipient is not on extended hospital leave on the relevant day;
- then the basic subsidy amount for the recipient for the relevant day is the amount equal to the sum of:
- (d) the amount equal to the non-respite classification amount that would be worked out for the recipient for that day if it were assumed that:
 - (i) a classification of the recipient for non-respite care were in effect on that day; and
 - (ii) the classification level for the classification of the recipient were Class 1; and
 - (e) the service amount for the recipient for that day.

Note: See section 40 of the *Classification Principles 2014* for the classification levels for classifications for non-respite care.

Extended hospital leave

- (3) If:
- (a) the care recipient is on extended hospital leave on the relevant day; and
 - (b) the relevant day is on or after the 29th day of the recipient's leave;
- then the basic subsidy amount for the recipient for that day is the service amount for the recipient for that day.

Care recipient classified after the relevant day

- (4) If:
- (a) the care recipient is classified for non-respite care under Part 2.4A of the *Aged Care Act 1997* after the relevant day; and
 - (b) the classification has effect on the relevant day;
- this section is to be taken not to have applied in relation to the recipient in respect of that day.

Note: A classification may take effect on a day that is before the day a care recipient is classified (see Part 11A of Chapter 3 of the *Classification Principles 2014*).

Part 3—Adjusted basic subsidy amount

88 Purpose of this Part

This Part is made for the purposes of subsection 44-21(5) of the Transitional Provisions Act.

89 Adjusted basic subsidy amount—care recipient provided with residential care as non-respite care

The adjusted basic subsidy amount for a care recipient for a day on which the recipient is provided with residential care as non-respite care through a residential care service is the amount equal to the sum of:

- (a) the non-respite classification amount for the recipient for the day; and
- (b) the amount equal to the service amount that would be worked out for the recipient for the day under subsection 84(1) if it were assumed that the service meets, on the day, the requirements set out in column 1 of item 7 of the table in that subsection.

Part 4—Amounts of primary supplements

Division 1—Accommodation supplement

90 Purpose of this Division

This Division is made for the purposes of subsection 44-5A(3) of the Transitional Provisions Act.

Note: Subdivision A of Division 3 of Part 3 of Chapter 2 of the Transitional Provisions Principles also deals with the accommodation supplement.

91 Amount of accommodation supplement—general rule

- (1) This section applies in relation to a care recipient if:
 - (a) the recipient is provided with residential care as non-respite care through a residential care service on a day; and
 - (b) on that day, section 91A does not apply in relation to the recipient.
- (2) The amount of the accommodation supplement for the day for the care recipient is:
 - (a) if the residential care percentage for the residential care service for the payment period in which the day occurs is 40% or more—the reduced applicable amount for the day for the recipient; or
 - (b) otherwise—the amount worked out by reducing the reduced applicable amount for the day for the recipient by 25%.

Residential care percentage

- (3) The **residential care percentage** for a residential care service for a payment period is worked out using the following formula:

$$\frac{\text{Care for relevant residents}}{\text{Care for all residents}} \times 100$$

where:

care for all residents means the total number of days, in the payment period, on which the residential care service provided residential care as non-respite care to each care recipient:

- (a) who is approved under Part 2.3 of the *Aged Care Act 1997* as a recipient of that kind of care; and
- (b) who is not an excluded resident.

care for relevant residents means the total number of days, in the payment period, on which the residential care service provided residential care as non-respite care to each care recipient:

- (a) who is approved under Part 2.3 of the *Aged Care Act 1997* as a recipient of that kind of care; and
- (b) who is a relevant resident; and
- (c) who is not an excluded resident.

excluded resident: a care recipient is an **excluded resident** if both of the following apply in relation to the recipient:

- (a) the recipient is provided with residential care as non-respite care on an extra service basis (within the meaning of subsection 36-1(1) of the *Aged Care Act 1997*) on a day;
- (b) a determination is not in force under section 52K-1 of that Act in relation to the recipient on the day.

relevant resident means each of the following:

- (a) a care recipient who is eligible for a concessional resident supplement for a day under section 44-6 of the Transitional Provisions Act;
- (b) a supported resident;
- (c) a low-means care recipient.

Reduced applicable amount

- (4) The **reduced applicable amount** for a day for a care recipient is worked out using the following formula:

$$\text{Applicable amount} - \frac{\text{Assets-related amount} - \text{Minimum permissible asset value}}{2080}$$

where:

applicable amount means the applicable amount for the day for the care recipient.

assets-related amount means:

- (a) if a determination is in force under paragraph 57-14(1)(b) of the Transitional Provisions Act in relation to the care recipient—the amount equal to the sum of:
 - (i) the maximum amount specified in the determination; and

- (ii) the minimum permissible asset value for the recipient; or
- (b) if a determination is in force under paragraph 57A-9(1)(b) of the Transitional Provisions Act in relation to the care recipient—the amount equal to the sum of:
 - (i) the maximum daily amount specified in the determination multiplied by 2080; and
 - (ii) the minimum permissible asset value for the recipient; or
- (c) in any other case—the value of the care recipient’s assets at the time that applies under section 43 of the Transitional Provisions Principles in relation to the recipient.

minimum permissible asset value means the minimum permissible asset value for the care recipient.

91A Amount of accommodation supplement—accommodation bond not charged etc.

- (1) This section applies in relation to a care recipient if:
 - (a) the recipient is provided with residential care as non-respite care through a residential care service on a day; and
 - (b) on that day:
 - (i) a determination is in force under paragraph 57-14(1)(a) or 57A-9(1)(a) of the Transitional Provisions Act in relation to the recipient; or
 - (ii) the value of the recipient’s assets is less than the minimum permissible asset value for the recipient.
- (2) The amount of the accommodation supplement for the day for the care recipient is:
 - (a) if the residential care percentage for the residential care service for the payment period in which the day occurs is 40% or more—the applicable amount for the day for the recipient; or
 - (b) otherwise—the amount worked out by reducing the applicable amount for the day for the recipient by 25%.

Division 2—Concessional resident supplement

91B Amount of concessional resident supplement

- (1) This section is made for the purposes of subsection 44-6(4) of the Transitional Provisions Act.

Note: Subdivision B of Division 3 of Part 3 of Chapter 2 of the Transitional Provisions Principles also deals with the concessional resident supplement.
- (2) The amount of the concessional resident supplement for a day for a care recipient provided with residential care as non-respite care through a residential care service is:
 - (a) if the residential care percentage for the service for the payment period in which the day occurs is 40% or more—the applicable amount for the day for the recipient; or

- (b) otherwise—the amount worked out by reducing the applicable amount for the day for the recipient by 25%.
- (3) Despite subsection (2), the amount of the concessional resident supplement for the day for the care recipient is nil if:
 - (a) the recipient is a concessional resident or an assisted resident; and
 - (b) the recipient entered the service before 17 October 2014; and
 - (c) on the day of entry, the service was not certified.

Division 3—Oxygen supplement

91C Amount of oxygen supplement

For the purposes of subsection 44-13(6) of the Transitional Provisions Act, the amount of the oxygen supplement for a day for a care recipient is \$12.73.

Note: Subdivision E of Division 3 of Part 3 of Chapter 2 of the Transitional Provisions Principles also deals with the oxygen supplement.

Division 4—Enteral feeding supplement

91D Amount of enteral feeding supplement

For the purposes of subsection 44-14(6) of the Transitional Provisions Act, the amount of the enteral feeding supplement for a day for a care recipient is:

- (a) for bolus feeding—\$20.17; and
- (b) for non-bolus feeding—\$22.65.

Note: Subdivision F of Division 3 of Part 3 of Chapter 2 of the Transitional Provisions Principles also deals with the enteral feeding supplement.

Division 5—Accommodation charge top-up supplement

91E Amount of accommodation charge top-up supplement

- (1) This section is made for the purposes of subsection 44-16(3) of the Transitional Provisions Act.

Note: The accommodation charge top-up supplement is set out in Subdivision C of Division 4 of Part 3 of Chapter 2 of the Transitional Provisions Principles. Eligibility for the supplement is dealt with in that Subdivision.

- (2) The amount of the accommodation charge top-up supplement for a day for a care recipient is the amount that is the difference between:
 - (a) the maximum daily amount at which an accommodation charge would accrue under section 57A-6 of the Transitional Provisions Act for the entry of the recipient to the residential care service in question if the recipient were not receiving an income support payment on the day of entry; and
 - (b) the maximum daily amount at which an accommodation charge would accrue under subsection 118(2) of the Transitional Provisions Principles for the entry of the recipient to the service if the recipient were a post-reform 2008 resident who was receiving an income support payment on that day.

- (3) However, the amount of accommodation charge top-up supplement for a day for the care recipient is nil if the amount worked out under subsection (2) is a negative amount.

Division 6—Transitional accommodation supplement

91F Amount of transitional accommodation supplement

- (1) This section is made for the purposes of subsection 44-16(3) of the Transitional Provisions Act.

Note: The transitional accommodation supplement is set out in Subdivision D of Division 4 of Part 3 of Chapter 2 of the Transitional Provisions Principles. Eligibility for the supplement is dealt with in that Subdivision.

- (2) The amount of the transitional accommodation supplement for a day for a care recipient is the amount that is the difference between:
- (a) the amount specified in the following table for the day on which the recipient entered residential care; and
 - (b) the amount of accommodation supplement payable for the day for the recipient under Division 1 of this Part.

Entry day and amount		
Item	Entry day	Amount
1	After 19 March 2008 and before 20 September 2010	\$9.41
2	After 19 September 2010 and before 20 March 2011	\$6.27
3	After 19 March 2011 and before 20 September 2011	\$3.14

- (3) However, the amount of transitional accommodation supplement for a day for the care recipient is nil if the amount worked out under subsection (2) is a negative amount.

Division 7—2012 basic daily fee supplement

91G Amount of 2012 basic daily fee supplement

For the purposes of subsection 44-16(3) of the Transitional Provisions Act, the amount of the 2012 basic daily fee supplement for a day for a care recipient is the amount worked out by rounding down to the nearest cent the amount equal to 1% of the basic age pension amount (worked out on a per day basis).

Note: The 2012 basic daily fee supplement is set out in Subdivision E of Division 4 of Part 3 of Chapter 2 of the Transitional Provisions Principles. Eligibility for the supplement is dealt with in that Subdivision.

Part 5—Amounts of other supplements

Division 1—Pensioner supplement

91H Amount of pensioner supplement

For the purposes of subsection 44-28(7) of the Transitional Provisions Act, the amount of the pensioner supplement for a day for a care recipient is \$9.41.

Division 2—Hardship supplement

91J Purpose of this Division

This Division is made for the purposes of subsection 44-30(5) of the Transitional Provisions Act.

Note: Subdivision B of Division 8 of Part 3 of Chapter 2 of the Transitional Provisions Principles also deals with the hardship supplement.

91K Amount of hardship supplement—certain pre-2008 reform residents

- (1) The amount of the hardship supplement for a day for a care recipient who is a member of the class specified in paragraph 56(1)(a) of the Transitional Provisions Principles is the amount equal to the sum of:
 - (a) the amount of basic income support compensation for the recipient worked out under subsection (2) of this section; and
 - (b) \$0.40, being the amount of pharmaceutical allowance compensation; and
 - (c) \$1.40, being the amount of pharmaceutical concessions compensation.
- (2) For the purposes of paragraph (1)(a), the amount of basic income support compensation for a care recipient is the amount worked out using the following formula, rounded to the nearest 5 cents (rounding up in the case of exactly halfway between 2 multiples of 5 cents):

$$\frac{\$1,774.42 - \text{Fortnightly assessable income amount}}{28}$$

where:

fortnightly assessable income amount means the amount that is the care recipient's total assessable income (within the meaning of section 44-24 of the Transitional Provisions Act) worked out on a per fortnight basis.

91L Amount of hardship supplement—certain care recipients who occupied an approved place in an aged care service on 30 September 1997

- (1) The amount of the hardship supplement for a day for a care recipient who is a member of the class specified in paragraph 56(1)(b) of the Transitional Provisions Principles is the amount equal to the sum of:
 - (a) the amount of basic income support compensation for the recipient worked out under subsection (2) of this section; and
 - (b) \$0.40, being the amount of pharmaceutical allowance compensation; and
 - (c) \$1.40, being the amount of pharmaceutical concessions compensation.

- (2) For the purposes of paragraph (1)(a), the basic income support compensation for a care recipient is the amount of residential care allowance the recipient was receiving on the day before 1 October 1997, adjusted in line with adjustments made to the amount of the pensioner supplement.

Note: *Pensioner supplement* means the supplement referred to in section 44-28 of the Transitional Provisions Act.

91M Amount of hardship supplement—certain care recipients who occupied a place in a hostel on 30 September 1997

The amount of the hardship supplement for a day for a care recipient who is a member of the class specified in paragraph 56(1)(c) of the Transitional Provisions Principles is \$0.80.

91N Amount of hardship supplement—care recipients in relation to whom a financial hardship determination is in force

The amount of the hardship supplement for a day for a care recipient in relation to whom a determination is in force under section 44-31 of the Transitional Provisions Act is the amount equal to the difference between:

- (a) the maximum daily amount of resident fees (within the meaning of section 58-2 of that Act) payable by the recipient; and
- (b) the amount specified in the determination.

Division 3—Veterans’ supplement

91P Amount of veterans’ supplement

For the purposes of subsection 44-27(3) of the Transitional Provisions Act, the amount of the veterans’ supplement for a day for a care recipient is \$7.50.

Note: The veterans’ supplement is set out in Subdivision C of Division 8 of Part 3 of Chapter 2 of the Transitional Provisions Principles. Eligibility for the supplement is dealt with in that Subdivision.

Division 4—Initial entry adjustment supplement

91Q Amount of initial entry adjustment supplement

For the purposes of subsection 44-27(3) of the Transitional Provisions Act, the amount of the initial entry adjustment supplement for a care recipient in respect of a payment period is the amount worked out by multiplying the national efficient price by 5.28.

Note: The initial entry adjustment supplement is set out in Subdivision H of Division 8 of Part 3 of Chapter 2 of the Transitional Provisions Principles. Eligibility for the supplement is dealt with in that Subdivision.

Records Principles 2014

39 Section 4 (definition of *charge exempt resident*)

Omit “clause 1 of Schedule 1 to”, substitute “repealed section 44-8B of”.

User Rights Principles 2014

40 Subsection 13(2)

Omit “on 1 July 2014”, substitute “on 1 October 2022”.

41 Subsection 21(2)

Omit “on 1 July 2014”, substitute “on 1 October 2022”.

Schedule 3—Other amendments

Accountability Principles 2014

1 Section 4 (definition of *charge exempt resident*)

Omit “clause 1 of Schedule 1 to”, substitute “repealed section 44-8B of”.

2 Section 4

Insert:

MM category has the meaning given by section 64H of the *Aged Care (Subsidy, Fees and Payments) Determination 2014*.

3 Section 4A

After “Secretary”, insert “under subsection 96-2(15) of the Act”.

4 Paragraph 4B(1)(a)

After “Secretary”, insert “under subsection 96-2(15) of the Act”.

5 Paragraph 24(b)

Repeal the paragraph, substitute:

- (b) for sections 63-1B and 63-1BA of the Act—the period within which an approved provider of a residential care service must notify the Secretary of certain matters.

6 After section 27A

Insert:

27B Information about allocated places in respect of which approved provider is, or will be, unable to provide residential care

- (1) This section is made for the purposes of paragraph 63-1(1)(m) of the Act.
- (2) If:
 - (a) an approved provider operates a residential care service through which residential care is provided; and
 - (b) the service has a street address that is in the MM category known as MM 6 or MM 7; and
 - (c) the provider is, or will be, unable to provide residential care in respect of all of the places allocated under Part 2.2 of the Act to a person in respect of the service for a period of time;the provider must, by written notice, inform the Secretary of that matter as soon as the provider becomes aware of it.
- (3) The notice must specify:
 - (a) the residential care service to which it relates, including the service’s street address; and

- (b) the number of places (the *offline places*) allocated under that Part in respect of which the approved provider is, or will be, unable to provide residential care through the service; and
- (c) the period during which the approved provider is, or will be, unable to provide residential care in respect of those offline places.

7 At the end of Division 1 of Part 3

Add:

28A Period for notifying Secretary about the cessation of the provision of certain residential care

For the purposes of paragraph 63-1BA(b) of the Act, an approved provider of a residential care service must notify the Secretary of the cessation of the provision of residential care (other than respite care) to a care recipient through the service within 28 days after the day on which the cessation occurs.

Aged Care (Subsidy, Fees and Payments) Determination 2014

8 Before Part 1 of Chapter 5

Insert:

Part 1A—Resident fees

106C Purpose of this Part

This Part is made for the purposes of section 52C-5 of the Act.

106D Maximum daily amount of resident fees for reserving a place

The maximum fee in respect of a day that a care recipient can be charged for reserving a place in a residential care service for the day is the amount equal to the sum of the following amounts:

- (a) the maximum daily amount of resident fees (within the meaning of section 52C-3 of the Act) that would have been payable by the recipient if the recipient had been provided with residential care through the service on the day;
- (b) the amount of residential care subsidy that would have been payable to the approved provider operating the service in respect of the recipient for the day if:
 - (i) the recipient had been provided with residential care through the service on the day; and
 - (ii) it were assumed that the service amount for the recipient for the day were the amount that would be worked out under subsection 64M(1) in respect of a residential care service that meets, on the day, the requirements set out in column 1 of item 7 of the table in that subsection.

***Aged Care (Transitional Provisions) (Subsidy and Other Measures)
Determination 2014***

9 At the end of the determination

Add:

Chapter 5—Resident fees

94 Purpose of this Chapter

This Chapter is made for the purposes of section 58-6 of the Transitional Provisions Act.

95 Maximum daily amount of resident fees for reserving a place

The maximum fee in respect of a day that a care recipient can be charged for reserving a place in a residential care service for the day is the amount equal to the sum of the following amounts:

- (a) the maximum daily amount of resident fees (within the meaning of section 58-2 of the Transitional Provisions Act) that would have been payable by the recipient if the recipient had been provided with residential care through the service on that day;
- (b) the amount of residential care subsidy that would have been payable to the approved provider operating the service in respect of the recipient for the day if:
 - (i) the recipient had been provided with residential care through the service on the day; and
 - (ii) it were assumed that the service amount for the recipient for the day were the amount that would be worked out under subsection 84(1) in respect of a residential care service that meets, on the day, the requirements set out in column 1 of item 7 of the table in that subsection.

Allocation Principles 2014

10 Paragraphs 10(d) and 26(d)

Repeal the paragraphs.

11 Section 32

Repeal the section.

12 After subparagraph 33(1)(a)(ii)

Insert:

- (iia) to attract the initial entry adjustment supplement set out in Subdivision I of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*; or
- (iib) to attract the initial entry adjustment supplement set out in Subdivision H of Division 8 of Part 3 of Chapter 2 of the *Aged Care (Transitional Provisions) Principles 2014*; or

13 Section 34

Repeal the section.

14 Subsection 48(2) (paragraph (a) of the example for paragraphs (2)(a) and (b))

Repeal the paragraph.

15 Paragraphs 51(1)(c) and 62(1)(a)

Repeal the paragraphs.

16 Paragraph 64(1)(d)

Repeal the paragraph, substitute:

- (d) whether any of the places is a place included in a residential care service, or a distinct part of a residential care service, that has extra service status;

17 Paragraph 66(2)(a)

Repeal the paragraph.

18 Subsection 66(2) (example for paragraphs (2)(a) and (b))

Omit “Example for paragraphs (2)(a) and (b)”, substitute “Example for paragraph (2)(b):”.

19 Subsection 66(2) (paragraph (a) of the example for paragraphs (2)(a) and (b))

Repeal the paragraph.

20 At the end of Part 10

Add:

76 Application of amendments made by Schedule 3 to the *Aged Care Legislation Amendment (Residential Aged Care Funding) Instrument 2022*

- (1) Section 10, as amended by Schedule 3 to the *Aged Care Legislation Amendment (Residential Aged Care Funding) Instrument 2022* (the **amending Schedule**), applies in relation to a determination made on or after 1 October 2022.
- (2) Section 26, as amended by the amending Schedule, applies in relation to an invitation published on or after 1 October 2022.
- (3) Section 48, as amended by the amending Schedule, applies in relation to a transfer notice received on or after 1 October 2022.
- (4) Sections 51 and 62, as amended by the amending Schedule, apply in relation to information given on or after 1 October 2022.
- (5) Sections 64 and 66, as amended by the amending Schedule, apply in relation to an application made on or after 1 October 2022.

Approval of Care Recipients Principles 2014

21 Subsection 10(1)

Omit “(1)”.

22 Subsections 10(2) and (3)

Repeal the subsections.

23 Section 17

Repeal the section.

24 At the end of Part 6

Add:

19 Transitional provisions relating to amendments made by Schedule 3 to the *Aged Care Legislation Amendment (Residential Aged Care Funding) Instrument 2022*

- (1) Section 10, as amended by Schedule 3 to the *Aged Care Legislation Amendment (Residential Aged Care Funding) Instrument 2022*, applies in relation to an approval given on or after 1 October 2022.
- (2) If:
 - (a) an approval was given before 1 October 2022; and
 - (b) immediately before that day, both of the following applied in relation to the approval:
 - (i) the approval was limited to a matter referred to in subsection 10(2);
 - (ii) the approval was in effect;the approval is taken, on and after 1 October 2022, to no longer be limited to that matter.

Quality of Care Principles 2014

25 Subsections 7(4) to (6)

Repeal the subsections.

26 Part 3 of Schedule 1 (heading)

Repeal the heading, substitute:

Part 3—Other care and services—to be provided for all care recipients who need them

27 Clause 3 of Schedule 1 (heading)

Repeal the heading, substitute:

3 Other care and services—to be provided for all care recipients who need them

28 Clause 3 of Schedule 1

Before “care and services”, insert “other”.

29 Clause 3 of Schedule 1 (note)

Repeal the note.

30 Clause 3 of Schedule 1 (table heading)

Omit “Care and”, substitute “Other care and”.