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The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Aged Care (Living Longer Living Better)  
Bill 2013**

**No.     , 2013**

*(Health and Ageing)*

**A Bill for an Act to amend the *Aged Care Act 1997*,  
and for related purposes**



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1     **A Bill for an Act to amend the *Aged Care Act 1997*,**  
2     **and for related purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act may be cited as the *Aged Care (Living Longer Living*  
6                     *Better) Act 2013*.

7     **2 Commencement**

8             (1) Each provision of this Act specified in column 1 of the table  
9             commences, or is taken to have commenced, in accordance with  
10            column 2 of the table. Any other statement in column 2 has effect  
11            according to its terms.  
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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	1 July 2013.	1 July 2013
3. Schedule 2	1 January 2014.	1 January 2014
4. Schedule 3	1 July 2014.	1 July 2014
5. Schedule 4, Part 1	1 July 2013.	1 July 2013
6. Schedule 4, Part 2	1 July 2014.	1 July 2014
7. Schedule 5, Part 1	1 July 2014.	1 July 2014
8. Schedule 5, Parts 2 and 3	Immediately after the commencement of the provision(s) covered by table item 7.	1 July 2014

1 Note: This table relates only to the provisions of this Act as originally  
2 enacted. It will not be amended to deal with any later amendments of  
3 this Act.

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

### 7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule  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

### 12 **4 Review of operation of amendments**

13 (1) The Minister must cause an independent review to be undertaken  
14 of the operation of the amendments made by:  
15 (a) this Act; and  
16 (b) the *Aged Care (Bond Security) Amendment Act 2013*; and

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(c) the *Aged Care (Bond Security) Levy Amendment Act 2013*.

(2) The review must consider at least the following matters:

- (a) whether unmet demand for residential and home care places has been reduced;
- (b) whether the number and mix of places for residential care and home care should continue to be controlled;
- (c) whether further steps could be taken to change key aged care services from a supply driven model to a consumer demand driven model;
- (d) the effectiveness of means testing arrangements for aged care services, including an assessment of the alignment of charges across residential care and home care services;
- (e) the effectiveness of arrangements for regulating prices for aged care accommodation;
- (f) the effectiveness of arrangements for protecting equity of access to aged care services for different population groups;
- (g) the effectiveness of workforce strategies in aged care services, including strategies for the education, recruitment, retention and funding of aged care workers;
- (h) the effectiveness of arrangements for protecting refundable deposits and accommodation bonds;
- (i) the effectiveness of arrangements for facilitating access to aged care services;
- (j) any other related matter that the Minister specifies.

(3) The review must make provision for public consultation and, in particular, must provide for consultation with:

- (a) approved providers; and
- (b) aged care workers; and
- (c) consumers; and
- (d) people with special needs; and
- (e) carers; and
- (f) representatives of consumers.

(4) The review must be undertaken as soon as practicable after the end of the period of 3 years after the commencement of Schedule 1.

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- 1 (5) The person who undertakes the review must give the Minister a  
2 written report of the review within 12 months after the end of the 3  
3 year period.
- 4 (6) The Minister must cause a copy of the report of the review to be  
5 tabled in each House of the Parliament within 15 sitting days of  
6 receiving it.



1 **Schedule 1—Amendments commencing on**  
2 **1 July 2013**

3 **Part 1—Amendments**

4 *Aged Care Act 1997*

5 **1 Subsection 1-3(5) (table items 3 and 4)**

6 Omit “community”, substitute “home”.

7 **2 Paragraph 3-5(b)**

8 Repeal the paragraph.

9 **3 Section 3-6**

10 Repeal the section.

11 **4 Section 5-2 (heading to table column headed “Community**  
12 **care subsidy”)**

13 Omit “Community”, substitute “Home”.

14 **5 Section 5-2 (note 2)**

15 Repeal the note, substitute:

16 Note 2: Allocation of funding for grants is dealt with in Chapter 5.

17 **6 Paragraphs 11-3(b) to (e)**

18 Repeal the paragraphs, substitute:

- 19 (b) people from culturally and linguistically diverse  
20 backgrounds;
- 21 (c) people who live in rural or remote areas;
- 22 (d) people who are financially or socially disadvantaged;
- 23 (e) veterans;
- 24 (f) people who are homeless or at risk of becoming homeless;
- 25 (g) care-leavers;
- 26 (h) lesbian, gay, bisexual, transgender and intersex people;
- 27 (i) people of a kind (if any) specified in the Allocation  
28 Principles.

1 **7 Subsection 12-3(2)**

2 Omit “in the *Gazette*”, substitute “on the Department’s website”.

3 **8 Subsection 12-5(3)**

4 Repeal the subsection.

5 **9 Subsection 12-6(3)**

6 Omit “in the *Gazette*”, substitute “on the Department’s website”.

7 **10 Section 14-2**

8 Repeal the section, substitute:

9 **14-2 Competitive assessment of applications for allocations**

10 In deciding which allocation of \*places would best meet the needs  
11 of the aged care community in the \*region, the Secretary must  
12 consider, in relation to each application, the matters set out in the  
13 Allocation Principles.

14 **11 At the end of subsection 14-5(1)**

15 Add:

16 Note: Approved providers have a responsibility under Part 4.3 to comply  
17 with the conditions to which the allocation is subject. Failure to  
18 comply with a responsibility can result in a sanction being imposed  
19 under Part 4.4.

20 **12 Subsection 14-5(4)**

21 Repeal the subsection.

22 **13 Subsection 15-7(7)**

23 Repeal the subsection.

24 **14 Subsection 16-9(2)**

25 Repeal the subsection.

26 **15 Paragraph 16-11(c)**

27 Omit “\*community”, substitute “\*home”.

1 **16 Subsection 17-2(3)**

2 Repeal the subsection.

3 **17 At the end of subsection 18-2(2)**

4 Add:

5 ; (f) the approved provider's proposals for ensuring that the  
6 provider meets the provider's responsibilities for any:

7 (i) \*accommodation bond balance; or

8 (ii) \*entry contribution balance;

9 held by the provider in respect of the places to be  
10 relinquished.

11 **18 Paragraph 18-5(1)(b)**

12 Omit "community" (wherever occurring), substitute "home".

13 **19 Section 19-1**

14 Omit "community", substitute "home".

15 **20 Section 19-1**

16 Omit "\*community", substitute "\*home".

17 **21 Subsection 20-1(2)**

18 Omit "community" (wherever occurring), substitute "home".

19 **22 Subsection 20-1(4)**

20 Omit "community" (wherever occurring), substitute "home".

21 **23 Paragraph 21-1(b)**

22 Omit "community", substitute "home".

23 **24 Section 21-3 (heading)**

24 Omit "**community**", substitute "**home**".

25 **25 Section 21-3**

26 Omit "*community*", substitute "*home*".

27 **26 Paragraph 21-3(c)**

28 Omit "community", substitute "home".

1 **27 Paragraph 22-1(1)(b)**

2 Omit “community”, substitute “home”.

3 **28 Subsection 22-2(3)**

4 Repeal the subsection, substitute:

5 (3) The Secretary may limit the approval to one or more levels of care.

6 Note: Limitations of approvals to one or more levels of care are reviewable  
7 under Part 6.1.

8 **29 Paragraph 22-4(2)(b)**

9 Repeal the paragraph, substitute:

10 (b) the person’s eligibility to receive a specified level or levels of  
11 care.

12 **30 Paragraph 22-6(2)(c)**

13 Repeal the paragraph, substitute:

14 (c) whether the approval is limited to a level or levels of care  
15 (see subsection 22-2(3));

16 **31 Section 23-1**

17 Omit “community”, substitute “home”.

18 **32 Paragraph 23-3(2)(c)**

19 Omit “community”, substitute “home”.

20 **33 Section 24-1 (note)**

21 Omit “community”, substitute “home”.

22 **34 Subsection 25-2(5)**

23 Repeal the subsection.

24 **35 Subsection 25-4(1)**

25 After “27-4”, insert “at one or more \*aged care services operated by the  
26 approved provider”.

1 **36 Paragraph 25-4(1)(a)**

2 Omit “a substantial number of appraisals or reappraisals connected with  
3 classifications”, substitute “an appraisal or reappraisal connected with a  
4 classification”.

5 **37 Paragraph 25-4(1)(b)**

6 Omit “classifications made in connection with those appraisals or  
7 reappraisals were”, substitute “classification was”.

8 **38 Paragraph 25-4(1)(c)**

9 Repeal the paragraph, substitute:

10 (c) the Secretary is satisfied that, after the classification was  
11 changed, the approved provider gave false, misleading or  
12 inaccurate information in another appraisal or reappraisal.

13 **39 Subsection 25-4(2)**

14 Repeal the subsection.

15 **40 Paragraph 27-3(1)(a)**

16 Omit “a substantial number of appraisals or reappraisals connected with  
17 classifications”, substitute “an appraisal or reappraisal connected with a  
18 classification”.

19 **41 Paragraph 27-3(1)(b)**

20 Omit “classifications made in connection with those appraisals or  
21 reappraisals were”, substitute “classification was”.

22 **42 Paragraph 27-3(1)(c)**

23 Repeal the paragraph, substitute:

24 (c) the Secretary is satisfied that, after the classification was  
25 changed, the approved provider gave false, misleading or  
26 inaccurate information in another appraisal or reappraisal;

27 **43 Subsection 27-3(2)**

28 Repeal the subsection.

29 **44 Subsection 32-7(2)**

30 Omit “in the *Gazette*”, substitute “on the Department’s website”.

1 **45 Subsection 32-8(5)**

2 Repeal the subsection.

3 **46 Section 39-2**

4 Before “The”, insert “(1)”.

5 **47 At the end of section 39-2**

6 Add:

7 (2) Subsection (1) does not apply in relation to a temporary change in  
8 location if the Secretary is satisfied that exceptional circumstances  
9 exist.

10 **48 Subsections 39-3(1) and (2)**

11 Repeal the subsections, substitute:

12 (1) If:

13 (a) the Secretary is satisfied that an approved provider’s  
14 residential care service has ceased to be suitable for  
15 \*certification; or

16 (b) the Secretary is satisfied that the approved provider’s  
17 application for certification of the service contained  
18 information that was false or misleading in a material  
19 particular;

20 the Secretary must notify the approved provider that the Secretary  
21 is considering revoking the certification.

22 Note: Certification may also be revoked as a sanction under Part 4.4.

23 (2) The notice must be in writing and must:

24 (a) include the Secretary’s reasons for considering the  
25 revocation; and

26 (b) invite the approved provider to make submissions, in writing,  
27 to the Secretary within 28 days after receiving the notice; and

28 (c) inform the approved provider that if no submission is made  
29 within that period, any revocation will take effect on the day  
30 after the last day for making submissions.

31 **49 After subsection 39-3(3)**

32 Insert:

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1 (3A) Unless the Secretary decides to take action under section 39-3A or  
2 39-3B, the Secretary must revoke the \*certification if the Secretary  
3 remains satisfied that:

- 4 (a) the residential care service has ceased to be suitable for  
5 certification; or  
6 (b) the approved provider's application for certification of the  
7 service contained information that was false or misleading in  
8 a material particular.

9 Note: Revocations of certifications are reviewable under Part 6.1.

## 10 **50 After section 39-3**

11 Insert:

### 12 **39-3A Secretary may issue notice to rectify**

13 (1) This section applies if:

- 14 (a) the Secretary has notified an approved provider under  
15 subsection 39-3(2) that the Secretary is considering revoking  
16 the \*certification of the approved provider's residential care  
17 service because the service has ceased to be suitable for  
18 certification; and  
19 (b) the approved provider has made submissions to the Secretary  
20 in accordance with the invitation under paragraph 39-3(2)(b);  
21 and  
22 (c) the Secretary is satisfied that the submissions:  
23 (i) propose appropriate action to rectify the unsuitability of  
24 the service; or  
25 (ii) set out sufficient reason for the unsuitability.

26 (2) The Secretary may give the approved provider a notice in  
27 accordance with subsection (3).

28 (3) The notice must be in writing and must:

- 29 (a) inform the approved provider that, within 14 days after the  
30 date of the notice, or within such shorter period as is  
31 specified in the notice, the approved provider must give a  
32 written undertaking to the Secretary to rectify the  
33 unsuitability of the service; and  
34 (b) inform the approved provider that the \*certification will be  
35 revoked at the time specified in the notice if the undertaking  
36 is not given or complied with.

- 1 (4) The undertaking must:
- 2 (a) be in a form approved by the Secretary; and
- 3 (b) contain a description and acknowledgement of the
- 4 unsuitability of the service; and
- 5 (c) set out the action the approved provider proposes to take to
- 6 rectify the unsuitability of the service; and
- 7 (d) set out the period within which such action will be taken; and
- 8 (e) contain an acknowledgement that a failure by the approved
- 9 provider to comply with the undertaking will result in the
- 10 \*certification being revoked.
- 11 (5) If the approved provider fails to give the undertaking within the
- 12 specified time or fails to comply with the undertaking, the
- 13 Secretary must:
- 14 (a) revoke the \*certification; and
- 15 (b) give the approved provider written notice of the revocation.

16 **39-3B Secretary may request further information**

- 17 (1) This section applies if, after receiving submissions in accordance
- 18 with the invitation under paragraph 39-3(2)(b), the Secretary is not
- 19 satisfied as mentioned in paragraph 39-3A(1)(c).
- 20 (2) The Secretary may, in writing, request further information from the
- 21 approved provider in relation to the submissions.
- 22 (3) The request must be made within 28 days after the end of the
- 23 period for making submissions in accordance with the invitation
- 24 under paragraph 39-3(2)(b).
- 25 (4) The further information must be provided within the time specified
- 26 in the request.
- 27 (5) If, after receiving the further information, the Secretary is satisfied
- 28 as mentioned in paragraph 39-3A(1)(c), then:
- 29 (a) the Secretary must give a notice to the approved provider in
- 30 accordance with subsection 39-3A(3); and
- 31 (b) subsections 39-3A(4) and (5) have effect.
- 32 (6) If:
- 33 (a) the approved provider does not provide the further
- 34 information within the specified time; or



- 1 (b) after receiving the further information, the Secretary is not  
2 satisfied as mentioned in paragraph 39-3A(1)(c);  
3 the Secretary must:  
4 (c) revoke the \*certification of the approved provider's  
5 residential care service; and  
6 (d) give the approved provider written notice of the revocation.  
7 (7) The notice must be given within 28 days after the end of the period  
8 for providing the further information.

9 **51 Section 40-1**

10 Omit “\*community”, substitute “\*home”.

11 **52 Subsection 42-5(2)**

12 Repeal the subsection.

13 **53 At the end of section 44-27 (before the note)**

14 Add:

15 ; (e) any other supplement set out in the Residential Care Subsidy  
16 Principles for the purposes of this paragraph.

17 **54 Part 3.2 (heading)**

18 Omit “Community”, substitute “Home”.

19 **55 Section 45-1**

20 Omit “\*community”, substitute “\*home”.

21 **56 Section 45-1**

22 Omit “community”, substitute “home”.

23 **57 Section 45-2 (heading)**

24 Omit “Community”, substitute “Home”.

25 **58 Section 45-2**

26 Omit “\*Community”, substitute “\*Home”.

27 **59 Section 45-2**

28 Omit “Community Care”, substitute “Home Care”.

1 **60 Section 45-2 (note)**

2 Omit “Community”, substitute “Home”.

3 **61 Section 45-3 (heading)**

4 Omit “*community*”, substitute “*home*”.

5 **62 Subsection 45-3(1)**

6 Omit “*Community*”, substitute “*Home*”.

7 **63 Subsection 45-3(2)**

8 Omit “Community”, substitute “Home”.

9 **64 Paragraphs 45-3(2)(a) and (b)**

10 Omit “community”, substitute “home”.

11 **65 Division 46 (heading)**

12 Omit “community”, substitute “home”.

13 **66 Section 46-1 (heading)**

14 Omit “community”, substitute “home”.

15 **67 Subsection 46-1(1)**

16 Omit “\*community care subsidy”, substitute “\*home care subsidy”.

17 **68 Paragraph 46-1(1)(a)**

18 Omit “community”, substitute “\*home”.

19 **69 Paragraph 46-1(1)(b)**

20 Omit “\*community”, substitute “\*home”.

21 **70 Paragraph 46-1(1)(b)**

22 Omit “community” (wherever occurring), substitute “home”.

23 **71 Paragraph 46-1(1)(c)**

24 Omit “community” (wherever occurring), substitute “home”.

25 **72 Subsection 46-1(1) (note)**

26 Omit “community”, substitute “home”.

1 **73 Subsection 46-1(2)**

2 Omit “\*community” (wherever occurring), substitute “\*home”.

3 **74 Subsection 46-1(2)**

4 Omit “community”, substitute “home”.

5 **75 Subsection 46-1(2) (note)**

6 Omit “community”, substitute “home”.

7 **76 Section 46-2 (heading)**

8 Omit “community”, substitute “home”.

9 **77 Subsection 46-2(1)**

10 Omit “community” (wherever occurring), substitute “home”.

11 **78 Subsection 46-2(1)**

12 Omit “\*community”, substitute “\*home”.

13 **79 Subsections 46-2(3) to (5)**

14 Repeal the subsections, substitute:

15 (3) The Home Care Subsidy Principles may specify requirements  
16 relating to the suspension, on a temporary basis, of home care.

17 **80 Subsection 46-3(1)**

18 Omit “\*community” (wherever occurring), substitute “\*home”.

19 **81 Subsection 46-3(1)**

20 Omit “community” (wherever occurring), substitute “home”.

21 **82 Subsection 46-3(2)**

22 Omit “\*community” (wherever occurring), substitute “\*home”.

23 **83 Subsection 46-3(2)**

24 Omit “community” (wherever occurring), substitute “home”.

25 **84 Section 46-4 (heading)**

26 Omit “community”, substitute “home”.

1 **85 Paragraph 46-4(1)(a)**

2 Omit “\*community”, substitute “\*home”.

3 **86 Paragraph 46-4(1)(b)**

4 Omit “community”, substitute “home”.

5 **87 Division 47 (heading)**

6 Omit “community”, substitute “home”.

7 **88 Section 47-1 (heading)**

8 Omit “community”, substitute “home”.

9 **89 Subsections 47-1(1) and (2)**

10 Omit “\*Community”, substitute “\*Home”.

11 **90 Subsection 47-1(2)**

12 Omit “community” (wherever occurring), substitute “home”.

13 **91 Paragraph 47-2(b)**

14 Omit “Community”, substitute “Home”.

15 **92 Subsection 47-3(1)**

16 Omit “\*community”, substitute “\*home”.

17 **93 Subsection 47-3(2)**

18 Omit “community”, substitute “home”.

19 **94 Subsection 47-3(2)**

20 Omit “\*community”, substitute “\*home”.

21 **95 Subsection 47-3(3)**

22 Omit “community”, substitute “home”.

23 **96 Paragraph 47-3(3)(a)**

24 Omit “\*community”, substitute “\*home”.

25 **97 Subsection 47-3(4)**

26 Omit “Community”, substitute “Home”.

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1 **98 Section 47-4 (heading)**

2 Omit “community”, substitute “home”.

3 **99 Subsection 47-4(1)**

4 Omit “\*community”, substitute “\*home”.

5 **100 Subsection 47-4(1)**

6 Omit “community” (wherever occurring), substitute “home”.

7 **101 Subsection 47-4(2)**

8 Omit “\*community”, substitute “\*home”.

9 **102 Subsection 47-4(2)**

10 Omit “community”, substitute “home”.

11 **103 Subsection 47-4(3)**

12 Omit “community”, substitute “home”.

13 **104 Section 47-4A (heading)**

14 Omit “community”, substitute “home”.

15 **105 Division 48 (heading)**

16 Omit “community”, substitute “home”.

17 **106 Section 48-1 (heading)**

18 Omit “community”, substitute “home”.

19 **107 Subsection 48-1(1)**

20 Omit “\*community” (wherever occurring), substitute “\*home”.

21 **108 Subsection 48-1(1)**

22 Omit “community” (wherever occurring), substitute “home”.

23 **109 Subsection 48-1(2)**

24 Omit “\*community” (wherever occurring), substitute “\*home”.

25 **110 Subsection 48-1(2)**

26 Omit “community” (wherever occurring), substitute “home”.

1 **111 Subsection 48-1(3)**

2 Omit “\*community”, substitute “\*home”.

3 **112 Subsection 48-1(4)**

4 Omit “\*community”, substitute “\*home”.

5 **113 Section 49-3**

6 Omit “community care”, substitute “home care”.

7 **114 Paragraph 50-1(1)(b)**

8 Repeal the paragraph, substitute:

9 (b) the approved provider:

10 (i) provides flexible care to a care recipient who is  
11 approved under Part 2.3 in respect of flexible care; or

12 (ii) provides flexible care to a care recipient who is included  
13 in a class of people who, under the Flexible Care  
14 Subsidy Principles, do not need approval under Part 2.3  
15 in respect of flexible care; or

16 (iii) is taken to provide flexible care in the circumstances set  
17 out in the Flexible Care Subsidy Principles; and

18 **115 Paragraph 54-1(1)(f)**

19 Omit “community”, substitute “home”.

20 **116 Paragraph 54-1(1)(f)**

21 Omit “Community”, substitute “Home”.

22 **117 Subsection 54-2(1)**

23 Omit “(1)”.

24 **118 Subsection 54-2(2)**

25 Repeal the subsection.

26 **119 Section 54-4 (heading)**

27 Omit “Community”, substitute “Home”.

28 **120 Subsection 54-4(1)**

29 Omit “(1)”.

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1 **121 Subsection 54-4(1)**

2 Omit “Community” (wherever occurring), substitute “Home”.

3 **122 Subsection 54-4(1)**

4 Omit “community”, substitute “home”.

5 **123 Subsection 54-4(2)**

6 Repeal the subsection.

7 **124 Subsection 54-5(3)**

8 Repeal the subsection.

9 **125 Section 56-2 (heading)**

10 Omit “community”, substitute “home”.

11 **126 Section 56-2**

12 Omit “community”, substitute “home”.

13 **127 After paragraph 56-2(c)**

14 Insert:

15 (ca) to provide such other care and services in accordance with  
16 the agreement between the approved provider and the care  
17 recipient;

18 **128 Paragraph 56-2(e)**

19 Omit “community”, substitute “home”.

20 **129 Subsection 56-4(3)**

21 Omit “community”, substitute “home”.

22 **130 Subsection 56-4(3)**

23 Omit “community”, substitute “home”.

24 **131 Division 60 (heading)**

25 Omit “community”, substitute “home”.

26 **132 Section 60-1 (heading)**

27 Omit “community”, substitute “home”.

1 **133 Section 60-1**

2 Omit “community” (wherever occurring), substitute “home”.

3 **134 Section 60-2 (heading)**

4 Omit “community”, substitute “home”.

5 **135 Subsection 60-2(1)**

6 Omit “community”, substitute “home”.

7 **136 Subsection 60-2(2)**

8 Omit “community” (wherever occurring), substitute “home”.

9 **137 Division 61 (heading)**

10 Omit “community”, substitute “home”.

11 **138 Section 61-1 (heading)**

12 Omit “community”, substitute “home”.

13 **139 Subsection 61-1(1)**

14 Omit “community” (wherever occurring), substitute “home”.

15 **140 Subsection 61-1(2)**

16 Omit “\*community”, substitute “\*home”.

17 **141 Subsection 61-1(3)**

18 Omit “\*community”, substitute “\*home”.

19 **142 At the end of subparagraph 66-2(1)(a)(iii)**

20 Add “in relation to care and services”.

21 **143 Subparagraph 66-2(1)(a)(iv)**

22 Omit “administer an aged care service in respect of which the approved  
23 provider has not complied with its responsibilities”, substitute “assist  
24 the approved provider to comply with its responsibilities in relation to  
25 governance and business operations”.

26 **144 Paragraph 66A-1(2)(a)**

27 Repeal the paragraph, substitute:

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- 1 (a) the Secretary is satisfied that:  
2 (i) the person has the skills and experience required to  
3 assist an approved provider to comply with its  
4 responsibilities under Parts 4.1, 4.2 and 4.3; and  
5 (ii) if the person is an individual—the person is not a  
6 \*disqualified individual; and  
7 (iii) if the person is a body corporate—no individuals who  
8 are responsible for the executive decisions of the body  
9 corporate are disqualified individuals; and

10 **145 Subsection 66A-1(2A)**

11 Repeal the subsection.

12 **146 Subsection 66A-1(5)**

13 Repeal the subsection, substitute:

- 14 (5) A person may resign an appointment by giving the Secretary a  
15 written resignation:  
16 (a) signed by him or her; or  
17 (b) if the person is a body corporate—signed by an officer of the  
18 body corporate.

19 **147 Paragraph 66A-2(1)(b)**

20 Omit “revoked; and”, substitute “revoked.”.

21 **148 Paragraph 66A-2(1)(c)**

22 Repeal the paragraph.

23 **149 Paragraph 66A-3(1)(b)**

24 Omit “revoked; and”, substitute “revoked.”.

25 **150 Paragraph 66A-3(1)(c)**

26 Repeal the paragraph.

27 **151 Subsection 66A-4(2)**

28 After “under section”, insert “66A-2 or”.

1 **152 Subsection 66A-4(2)**

2 Omit “administer the service”, substitute “assist the approved provider  
3 to comply with its responsibilities”.

4 **153 Subsections 66A-4(3) and (4)**

5 Repeal the subsections.

6 **154 Section 66A-5**

7 Repeal the section.

8 **155 Section 69-1**

9 Omit “, with assessments or approvals related to \*aged care or”,  
10 substitute “and”.

11 **156 Section 69-1**

12 Omit:

- |    |  |
|----|--|
| 13 | • *community care grants (see Part 5.2); |
| 14 | • *flexible care grants (see Part 5.2A); |
| 15 | • *assessment grants (see Part 5.3);     |

16 **157 Paragraph 71-2(2)(b)**

17 Omit “section 72-2”, substitute “subsection 72-1(2)”.

18 **158 Paragraph 71-2(2)(d)**

19 Repeal the paragraph.

20 **159 Subsection 72-1(2)**

21 Repeal the subsection, substitute:

22 (2) The allocation must meet the criteria for allocations specified in the  
23 Residential Care Grant Principles.

24 **160 Sections 72-2 and 72-3**

25 Repeal the sections.

---

1 **161 Subsection 73-1(2)**

2 Repeal the subsection, substitute:

3 (2) The grant is subject to:

4 (a) such conditions (if any) as the Secretary determines in  
5 writing; and

6 (b) such other conditions (if any) as are set out in the Residential  
7 Care Grant Principles.

8 **162 Section 73-2**

9 Repeal the section.

10 **163 Subsection 73-5(4)**

11 Repeal the subsection (including the note), substitute:

12 (4) If the Secretary needs further information to determine the  
13 application, the Secretary may give to the approved provider a  
14 notice requesting the approved provider to give the further  
15 information within 28 days after receiving the notice, or within  
16 such shorter period as is specified in the notice.

17 (5) The Secretary must make a variation or reject the application:

18 (a) within 28 days after receiving the application; or

19 (b) if the Secretary has requested further information under  
20 subsection (4)—within 28 days after receiving the  
21 information.

22 Note: Variations of allocations and rejections of applications are reviewable  
23 under Part 6.1.

24 (6) The Secretary must notify the approved provider in writing of the  
25 Secretary's decision.

26 **164 Subsection 74-1(3)**

27 Repeal the subsection.

28 **165 Parts 5.2, 5.2A and 5.3**

29 Repeal the Parts.

30 **166 Subsection 80-1(2)**

31 Repeal the subsection.

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1 **167 Subsection 81-3(1)**

2 Omit “(1)”.

3 **168 Subsection 81-3(2)**

4 Repeal the subsection.

5 **169 Subsection 81-4(1)**

6 Omit “(1)”.

7 **170 Subsection 81-4(2)**

8 Repeal the subsection.

9 **171 Paragraph 82-1(1)(a)**

10 After “residential care”, insert “or home care”.

11 **172 Subsection 82-3(1)**

12 Omit “(1)”.

13 **173 Subsection 82-3(2)**

14 Repeal the subsection.

15 **174 Subsection 82-4(1)**

16 Omit “(1)”.

17 **175 Subsection 82-4(2)**

18 Repeal the subsection.

19 **176 Section 85-1 (table item 21)**

20 Omit “a \*low level of residential care”, substitute “one or more levels of  
21 care”.

22 **177 Section 85-1 (table item 35)**

23 Omit “39-3(1)”, substitute “39-3(3A)”.

24 **178 Section 85-1 (table items 49A and 49B)**

25 Omit “community”, substitute “home”.

1 **179 Section 85-1 (table items 57 and 58)**

2 Omit “73-5(4)”, substitute “73-5(5)”.

3 **180 Section 85-1 (table items 59 to 64)**

4 Repeal the items, substitute:

5

59	A decision under Principles made under section 96-1 that is specified in the Principles concerned to be a decision reviewable under this section	the provision specified in the Principles as the provision under which the decision is made
----	--	---

6

7 **181 Subsection 88-2(2)**

8 Repeal the subsection.

9 **182 Section 96-1 (table items 7 and 11)**

10 Repeal the items.

11 **183 Section 96-1 (table item 12)**

12 Omit “Community”, substitute “Home”.

13 **184 Section 96-1 (table item 14A)**

14 Repeal the item.

15 **185 Section 96-5 (note)**

16 Omit “\*community”, substitute “home”.

17 **186 Clause 1 of Schedule 1 (paragraph (b) of the definition of**  
18 ***aged care*)**

19 Omit “community”, substitute “home”.

20 **187 Clause 1 of Schedule 1 (definition of *assessment grant*)**

21 Repeal the definition.

22 **188 Clause 1 of Schedule 1 (definitions of *community care,***  
23 ***community care agreement, community care grant,***  
24 ***community care service and community care subsidy*)**

25 Repeal the definitions.

1 **189 Clause 1 of Schedule 1 (definition of *flexible care grant*)**

2 Repeal the definition.

3 **190 Clause 1 of Schedule 1**

4 Insert:

5 *home care* has the meaning given by section 45-3.

6 *home care agreement* means an agreement referred to in  
7 section 61-1.

8 *home care service* means an undertaking through which home care  
9 is provided.

10 *home care subsidy* means a subsidy payable under Part 3.2.

11 **191 Clause 1 of Schedule 1 (paragraph (b) of the definition of**  
12 ***payment period*)**

13 Omit “to community”, substitute “to home”.

14 **192 Clause 1 of Schedule 1 (paragraph (b) of the definition of**  
15 ***payment period*)**

16 Omit “\*community”, substitute “\*home”.

17 **193 Clause 1 of Schedule 1 (paragraph (b) of the definition of**  
18 ***payment period*)**

19 Omit “a community”, substitute “a home”.

20 **194 Clause 1 of Schedule 1 (definition of *place*)**

21 Omit “community”, substitute “home”.

1 **Part 2—Transitional and savings provisions**

2 **195 Definitions**

3 In this Part:

4 *commencement time* means the time when this Schedule commences.

5 *home care* has the same meaning as in the new law.

6 *new law* means the *Aged Care Act 1997* as in force immediately after  
7 the commencement time.

8 *old law* means the *Aged Care Act 1997* as in force immediately before  
9 the commencement time.

10 **196 Approval of providers**

11 (1) An approval to provide community care that was given under Part 2.1  
12 of the old law and was in force immediately before the commencement  
13 time is taken, after the commencement time, to have been given to  
14 provide home care.

15 (2) An approval to provide flexible care that was given under Part 2.1 of the  
16 old law and was in force immediately before the commencement time is  
17 taken, after the commencement time, to have been given to provide both  
18 home care and flexible care.

19 **197 Allocation of places**

20 (1) An allocation of places in respect of community care that was done  
21 under Part 2.2 of the old law and was in force immediately before the  
22 commencement time is taken, after the commencement time, to have  
23 been done in respect of home care.

24 (2) An allocation of places in respect of flexible care that:  
25 (a) was done under Part 2.2 of the old law and was in force  
26 immediately before the commencement time; and  
27 (b) is of a kind specified in Allocation Principles made for the  
28 purposes of this subitem;  
29 is taken, after the commencement time, to have been done in respect of  
30 home care.

1 **198 Approval of care recipients**

- 2 (1) An approval to receive community care that was given under Part 2.3 of  
3 the old law and was in force immediately before the commencement  
4 time is taken, after the commencement time, to have been given to  
5 receive home care.
- 6 (2) An approval to receive flexible care that:  
7 (a) was given under Part 2.3 of the old law and was in force  
8 immediately before the commencement time; and  
9 (b) is of a kind specified in Approval of Care Recipient  
10 Principles made for the purposes of this subitem;  
11 is taken, after the commencement time, to have been given to receive  
12 home care.
- 13 (3) An approval to receive community care or flexible care that is taken to  
14 be an approval to receive home care under subitem (1) or (2), is also  
15 taken to be limited to the level or levels of care specified in Approval of  
16 Care Recipient Principles made for the purposes of this subitem.

17 **199 Making Principles**

- 18 (1) The Minister may, by legislative instrument, make Allocation Principles  
19 or Approval of Care Recipient Principles, or both, providing for  
20 matters:  
21 (a) required or permitted by this Part to be provided; or  
22 (b) necessary or convenient to be provided in order to carry out  
23 or give effect to this Part.
- 24 (2) Allocation Principles or Approval of Care Recipient Principles made  
25 under subitem (1) may be included with Allocation Principles or  
26 Approval of Care Recipient Principles, as the case requires, made under  
27 section 96-1 of the *Aged Care Act 1997*.



1 **Schedule 2—Amendments commencing on**  
2 **1 January 2014**

3 **Part 1—Amendments**

4 *Aged Care Act 1997*

5 **1 Paragraph 42-4(a)**

6 Omit “an \*accreditation body”, substitute “the \*CEO of the Quality  
7 Agency”.

8 **2 After section 65-1**

9 Insert:

10 **65-1A Information about compliance with responsibilities**

11 (1) In deciding whether an approved provider has complied, or is  
12 complying, with one or more of its responsibilities under Part 4.1,  
13 4.2 or 4.3, the Secretary may have regard to:

- 14 (a) any information provided by the \*CEO of the Quality Agency  
15 in accordance with the Quality Agency Reporting Principles;  
16 and  
17 (b) any other relevant information.

18 (2) The Quality Agency Reporting Principles may specify the  
19 circumstances in which the \*CEO of the Quality Agency must  
20 provide information of a kind specified in the Principles to the  
21 Secretary for the purposes of this Part.

22 Note: The Quality Agency Reporting Principles are made by the Minister  
23 under section 96-1.

24 **3 Section 69-1**

25 Omit:

- 26 

<ul style="list-style-type: none"><li>• *accreditation grants (see Part 5.4);</li></ul>
---

27 **4 Part 5.4**

28 Repeal the Part.

1 **5 At the end of section 84-1**

2 Add:

3 ; (h) the Aged Care Pricing Commissioner, whose  
4 functions include approving accommodation  
5 payments that are higher than the maximum  
6 amount of accommodation payments determined  
7 by the Minister and approving extra service fees  
8 (see Part 6.7).

9 **6 Paragraphs 95A-1(2)(d) and (e)**

10 Repeal the paragraphs, substitute:

11 (d) to examine complaints made to the Aged Care Commissioner  
12 about the processes for:

13 (i) accrediting aged care services as mentioned in  
14 paragraph 12(a) of the *Australian Aged Care Quality*  
15 *Agency Act 2013*; and

16 (ii) conducting the quality review of home care services as  
17 mentioned in paragraph 12(b) of that Act;

18 (but not a complaint about the merits of a decision under  
19 those paragraphs), and make recommendations to the CEO of  
20 the Quality Agency arising from the examination;

21 (e) to examine, on the Aged Care Commissioner's own  
22 initiative, the processes for:

23 (i) accrediting aged care services as mentioned in  
24 paragraph 12(a) of the *Australian Aged Care Quality*  
25 *Agency Act 2013*; and

26 (ii) conducting the quality review of home care services as  
27 mentioned in paragraph 12(b) of that Act;

28 and make recommendations to the CEO of the Quality  
29 Agency arising from the examination;

30 **7 Subsections 95A-4(1) and (2)**

31 Omit "Complaints Principles", substitute "Commissioner Principles".

32 **8 Section 95A-9**

33 Before "The", insert "(1)".

1 **9 At the end of section 95A-9**

2 Add:

- 3 (2) The resignation takes effect on the day it is received by the  
4 Minister or, if a later day is specified in the resignation, on that  
5 later day.

6 **10 Section 95A-10**

7 Repeal the section, substitute:

8 **95A-10 Termination of appointment**

- 9 (1) The Minister may terminate the appointment of the \*Aged Care  
10 Commissioner:

- 11 (a) for misbehaviour; or  
12 (b) if the Aged Care Commissioner is unable to perform the  
13 duties of his or her office because of physical or mental  
14 incapacity.

- 15 (2) The Minister must terminate the appointment of the \*Aged Care  
16 Commissioner if the Aged Care Commissioner:

- 17 (a) becomes bankrupt; or  
18 (b) applies to take the benefit of any law for the relief of  
19 bankrupt or insolvent debtors; or  
20 (c) compounds with his or her creditors; or  
21 (d) makes an assignment of his or her remuneration for the  
22 benefit of his or her creditors; or  
23 (e) is absent, except on leave of absence, for 14 consecutive days  
24 or for 28 days in any 12 months; or  
25 (f) is appointed on a full-time basis and engages, except with the  
26 Minister's approval, in paid employment outside the duties of  
27 his or her office; or  
28 (g) is appointed on a part-time basis and engages in paid  
29 employment that conflicts or could conflict with the proper  
30 performance of the duties of his or her office; or  
31 (h) fails, without reasonable excuse, to comply with  
32 section 95A-8.

33 **11 Section 95A-11 (heading)**

34 Omit "**Delegations**", substitute "**Delegation**".

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1 **12 Subparagraphs 95A-12(2)(b)(ii) and (iii)**

2 Repeal the subparagraphs, substitute:

- 3 (ii) the processes mentioned in  
4 subparagraphs 95A-1(2)(d)(i) and (ii); and

5 **13 Paragraph 95A-12(2)(k)**

6 Omit “Complaints Principles”, substitute “Commissioner Principles”.

7 **14 At the end of Chapter 6**

8 Add:

9 **Part 6.7—Aged Care Pricing Commissioner**

10 **Division 95B—Aged Care Pricing Commissioner**

11 **95B-1 Aged Care Pricing Commissioner**

- 12 (1) There is to be an \*Aged Care Pricing Commissioner.
- 13 (2) The functions of the \*Aged Care Pricing Commissioner are as  
14 follows:
- 15 (a) to approve extra service fees in accordance with Division 35;
- 16 (b) in accordance with section 52G-4, to approve  
17 accommodation payments that are higher than the maximum  
18 amount of accommodation payment determined by the  
19 Minister under section 52G-3;
- 20 (c) such other functions that are conferred on the Aged Care  
21 Pricing Commissioner by this Act;
- 22 (d) the functions that are conferred on the Aged Care Pricing  
23 Commissioner by any other law of the Commonwealth;
- 24 (e) the functions that are specified by the Minister by legislative  
25 instrument.

26 **95B-2 Appointment**

- 27 (1) The \*Aged Care Pricing Commissioner is to be appointed by the  
28 Minister by written instrument.
- 29 (2) The \*Aged Care Pricing Commissioner may be appointed on a  
30 full-time basis or on a part-time basis.

- 1 (3) The \*Aged Care Pricing Commissioner holds office for the period  
2 specified in the instrument of appointment. The period must not  
3 exceed 3 years.

4 **95B-3 Acting appointments**

5 The Minister may appoint a person to act as the \*Aged Care  
6 Pricing Commissioner:

- 7 (a) during a vacancy in the office of the Aged Care Pricing  
8 Commissioner (whether or not an appointment has previously  
9 been made to the office); or  
10 (b) during any period, or during all periods, when the Aged Care  
11 Pricing Commissioner is absent from duty or from Australia,  
12 or is, for any reason, unable to perform the duties of the  
13 office.

14 Note: For rules that apply to acting appointments, see section 33A of the  
15 *Acts Interpretation Act 1901*.

16 **95B-4 Remuneration**

- 17 (1) The \*Aged Care Pricing Commissioner is to be paid the  
18 remuneration that is determined by the Remuneration Tribunal. If  
19 no determination of that remuneration by the Tribunal is in  
20 operation, the Aged Care Pricing Commissioner is to be paid the  
21 remuneration that is prescribed by the Commissioner Principles.  
22 (2) The \*Aged Care Pricing Commissioner is to be paid the allowances  
23 that are prescribed by the Commissioner Principles.  
24 (3) This section has effect subject to the *Remuneration Tribunal Act*  
25 *1973*.

26 **95B-5 Leave of absence**

27 *Full-time Commissioner*

- 28 (1) If the \*Aged Care Pricing Commissioner is appointed on a  
29 full-time basis:  
30 (a) he or she has the recreation leave entitlements that are  
31 determined by the Remuneration Tribunal; and  
32 (b) the Minister may grant the Aged Care Pricing Commissioner  
33 leave of absence, other than recreation leave, on the terms

1 and conditions as to remuneration or otherwise that the  
2 Minister determines.

3 *Part-time Commissioner*

4 (2) If the \*Aged Care Pricing Commissioner is appointed on a  
5 part-time basis, the Minister may grant leave of absence to the  
6 Aged Care Pricing Commissioner on the terms and conditions that  
7 the Minister determines.

8 **95B-6 Other terms and conditions**

9 The \*Aged Care Pricing Commissioner holds office on the terms  
10 and conditions (if any) in relation to matters not covered by this  
11 Act that are determined by the Minister.

12 **95B-7 Restrictions on outside employment**

13 *Full-time Commissioner*

14 (1) If the \*Aged Care Pricing Commissioner is appointed on a  
15 full-time basis, he or she must not engage in paid employment  
16 outside the duties of the Aged Care Pricing Commissioner's office  
17 without the Minister's approval.

18 *Part-time Commissioner*

19 (2) If the \*Aged Care Pricing Commissioner is appointed on a  
20 part-time basis, he or she must not engage in any paid employment  
21 that conflicts or could conflict with the proper performance of his  
22 or her duties.

23 **95B-8 Disclosure of interests**

24 The \*Aged Care Pricing Commissioner must give written notice to  
25 the Minister of all interests, pecuniary or otherwise, that the  
26 Commissioner has or acquires that could conflict with the proper  
27 performance of the Commissioner's functions.

28 **95B-9 Resignation**

29 (1) The \*Aged Care Pricing Commissioner may resign his or her  
30 appointment by giving the Minister a written resignation.

- 1 (2) The resignation takes effect on the day it is received by the  
2 Minister or, if a later day is specified in the resignation, on that  
3 later day.

4 **95B-10 Termination of appointment**

- 5 (1) The Minister may terminate the appointment of the \*Aged Care  
6 Pricing Commissioner:  
7 (a) for misbehaviour; or  
8 (b) if the Aged Care Pricing Commissioner is unable to perform  
9 the duties of his or her office because of physical or mental  
10 incapacity.
- 11 (2) The Minister must terminate the appointment of the \*Aged Care  
12 Pricing Commissioner if the Aged Care Pricing Commissioner:  
13 (a) becomes bankrupt; or  
14 (b) applies to take the benefit of any law for the relief of  
15 bankrupt or insolvent debtors; or  
16 (c) compounds with his or her creditors; or  
17 (d) makes an assignment of his or her remuneration for the  
18 benefit of his or her creditors; or  
19 (e) is absent, except on leave of absence, for 14 consecutive days  
20 or for 28 days in any 12 months; or  
21 (f) is appointed on a full-time basis and engages, except with the  
22 Minister's approval, in paid employment outside the duties of  
23 his or her office; or  
24 (g) is appointed on a part-time basis and engages in paid  
25 employment that conflicts or could conflict with the proper  
26 performance of the duties of his or her office; or  
27 (h) fails, without reasonable excuse, to comply with  
28 section 95B-8.

29 **95B-11 Delegation of Aged Care Pricing Commissioner's functions**

- 30 (1) The \*Aged Care Pricing Commissioner may delegate in writing all  
31 or any of his or her functions to an APS employee in the  
32 Department.
- 33 (2) In exercising his or her power under subsection (1), the \*Aged Care  
34 Pricing Commissioner is to have regard to the function to be

1 performed by the delegate and the responsibilities of the APS  
2 employee to whom the function is delegated.

3 (3) In performing functions delegated under subsection (1), the  
4 delegate must comply with any directions of the \*Aged Care  
5 Pricing Commissioner.

6 **95B-12 Annual report**

7 (1) The \*Aged Care Pricing Commissioner must, as soon as  
8 practicable after the end of each financial year, prepare and give to  
9 the Minister, for presentation to the Parliament, a report on the  
10 Aged Care Pricing Commissioner's operations during that year.

11 Note: See also section 34C of the *Acts Interpretation Act 1901*, which  
12 contains extra rules about annual reports.

13 (2) The \*Aged Care Pricing Commissioner must include in the report:  
14 (a) the number of applications that were made to the Aged Care  
15 Pricing Commissioner during the financial year for approval  
16 to charge an accommodation payment that is higher than the  
17 maximum amount of accommodation payment determined by  
18 the Minister under section 52G-3; and  
19 (b) the number of such applications that were approved, rejected  
20 or withdrawn during the financial year; and  
21 (c) the number of applications that were made to the Aged Care  
22 Pricing Commissioner during the financial year for approval  
23 to charge an extra service fee; and  
24 (d) any other information required by the Commissioner  
25 Principles to be included in the report.

26 **15 Section 96-1 (table item 2)**

27 Repeal the item.

28 **16 Section 96-1 (after table item 9)**

29 Insert:

9A Commissioner Principles Divisions 95A and 95B

30 **17 Section 96-1 (after table item 17)**

31 Insert:

17A Quality Agency Reporting Principles Part 4.4

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1 **18 Section 96-2 (heading)**

2 Omit “**Delegations**”, substitute “**Delegation**”.

3 **19 Subsection 96-2(6)**

4 Repeal the subsection, substitute:

5 (6) The Secretary may, in writing, delegate to the \*CEO of the Quality  
6 Agency the functions of the Secretary that the Secretary considers  
7 necessary for the CEO to perform the CEO’s functions under the  
8 *Australian Aged Care Quality Agency Act 2013*.

9 **20 Clause 1 of Schedule 1 (definition of *accreditation body*)**

10 Repeal the definition.

11 **21 Clause 1 of Schedule 1 (definition of *accreditation grant*)**

12 Repeal the definition.

13 **22 Clause 1 of Schedule 1**

14 Insert:

15 *Aged Care Pricing Commissioner* means the Aged Care Pricing  
16 Commissioner holding office under Part 6.7.

17 **23 Clause 1 of Schedule 1**

18 Insert:

19 *CEO of the Quality Agency* means the Chief Executive Officer of  
20 the Australian Aged Care Quality Agency appointed under the  
21 *Australian Aged Care Quality Agency Act 2013*.

1 **Part 2—Transitional and savings provisions**

2 **24 Definitions**

3 In this Part:

4 *accreditation body* has the same meaning as in the old law.

5 *CEO of the Quality Agency* has the same meaning as in the new law.

6 *commencement time* means the time when this Schedule commences.

7 *new law* means the *Aged Care Act 1997* as in force immediately after  
8 the commencement time.

9 *old law* means the *Aged Care Act 1997* as in force immediately before  
10 the commencement time.

11 **25 Accreditation requirement**

12 An accreditation of a residential care service by an accreditation body  
13 that was in force immediately before the commencement time is taken,  
14 after the commencement time, to have been an accreditation by the  
15 CEO of the Quality Agency.

16 **26 Determining maximum amounts of accommodation  
17 payment**

18 (1) After the commencement time, the Minister may, by legislative  
19 instrument, determine the maximum amount of accommodation  
20 payment that an approved provider may charge a person.

21 (2) The determination may set out:

22 (a) the maximum daily accommodation payment amount and a  
23 method for working out refundable accommodation deposit  
24 amounts; or

25 (b) methods for working out both:

26 (i) the maximum daily accommodation payment amount;  
27 and

28 (ii) refundable accommodation deposit amounts.

29 (3) An approved provider may apply to the Aged Care Pricing  
30 Commissioner for approval to charge an accommodation payment that  
31 is higher than the maximum amount of accommodation payment  
32 determined by the Minister under subitem (1).

- 1 (4) The Aged Care Pricing Commissioner may approve the application.
- 2 (5) A decision by the Aged Care Pricing Commissioner not to approve the  
3 application is taken to be a reviewable decision within the meaning of  
4 section 85-1 of the *Aged Care Act 1997*.
- 5 (6) A power exercised under this item must be exercised in accordance with  
6 the *Aged Care Act 1997* as if it were amended by Schedule 3 to this Act.

1 **Schedule 3—Amendments commencing on**  
2 **1 July 2014**

3 **Part 1—Amendments**

4 *Aged Care Act 1997*

5 **1 At the end of Division 1**

6 Add:

7 **1-5 Application to continuing care recipients**

8 Chapters 3 and 3A of this Act do not apply in relation to a  
9 \*continuing care recipient.

10 Note: Subsidies, fees and payments for continuing care recipients are dealt  
11 with in the *Aged Care (Transitional Provisions) Act 1997*.

12 **2 Section 3-1**

13 Before “This Act”, insert “(1)”.

14 **3 Paragraph 3-1(a)**

15 Omit “subsidies”, substitute “\*subsidies”.

16 **4 At the end of section 3-1**

17 Add:

18 (2) \*Subsidies are also paid under Chapter 3 of the *Aged Care*  
19 *(Transitional Provisions) Act 1997*.

20 **5 Section 3-2**

21 Omit “subsidy to a provider of \*aged care under Chapter 3”, substitute  
22 “\*subsidy to a provider of \*aged care”.

23 **6 Section 3-3 (heading)**

24 Omit “(Chapter 3)”.

1 **7 Section 3-3**

2 Omit “subsidy can be paid under Chapter 3”, substitute “\*subsidy can  
3 be paid”.

4 **8 After section 3-3**

5 Insert:

6 **3-3A Fees and payments**

7 Care recipients may be required to pay for, or contribute to, the  
8 costs of their care and accommodation. Fees and payments are  
9 dealt with in Chapter 3A of this Act, and in Divisions 57, 57A, 58  
10 and 60 of the *Aged Care (Transitional Provisions) Act 1997*.

11 **9 Section 3-4**

12 Omit “subsidy”, substitute “\*subsidy”.

13 **10 Section 5-1**

14 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

15 **11 Section 5-1**

16 After “Part 2.6 (enabling”, insert “\*accommodation payments,  
17 \*accommodation contributions,”.

18 **12 Section 5-1 (note)**

19 Omit “subsidy under Chapter 3”, substitute “subsidy”.

20 **13 Section 5-2**

21 After “Chapter 3”, insert “of this Act or Chapter 3 of the *Aged Care*  
22 *(Transitional Provisions) Act 1997*”.

23 **14 Section 6-1**

24 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

25 **15 Section 7-1**

26 Omit “subsidy cannot be made under Chapter 3”, substitute “\*subsidy  
27 cannot be made”.

1 **16 Subsections 7-2(1) and (2)**

2 Omit “subsidy can only be paid under Chapter 3”, substitute “\*subsidy  
3 can only be paid”.

4 **17 Section 9-3 (heading)**

5 Omit “under this Act”.

6 **18 Subsection 9-3(1)**

7 After “this Act”, insert “or the *Aged Care (Transitional Provisions) Act*  
8 *1997*”.

9 **19 Section 9-3A (heading)**

10 After “relating to”, insert “refundable deposits,”.

11 **20 Paragraph 9-3A(1)(a)**

12 Before “\*accommodation bonds”, insert “\*refundable deposits or”.

13 **21 Paragraph 9-3A(1)(b)**

14 After “more”, insert “\*refundable deposit balances or”.

15 **22 Paragraph 9-3A(1)(c)**

16 After “total of the”, insert “refundable deposit balances and”.

17 **23 Section 9-3B (heading)**

18 Omit “accommodation bond”.

19 **24 Paragraph 9-3B(1)(a)**

20 Omit “an \*accommodation bond balance as required by section 57-21”,  
21 substitute “a \*refundable deposit balance or an \*accommodation bond  
22 balance”.

23 **25 Paragraph 9-3B(1)(c)**

24 After “used”, insert “a \*refundable deposit or”.

25 **26 Paragraph 9-3B(2)(c)**

26 After “more”, insert “\*refundable deposit balances or”.

1 **27 Paragraph 9-3B(2)(d)**

2 After “how”, insert “\*refundable deposits or”.

3 **28 Paragraphs 9-3B(2)(e) and (f)**

4 After “use of”, insert “refundable deposits and”.

5 **29 Section 11-1**

6 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

7 **30 Section 11-4**

8 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

9 **31 Subsection 12-1(1)**

10 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

11 **32 Subsection 12-3(1)**

12 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

13 **33 Subsections 12-4(1) and (3)**

14 Omit “subsidy”, substitute “\*subsidy”.

15 **34 Subsection 12-5(1)**

16 Repeal the subsection, substitute:

17 (1) The Secretary may, in respect of each type of \*subsidy, determine  
18 for the \*places \*available for allocation the proportion of care that  
19 must be provided to people of kinds specified in the Allocation  
20 Principles.

21 **35 Subsections 12-6(1) and (2)**

22 Omit “subsidy”, substitute “\*subsidy”.

23 **36 Subsection 13-2(2)**

24 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

25 **37 Paragraph 13-2(3)(b)**

26 Omit “subsidy”, substitute “\*subsidy”.

1 **38 Paragraph 13-2(3)(e)**

2 Repeal the paragraph, substitute:

- 3 (e) the proportion of care (if any), in respect of the places  
4 available for allocation, that must be provided to people of  
5 kinds specified in the Allocation Principles.

6 **39 Subsection 14-1(1)**

7 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

8 **40 Paragraph 14-3(a)**

9 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

10 **41 Subsection 14-5(5)**

11 Repeal the subsection, substitute:

12 *Lump sums paid by continuing care recipients*

13 (5) If:

- 14 (a) a condition imposed on an allocation of \*places to a person  
15 requires:

16 (i) the refund by the person to a \*continuing care recipient,  
17 with the consent of the continuing care recipient, of a  
18 \*pre-allocation lump sum or part of such a sum; or

19 (ii) the forgiveness by the person of an obligation (including  
20 a contingent obligation) by a continuing care recipient,  
21 with the consent of the continuing care recipient, in  
22 relation to a pre-allocation lump sum or part of such a  
23 sum; and

- 24 (b) the continuing care recipient continues, on the day on which  
25 the allocation was made, to be provided with \*aged care  
26 through the residential care service in relation to entry to  
27 which the pre-allocation lump sum was paid or became  
28 payable;

29 then the continuing care recipient and the pre-allocation lump sum  
30 holder have the same rights, duties and obligations in relation to  
31 the charging of an \*accommodation bond or an \*accommodation  
32 charge as the continuing care recipient and the pre-allocation lump  
33 sum holder would have under this Act and the *Aged Care*  
34 *(Transitional Provisions) Act 1997* if:



- 1 (c) the continuing care recipient had \*entered the residential care  
2 service or flexible care service on the day on which the  
3 allocation was made; and  
4 (d) the pre-allocation lump sum were an accommodation bond  
5 paid in respect of aged care provided through another  
6 residential care service or flexible care service.

7 *Lump sums paid by care recipients other than continuing care*  
8 *recipients*

9 (5A) If:

- 10 (a) a condition imposed on an allocation of \*places to a person  
11 requires:  
12 (i) the refund by the person to a care recipient (the  
13 ***non-continuing care recipient***) who is not a \*continuing  
14 care recipient, with the consent of the non-continuing  
15 care recipient, of a \*pre-allocation lump sum or part of  
16 such a sum; or  
17 (ii) the forgiveness by the person of an obligation (including  
18 a contingent obligation) by a non-continuing care  
19 recipient, with the consent of the non-continuing care  
20 recipient, in relation to a pre-allocation lump sum or  
21 part of such a sum; and  
22 (b) the non-continuing care recipient continues, on the day on  
23 which the allocation was made, to be provided with \*aged  
24 care through the residential care service in relation to entry to  
25 which the pre-allocation lump sum was paid or became  
26 payable;

27 then the non-continuing care recipient and the pre-allocation lump  
28 sum holder have the same rights, duties and obligations in relation  
29 to the charging of a \*refundable deposit as the non-continuing care  
30 recipient and the pre-allocation lump sum holder would have under  
31 this Act if:

- 32 (c) the non-continuing care recipient had \*entered the residential  
33 care service or flexible care service on the day on which the  
34 allocation was made; and  
35 (d) the pre-allocation lump sum were a refundable deposit paid  
36 in respect of aged care provided through another residential  
37 care service or flexible care service.

1 **42 Paragraph 14-5(6)(c)**

2 After “not”, insert “a \*refundable deposit,”.

3 **43 Paragraph 14-8(2)(b)**

4 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

5 **44 Subsection 15-1(1)**

6 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

7 **45 Subsection 15-1(2) (note)**

8 Omit “Subsidy”, substitute “\*Subsidy”.

9 **46 Paragraph 16-6(e)**

10 Repeal the paragraph, substitute:

11 (e) the proportion of care (if any), in respect of the places to be  
12 transferred, that must be provided to people of kinds  
13 specified in the Allocation Principles.

14 **47 Paragraph 16-10(2)(d)**

15 Omit “(including, where applicable, retention amounts relating to  
16 \*accommodation bonds)”.

17 **48 Paragraph 16-10(2)(g)**

18 After “requirements for”, insert “\*refundable deposits and”.

19 **49 Paragraph 16-11(a)**

20 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

21 **50 Paragraph 16-11(b)**

22 Omit “an”, substitute “a \*refundable deposit balance or”.

23 **51 Paragraph 16-18(e)**

24 Repeal the paragraph, substitute:

25 (e) the proportion of care (if any), in respect of the places to be  
26 transferred, that must be provided to people of kinds  
27 specified in the Allocation Principles;

1 **52 Subparagraph 18-2(2)(f)(ii)**

2 Repeal the subparagraph, substitute:

- 3 (ii) \*entry contribution balance; or  
4 (iii) \*refundable deposit balance;

5 **53 Subsections 20-1(1) to (3)**

6 Omit “Subsidy cannot be paid under Chapter 3”, substitute “\*Subsidy  
7 cannot be paid”.

8 **54 Paragraph 20-1(3)(b)**

9 Omit “Flexible Care”.

10 **55 Section 20-2**

11 After “Chapter 3”, insert “of this Act or Chapter 3 of the *Aged Care*  
12 *(Transitional Provisions) Act 1997*”.

13 **56 Paragraph 23-1(b)**

14 Before “the approval”, insert “in the case of flexible care—”.

15 **57 Section 23-3**

16 Repeal the section, substitute:

17 **23-3 Circumstances in which approval for flexible care lapses**

18 *Care not received within a certain time*

- 19 (1) A person’s approval as a recipient of flexible care lapses if the  
20 person is not provided with the care within:  
21 (a) the entry period specified in the Approval of Care Recipients  
22 Principles; or  
23 (b) if no such period is specified—the period of 12 months  
24 starting on the day after the approval was given.
- 25 (2) Subsection (1) does not apply if the care is specified for the  
26 purposes of this subsection in the Approval of Care Recipients  
27 Principles.

1                                    *Person ceases to be provided with care in respect of which*  
2                                    *approved*

3                                    (3) A person’s approval as a recipient of flexible care lapses if the  
4                                    person ceases, in the circumstances specified in the Approval of  
5                                    Care Recipients Principles, to be provided with the care in respect  
6                                    of which he or she is approved.

7                                    **58 Section 30-1**

8                                    Omit “, but a lower amount of \*residential care subsidy is payable”.

9                                    **59 Section 30-1 (notes 1 to 4)**

10                                    Repeal the notes.

11                                    **60 Paragraph 30-3(1)(b)**

12                                    Repeal the paragraph.

13                                    **61 Subsection 30-3(1) (at the end of the example)**

14                                    Add “An individual resident’s room might also constitute a “distinct  
15                                    part” of the service.”.

16                                    **62 Subsection 30-3(1) (note)**

17                                    Repeal the note.

18                                    **63 Paragraph 32-4(1)(a)**

19                                    Omit “who.”, substitute “who are included in a class of people specified  
20                                    in the Extra Service Principles;”.

21                                    **64 Subparagraphs 32-4(1)(a)(i) and (ii)**

22                                    Repeal the subparagraphs.

23                                    **65 Subsection 32-9(1)**

24                                    Omit the second sentence.

25                                    **66 Subsection 35-1(1)**

26                                    Omit “Secretary”, substitute “\*Aged Care Pricing Commissioner”.

1 **67 Subsection 35-1(2)**

2 Omit “The Secretary”, substitute “The \*Aged Care Pricing  
3 Commissioner”.

4 **68 Paragraphs 35-1(2)(c) and (d)**

5 Omit “Secretary”, substitute “Aged Care Pricing Commissioner”.

6 **69 Subsection 35-2(1)**

7 Omit “Secretary”, substitute “\*Aged Care Pricing Commissioner”.

8 **70 Subsections 35-3(1) to (4)**

9 Omit “Secretary”, substitute “\*Aged Care Pricing Commissioner”.

10 **71 Section 35-4 (heading)**

11 Omit “Secretary’s”.

12 **72 Section 35-4**

13 Omit “The Secretary”, substitute “The \*Aged Care Pricing  
14 Commissioner”.

15 **73 Section 35-4**

16 Omit “Secretary’s”, substitute “Aged Care Pricing Commissioner’s”.

17 **74 Section 35-4**

18 Omit the second sentence.

19 **75 Section 36-4 (note)**

20 Omit “56-1(f)”, substitute “56-1(g)”.

21 **76 Section 37-1**

22 Repeal the section, substitute:

23 **37-1 What this Part is about**

24 

This Part describes how a residential care service is certified and 25 the circumstances in which certification ceases to have effect.
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1 **77 Paragraph 38-6(2)(d)**

2 Repeal the paragraph, substitute:

3 (d) the consequences of failure by the approved provider to  
4 comply with the approved provider's responsibilities under  
5 Part 4.1, 4.2 or 4.3, in particular, that such a failure may lead  
6 to the revocation or suspension under Part 4.4 of the  
7 certification of the residential care service; and

8 **78 Section 40-1**

9 Omit "pays subsidies", substitute "pays \*subsidies under this Chapter".

10 **79 Section 41-2 (heading)**

11 Omit "Residential Care".

12 **80 Section 41-2**

13 Omit "Residential Care Subsidy Principles. The provisions", substitute  
14 "Subsidy Principles. Provisions".

15 **81 Section 41-2 (note)**

16 Omit "Residential Care".

17 **82 Paragraph 41-3(1)(b)**

18 Omit "Residential Care".

19 **83 Paragraph 41-3(2)(d)**

20 Omit "Residential Care".

21 **84 Paragraph 42-1(2)(c)**

22 Omit "subsections (3) and (4)", substitute "subsection (3)".

23 **85 Subsection 42-1(4)**

24 Repeal the subsection (not including the note).

25 **86 Paragraph 42-2(3A)(b)**

26 Omit "Residential Care".

27 **87 Subsection 42-3(3)**

28 After "on leave", insert "(the *pre-entry leave*)".

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1 **88 Paragraph 42-3(3)(b)**

2 Omit “Residential Care”.

3 **89 Subsection 42-5(1)**

4 Omit “Residential Care”.

5 **90 Paragraph 42-5(3)(d)**

6 Omit “Residential Care”.

7 **91 Subsection 43-1(3)**

8 Omit “Residential Care”.

9 **92 Paragraph 43-2(b)**

10 Omit “Residential Care”.

11 **93 Subsection 43-3(4)**

12 Omit “Residential Care”.

13 **94 Subsection 43-6(3)**

14 Omit “Residential Care” (wherever occurring).

15 **95 Subsection 43-6(5) (paragraph (g) of the definition of**  
16 **capital payment)**

17 Repeal the paragraph, substitute:

18 (b) a payment of a kind specified in the Subsidy Principles.

19 **96 Subsection 43-8(1)**

20 Omit all the words after “care service”, substitute “if conditions  
21 specified in the Subsidy Principles, to which the allocation of the  
22 \*places included in the service are subject under section 14-5 or 14-6,  
23 have not been met”.

24 **97 Subsections 43-8(2) and (4)**

25 Omit “Residential Care”.

26 **98 Subsection 44-2(2) (Residential care subsidy calculator,**  
27 **step 4)**

28 Repeal the step.

1 **99 Subsection 44-2(2) (Residential care subsidy calculator,**  
2 **step 5)**

3 Renumber as step 4.

4 **100 Paragraph 44-3(3)(aa)**

5 Repeal the paragraph.

6 **101 Paragraphs 44-3(3)(c) and (d)**

7 Repeal the paragraphs.

8 **102 Paragraph 44-3(3)(e)**

9 Omit “Residential Care”.

10 **103 Sections 44-5 to 44-16**

11 Repeal the sections, substitute:

12 **44-5 Primary supplements**

13 (1) The primary supplements for the care recipient are such of the  
14 following primary supplements as apply to the care recipient in  
15 respect of the \*payment period:

16 (a) the following primary supplements as set out in the Subsidy  
17 Principles:

- 18 (i) the respite supplement;  
19 (ii) the oxygen supplement;  
20 (iii) the enteral feeding supplement;  
21 (iv) the dementia supplement;  
22 (v) the veterans’ supplement;  
23 (vi) the workforce supplement;

24 (b) any other primary supplement set out in the Subsidy  
25 Principles for the purposes of this paragraph.

26 (2) The Subsidy Principles may specify, in respect of each primary  
27 supplement, the circumstances in which the supplement will apply  
28 to a care recipient in respect of a \*payment period.

29 (3) The Minister may determine by legislative instrument, in respect of  
30 each such supplement, the amount of the supplement, or the way in  
31 which the amount of the supplement is to be worked out.



1 **104 Paragraphs 44-17(a) to (c)**

2 Repeal the paragraphs, substitute:

- 3 (a) the adjusted subsidy reduction (see section 44-19);  
4 (b) the compensation payment reduction (see sections 44-20 and  
5 44-20A);  
6 (c) the care subsidy reduction (see sections 44-21 and 44-23).

7 **105 Section 44-18**

8 Repeal the section.

9 **106 Subsections 44-20(5) and (6)**

10 Omit “Residential Care”.

11 **107 Subsection 44-20(8)**

12 Omit “an \*accommodation bond”, substitute “a \*refundable deposit”.

13 **108 Subsection 44-20(8)**

14 Omit “Residential Care”.

15 **109 Subdivision 44-E (heading)**

16 Repeal the heading.

17 **110 Sections 44-21 to 44-23**

18 Repeal the sections, substitute:

19 **44-20A Secretary’s powers if compensation information is not given**

20 (1) This section applies if:

- 21 (a) the Secretary believes on reasonable grounds that a care  
22 recipient is entitled to compensation under a judgement,  
23 settlement or reimbursement arrangement; and  
24 (b) the Secretary does not have sufficient information to apply  
25 section 44-20 in relation to the compensation.

26 (2) The Secretary may, by notice in writing given to a person, require  
27 the person to give information or produce a document that is in the  
28 person’s custody, or under the person’s control, if the Secretary  
29 believes on reasonable grounds that the information or document

1 may be relevant to the application of section 44-20 in relation to  
2 the compensation.

3 (3) The notice must specify:

4 (a) how the person is to give the information or produce the  
5 document; and

6 (b) the period within which the person is to give the information  
7 or produce the document; and

8 (c) the effect of subsection (4).

9 Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal  
10 with service of documents) apply to notice given under this section.

11 (4) If the information or document is not given or produced within the  
12 specified period, the Secretary may determine compensation  
13 payment reductions for the care recipient.

14 Note: Decisions to determine compensation payment reductions under this  
15 section are reviewable under Part 6.1.

16 (5) The compensation payment reductions must be determined in  
17 accordance with the Subsidy Principles.

#### 18 **44-21 The care subsidy reduction**

19 (1) The *care subsidy reduction* for the care recipient in respect of the  
20 \*payment period is the sum of all the care subsidy reductions for  
21 days during the period on which the care recipient is provided with  
22 residential care through the residential care service in question.

23 (2) Subject to this section and section 44-23, the care subsidy  
24 reduction for a particular day is worked out as follows:

##### 25 **Care subsidy reduction calculator**

26 Step 1. Work out the *means tested amount* for the care recipient  
27 (see section 44-22).

28 Step 2. Subtract the *maximum accommodation supplement*  
29 *amount* for the day (see subsection (6)) from the means  
30 tested amount.

31 Step 3. If the amount worked out under step 2 does not exceed  
32 zero, the *care subsidy reduction* is zero.

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- Step 4. If the amount worked out under step 2 exceeds zero but not the sum of the following, the *care subsidy reduction* is the amount worked out under step 2:
- (a) the basic subsidy amount for the care recipient;
  - (b) all primary supplement amounts for the care recipient.
- Step 5. If the amount worked out under step 2 exceeds the sum of the following, the *care subsidy reduction* is that sum:
- (a) the basic subsidy amount for the care recipient;
  - (b) all primary supplement amounts for the care recipient.
- (3) If the care recipient has not provided sufficient information about the care recipient's income and assets for the care recipient's means tested amount to be determined, the *care subsidy reduction* is the sum of the basic subsidy and primary supplement amounts for the care recipient.
- (4) If, apart from this subsection, the sum of all the \*combined care subsidy reductions made for the care recipient during a \*start-date year for the care recipient would exceed the annual cap applying at the time for the care recipient, the *care subsidy reduction* for the remainder of the start-date year is zero.
- (5) If, apart from this subsection, the sum of all the previous \*combined care subsidy reductions made for the care recipient would exceed the lifetime cap applying at the time, the *care subsidy reduction* for the remainder of the care recipient's life is zero.
- (6) The *maximum accommodation supplement amount* for a day is the highest of the amounts determined by the Minister by legislative instrument as the amounts of accommodation supplement payable for residential care services for that day.
- (7) The *annual cap*, for the care recipient, is the amount determined by the Minister by legislative instrument for the class of care recipients of which the care recipient is a member.

- 1 (8) The *lifetime cap* is the amount determined by the Minister by  
2 legislative instrument.

3 **44-22 Working out the means tested amount**

- 4 (1) The *means tested amount* for the care recipient is worked out as  
5 follows:

6 **Means tested amount calculator**

7 Work out the *income tested amount* using steps 1 to 4:

- 8 Step 1. Work out the care recipient's \*total assessable income on  
9 a yearly basis using section 44-24.
- 10 Step 2. Work out the care recipient's \*total assessable income  
11 free area using section 44-26.
- 12 Step 3. If the care recipient's total assessable income does not  
13 exceed the care recipient's total assessable income free  
14 area, the *income tested amount* is zero.
- 15 Step 4. If the care recipient's \*total assessable income exceeds  
16 the care recipient's total assessable income free area, the  
17 *income tested amount* is 50% of that excess divided by  
18 364.

19 Work out the *per day asset tested amount* using steps 5 to 10:

- 20 Step 5. Work out the value of the care recipient's assets using  
21 section 44-26A.
- 22 Step 6. If the value of the care recipient's assets does not exceed  
23 the *asset free area*, the *asset tested amount* is zero.
- 24 Step 7. If the value of the care recipient's assets exceeds the  
25 *asset free area* but not the *first asset threshold*, the *asset*  
26 *tested amount* is 17.5% of the excess.
- 27 Step 8. If the value of the care recipient's assets exceeds the first  
28 asset threshold but not the *second asset threshold*, the  
29 *asset tested amount* is the sum of the following:
-

- 1 (a) 1% of the excess;
- 2 (b) 17.5% of the difference between the asset free area  
3 and the first asset threshold.
- 4 Step 9. If the value of the care recipient's assets exceeds the  
5 second asset threshold, the **asset tested amount** is the  
6 sum of the following:
- 7 (a) 2% of the excess;
- 8 (b) 1% of the difference between the first asset  
9 threshold and the second asset threshold;
- 10 (c) 17.5% of the difference between the asset free area  
11 and the first asset threshold.
- 12 Step 10. The **per day asset tested amount** is the asset tested  
13 amount divided by 364.
- 14 The **means tested amount** is the sum of the income tested amount  
15 and the per day asset tested amount.

- 16 (2) The **asset free area** is:
- 17 (a) the amount equal to 2.25 times the \*basic age pension  
18 amount; or
- 19 (b) such other amount as is calculated in accordance with the  
20 Subsidy Principles.
- 21 (3) The **first asset threshold** and the **second asset threshold** are the  
22 amounts determined by the Minister by legislative instrument.

23 **44-23 Care subsidy reduction taken to be zero in some**  
24 **circumstances**

- 25 (1) The care subsidy reduction in respect of the care recipient is taken  
26 to be zero for each day, during the \*payment period, on which one  
27 or more of the following applies:
- 28 (a) the care recipient was provided with \*respite care;
- 29 (b) a determination was in force under subsection (2) in relation  
30 to the care recipient;

- 1 (c) the care recipient was included in a class of people specified  
2 in the Subsidy Principles.
- 3 (2) The Secretary may, in accordance with the Subsidy Principles,  
4 determine that the care subsidy reduction in respect of the care  
5 recipient is to be taken to be zero.
- 6 Note: Refusals to make determinations are reviewable under Part 6.1.
- 7 (3) The determination ceases to be in force at the end of the period (if  
8 any) specified in the determination.
- 9 Note: Decisions specifying periods are reviewable under Part 6.1.
- 10 (4) In deciding whether to make a determination, the Secretary must  
11 have regard to the matters specified in the Subsidy Principles.
- 12 (5) Application may be made to the Secretary, in the form approved by  
13 the Secretary, for a determination under subsection (2) in respect of  
14 a care recipient. The application may be made by:
- 15 (a) the care recipient; or  
16 (b) an approved provider that is providing, or is to provide,  
17 residential care to the care recipient.
- 18 (6) The Secretary must notify the care recipient and the approved  
19 provider, in writing, of the Secretary's decision on whether to  
20 make the determination. The notice must be given:
- 21 (a) if an application for a determination was made under  
22 subsection (5)—within 28 days after the application was  
23 made, or, if the Secretary requested further information in  
24 relation to the application, within 28 days after receiving the  
25 information; or  
26 (b) if such an application was not made—within 28 days after  
27 the decision is made.
- 28 (7) A determination under subsection (2) is not a legislative  
29 instrument.

30 **111 Subsection 44-24(5)**

31 Omit "Residential Care".

32 **112 Subparagraphs 44-24(6)(c)(ii) and (7)(b)(ii)**

33 Omit "Residential Care".

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1 **113 Subsection 44-24(11)**

2 Omit “Residential Care”.

3 **114 Subsection 44-26(1) (heading)**

4 Repeal the heading.

5 **115 Subsection 44-26(1)**

6 Omit “(1)”.

7 **116 Subsection 44-26(1)**

8 Omit “(other than a \*protected resident or a \*phased resident)”.

9 **117 Subsections 44-26(2) to (6)**

10 Repeal the subsections.

11 **118 At the end of Subdivision 44-E**

12 Add:

13 **44-26A The value of a person’s assets**

14 (1) Subject to this section, the value of a person’s assets for the  
15 purposes of section 44-22 is to be worked out in accordance with  
16 the Subsidy Principles.

17 (2) If a person who is receiving an \*income support supplement or a  
18 \*service pension has an income stream (within the meaning of the  
19 *Veterans’ Entitlements Act 1986*) that was purchased on or after  
20 20 September 2007, the value of the person’s assets:

21 (a) is taken to include the amount that the Secretary determines  
22 to be the value of that income stream that would be included  
23 in the value of the person’s assets if Subdivision A of  
24 Division 11 of Part IIIB of the *Veterans’ Entitlements Act*  
25 *1986* applied for the purposes of this Act; and

26 (b) is taken to exclude the amount that the Secretary determines  
27 to be the value of that income stream that would not be  
28 included in the value of the person’s assets if Subdivision A  
29 of Division 11 of Part IIIB of the *Veterans’ Entitlements Act*  
30 *1986* applied for the purposes of this Act.

- 1 (3) If a person who is not receiving an \*income support supplement or  
2 a \*service pension has an income stream (within the meaning of the  
3 *Social Security Act 1991*) that was purchased on or after  
4 20 September 2007, the value of the person's assets:
- 5 (a) is taken to include the amount that the Secretary determines  
6 to be the value of that income stream that would be included  
7 in the value of the person's assets if Division 1 of Part 3.12  
8 of the *Social Security Act 1991* applied for the purposes of  
9 this Act; and
- 10 (b) is taken to exclude the amount that the Secretary determines  
11 to be the value of that income stream that would not be  
12 included in the value of the person's assets if Division 1 of  
13 Part 3.12 of the *Social Security Act 1991* applied for the  
14 purposes of this Act.
- 15 (4) The value of a person's assets is taken to include the amount that  
16 the Secretary determines to be the amount:
- 17 (a) if the person is receiving an \*income support supplement or a  
18 \*service pension—that would be included in the value of the  
19 person's assets if Subdivisions B and BB of Division 11 and  
20 Subdivision H of Division 11A of Part IIIB of the *Veterans'*  
21 *Entitlements Act 1986* applied for the purposes of this Act;  
22 and
- 23 (b) otherwise—that would be included in the value of the  
24 person's assets if Division 2 of Part 3.12 and Division 8 of  
25 Part 3.18 of the *Social Security Act 1991* applied for the  
26 purposes of this Act.
- 27 Note 1: Subdivisions B and BB of Division 11 of Part IIIB of the *Veterans'*  
28 *Entitlements Act 1986*, and Division 2 of Part 3.12 of the *Social*  
29 *Security Act 1991*, deal with disposal of assets.
- 30 Note 2: Subdivision H of Division 11A of Part IIIB of the *Veterans'*  
31 *Entitlements Act 1986*, and Division 8 of Part 3.18 of the *Social*  
32 *Security Act 1991*, deal with the attribution to individuals of assets of  
33 private companies and private trusts.
- 34 (5) If a person has paid a \*refundable deposit, the value of the person's  
35 assets is taken to include the amount of the \*refundable deposit  
36 balance.
- 37 (6) In working out the value at a particular time of the assets of a  
38 person who is or was a \*homeowner, disregard the value of a home  
39 that, at the time, was occupied by:
-



- 1 (a) the \*partner or a \*dependent child of the person; or  
2 (b) a carer of the person who:  
3 (i) had occupied the home for the past 2 years; and  
4 (ii) was eligible to receive an \*income support payment at  
5 the time; or  
6 (c) a \*close relation of the person who:  
7 (i) had occupied the home for the past 5 years; and  
8 (ii) was eligible to receive an \*income support payment at  
9 the time.
- 10 (7) In working out the value at a particular time of the assets of a  
11 person who is or was a \*homeowner, disregard the value of a home  
12 to the extent that it exceeded the \*maximum home value in force at  
13 that time.
- 14 (8) The value of the assets of a person who is a \*member of a couple is  
15 taken to be 50% of the sum of:  
16 (a) the value of the person's assets; and  
17 (b) the value of the assets of the person's \*partner.
- 18 (9) A reference to the value of the assets of a person is, in relation to  
19 an asset owned by the person jointly or in common with one or  
20 more other people, a reference to the value of the person's interest  
21 in the asset.
- 22 (10) A determination under paragraph (2)(a), (2)(b), (3)(a) or (3)(b) or  
23 subsection (4) is not a legislative instrument.

#### 24 **44-26B Definitions relating to the value of a person's assets**

- 25 (1) In section 44-26A, and in this section:
- 26 **child:** without limiting who is a child of a person for the purposes  
27 of this section and section 44-26A, each of the following is the  
28 **child** of a person:  
29 (a) a stepchild or an adopted child of the person;  
30 (b) someone who would be the stepchild of the person except  
31 that the person is not legally married to the person's partner;  
32 (c) someone who is a child of the person within the meaning of  
33 the *Family Law Act 1975*;

1 (d) someone included in a class of persons specified for the  
2 purposes of this paragraph in the Subsidy Principles.

3 **close relation**, in relation to a person, means:

- 4 (a) a parent of the person; or  
5 (b) a sister, brother, child or grandchild of the person; or  
6 (c) a person included in a class of persons specified in the  
7 Subsidy Principles.

8 Note: See also subsection (5).

9 **dependent child** has the meaning given by subsection (2).

10 **homeowner** has the meaning given by the Subsidy Principles.

11 **maximum home value** means the amount determined by the  
12 Minister by legislative instrument.

13 **member of a couple** means:

- 14 (a) a person who is legally married to another person, and is not  
15 living separately and apart from the person on a permanent  
16 basis; or  
17 (b) a person whose relationship with another person (whether of  
18 the same sex or a different sex) is registered under a law of a  
19 State or Territory prescribed for the purposes of section 2E of  
20 the *Acts Interpretation Act 1901* as a kind of relationship  
21 prescribed for the purposes of that section, and who is not  
22 living separately and apart from the other person on a  
23 permanent basis; or  
24 (c) a person who lives with another person (whether of the same  
25 sex or a different sex) in a de facto relationship, although not  
26 legally married to the other person.

27 **parent**: without limiting who is a parent of a person for the  
28 purposes of this section and section 44-26A, someone is the **parent**  
29 of a person if the person is his or her child because of the definition  
30 of **child** in this section.

31 **partner**, in relation to a person, means the other \*member of a  
32 couple of which the person is also a member.

33 (2) A young person (see subsection (3)) is a **dependent child** of a  
34 person (the **adult**) if:

- 35 (a) the adult:
-

- 1 (i) is legally responsible (whether alone or jointly with  
2 another person) for the day-to-day care, welfare and  
3 development of the young person; or  
4 (ii) is under a legal obligation to provide financial support  
5 in respect of the young person; and  
6 (b) in a subparagraph (a)(ii) case—the adult is not included in a  
7 class of people specified for the purposes of this paragraph in  
8 the Subsidy Principles; and  
9 (c) the young person is not:  
10 (i) in full-time employment; or  
11 (ii) in receipt of a social security pension (within the  
12 meaning of the *Social Security Act 1991*) or a social  
13 security benefit (within the meaning of that Act); or  
14 (iii) included in a class of people specified in the Subsidy  
15 Principles.
- 16 (3) A reference in subsection (2) to a **young person** is a reference to  
17 any of the following:  
18 (a) a person under 16 years of age;  
19 (b) a person who:  
20 (i) has reached 16 years of age, but is under 25 years of  
21 age; and  
22 (ii) is receiving full-time education at a school, college or  
23 university;  
24 (c) a person included in a class of people specified in the  
25 Subsidy Principles.
- 26 (4) The reference in paragraph (2)(a) to care does not have the  
27 meaning given in the Dictionary in Schedule 1.
- 28 (5) For the purposes of paragraph (b) of the definition of **close relation**  
29 in subsection (1), if one person is the child of another person  
30 because of the definition of **child** in this section, relationships  
31 traced to or through the person are to be determined on the basis  
32 that the person is the child of the other person.

1 **44-26C Determination of value of person's assets**

2 *Making determinations*

3 (1) The Secretary must determine the value, at the time specified in the  
4 determination, of a person's assets in accordance with  
5 section 44-26A, if the person:

- 6 (a) applies in the approved form for the determination; and  
7 (b) gives the Secretary sufficient information to make the  
8 determination.

9 The time specified must be at or before the determination is made.

10 Note 1: Determinations are reviewable under Part 6.1.

11 Note 2: An application can be made under this section for the purposes of  
12 section 52J-5: see subsection 52J-5(3).

13 *Giving notice of the determination*

14 (2) Within 14 days after making the determination, the Secretary must  
15 give the person a copy of the determination.

16 *When the determination is in force*

17 (3) The determination is in force for the period specified in, or worked  
18 out under, the determination.

19 (4) However, the Secretary may by written instrument revoke the  
20 determination if he or she is satisfied that it is incorrect. The  
21 determination ceases to be in force on a day specified in the  
22 instrument (which may be before the instrument is made).

23 Note: Revocations of determinations are reviewable under Part 6.1.

24 (5) Within 14 days after revoking the determination, the Secretary  
25 must give written notice of the revocation and the day the  
26 determination ceases being in force to:

- 27 (a) the person; and  
28 (b) if the Secretary is aware that the person has given an  
29 approved provider a copy of the determination—the  
30 approved provider.

31 (6) A determination made under subsection (1) is not a legislative  
32 instrument.

1 **119 Section 44-27**

2 Before “The other”, insert “(1)”.

3 **120 Section 44-27**

4 Omit “step 5”, substitute “step 4”.

5 **121 Paragraph 44-27(a)**

6 Omit “pensioner”, substitute “accommodation”.

7 **122 Paragraphs 44-27(b) to (e)**

8 Repeal the paragraphs, substitute:

- 9 (b) the hardship supplement (see section 44-30);  
10 (c) any other supplement set out in the Subsidy Principles for the  
11 purposes of this paragraph.

12 **123 Section 44-27 (note)**

13 Repeal the note.

14 **124 At the end of section 44-27 (before the note)**

15 Add:

16 (2) The Subsidy Principles may specify, in respect of each other  
17 supplement set out for the purposes of paragraph (1)(c), the  
18 circumstances in which the supplement will apply to a care  
19 recipient in respect of a \*payment period.

20 (3) The Minister may determine by legislative instrument, in respect of  
21 each such supplement, the amount of the supplement, or the way in  
22 which the amount of the supplement is to be worked out.

23 **125 Section 44-28**

24 Repeal the section, substitute:

25 **44-28 The accommodation supplement**

26 (1) The *accommodation supplement* for the care recipient in respect  
27 of the \*payment period is the sum of all the accommodation  
28 supplements for the days during the period on which:

- 1 (a) the care recipient was provided with residential care (other  
2 than \*respite care) through the \*residential care service in  
3 question; and  
4 (b) the care recipient was eligible for accommodation  
5 supplement.
- 6 (2) The care recipient is eligible for \*accommodation supplement on a  
7 particular day if:  
8 (a) on that day:  
9 (i) the care recipient's \*classification level is not the lowest  
10 applicable classification level; and  
11 (ii) the residential care service is \*certified; and  
12 (iii) the residential care provided to the care recipient is not  
13 provided on an extra service basis; and  
14 (b) on the day (the *entry day*) on which the care recipient entered  
15 the residential care service, the care recipient's means tested  
16 amount was less than the maximum accommodation  
17 supplement amount for the entry day.
- 18 (3) The care recipient is also eligible for \*accommodation supplement  
19 on a particular day if, on that day, a \*financial hardship  
20 determination under section 52K-1 is in force for the person.
- 21 (4) The \*accommodation supplement for a particular day is the  
22 amount:  
23 (a) determined by the Minister by legislative instrument; or  
24 (b) worked out in accordance with a method determined by the  
25 Minister by legislative instrument.
- 26 (5) The Minister may determine different amounts (including nil  
27 amounts) or methods based on any one or more of the following:  
28 (a) the income of a care recipient;  
29 (b) the value of assets held by a care recipient;  
30 (c) the status of the building in which the residential care service  
31 is provided;  
32 (d) any other matter specified in the Subsidy Principles.

33 **126 Section 44-29**

34 Repeal the section.

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1 **127 Subsection 44-30(2)**

2 Omit “Subject to subsection (4), the”, substitute “The”.

3 **128 Paragraph 44-30(2)(a)**

4 Omit “Residential Care”.

5 **129 Paragraph 44-30(2)(a)**

6 Omit “the maximum daily amount of resident fees worked out under  
7 section 58-2”, substitute “a daily amount of resident fees of more than  
8 the amount specified in the Principles”.

9 **130 At the end of subsection 44-30(2)**

10 Add:

11 The specified amount may be nil.

12 **131 Subsection 44-30(3)**

13 Omit “Subject to subsection (4), the”, substitute “The”.

14 **132 Subsection 44-30(4)**

15 Repeal the subsection.

16 **133 Subsections 44-31(1) and (2)**

17 Repeal the subsections, substitute:

18 (1) The Secretary may, in accordance with the Subsidy Principles,  
19 determine that the care recipient is eligible for a hardship  
20 supplement if the Secretary is satisfied that paying a daily amount  
21 of resident fees of more than the amount specified in the  
22 determination would cause the care recipient financial hardship.

23 Note: Refusals to make determinations are reviewable under Part 6.1.

24 (2) In deciding whether to make a determination under this section,  
25 and in determining the specified amount, the Secretary must have  
26 regard to the matters (if any) specified in the Subsidy Principles.  
27 The specified amount may be nil.

28 **134 Section 44-32**

29 Repeal the section, substitute:

1 **44-32 Revoking determinations of financial hardship**

2 (1) The Secretary may, in accordance with the Subsidy Principles,  
3 revoke a determination under section 44-31.

4 Note: Revocations of determinations are reviewable under Part 6.1.

5 (2) Before deciding to revoke the determination, the Secretary must  
6 notify the care recipient and the approved provider concerned that  
7 revocation is being considered.

8 (3) The notice must be in writing and must:

- 9 (a) invite the care recipient and the approved provider to make  
10 submissions, in writing, to the Secretary within 28 days after  
11 receiving the notice; and  
12 (b) inform them that if no submissions are made within that  
13 period, the revocation takes effect on the day after the last  
14 day for making submissions.

15 (4) In making the decision whether to revoke the determination, the  
16 Secretary must consider any submissions received within the  
17 period for making submissions. The Secretary must make the  
18 decision within 28 days after the end of that period.

19 (5) The Secretary must notify, in writing, the care recipient and the  
20 approved provider of the decision.

21 (6) The notice must be given to the care recipient and the approved  
22 provider within 28 days after the end of the period for making  
23 submissions.

24 (7) If the notice is not given within that period, the Secretary is taken  
25 to have decided not to revoke the determination.

26 (8) A revocation has effect:

- 27 (a) if the care recipient and the approved provider received  
28 notice under subsection (5) on the same day—the day after  
29 that day; or  
30 (b) if they received the notice on different days—the day after  
31 the later of those days.

32 **135 Section 45-2 (heading)**

33 Omit “Home Care”.

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1 **136 Section 45-2**

2 Omit “Home Care Subsidy Principles. The provisions”, substitute  
3 “Subsidy Principles. Provisions”.

4 **137 Section 45-2 (note)**

5 Omit “Home Care”.

6 **138 Subsection 45-3(2)**

7 Omit “Home Care”.

8 **139 Subsection 46-2(3)**

9 Omit “Home Care”.

10 **140 Paragraph 47-2(b)**

11 Omit “Home Care”.

12 **141 Subsection 47-3(4)**

13 Omit “Home Care”.

14 **142 Section 48-1**

15 Repeal the section, substitute:

16 **48-1 Amount of home care subsidy**

17 (1) The amount of \*home care subsidy payable to an approved  
18 provider for a home care service in respect of a \*payment period is  
19 the amount worked out by adding together the amounts of home  
20 care subsidy for each care recipient:

- 21 (a) in respect of whom there is in force a \*home care agreement  
22 for provision of home care provided through the service  
23 during the period; and  
24 (b) in respect of whom the approved provider was eligible for  
25 home care subsidy during the period.

- 1 (2) This is how to work out the amount of \*home care subsidy for a  
2 care recipient in respect of the \*payment period.

3 **Home care subsidy calculator**

4 Step 1. Work out the *basic subsidy amount* using section 48-2.

5 Step 2. Add to this amount the amounts of any *primary*  
6 *supplements* worked out using section 48-3.

7 Step 3. Subtract the amounts of any *reductions in subsidy*  
8 worked out using section 48-4.

9 Step 4. Add the amounts of any *other supplements* worked out  
10 using section 48-9.

11 The result is the *amount of home care subsidy* for the care  
12 recipient in respect of the \*payment period.

13 **48-2 The basic subsidy amount**

- 14 (1) The *basic subsidy amount* for the care recipient in respect of the  
15 \*payment period is the sum of all the basic subsidy amounts for the  
16 days during the period on which the care recipient was provided  
17 with home care through the home care service in question.
- 18 (2) The basic subsidy amount for a day is the amount determined by  
19 the Minister by legislative instrument.
- 20 (3) The Minister may determine different amounts (including nil  
21 amounts) based on any one or more of the following:
- 22 (a) the levels for care recipients being provided with home care;  
23 (b) any other matters specified in the Subsidy Principles;  
24 (c) any other matters determined by the Minister.

25 **48-3 Primary supplements**

- 26 (1) The *primary supplements* for the care recipient under step 2 of the  
27 home care subsidy calculator are such of the following primary  
28 supplements as apply to the care recipient in respect of the  
29 \*payment period:

- 1 (a) the following primary supplements as set out in the Subsidy  
2 Principles:  
3 (i) the oxygen supplement;  
4 (ii) the enteral feeding supplement;  
5 (iii) the dementia supplement;  
6 (iv) the veterans' supplement;  
7 (v) the workforce supplement;  
8 (b) any other primary supplement set out in the Subsidy  
9 Principles for the purposes of this paragraph.
- 10 (2) The Subsidy Principles may specify, in respect of each primary  
11 supplement, the circumstances in which the supplement will apply  
12 to a care recipient in respect of a \*payment period.
- 13 (3) The Minister may determine by legislative instrument, in respect of  
14 each such supplement, the amount of the supplement, or the way in  
15 which the amount of the supplement is to be worked out.

#### 16 **48-4 Reductions in subsidy**

- 17 The *reductions in subsidy* for the care recipient under step 3 of the  
18 home care subsidy calculator are such of the following reductions  
19 as apply to the care recipient in respect of the \*payment period:  
20 (a) the compensation payment reduction (see sections 48-5 and  
21 48-6);  
22 (b) the care subsidy reduction (see sections 48-7 and 48-8).

#### 23 **48-5 The compensation payment reduction**

- 24 (1) The *compensation payment reduction* for the care recipient in  
25 respect of the \*payment period is the sum of all compensation  
26 payment reductions for days during the period:  
27 (a) on which the care recipient is provided with home care  
28 through the home care service in question; and  
29 (b) that are covered by a compensation entitlement.
- 30 (2) For the purposes of this section, a day is covered by a  
31 compensation entitlement if:  
32 (a) the care recipient is entitled to compensation under a  
33 judgement, settlement or reimbursement arrangement; and

- 1 (b) the compensation takes into account the cost of providing  
2 home care to the care recipient on that day; and
- 3 (c) the application of compensation payment reductions to the  
4 care recipient for preceding days has not resulted in  
5 reductions in subsidy that, in total, exceed or equal the part of  
6 the compensation that relates, or is to be treated under  
7 subsection (5) or (6) as relating, to future costs of providing  
8 home care.
- 9 (3) The compensation payment reduction for a particular day is an  
10 amount equal to the amount of \*home care subsidy that would be  
11 payable for the care recipient in respect of the \*payment period if:
- 12 (a) the care recipient was provided with home care on that day  
13 only; and
- 14 (b) this section and sections 48-9 and 48-10 did not apply.
- 15 (4) However, if:
- 16 (a) the compensation payment reduction arises from a judgement  
17 or settlement that fixes the amount of compensation on the  
18 basis that liability should be apportioned between the care  
19 recipient and the compensation payer; and
- 20 (b) as a result, the amount of compensation is less than it would  
21 have been if liability had not been so apportioned; and
- 22 (c) the compensation is not paid in a lump sum;
- 23 the amount of the compensation payment reduction under  
24 subsection (3) is reduced by the proportion corresponding to the  
25 proportion of liability that is apportioned to the care recipient by  
26 the judgement or settlement.
- 27 (5) If a care recipient is entitled to compensation under a judgement or  
28 settlement that does not take into account the future costs of  
29 providing home care to the care recipient, the Secretary may, in  
30 accordance with the Subsidy Principles, determine:
- 31 (a) that, for the purposes of this section, the judgement or  
32 settlement is to be treated as having taken into account the  
33 cost of providing that home care; and
- 34 (b) the part of the compensation that, for the purposes of this  
35 section, is to be treated as relating to the future costs of  
36 providing home care.
- 37 Note: Determinations are reviewable under Part 6.1.

- 1 (6) If:  
2 (a) a care recipient is entitled to compensation under a  
3 settlement; and  
4 (b) the settlement takes into account the future costs of providing  
5 home care to the recipient; and  
6 (c) the Secretary is satisfied that the settlement does not  
7 adequately take into account the future costs of providing  
8 home care to the care recipient;  
9 the Secretary may, in accordance with the Subsidy Principles,  
10 determine the part of the compensation that, for the purposes of  
11 this section, is to be treated as relating to the future costs of  
12 providing home care.
- 13 Note: Determinations are reviewable under Part 6.1.
- 14 (7) A determination under subsection (5) or (6) must be in writing and  
15 notice of it must be given to the care recipient.
- 16 (8) A determination under subsection (5) or (6) is not a legislative  
17 instrument.
- 18 (9) In this section, the following terms have the same meanings as in  
19 the *Health and Other Services (Compensation) Act 1995*:
- compensation*  
*compensation payer*  
*judgement*  
*reimbursement arrangement*  
*settlement*

#### 20 **48-6 Secretary's powers if compensation information is not given**

- 21 (1) This section applies if:  
22 (a) the Secretary believes on reasonable grounds that a care  
23 recipient is entitled to compensation under a judgement,  
24 settlement or reimbursement arrangement; and  
25 (b) the Secretary does not have sufficient information to apply  
26 section 48-5 in relation to the compensation.
- 27 (2) The Secretary may, by notice in writing given to a person, require  
28 the person to give information or produce a document that is in the  
29 person's custody, or under the person's control, if the Secretary  
30 believes on reasonable grounds that the information or document

1 may be relevant to the application of section 48-5 in relation to the  
2 compensation.

3 (3) The notice must specify:

4 (a) how the person is to give the information or produce the  
5 document; and

6 (b) the period within which the person is to give the information  
7 or produce the document.

8 Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal  
9 with service of documents) apply to notice given under this section.

10 (4) If the information or document is not given or produced within the  
11 specified period, the Secretary may determine compensation  
12 payment reductions for the care recipient.

13 Note: Decisions to determine compensation payment reductions under this  
14 section are reviewable under Part 6.1.

15 (5) The compensation payment reductions must be determined in  
16 accordance with the Subsidy Principles.

#### 17 **48-7 The care subsidy reduction**

18 (1) The care subsidy reduction for the care recipient for the \*payment  
19 period is the sum of all the care subsidy reductions for days during  
20 the period on which the care recipient is provided with home care  
21 through the home care service in question.

22 (2) Subject to this section and section 48-8, the care subsidy reduction  
23 for a particular day is worked out as follows:

##### 24 **Care subsidy reduction calculator**

25 Step 1. Work out the care recipient's *total assessable income* on  
26 a yearly basis using section 44-24.

27 Step 2. Work out the care recipient's *total assessable income*  
28 *free area* using section 44-26.

29 Step 3. If the care recipient's total assessable income does not  
30 exceed the care recipient's total assessable income free  
31 area, the *care subsidy reduction* is zero.

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Step 4. If the care recipient's total assessable income exceeds the care recipient's total assessable income free area but not the **income threshold**, the **care subsidy reduction** is equal to the lowest of the following:

- (a) the sum of the basic subsidy amount for the care recipient and all primary supplements for the care recipient;
- (b) 50% of the amount by which the care recipient's total assessable income exceeds the income free area (worked out on a per day basis);
- (c) the amount (the **first cap**) determined by the Minister by legislative instrument for the purposes of this paragraph.

Step 5. If the care recipient's total assessable income exceeds the **income threshold**, the **care subsidy reduction** is equal to the lowest of the following:

- (a) the sum of the basic subsidy amount for the care recipient and all primary supplements for the care recipient;
- (b) 50% of the amount by which the care recipient's total assessable income exceeds the income threshold (worked out on a per day basis) plus the amount specified in paragraph (c) of step 4;
- (c) the amount (the **second cap**) determined by the Minister by legislative instrument for the purposes of this paragraph.

(3) If the care recipient has not provided sufficient information about the care recipient's income for the care recipient's care subsidy reduction to be determined, the **care subsidy reduction** is equal to the lesser of the following:

- (a) the sum of the basic subsidy amount for the care recipient and all primary supplements for the care recipient;
- (b) the second cap.

- 1 (4) If, apart from this subsection, the sum of all the \*combined care  
2 subsidy reductions made for the care recipient during a \*start-date  
3 year for the care recipient would exceed the annual cap applying at  
4 the time for the care recipient, the *care subsidy reduction* for the  
5 remainder of the start-date year is zero.
- 6 (5) If, apart from this subsection, the sum of all the previous  
7 \*combined care subsidy reductions made for the care recipient  
8 would exceed the lifetime cap applying at the time, the *care*  
9 *subsidy reduction* for the remainder of the care recipient's life is  
10 zero.
- 11 (6) The *income threshold* is the amount determined by the Minister by  
12 legislative instrument.
- 13 (7) The *annual cap*, for the care recipient, is the amount determined  
14 by the Minister by legislative instrument for the class of care  
15 recipients of which the care recipient is a member.
- 16 (8) The *lifetime cap* is the amount determined by the Minister by  
17 legislative instrument.

18 **48-8 Care subsidy reduction taken to be zero in some circumstances**

- 19 (1) The care subsidy reduction in respect of the care recipient is taken  
20 to be zero for each day, during the \*payment period, on which one  
21 or more of the following applies:
- 22 (a) a determination was in force under subsection (2) in relation  
23 to the care recipient;
- 24 (b) the care recipient was included in a class of people specified  
25 in the Subsidy Principles.
- 26 (2) The Secretary may, in accordance with the Subsidy Principles,  
27 determine that the care subsidy reduction in respect of the care  
28 recipient is to be taken to be zero.
- 29 Note: Refusals to make determinations are reviewable under Part 6.1.
- 30 (3) The determination ceases to be in force at the end of the period (if  
31 any) specified in the determination.
- 32 Note: Decisions specifying periods are reviewable under Part 6.1.
- 33 (4) In deciding whether to make a determination, the Secretary must  
34 have regard to the matters specified in the Subsidy Principles.
-



- 1 (5) Application may be made to the Secretary, in the form approved by  
2 the Secretary, for a determination under subsection (2) in respect of  
3 a care recipient. The application may be made by:  
4 (a) the care recipient; or  
5 (b) an approved provider that is providing, or is to provide, home  
6 care to the care recipient.
- 7 (6) The Secretary must notify the care recipient and the approved  
8 provider, in writing, of the Secretary's decision on whether to  
9 make the determination. The notice must be given:  
10 (a) if an application for a determination was made under  
11 subsection (5)—within 28 days after the application was  
12 made, or, if the Secretary requested further information in  
13 relation to the application, within 28 days after receiving the  
14 information; or  
15 (b) if such an application was not made—within 28 days after  
16 the decision is made.
- 17 (7) A determination under subsection (2) is not a legislative  
18 instrument.

#### 19 **48-9 Other supplements**

- 20 (1) The *other supplements* for the care recipient under step 4 of the  
21 home care subsidy calculator are such of the following  
22 supplements as apply to the care recipient in respect of the  
23 \*payment period:  
24 (a) the hardship supplement (see section 48-10);  
25 (b) any other supplement set out in the Subsidy Principles for the  
26 purposes of this paragraph.
- 27 (2) The Subsidy Principles may specify, in respect of each other  
28 supplement set out for the purposes of paragraph (1)(b), the  
29 circumstances in which the supplement will apply to a care  
30 recipient in respect of a \*payment period.
- 31 (3) The Minister may determine by legislative instrument, in respect of  
32 each such other supplement, the amount of the supplement, or the  
33 way in which the amount of the supplement is to be worked out.

1 **48-10 The hardship supplement**

- 2 (1) The hardship supplement for the care recipient in respect of the  
3 \*payment period is the sum of all the hardship supplements for the  
4 days during the period on which:  
5 (a) the care recipient was provided with home care through the  
6 home care service in question; and  
7 (b) the care recipient was eligible for a hardship supplement.
- 8 (2) The care recipient is eligible for a hardship supplement on a  
9 particular day if:  
10 (a) the Subsidy Principles specify one or more classes of care  
11 recipients to be care recipients for whom paying a daily  
12 amount of home care fees of more than the amount specified  
13 in the Principles would cause financial hardship; and  
14 (b) on that day, the care recipient is included in such a class.  
15 The specified amount may be nil.
- 16 (3) The care recipient is also eligible for a hardship supplement on a  
17 particular day if a determination is in force under section 48-11 in  
18 relation to the care recipient.
- 19 (4) The hardship supplement for a particular day is the amount:  
20 (a) determined by the Minister by legislative instrument; or  
21 (b) worked out in accordance with a method determined by the  
22 Minister by legislative instrument.
- 23 (5) The Minister may determine different amounts (including nil  
24 amounts) or methods based on any matters determined by the  
25 Minister by legislative instrument.

26 **48-11 Determining cases of financial hardship**

- 27 (1) The Secretary may, in accordance with the Subsidy Principles,  
28 determine that the care recipient is eligible for a hardship  
29 supplement if the Secretary is satisfied that paying a daily amount  
30 of home care fees of more than the amount specified in the  
31 determination would cause the care recipient financial hardship.  
32 Note: Refusals to make determinations are reviewable under Part 6.1.
- 33 (2) In deciding whether to make a determination under this section,  
34 and in determining the specified amount, the Secretary must have
-

- 1 regard to the matters (if any) specified in the Subsidy Principles.  
2 The specified amount may be nil.
- 3 (3) A determination under this section ceases to be in force at the end  
4 of a specified period, or on the occurrence of a specified event, if  
5 the determination so provides.
- 6 Note: Decisions to specify periods or events are reviewable under Part 6.1.
- 7 (4) Application may be made to the Secretary, in the form approved by  
8 the Secretary, for a determination under this section. The  
9 application may be made by:  
10 (a) the care recipient; or  
11 (b) an approved provider who is providing, or is to provide,  
12 home care to the care recipient.
- 13 (5) If the Secretary needs further information to determine the  
14 application, the Secretary may give to the applicant a notice  
15 requesting the applicant to give the further information:  
16 (a) within 28 days after receiving the notice; or  
17 (b) within such other period as is specified in the notice.
- 18 (6) The application is taken to have been withdrawn if the information  
19 is not given within whichever of those periods applies. The notice  
20 must contain a statement setting out the effect of this subsection.
- 21 Note: The period for giving the further information can be extended—see  
22 section 96-7.
- 23 (7) The Secretary must notify the care recipient and the approved  
24 provider, in writing, of the Secretary's decision on whether to  
25 make the determination. The notice must be given:  
26 (a) within 28 days after receiving the application; or  
27 (b) if the Secretary has requested further information under  
28 subsection (5)—within 28 days after receiving the  
29 information.
- 30 (8) If the Secretary makes the determination, the notice must set out:  
31 (a) any period at the end of which; or  
32 (b) any event on the occurrence of which;  
33 the determination will cease to be in force.
- 34 (9) A determination under subsection (1) is not a legislative  
35 instrument.
-

1 **48-12 Revoking determinations of financial hardship**

2 (1) The Secretary may, in accordance with the Subsidy Principles,  
3 revoke a determination under section 48-11.

4 Note: Revocations of determinations are reviewable under Part 6.1.

5 (2) Before deciding to revoke the determination, the Secretary must  
6 notify the care recipient and the approved provider concerned that  
7 revocation is being considered.

8 (3) The notice must be in writing and must:

- 9 (a) invite the care recipient and the approved provider to make  
10 submissions, in writing, to the Secretary within 28 days after  
11 receiving the notice; and  
12 (b) inform them that if no submissions are made within that  
13 period, the revocation takes effect on the day after the last  
14 day for making submissions.

15 (4) In making the decision whether to revoke the determination, the  
16 Secretary must consider any submissions received within the  
17 period for making submissions. The Secretary must make the  
18 decision within 28 days after the end of that period.

19 (5) The Secretary must notify, in writing, the care recipient and the  
20 approved provider of the decision.

21 (6) The notice must be given to the care recipient and the approved  
22 provider within 28 days after the end of the period for making  
23 submissions.

24 (7) If the notice is not given within that period, the Secretary is taken  
25 to have decided not to revoke the determination.

26 (8) A revocation has effect:

- 27 (a) if the care recipient and the approved provider received  
28 notice under subsection (5) on the same day—the day after  
29 that day; or  
30 (b) if they received the notice on different days—the day after  
31 the later of those days.

32 **143 Section 49-2 (heading)**

33 Omit “Flexible Care”.

---

1 **144 Section 49-2**

2 Omit “Flexible Care Subsidy Principles. The provisions”, substitute  
3 “Subsidy Principles. Provisions”.

4 **145 Section 49-2 (note)**

5 Omit “Flexible Care”.

6 **146 Subparagraphs 50-1(1)(b)(ii) and (iii)**

7 Omit “Flexible Care”.

8 **147 Subsection 50-2(1)**

9 Omit “Flexible Care”.

10 **148 Subsections 51-1(1) and (2)**

11 Omit “Flexible Care”.

12 **149 After Chapter 3**

13 Insert:

14 **Chapter 3A—Fees and payments**

15

16 **Division 52A—Introduction**

17 **52A-1 What this Chapter is about**

18 Care recipients contribute to the cost of their care by paying  
19 resident fees or home care fees (see Part 3A.1).

20 Care recipients may pay for, or contribute to the cost of,  
21 accommodation provided with residential care or eligible flexible  
22 care by paying an \*accommodation payment or an \*accommodation  
23 contribution (see Part 3A.2).

24 Accommodation payments or accommodation contributions may  
25 be paid by:

- 26
- \*daily payments; or
  - \*refundable deposit; or
- 27

1  
2  
3  
4  
5

- a combination of refundable deposit and daily payments.

Rules for managing refundable deposits, \*accommodation bonds and \*entry contributions are set out in Part 3A.3. Accommodation bonds and entry contributions are paid under the *Aged Care (Transitional Provisions) Act 1997*.

6

## Part 3A.1—Resident and home care fees

7

### Division 52B—Introduction

8

#### 52B-1 What this Part is about

9  
10

Care recipients may pay, or contribute to the cost of, residential care and home care by paying resident fees or home care fees.

11

#### Table of Divisions

12  
13  
14

52B	Introduction
52C	Resident fees
52D	Home care fees

15

#### 52B-2 The Fees and Payments Principles

16  
17  
18

Resident fees and home care fees are also dealt with in the Fees and Payments Principles. Provisions in this Part indicate when a particular matter is or may be dealt with in these Principles.

19  
20

Note: The Fees and Payments Principles are made by the Minister under section 96-1.

21

### Division 52C—Resident fees

22

#### 52C-2 Rules relating to resident fees

23  
24  
25  
26

- (1) Fees charged to a care recipient for, or in connection with, residential care provided to the care recipient through a residential care service are *resident fees*.
- (2) The following apply:

- 1 (a) subject to section 52C-5, the resident fee in respect of any  
2 day must not exceed the sum of:  
3 (i) the maximum daily amount worked out under  
4 section 52C-3; and  
5 (ii) such other amounts as are specified in, or worked out in  
6 accordance with, the Fees and Payments Principles;  
7 (b) the care recipient must not be required to pay resident fees  
8 more than one month in advance;  
9 (c) the care recipient must not be required to pay resident fees  
10 for any period prior to \*entry to the residential care service,  
11 other than for a period in which the care recipient is, because  
12 of subsection 42-3(3), taken to be on \*leave under  
13 section 42-2;  
14 (d) if the care recipient dies or departs from the service—any  
15 fees paid in advance in respect of a period occurring after the  
16 care recipient dies or leaves must be refunded in accordance  
17 with the Fees and Payments Principles.

18 **52C-3 Maximum daily amount of resident fees**

- 19 (1) The *maximum daily amount of resident fees* payable by the care  
20 recipient is the amount worked out as follows:

21	<b>Resident fee calculator</b>
22	Step 1. Work out the *standard resident contribution for the care
23	recipient using section 52C-4.
24	Step 2. Add the <i>compensation payment fee</i> (if any) for the care
25	recipient for the day in question (see subsection (2)).
26	Step 3. Add the <i>means tested care fee</i> (if any) for the care
27	recipient for that day (see subsection (3)).
28	Step 4. Subtract the amount of any hardship supplement
29	applicable to the care recipient for the day in question
30	under section 44-30.
31	Step 5. Add any other amounts agreed between the care recipient
32	and the approved provider in accordance with the Fees
33	and Payments Principles.

1 Step 6. If, on the day in question, the \*place in respect of which  
2 residential care is provided to the care recipient has \*extra  
3 service status, add the extra service fee in respect of the  
4 place.

5 The result is the *maximum daily amount of resident fees* for the  
6 care recipient.

7 (2) The *compensation payment fee* for a care recipient for a particular  
8 day is the amount equal to the compensation payment reduction  
9 applicable to the care recipient on that day (see sections 44-20 and  
10 44-20A).

11 (3) The *means tested care fee* for a care recipient for a particular day  
12 is:

13 (a) the amount equal to the care subsidy reduction applicable to  
14 the care recipient on that day (see sections 44-21 and 44-23);

15 or

16 (b) if the care recipient is receiving respite care—zero.

#### 17 **52C-4 The standard resident contribution**

18 The *standard resident contribution* for a care recipient is:

19 (a) the amount determined by the Minister by legislative  
20 instrument; or

21 (b) if no amount is determined under paragraph (a) for the care  
22 recipient—the amount obtained by rounding down to the  
23 nearest cent the amount equal to 85% of the \*basic age  
24 pension amount (worked out on a per day basis).

#### 25 **52C-5 Maximum daily amount of resident fees for reserving a place**

26 If:

27 (a) a care recipient is absent from a residential care service on a  
28 particular day; and

29 (b) the person is not on \*leave from the residential care service  
30 on that day because of the operation of paragraph 42-2(3)(c);

31 the maximum fee in respect of a day that can be charged for  
32 reserving a place in the residential care service for that day is the  
33 sum of the following amounts:



- 1 (c) the maximum daily amount under section 52C-3 that would  
2 have been payable by the care recipient if the care recipient  
3 had been provided with residential care through the  
4 residential care service on that day;
- 5 (d) the amount that would have been the amount of \*residential  
6 care subsidy under Division 44 for the care recipient in  
7 respect of that day, if the care recipient had been provided  
8 with residential care through the residential care service on  
9 that day.

## 10 **Division 52D—Home care fees**

### 11 **52D-1 Rules relating to home care fees**

- 12 (1) Fees charged to a care recipient for, or in connection with, home  
13 care provided to the care recipient through a home care service are  
14 ***home care fees***.
- 15 (2) The following apply:
- 16 (a) the home care fee in respect of any day must not exceed the  
17 sum of:
- 18 (i) the maximum daily amount worked out under  
19 section 52D-2; and
- 20 (ii) such other amounts as are specified in, or worked out in  
21 accordance with, the Fees and Payments Principles;
- 22 (b) the care recipient must not be required to pay home care fees  
23 more than one month in advance;
- 24 (c) the care recipient must not be required to pay home care fees  
25 for any period prior to being provided with the home care;
- 26 (d) if the care recipient dies or provision of home care ceases—  
27 any fees paid in advance in respect of a period occurring after  
28 the care recipient's death, or the cessation of home care, must  
29 be refunded in accordance with the Fees and Payments  
30 Principles.

### 31 **52D-2 Maximum daily amount of home care fees**

- 32 (1) The ***maximum daily amount of home care fees*** payable by the  
33 care recipient is the amount worked out as follows:

**Home care fee calculator**

Step 1. Work out the *basic daily care fee* using section 52D-3.

Step 2. Add the *compensation payment fee* (if any) for the care recipient for the day in question (see subsection (2)).

Step 3. Add the *income tested care fee* (if any) for the care recipient for the day in question (see subsection (3)).

Step 4. Subtract the amount of any hardship supplement applicable to the care recipient for the day in question under section 48-10.

Step 5. Add any other amounts agreed between the care recipient and the approved provider in accordance with the Fees and Payments Principles.

The result is the *maximum daily amount of home care fees* for the care recipient.

- (2) The *compensation payment fee* for a care recipient for a particular day is the amount equal to the compensation payment reduction applicable to the care recipient on that day (see sections 48-5 and 48-6).
- (3) The *income tested care fee* for a care recipient for a particular day is the amount equal to the care subsidy reduction applicable to the care recipient on that day (see sections 48-7 and 48-8).

**52D-3 The basic daily care fee**

The *basic daily care fee* for a care recipient is:

- (a) the amount determined by the Minister by legislative instrument; or
- (b) if no amount is determined under paragraph (a) for the care recipient—the amount obtained by rounding down to the nearest cent the amount equal to 17.5% of the \*basic age pension amount (worked out on a per day basis).

1 **Part 3A.2—Accommodation payments and**  
2 **accommodation contributions**

3 **Division 52E—Introduction**

4 **52E-1 What this Part is about**

5 Care recipients may pay for, or contribute to the cost of,  
6 accommodation provided with residential care or eligible flexible  
7 care by paying an \*accommodation payment or an \*accommodation  
8 contribution.

9 Accommodation payments or accommodation contributions may  
10 be paid by:

- 11 • \*daily payments; or
- 12 • \*refundable deposit; or
- 13 • a combination of refundable deposit and daily payments.

14 **Table of Divisions**

15	52E	Introduction
16	52F	Accommodation agreements
17	52G	Rules about accommodation payments and accommodation
18		contributions
19	52H	Rules about daily payments
20	52J	Rules about refundable deposits
21	52K	Financial hardship

22 **52E-2 The Fees and Payments Principles**

23 \*Accommodation payments and \*accommodation contributions are  
24 also dealt with in the Fees and Payments Principles. Provisions in  
25 this Part indicate when a particular matter is or may be dealt with  
26 in these Principles.

1 Note: The Fees and Payments Principles are made by the Minister under  
2 section 96-1.

3 **Division 52F—Accommodation agreements**

4 **52F-1 Information to be given before person enters residential or**  
5 **eligible flexible care**

- 6 (1) Before a person enters a residential care service or an \*eligible  
7 flexible care service, the provider of the service must:  
8 (a) give the person:  
9 (i) an \*accommodation agreement; and  
10 (ii) such other information as is specified in the Fees and  
11 Payments Principles; and  
12 (b) agree with the person, in writing, about the maximum amount  
13 that would be payable if the person paid an \*accommodation  
14 payment for the service.

15 Note: Whether or not a person pays an accommodation payment depends on  
16 their means tested amount, which may not be worked out before they  
17 enter the service.

- 18 (2) A flexible care service is an *eligible flexible care service* if the  
19 service is permitted, under the Fees and Payments Principles, to  
20 charge \*accommodation payments.

21 **52F-2 Approved provider must enter accommodation agreement**

- 22 (1) An approved provider must enter into an \*accommodation  
23 agreement with a person:  
24 (a) before, or within 28 days after, the person enters the  
25 provider's service; or  
26 (b) within that period as extended under subsection (2).  
27 (2) If, within 28 days after the person (the *care recipient*) enters the  
28 service:  
29 (a) the approved provider and the care recipient have not entered  
30 into an \*accommodation agreement; and  
31 (b) a process under a law of the Commonwealth, a State or a  
32 Territory has begun for a person (other than an approved  
33 provider) to be appointed, by reason that the care recipient  
34 has a mental impairment, as the care recipient's legal  
35 representative;
-

1 the time limit for entering into the agreement is extended until the  
2 end of 7 days after:

3 (c) the appointment is made; or

4 (d) a decision is made not to make the appointment; or

5 (e) the process ends for some other reason;

6 or for such further period as the Secretary allows, having regard to  
7 any matters specified in the Fees and Payments Principles.

### 8 **52F-3 Accommodation agreements**

9 (1) The \*accommodation agreement must set out the following:

10 (a) the person's date (or proposed date) of \*entry to the service;

11 (b) that the person will pay an \*accommodation payment if:

12 (i) the person's \*means tested amount at the date of entry is  
13 equal to, or greater than, the \*maximum accommodation  
14 supplement amount for that day; or

15 (ii) the person does not provide sufficient information to  
16 allow the person's means tested amount to be worked  
17 out;

18 (c) that, if the person's means tested amount at the date of entry  
19 is less than the maximum accommodation supplement  
20 amount for that day, the person may pay an \*accommodation  
21 contribution, depending on the person's means tested  
22 amount;

23 (d) that a determination under section 52K-1 (financial hardship)  
24 may reduce the accommodation payment or accommodation  
25 contribution, including to nil;

26 (e) that, within 28 days after the date of entry, the person must  
27 choose to pay the accommodation payment or  
28 accommodation contribution (if payable) by:

29 (i) \*daily payments; or

30 (ii) \*refundable deposit; or

31 (iii) a combination of refundable deposit and daily  
32 payments;

33 (f) that, if the person does not choose how to pay within those 28  
34 days, the person must pay by daily payments;

35 (g) that, if the person chooses to pay a refundable deposit within  
36 those 28 days:

- 1 (i) the person will not be required to pay the refundable  
2 deposit until 6 months after the date of entry; and  
3 (ii) daily payments must be paid until the refundable deposit  
4 is paid;
- 5 (h) the amounts that are permitted to be deducted from a  
6 refundable deposit;
- 7 (i) the circumstances in which a refundable deposit balance must  
8 be refunded;
- 9 (j) any other conditions relating to the payment of a refundable  
10 deposit;
- 11 (k) such other matters as are specified in the Fees and Payments  
12 Principles.
- 13 (2) In relation to an \*accommodation payment, the agreement must set  
14 out the following:
- 15 (a) the amount of \*daily accommodation payment that would be  
16 payable, as agreed under paragraph 52F-1(1)(b);
- 17 (b) the amount of \*refundable accommodation deposit that would  
18 be payable if no daily accommodation payments were paid;
- 19 (c) the method for working out amounts that would be payable  
20 as a combination of refundable accommodation deposit and  
21 daily accommodation payments;
- 22 (d) that, if the person pays a refundable accommodation deposit,  
23 the approved provider:
- 24 (i) must, at the person's request, deduct daily  
25 accommodation payments for the person from the  
26 refundable accommodation deposit; and
- 27 (ii) may require the person to maintain the agreed  
28 accommodation payment if the refundable  
29 accommodation deposit is reduced;
- 30 (e) that, if the person is required to maintain the agreed  
31 accommodation payment because the refundable  
32 accommodation deposit has been reduced, the person may do  
33 so by:
- 34 (i) paying daily accommodation payments or increased  
35 daily accommodation payments; or
- 36 (ii) topping up the refundable accommodation deposit; or  
37 (ii) a combination of both.

- 1 (3) In relation to an \*accommodation contribution, the agreement must  
2 set out the following:
- 3 (a) that the amount of accommodation contribution for a day will  
4 not exceed the amount assessed for the person based on the  
5 person's \*means tested amount;
- 6 (b) that the amount of accommodation contribution payable will  
7 vary from time to time depending on:
- 8 (i) the \*accommodation supplement applicable to the  
9 service; and
- 10 (ii) the person's means tested amount;
- 11 (c) the method for working out amounts that would be payable  
12 by:
- 13 (i) \*refundable accommodation contribution; or  
14 (ii) a combination of \*refundable accommodation  
15 contribution and \*daily accommodation contributions;
- 16 (d) that, if the person pays a refundable accommodation  
17 contribution, the approved provider:
- 18 (i) must, at the person's request, deduct daily  
19 accommodation contributions for the person from the  
20 refundable accommodation contribution; and
- 21 (ii) may require the person to maintain the accommodation  
22 contribution that is payable if the refundable  
23 accommodation contribution is reduced;
- 24 (e) that, if the person is required to maintain the accommodation  
25 contribution because the refundable accommodation  
26 contribution has been reduced, the person may do so by:
- 27 (i) paying \*daily accommodation contributions or increased  
28 daily accommodation contributions; or
- 29 (ii) paying or topping up a \*refundable accommodation  
30 contribution; or
- 31 (iii) a combination of both;
- 32 (f) that, if the amount of accommodation contribution that is  
33 payable increases, the approved provider may require the  
34 person to pay the increase;
- 35 (g) that, if the person is required to pay the increase, the person  
36 may do so by:
- 37 (i) paying daily accommodation contributions or increased  
38 daily accommodation contributions; or
-

- 1 (ii) paying or topping up a refundable accommodation  
2 contribution; or  
3 (ii) a combination of both.

4 **52F-4 Refundable deposit not to be required for entry**

5 The approved provider must not require the person to choose how  
6 to pay an \*accommodation payment or \*accommodation  
7 contribution before the person \*enters the service.

8 **52F-5 Accommodation agreements for flexible care**

9 If the \*accommodation agreement is for a flexible care service, the  
10 accommodation agreement is not required to deal with the matters  
11 in section 52F-3 to the extent that they relate to \*accommodation  
12 contributions.

13 **52F-6 Accommodation agreements may be included in another  
14 agreement**

15 The \*accommodation agreement may be included in another  
16 agreement.

17 Note: For example, an accommodation agreement could be part of a resident  
18 agreement.

19 **52F-7 Effect of accommodation agreements**

20 The \*accommodation agreement has effect subject to this Act, and  
21 any other law of the Commonwealth.

22 **Division 52G—Rules about accommodation payments and  
23 accommodation contributions**

24 **52G-1 What this Division is about**

25 \*Accommodation payments and \*accommodation contributions  
26 may be charged only in accordance with this Division.

27 Rules about \*daily payments and \*refundable deposits are set out in  
28 Divisions 52H and 52J.



1 **Table of Subdivisions**

2 52G-A Rules about accommodation payments

3 52G-B Rules about accommodation contributions

4 **Subdivision 52G-A—Rules about accommodation payments**

5 **52G-2 Rules about charging accommodation payments**

6 The rules for charging \*accommodation payment for a residential  
7 care service or \*eligible flexible care service are as follows:

- 8 (a) a person must not be charged an accommodation payment  
9 unless:
- 10 (i) the person's \*means tested amount, at the date the  
11 person \*enters the service, is equal to or greater than the  
12 \*maximum accommodation supplement amount for that  
13 day; or
  - 14 (ii) the person has not provided sufficient information to  
15 allow the person's means tested amount to be worked  
16 out;
- 17 (b) an accommodation payment must not be charged for \*respite  
18 care;
- 19 (c) an accommodation payment must not exceed the maximum  
20 amount determined by the Minister under section 52G-3, or  
21 such higher amount as approved by the \*Aged Care Pricing  
22 Commissioner under section 52G-4;
- 23 (d) accommodation payment must not be charged:
- 24 (i) if it is prohibited under Part 4.4 (see paragraph 66-1(j));  
25 or
  - 26 (ii) for a residential care service that is not \*certified;
- 27 (e) an approved provider must comply with:
- 28 (i) the rules set out this Division; and
  - 29 (ii) any rules about charging accommodation payments  
30 specified in the Fees and Payments Principles.

1 **52G-3 Minister may determine maximum amount of**  
2 **accommodation payment**

- 3 (1) The Minister may, by legislative instrument, determine the  
4 maximum amount of \*accommodation payment that an approved  
5 provider may charge a person.
- 6 (2) The determination may set out:  
7 (a) the maximum \*daily accommodation payment amount and a  
8 method for working out \*refundable accommodation deposit  
9 amounts; or  
10 (b) methods for working out both:  
11 (i) the maximum daily accommodation payment amount;  
12 and  
13 (ii) refundable accommodation deposit amounts.
- 14 (3) The approved provider may charge less than the maximum amount.

15 **52G-4 Aged Care Pricing Commissioner may approve higher**  
16 **maximum amount of accommodation payment**

- 17 (1) An \*approved provider may apply to the \*Aged Care Pricing  
18 Commissioner for approval to charge an \*accommodation payment  
19 that is higher than the maximum amount of accommodation  
20 payment determined by the Minister under section 52G-3 for:  
21 (a) a residential care service or flexible care service; or  
22 (b) a \*distinct part of such a service.
- 23 (2) The application:  
24 (a) must comply with the requirements set out in the Fees and  
25 Payments Principles; and  
26 (b) must not be made:  
27 (i) within the period specified in Fees and Payments  
28 Principles after the \*Aged Care Pricing Commissioner  
29 last made a decision under this section in relation to the  
30 service, or the part of the service; or  
31 (ii) if no period is specified—within 12 months after that  
32 last decision.
- 33 (3) If the \*Aged Care Pricing Commissioner needs further information  
34 to determine the application, the Commissioner may give to the

- 1 applicant a notice requiring the applicant to give the further  
2 information:
- 3 (a) within 28 days after the notice is given; or  
4 (b) within such other period as is specified in the notice.
- 5 (4) The application is taken to have been withdrawn if the information  
6 is not given within whichever of those periods applies. The notice  
7 under subsection (3) must contain a statement setting out the effect  
8 of this subsection.
- 9 (5) The \*Aged Care Pricing Commissioner may, in writing and in  
10 accordance with the Fees and Payments Principles, approve the  
11 higher maximum amount of \*accommodation payment specified in  
12 the application.
- 13 Note: A decision not to approve a higher maximum amount of  
14 accommodation payment is reviewable under Part 6.1.
- 15 (6) If the \*Aged Care Pricing Commissioner approves the higher  
16 maximum amount of \*accommodation payment, the amount  
17 applies only in relation to a person:
- 18 (a) who at the date of approval has not entered into an  
19 \*accommodation agreement with the approved provider; and  
20 (b) whose \*entry to the service occurs on or after the date of the  
21 approval.
- 22 (7) An approval under subsection (5) is not a legislative instrument.

23 **52G-5 Accommodation payments must not be greater than amounts**  
24 **set out in accommodation agreements**

25 An approved provider must not accept a payment that would result  
26 in a person paying an amount of \*accommodation payment that is  
27 greater than the amount set out in the person's \*accommodation  
28 agreement.

29 **Subdivision 52G-B—Rules about accommodation contributions**

30 **52G-6 Rules about charging accommodation contribution**

31 The rules for charging \*accommodation contribution for a  
32 residential care service are as follows:

- 1 (a) a person must not be charged an accommodation contribution  
2 unless the person's \*means tested amount, at the date the  
3 person \*enters the service, is less than the \*maximum  
4 accommodation supplement amount for that day;
- 5 (b) an accommodation contribution must not be charged for  
6 \*respite care;
- 7 (c) the amount of accommodation contribution for a day must  
8 not exceed:
- 9 (i) the accommodation supplement applicable to the service  
10 for the day; or
- 11 (ii) the amount assessed for the person based on the  
12 person's means tested amount;
- 13 (d) accommodation contribution must not be charged:
- 14 (i) if it is prohibited under Part 4.4 (see paragraph 66-1(j));  
15 or
- 16 (ii) for a residential care service that is not \*certified;
- 17 (e) an approved provider must comply with:
- 18 (i) the rules set out in this Division; and  
19 (ii) any rules about charging accommodation contributions  
20 specified in the Fees and Payments Principles.
- 21 Note: A person who does not provide sufficient information to allow the  
22 person's means tested amount to be worked out will be charged an  
23 accommodation payment: see paragraph 52G-2(a).

## 24 **Division 52H—Rules about daily payments**

### 25 **52H-1 Payment in advance**

26 A person must not be required to pay a \*daily payment more than 1  
27 month in advance.

### 28 **52H-2 When daily payments accrue**

- 29 (1) A \*daily payment does not accrue for any day after the provision of  
30 care to the person ceases.
- 31 (2) A \*daily payment does not accrue for a residential care service for  
32 any day during which the residential care service is not \*certified.

1 **52H-3 Charging interest**

- 2 (1) A person may be charged interest on the balance of any amount of  
3 \*daily payment that:  
4 (a) is payable by the person; and  
5 (b) has been outstanding for more than 1 month.
- 6 (2) Subsection (1) does not apply unless the person's \*accommodation  
7 agreement provides for the charging of such interest at a specified  
8 rate.
- 9 (3) However, the rate charged must not exceed the maximum rate  
10 determined by the Minister under subsection (4).
- 11 (4) The Minister may, by legislative instrument, determine the  
12 maximum rate of interest that may be charged on an outstanding  
13 amount of \*daily payment.

14 **52H-4 The Fees and Payments Principles**

15 The Fees and Payments Principles may specify:

- 16 (a) when \*daily payments are to be made; and  
17 (b) any other matter relating to the payment of daily payments.

18 **Division 52J—Rules about refundable deposits**

19 **52J-2 When refundable deposits can be paid**

- 20 (1) A person may choose to pay a \*refundable deposit at any time after  
21 the person has entered into an \*accommodation agreement.
- 22 (2) A person may increase the amount of a \*refundable deposit at any  
23 time after the person has paid the refundable deposit.

24 Note: A person cannot overpay a refundable deposit: see section 52G-5 and  
25 paragraph 52G-6(c).

- 26 (3) This section has effect despite paragraphs 52F-3(1)(e) and (f).

27 Note: For rules relating to the management of refundable deposits, see  
28 Part 3A.3.

29 **52J-3 The Fees and Payments Principles**

30 The Fees and Payments Principles may specify:

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- 1 (a) how a choice to pay a \*refundable deposit is to be made; and  
2 (b) any other matter relating to the payment of refundable  
3 deposits.

4 **52J-4 Residential care services that are not certified**

5 *Entering a service that is not certified*

- 6 (1) The provider of a residential care service that is not \*certified must  
7 not require payment of a \*refundable deposit:  
8 (a) before the end of the period specified in the Fees and  
9 Payments Principles after the service is certified; or  
10 (b) if no period is specified—before the end of 6 months after the  
11 service is certified.

12 *Certification of service is revoked*

- 13 (2) If a person pays a \*refundable deposit for a residential care service  
14 and the \*certification of the service is later revoked, the provider of  
15 the service must pay the person interest, in accordance with the  
16 Fees and Payments Principles, on the \*refundable deposit balance  
17 for each day that the service is not certified.

18 **52J-5 Person must be left with minimum assets**

- 19 (1) An approved provider must not accept payment of an amount of  
20 \*refundable deposit from a person if:  
21 (a) the person provides sufficient information to allow the  
22 person's \*means tested amount to be worked out; and  
23 (b) the person pays, or commits to paying, the amount within 28  
24 days after entering the service; and  
25 (c) payment of the amount would leave the value of the person's  
26 remaining assets at less than the \*minimum permissible asset  
27 value.
- 28 (2) The *minimum permissible asset value* is:  
29 (a) the amount obtained by rounding to the nearest \$500.00  
30 (rounding \$250.00 upwards) the amount equal to 2.25 times  
31 the \*basic age pension amount at the time the person \*enters  
32 the residential care service or flexible care service; or

- 1 (b) such higher amount as is specified in, or worked out in  
2 accordance with, the Fees and Payments Principles.
- 3 (3) The value of a person's assets is to be worked out:  
4 (a) in the same way as it would be worked out under  
5 section 44-26A for the purposes of section 44-22; but  
6 (b) disregarding subsection 44-26A(7).

7 **52J-6 Approved provider may retain income derived**

8 An approved provider may retain income derived from a  
9 \*refundable deposit.

10 **52J-7 Amounts to be deducted from refundable deposits**

- 11 (1) An approved provider must deduct a \*daily payment from a  
12 \*refundable deposit paid by a person if:  
13 (a) the person has requested the deduction in writing; and  
14 (b) the daily payment is payable by the person.
- 15 (2) An approved provider may deduct the following from a  
16 \*refundable deposit paid by a person:  
17 (a) the amounts specified in the Fees and Payments Principles  
18 that may be deducted when the person leaves the service;  
19 (b) any amounts that the person has agreed in writing may be  
20 deducted;  
21 (c) such other amounts (if any) as are specified in the Fees and  
22 Payments Principles.
- 23 (3) The approved provider must not deduct any other amount from a  
24 \*refundable deposit.

1 **Division 52K—Financial hardship**

2 **52K-1 Determining cases of financial hardship**

- 3 (1) The Secretary may, in accordance with the Fees and Payments  
4 Principles, determine that a person must not be charged an  
5 \*accommodation payment or \*accommodation contribution more  
6 than the amount specified in the determination because payment of  
7 more than that amount would cause the person financial hardship.

8 Note: Refusals to make determinations are reviewable under Part 6.1.

- 9 (2) In deciding whether to make a determination under this section,  
10 and in determining the specified amount, the Secretary must have  
11 regard to the matters (if any) specified in the Fees and Payments  
12 Principles. The specified amount may be nil.

- 13 (3) The determination ceases to be in force at the end of a specified  
14 period or on the occurrence of a specified event, if the  
15 determination so provides.

16 Note: Decisions to specify periods or events are reviewable under Part 6.1.

- 17 (4) Application may be made to the Secretary, in the form approved by  
18 the Secretary, for a determination under this section. The  
19 application may be made by:

- 20 (a) a person who is liable to pay an \*accommodation payment or  
21 \*accommodation contribution; or  
22 (b) the approved provider to whom an accommodation payment  
23 or accommodation contribution is payable.

- 24 (5) If the Secretary needs further information to determine the  
25 application, the Secretary may give to the applicant a notice  
26 requesting the applicant to give the further information:

- 27 (a) within 28 days after receiving the notice; or  
28 (b) within such other period as is specified in the notice.

- 29 (6) The application is taken to have been withdrawn if the information  
30 is not given within whichever of those periods applies. The notice  
31 must contain a statement setting out the effect of this subsection.

32 Note: The period for giving the further information can be extended—see  
33 section 96-7.



- 1 (7) The Secretary must notify the person and the approved provider, in  
2 writing, of the Secretary's decision on whether to make the  
3 determination. The notice must be given:  
4 (a) within 28 days after receiving the application; or  
5 (b) if the Secretary has requested further information under  
6 subsection (5)—within 28 days after receiving the  
7 information.
- 8 (8) If the Secretary makes the determination, the notice must set out:  
9 (a) any period at the end of which; or  
10 (b) any event on the occurrence of which;  
11 the determination will cease to be in force.
- 12 (9) A determination under subsection (1) is not a legislative  
13 instrument.

#### 14 **52K-2 Revoking determinations of financial hardship**

- 15 (1) The Secretary may, in accordance with the Fees and Payments  
16 Principles, revoke a determination under section 52K-1.  
17 Note: Revocations of determinations are reviewable under Part 6.1.
- 18 (2) Before deciding to revoke the determination, the Secretary must  
19 notify the person and the approved provider concerned that  
20 revocation is being considered.
- 21 (3) The notice must be in writing and must:  
22 (a) invite the person and the approved provider to make  
23 submissions, in writing, to the Secretary within 28 days after  
24 receiving the notice; and  
25 (b) inform them that if no submissions are made within that  
26 period, the revocation takes effect on the day after the last  
27 day for making submissions.
- 28 (4) In making the decision whether to revoke the determination, the  
29 Secretary must consider any submissions received within the  
30 period for making submissions. The Secretary must make the  
31 decision within 28 days after the end of that period.
- 32 (5) The Secretary must notify, in writing, the person and the approved  
33 provider of the decision.

- 1 (6) The notice must be given to the person and the approved provider  
2 within 28 days after the end of the period for making submissions.
- 3 (7) If the notice is not given within that period, the Secretary is taken  
4 to have decided not to revoke the determination.
- 5 (8) A revocation has effect:  
6 (a) if the person and the approved provider received notice under  
7 subsection (5) on the same day—the day after that day; or  
8 (b) if they received the notice on different days—the day after  
9 the later of those days.

10 **Part 3A.3—Managing refundable deposits,  
11 accommodation bonds and entry  
12 contributions**

13 **Division 52L—Introduction**

14 **52L-1 What this Part is about**

15 \*Refundable deposits, \*accommodation bonds and \*entry  
16 contributions must be managed in accordance with the prudential  
17 requirements made under Division 52M and the rules set out in  
18 Division 52N (permitted uses) and Division 52P (refunds).

19 **Table of Divisions**

20	52L	Introduction
21	52M	Prudential requirements
22	52N	Permitted uses
23	52P	Refunds

24 **Division 52M—Prudential requirements**

25 **52M-1 Compliance with prudential requirements**

- 26 (1) An \*approved provider must comply with the Prudential Standards.

- 1 (2) The Fees and Payments Principles may set out Prudential  
2 Standards providing for:  
3 (a) protection of \*refundable deposit balances, \*accommodation  
4 bond balances and \*entry contribution balances of care  
5 recipients; and  
6 (b) sound financial management of approved providers; and  
7 (c) provision of information about the financial management of  
8 approved providers.

9 **Division 52N—Permitted uses**

10 **52N-1 Refundable deposits and accommodation bonds to be used**  
11 **only for permitted purposes**

- 12 (1) An approved provider must not use a \*refundable deposit or  
13 \*accommodation bond unless the use is permitted.

14 *Permitted use—general*

- 15 (2) An approved provider is *permitted* to use a \*refundable deposit or  
16 \*accommodation bond for the following:  
17 (a) for capital expenditure of a kind specified in the Fees and  
18 Payments Principles and in accordance with any  
19 requirements specified in those Principles;  
20 (b) to invest in a financial product covered by subsection (3);  
21 (c) to make a loan in relation to which the following conditions  
22 are satisfied:  
23 (i) the loan is not made to an individual;  
24 (ii) the loan is made on a commercial basis;  
25 (iii) there is a written agreement in relation to the loan;  
26 (iv) it is a condition of the agreement that the money loaned  
27 will only be used as mentioned in paragraph (a) or (b);  
28 (v) the agreement includes any other conditions specified in  
29 the Fees and Payments Principles;  
30 (d) to refund, or to repay debt accrued for the purposes of  
31 refunding, \*refundable deposit balances, \*accommodation  
32 bond balances or \*entry contribution balances;  
33 (e) to repay debt accrued for the purposes of capital expenditure  
34 of a kind specified in the Fees and Payments Principles;

1 (f) to repay debt that is accrued before 1 October 2011, if the  
2 debt is accrued for the purposes of providing \*aged care to  
3 care recipients;

4 (g) for a use permitted by the Fees and Payments Principles.

5 Note: An approved provider, and the approved provider's key personnel,  
6 may commit an offence if the approved provider uses a refundable  
7 deposit or accommodation bond otherwise than for a permitted use  
8 (see section 52N-2).

9 *Permitted use—financial products*

10 (3) For the purposes of paragraph (2)(b), the following are financial  
11 products (within the meaning of section 764A of the *Corporations*  
12 *Act 2001*) covered by this subsection:

13 (a) any deposit-taking facility made available by an ADI in the  
14 course of its banking business (within the meaning of the  
15 *Banking Act 1959*), other than an RSA within the meaning of  
16 the *Retirement Savings Accounts Act 1997*;

17 Note 1: ADI is short for authorised deposit-taking institution.

18 Note 2: RSA is short for retirement savings account.

19 (b) a debenture, stock or bond issued or proposed to be issued by  
20 the Commonwealth, a State or a Territory;

21 (c) a security, other than a security of a kind specified in the Fees  
22 and Payments Principles;

23 (d) any of the following in relation to a registered scheme:

24 (i) an interest in the scheme;

25 (ii) a legal or equitable right or interest in an interest  
26 covered by subparagraph (i);

27 (iii) an option to acquire, by way of issue, an interest or right  
28 covered by subparagraph (i) or (ii);

29 (e) a financial product specified in the Fees and Payments  
30 Principles.

31 *Permitted uses specified in Fees and Payments Principles*

32 (4) Without limiting paragraph (2)(g), the Fees and Payments  
33 Principles may specify that a use of a \*refundable deposit or  
34 \*accommodation bond is only *permitted* for the purposes of that  
35 paragraph if:

36 (a) specified circumstances apply; or

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- 1 (b) the approved provider complies with conditions specified in,  
2 or imposed in accordance with, the Fees and Payments  
3 Principles.

4 Note: For paragraph (4)(a), the Fees and Payments Principles might, for  
5 example, specify that the use of a \*refundable deposit is only  
6 permitted if the approved provider obtains the prior consent of the  
7 Secretary to the use of the deposit.

8 **52N-2 Offences relating to non-permitted use of refundable deposits**  
9 **and accommodation bonds**

10 *Offence for approved provider*

- 11 (1) A \*corporation commits an offence if:  
12 (a) the corporation is or has been an approved provider; and  
13 (b) the corporation uses a \*refundable deposit or  
14 \*accommodation bond; and  
15 (c) the use of the deposit or bond is not \*permitted; and  
16 (d) both of the following apply at a particular time during the  
17 period of 2 years after the use of the deposit or bond:  
18 (i) an insolvency event (within the meaning of the *Aged*  
19 *Care (Accommodation Payment Security) Act 2006*) has  
20 occurred in relation to the corporation;  
21 (ii) there has been at least one outstanding accommodation  
22 payment balance (within the meaning of that Act) for  
23 the corporation.

24 Penalty: 300 penalty units.

25 Note: The Secretary must make a default event declaration under the *Aged*  
26 *Care (Accommodation Payment Security) Act 2006* in relation to the  
27 corporation if paragraph (d) of this subsection applies (see section 10  
28 of that Act).

29 *Offence for key personnel*

- 30 (2) An individual commits an offence if:  
31 (a) the individual is one of the \*key personnel of an entity that is  
32 or has been an approved provider; and  
33 (b) the entity uses a \*refundable deposit or \*accommodation  
34 bond; and  
35 (c) the use of the deposit or bond is not \*permitted; and

- 1 (d) the individual knew that, or was reckless or negligent as to  
2 whether:  
3 (i) the deposit or bond would be used; and  
4 (ii) the use of the deposit or bond was not permitted; and  
5 (e) the individual was in a position to influence the conduct of  
6 the entity in relation to the use of the deposit or bond; and  
7 (f) the individual failed to take all reasonable steps to prevent  
8 the use of the deposit or bond; and  
9 (g) both of the following apply at a particular time during the  
10 period of 2 years after the use of the deposit or bond:  
11 (i) an insolvency event (within the meaning of the *Aged  
12 Care (Accommodation Payment Security) Act 2006* has  
13 occurred in relation to the entity;  
14 (ii) there has been at least one outstanding accommodation  
15 payment balance (within the meaning of that Act) for  
16 the entity; and  
17 (h) at the time the deposit or bond was used, the entity was a  
18 \*corporation.

19 Penalty: Imprisonment for 2 years.

20 *Strict liability*

- 21 (3) Strict liability applies to paragraphs (1)(d) and (2)(g) and (h).

22 Note: For strict liability, see section 6.1 of the *Criminal Code*.

23 **Division 52P—Refunds**

24 **52P-1 Refunding refundable deposit balances**

- 25 (1) In this section:

26 *refundable deposit* includes an \*accommodation bond.

27 *refundable deposit balance* includes an \*accommodation bond  
28 balance.

- 29 (2) If a \*refundable deposit is paid for care provided by, or for \*entry  
30 to, a residential care service or flexible care service, the  
31 \*refundable deposit balance must be refunded if:

- 32 (a) the person who paid the deposit (the *care recipient*) dies; or
-

- 1 (b) the care recipient ceases to be provided with:  
2 (i) residential care by the residential care service (other  
3 than because the care recipient is on \*leave); or  
4 (ii) flexible care provided in a residential setting by the  
5 flexible care service.
- 6 (3) The \*refundable deposit balance must be refunded in the way  
7 specified in the Fees and Payments Principles.
- 8 (4) The \*refundable deposit balance must be refunded:  
9 (a) if the care recipient dies—within 14 days after the day on  
10 which the provider is shown the probate of the will of the  
11 care recipient or letters of administration of the estate of the  
12 care recipient; or  
13 (b) if the care recipient is to \*enter another service to receive  
14 residential care:  
15 (i) if the care recipient has notified the provider of the  
16 move more than 14 days before the day on which the  
17 provider ceased providing care to the care recipient—on  
18 the day on which the provider ceased providing that  
19 care; or  
20 (ii) if the care recipient so notified the provider within 14  
21 days before the day on which the provider ceased  
22 providing that care—within 14 days after the day on  
23 which the notice was given; or  
24 (iii) if the care recipient did not notify the provider before  
25 the day on which the provider ceased providing that  
26 care—within 14 days after the day on which the  
27 provider ceased providing that care; or  
28 (c) in any other case—within 14 days after the day on which the  
29 event referred to in paragraph (2)(b) happened.

30 **52P-2 Refunding refundable deposit balances—former approved**  
31 **providers**

- 32 (1) In this section:  
33 *refundable deposit* includes an \*accommodation bond.  
34 *refundable deposit balance* includes an \*accommodation bond  
35 balance.

- 1 (2) If:
- 2 (a) a \*refundable deposit is paid to a person for care provided by,  
3 or \*entry to, a residential care service or flexible care service;  
4 and
- 5 (b) the person ceases to be an approved provider in respect of the  
6 residential care service or flexible care service;  
7 the person (the *former approved provider*) must refund the  
8 \*refundable deposit balance to the person who paid the deposit (the  
9 *care recipient*).
- 10 (3) The \*refundable deposit balance must be refunded under  
11 subsection (2):
- 12 (a) if the care recipient dies within 90 days after the day on  
13 which the former approved provider ceased to be an  
14 approved provider in respect of the residential care service or  
15 flexible care service (the *90 day period*)—within 14 days  
16 after the day on which the former approved provider is  
17 shown the probate of the will of the care recipient or letters  
18 of administration of the estate of the care recipient; or
- 19 (b) if the care recipient is to \*enter another service to receive  
20 residential care within the 90 day period:
- 21 (i) if the care recipient has notified the former approved  
22 provider of the move more than 14 days before the day  
23 on which the former approved provider ceased  
24 providing care to the care recipient—on the day on  
25 which the former approved provider ceased providing  
26 that care; or
- 27 (ii) if the care recipient so notified the former approved  
28 provider within 14 days before the day on which the  
29 former approved provider ceased providing that care—  
30 within 14 days after the day on which the notice was  
31 given; or
- 32 (iii) if the care recipient did not notify the former approved  
33 provider before the day on which the former approved  
34 provider ceased providing that care—within 14 days  
35 after the day on which the former approved provider  
36 ceased providing that care; or
- 37 (c) in any other case—within the 90 day period.
- 38 (4) A person commits an offence if:
-



- 1 (a) the person is required under this section to refund an amount  
2 on a particular day or within a particular period; and  
3 (b) the person does not refund the amount before that day or  
4 within that period; and  
5 (c) the person is a \*corporation.

6 Penalty for a contravention of this subsection: 30 penalty units.

7 **52P-3 Payment of interest**

- 8 (1) The Fees and Payments Principles may specify circumstances in  
9 which interest is to be paid in relation to the refund of:  
10 (a) a \*refundable deposit balance; or  
11 (b) an \*accommodation bond balance; or  
12 (c) an \*entry contribution balance.
- 13 (2) The amount of interest is to be worked out in accordance with the  
14 Fees and Payments Principles.

15 **52P-4 Delaying refunds to secure re-entry**

- 16 (1) This section applies if a person who has paid a \*refundable deposit  
17 or \*accommodation bond for care provided by, or \*entry to, a  
18 residential care service or flexible care service:  
19 (a) ceases to be provided with residential care by the residential  
20 care service (other than because the person is on \*leave); or  
21 (b) ceases to be provided with flexible care by the flexible care  
22 service.
- 23 (2) The person may agree with the approved provider concerned to  
24 delay refunding the \*refundable deposit balance or  
25 \*accommodation bond balance on condition that, if the person  
26 requests re-entry to the service, the approved provider must:  
27 (a) allow \*entry to the person, if:  
28 (i) there are any \*places vacant in the service; and  
29 (ii) in a case where the service is a residential care  
30 service—the person has been approved under Part 2.3 as  
31 a recipient of residential care; and  
32 (b) if the person is allowed entry—apply the \*refundable deposit  
33 balance or \*accommodation bond in payment for the service.

1 **150 Section 53-1 (note)**

2 Omit “subsidy is payable under Chapter 3”, substitute “subsidy is  
3 payable”.

4 **151 Paragraph 54-1(1)(c)**

5 Omit “56-1(l), 56-2(i) or 56-3(j)”, substitute “56-1(m), 56-2(k) or  
6 56-3(l)”.

7 **152 Paragraph 54-1(2)(a)**

8 Omit “subsidy is payable under Chapter 3”, substitute “\*subsidy is  
9 payable”.

10 **153 Paragraphs 56-1(a) to (m)**

11 Repeal the paragraphs, substitute:

- 12 (a) if the care recipient is not a \*continuing care recipient:
- 13 (i) to charge no more for provision of the care and services  
14 that it is the approved provider’s responsibility to  
15 provide under paragraph 54-1(1)(a) than the amount  
16 permitted under Division 52C; and
- 17 (ii) to comply with the other rules relating to resident fees  
18 set out in section 52C-2; and
- 19 (iii) to comply with the requirements of Part 3A.2 in relation  
20 to any \*accommodation payment or \*accommodation  
21 contribution charged to the care recipient;
- 22 (b) if the care recipient is a continuing care recipient:
- 23 (i) to charge no more for provision of the care and services  
24 that it is the approved provider’s responsibility to  
25 provide under paragraph 54-1(1)(a) than the amount  
26 permitted under Division 58 of the *Aged Care*  
27 *(Transitional Provisions) Act 1997*; and
- 28 (ii) to comply with the other rules relating to resident fees  
29 set out in section 58-1 of the *Aged Care (Transitional*  
30 *Provisions) Act 1997*; and
- 31 (iii) to comply with Division 57 of the *Aged Care*  
32 *(Transitional Provisions) Act 1997* in relation to any  
33 \*accommodation bond, and Division 57A of that Act in  
34 relation to any \*accommodation charge, charged to the  
35 care recipient;

- 1 (c) in relation to an \*entry contribution given or loaned under a  
2 \*formal agreement binding the approved provider and the  
3 care recipient—to comply with the requirements of:  
4 (i) the Prudential Standards made under section 52M-1;  
5 and  
6 (ii) the Aged Care (Transitional Provisions) Principles made  
7 under the *Aged Care (Transitional Provisions) Act*  
8 *1997*;
- 9 (d) to charge no more than the amount permitted under the Fees  
10 and Payments Principles by way of a booking fee for \*respite  
11 care;
- 12 (e) to charge no more for any other care or services than an  
13 amount agreed beforehand with the care recipient, and to  
14 give the care recipient an itemised account of the other care  
15 or services;
- 16 (f) to provide such security of tenure for the care recipient's  
17 \*place in the service as is specified in the User Rights  
18 Principles;
- 19 (g) to comply with the requirements of Division 36 in relation to  
20 \*extra service agreements;
- 21 (h) to offer to enter into a \*resident agreement with the care  
22 recipient, and, if the care recipient wishes, to enter into such  
23 an agreement;
- 24 (i) to comply with the requirements of Division 62 in relation to  
25 \*personal information relating to the care recipient;
- 26 (j) to comply with the requirements of section 56-4 in relation to  
27 resolution of complaints;
- 28 (k) to allow people acting for care recipients to have such access  
29 to the service as is specified in the User Rights Principles;
- 30 (l) to allow people acting for bodies that have been paid  
31 \*advocacy grants under Part 5.5, or \*community visitors  
32 grants under Part 5.6, to have such access to the service as is  
33 specified in the User Rights Principles;
- 34 (m) not to act in a way which is inconsistent with any rights and  
35 responsibilities of care recipients that are specified in the  
36 User Rights Principles;
- 37 (n) such other responsibilities as are specified in the Fees and  
38 Payments Principles and the User Rights Principles.
-

1 **154 Paragraphs 56-2(a) to (j)**

2 Repeal the paragraphs, substitute:

- 3 (a) not to charge for the care recipient's \*entry to the service  
4 through which the care is, or is to be, provided;
- 5 (b) if the care recipient is not a \*continuing care recipient:  
6 (i) to charge no more for provision of the care and services  
7 that it is the approved provider's responsibility to  
8 provide under paragraph 54-1(1)(a) than the amount  
9 permitted under Division 52D; and  
10 (ii) to comply with the other rules relating to home care fees  
11 set out in section 52D-1;
- 12 (c) if the care recipient is a continuing care recipient:  
13 (i) to charge no more for provision of the care and services  
14 that it is the approved provider's responsibility to  
15 provide under paragraph 54-1(1)(a) than the amount  
16 permitted under Division 60 of the *Aged Care*  
17 *(Transitional Provisions) Act 1997*; and  
18 (ii) to comply with the other rules relating to resident fees  
19 set out in section 60-1 of the *Aged Care (Transitional*  
20 *Provisions) Act 1997*;
- 21 (d) to charge no more for any other care or services than an  
22 amount agreed beforehand with the care recipient, and to  
23 give the care recipient an itemised account of the other care  
24 or services;
- 25 (e) to provide such other care and services in accordance with  
26 the agreement between the approved provider and the care  
27 recipient;
- 28 (f) to provide such security of tenure for the care recipient's  
29 \*place in the service as is specified in the User Rights  
30 Principles;
- 31 (g) to offer to enter into a \*home care agreement with the care  
32 recipient, and, if the care recipient wishes, to enter into such  
33 an agreement;
- 34 (h) to comply with the requirements of Division 62 in relation to  
35 \*personal information relating to the care recipient;
- 36 (i) to comply with the requirements of section 56-4 in relation to  
37 resolution of complaints;

- 1 (j) to allow people acting for bodies that have been paid
- 2 \*advocacy grants under Part 5.5 to have such access to the
- 3 service as is specified in the User Rights Principles;
- 4 (k) not to act in a way which is inconsistent with any rights and
- 5 responsibilities of care recipients that are specified in the
- 6 User Rights Principles;
- 7 (l) such other responsibilities as are specified in the Fees and
- 8 Payments Principles and the User Rights Principles.

9 **155 Paragraphs 56-3(a) to (k)**

10 Repeal the paragraphs, substitute:

- 11 (a) to charge no more than the amount specified in, or worked
- 12 out in accordance with, the User Rights Principles, for
- 13 provision of the care and services that it is the approved
- 14 provider's responsibility under paragraph 54-1(1)(a) to
- 15 provide;
- 16 (b) if the care recipient is not a \*continuing care recipient—to
- 17 comply with the requirements of Part 3A.2 in relation to any
- 18 \*accommodation payment charged to the care recipient;
- 19 (c) if the care recipient is a continuing care recipient:
- 20 (i) to comply with the requirements of Division 57 of the
- 21 *Aged Care (Transitional Provisions) Act 1997*, and the
- 22 *Aged Care (Transitional Provisions) Principles* made
- 23 under that Act, in relation to any \*accommodation bond
- 24 charged to the care recipient; and
- 25 (ii) to comply with the requirements of those Principles in
- 26 relation to any \*accommodation charge charged to the
- 27 care recipient;
- 28 (d) in relation to an \*entry contribution given or loaned under a
- 29 \*formal agreement binding the approved provider and the
- 30 care recipient—to comply with the requirements of:
- 31 (i) the Prudential Standards made under section 52M-1;
- 32 and
- 33 (ii) the *Aged Care (Transitional Provisions) Principles* made
- 34 under the *Aged Care (Transitional Provisions) Act*
- 35 *1997*;
- 36 (e) to charge no more for any other care or services than an
- 37 amount agreed beforehand with the care recipient, and to
- 38 give the care recipient an itemised account of the other care
- 39 or services;

- 1 (f) to provide such security of tenure for the care recipient's  
2 \*place in the service as is specified in the User Rights  
3 Principles;  
4 (g) to comply with any requirements of the Fees and Payments  
5 Principles relating to:  
6 (i) offering to enter into an agreement with the care  
7 recipient relating to the provision of care to the care  
8 recipient; or  
9 (ii) entering into such an agreement if the care recipient  
10 wishes;  
11 (h) to comply with the requirements of Division 62 in relation to  
12 \*personal information relating to the care recipient;  
13 (i) to comply with the requirements of section 56-4 in relation to  
14 resolution of complaints;  
15 (j) to allow people acting for care recipients to have such access  
16 to the service as is specified in the User Rights Principles;  
17 (k) to allow people acting for bodies that have been paid  
18 \*advocacy grants under Part 5.5 to have such access to the  
19 service as is specified in the User Rights Principles;  
20 (l) not to act in a way which is inconsistent with any rights and  
21 responsibilities of care recipients that are specified in the  
22 User Rights Principles;  
23 (m) such other responsibilities as are specified in the Fees and  
24 Payments Principles and the User Rights Principles.

25 **156 Paragraph 56-5(a)**

26 Omit “subsidy is payable under Chapter 3”, substitute “\*subsidy is  
27 payable”.

28 **157 Divisions 57, 57A and 58**

29 Repeal the Divisions.

30 **158 Paragraph 59-1(1)(b)**

31 Omit “levels of”.

32 **159 Subsection 59-1(3) (note)**

33 Omit “\*accommodation bond agreement (see section 57-10) or  
34 \*accommodation charge agreement (see section 57A-4)”, substitute  
35 “accommodation agreement (see section 52F-6)”.

1 **160 Division 60**

2 Repeal the Division.

3 **161 Subparagraph 62-1(b)(ii)**

4 Before “\*accommodation bond”, insert “\*refundable deposit balance  
5 or”.

6 **162 Subparagraph 62-1(b)(ii)**

7 After “section 57-20”, insert “of the *Aged Care (Transitional*  
8 *Provisions) Act 1997*”.

9 **163 Subparagraph 62-1(b)(ii)**

10 After “pay an”, insert “\*accommodation payment, \*accommodation  
11 contribution or”.

12 **164 Subparagraph 62-1(b)(iv)**

13 Repeal the subparagraph, substitute:

14 (iv) for the purpose of complying with an obligation under  
15 this Act or the *Aged Care (Transitional Provisions) Act*  
16 *1997* or any of the Principles made under section 96-1  
17 of this Act or the *Aged Care (Transitional Provisions)*  
18 *Act 1997*;

19 **165 Paragraph 63-1(2)(a)**

20 Omit “subsidy is payable under Chapter 3”, substitute “\*subsidy is  
21 payable”.

22 **166 Subsection 63-1AA(9) (subparagraph (b)(i) of the**  
23 **definition of *reportable assault*)**

24 Omit “subsidy is payable under Chapter 3”, substitute “\*subsidy is  
25 payable”.

26 **167 Paragraph 63-2(2)(c)**

27 Omit “the Act”, substitute “this Act and the *Aged Care (Transitional*  
28 *Provisions) Act 1997*”.

29 **168 After paragraph 63-2(2)(c)**

30 Insert:

- 1 (ca) the amounts of \*accommodation payments and  
2 \*accommodation contributions paid; and  
3 (cb) the amounts of those accommodation payments and  
4 accommodation contributions paid as \*refundable deposits  
5 and \*daily payments; and

6 **169 Paragraph 66-1(c)**

7 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

8 **170 After paragraph 66-1(i)**

9 Insert:

- 10 (ia) prohibiting the charging of \*accommodation payments or  
11 \*accommodating contributions for:  
12 (i) one or more specified residential care services; or  
13 (ii) all residential care services; or  
14 (iii) one or more specified flexible care services; or  
15 (iv) all flexible care services;  
16 conducted by the approved provider;

17 **171 After paragraph 66-1(j)**

18 Insert:

- 19 (ja) if the approved provider has charged a care recipient an  
20 amount of accommodation payment or accommodation  
21 contribution (the *excess*) that is more than the amount  
22 permitted under Division 52G—requiring the provider to  
23 refund to the care recipient an amount equal to the excess  
24 (together with an amount representing interest worked out in  
25 accordance with the Fees and Payments Principles) within  
26 the period specified in the notice;  
27 (jb) if the approved provider has not refunded a \*refundable  
28 deposit balance, an \*accommodation bond balance or an  
29 \*entry contribution balance to a care recipient as required  
30 under Division 52P—requiring the provider to refund to the  
31 care recipient an amount equal to the balance (together with  
32 an amount representing interest worked out in accordance  
33 with the Fees and Payments Principles) within the period  
34 specified in the notice;  
35 (jc) restricting, during the period specified in the notice, the use  
36 of a refundable deposit balance, an accommodation bond
-



1 balance or an entry contribution balance paid to the approved  
2 provider to one or more uses permitted under Division 52N;

3 **172 Subparagraph 67A-4(2)(a)(iv)**

4 After “Act”, insert “and the *Aged Care (Transitional Provisions) Act*  
5 *1997*”.

6 **173 Section 70-2 (heading)**

7 Omit “Residential Care”.

8 **174 Section 70-2**

9 Omit “Residential Care Grant Principles. The provisions”, substitute  
10 “Grant Principles. Provisions”.

11 **175 Section 70-2 (note)**

12 Omit “Residential Care”.

13 **176 Paragraph 73-1(2)(b)**

14 Omit “Residential Care”.

15 **177 Subsection 74-1(1)**

16 Omit “Residential Care”.

17 **178 Section 81-3**

18 Omit “Advocacy”.

19 **179 Section 81-3 (note)**

20 Omit “Advocacy”.

21 **180 Paragraphs 81-4(a) and (b)**

22 Omit “Advocacy”.

23 **181 Subsection 82-2(3)**

24 Omit “Community Visitors”.

25 **182 Subsection 82-2(3) (note)**

26 Omit “Community Visitors”.

1 **183 Section 82-3**

2 Omit “Community Visitors”.

3 **184 Paragraphs 82-4(a) and (b)**

4 Omit “Community Visitors”.

5 **185 Subsection 83-1(3)**

6 Omit “Other Grants”, substitute “Grant”.

7 **186 Subsection 83-1(3) (note)**

8 Omit “Other Grants”, substitute “Grant”.

9 **187 Paragraphs 83-2(a) and (b)**

10 Omit “Other Grants”, substitute “Grant”.

11 **188 Section 85-1 (table items 39A to 41)**

12 Repeal the items.

13 **189 Section 85-1 (table items 44 and 45)**

14 Repeal the items, substitute:

15

44	To determine compensation payment reductions in respect of residential care subsidy	subsection 44-20A(4)
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45	To refuse to make a determination that the care subsidy reduction is zero	subsection 44-23(2)
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45A	To specify a period at the end of which a determination that the care subsidy reduction is zero ceases to be in force	subsection 44-23(3)
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16

17 **190 Section 85-1 (table item 47)**

18 Repeal the item, substitute:

19

47	To determine the value of a person’s assets	subsection 44-26C(1)
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47A	To revoke a determination of the value of a person’s assets	subsection 44-26C(4)
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20

1 **191 Section 85-1 (table item 48)**

2 Omit “supplement”, substitute “supplement of a particular amount in  
3 respect of residential care”.

4 **192 Section 85-1 (after table item 49)**

5 Insert:

6  
49AA To revoke a determination that a care subsection 44-32(1)  
recipient is eligible for a hardship  
supplement in respect of residential care

7

8 **193 Section 85-1 (table items 51 to 53C)**

9 Repeal the items, substitute:

10

50 To determine that a judgement or settlement subsection 48-5(5)  
is to be treated as having taken into account  
the cost of providing home care

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51 To determine that a part of the compensation subsection 48-5(6)  
under a settlement is to be treated as relating  
to the future costs of providing home care

---

52 To determine compensation payment subsection 48-6(4)  
reductions in respect of home care subsidy

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53 To refuse to make a determination that the subsection 48-8(2)  
care subsidy reduction is zero

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53A To specify a period at the end of which a subsection 48-8(3)  
determination that the care subsidy reduction  
is zero ceases to be in force

---

53B To refuse to make a determination that a subsection 48-11(1)  
care recipient is eligible for a hardship  
supplement of a particular amount in respect  
of home care

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53C To specify a period or event at the end of subsection 48-11(3)  
which, or on the occurrence of which, a  
determination under section 48-11 will cease  
to be in force

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53D To revoke a determination that a care subsection 48-12(1)  
recipient is eligible for a hardship  
supplement in respect of home care

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**Schedule 3** Amendments commencing on 1 July 2014

**Part 1** Amendments

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53E	To refuse to approve a higher maximum amount of *accommodation payment than the maximum amount of accommodation payment determined by the Minister under section 52G-3	subsection 52G-4(5)
53F	To refuse to make a determination that paying an accommodation payment or accommodation contribution of more than a particular amount would cause financial hardship	subsection 52K-1(1)
53G	To specify a period or event at the end of which, or on the occurrence of which, a determination under subsection 52K-1(1) ceases to be in force	subsection 52K-1(3)
53H	To revoke a determination that paying an accommodation payment or accommodation contribution would cause financial hardship	subsection 52K-2(1)

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1

2 **194 Section 85-2**

3 Before “If”, insert “(1)”.

4 **195 At the end of section 85-2**

5 Add:

6 (2) If:

- 7 (a) this Act provides for a person to apply to the \*Aged Care  
8 Pricing Commissioner to make a \*reviewable decision; and  
9 (b) a period is specified under this Act for giving notice of the  
10 decision to the applicant; and  
11 (c) the Aged Care Pricing Commissioner has not notified the  
12 applicant of the Commissioner’s decision within that period;  
13 the Aged Care Pricing Commissioner is taken, for the purposes of  
14 this Act, to have made a decision to reject the application.

15 **196 Section 85-3 (heading)**

16 Omit “Secretary must give reasons”, substitute “Reasons”.

17 **197 Subsections 85-3(1) and (2)**

18 After “Secretary”, insert “or the \*Aged Care Pricing Commissioner”.

1 **198 Section 85-4 (heading)**

2 Repeal the heading, substitute:

3 **85-4 Reconsidering reviewable decisions**

4 **199 Subsection 85-4(1)**

5 After “\*reviewable decision”, insert “(other than a reviewable decision  
6 under Division 35 or section 52G-4)”.

7 **200 After subsection 85-4(1)**

8 Insert:

9 (1A) The \*Aged Care Pricing Commissioner may reconsider a  
10 \*reviewable decision under Division 35 or section 52G-4 if the  
11 Aged Care Pricing Commissioner is satisfied that there is sufficient  
12 reason to reconsider the decision.

13 **201 Subsection 85-4(3)**

14 After “Secretary”, insert “or the \*Aged Care Pricing Commissioner”.

15 **202 Subsection 85-4(4)**

16 After “Secretary”, insert “or the \*Aged Care Pricing Commissioner”.

17 **203 Subsection 85-4(5)**

18 Omit “The Secretary’s decision”, substitute “The decision of the  
19 Secretary or the \*Aged Care Pricing Commissioner”.

20 **204 Subsection 85-4(6)**

21 After “Secretary”, insert “or the \*Aged Care Pricing Commissioner”.

22 **205 Subsection 85-5(1)**

23 After “\*reviewable decision”, insert “(other than a reviewable decision  
24 under Division 35 or section 52G-4)”.

25 **206 After subsection 85-5(1)**

26 Insert:

- 1 (1A) A person whose interests are affected by a \*reviewable decision  
2 under Division 35 or section 52G-4 may request the \*Aged Care  
3 Pricing Commissioner to reconsider the decision.

4 **207 Subsection 85-5(3)**

5 Repeal the subsection, substitute:

- 6 (3) The person's request must be made by written notice:  
7 (a) for a request that relates to a reviewable decision other than a  
8 reviewable decision under Division 35 or section 52G-4—  
9 given to the Secretary:  
10 (i) within 28 days, or such longer period as the Secretary  
11 allows, after the day on which the person first received  
12 notice of the decision; or  
13 (ii) if the decision is a decision under section 44-24 to make  
14 a determination under subsection 44-24(1) or  
15 paragraph 44-24(2)(b), (3)(b) or (4)(b)—within 90 days,  
16 or such longer period as the Secretary allows, after the  
17 day on which the person first received notice of the  
18 decision; or  
19 (b) for a request that relates to a reviewable decision under  
20 Division 35 or section 52G-4—given to the \*Aged Care  
21 Pricing Commissioner within 28 days, or such longer period  
22 as the Aged Care Pricing Commissioner allows, after the day  
23 on which the person first received notice of the decision.

24 **208 Subsection 85-5(5)**

25 After "Secretary", insert "or the \*Aged Care Pricing Commissioner".

26 **209 Subsection 85-5(6)**

27 Omit "The Secretary's decision", substitute "The decision of the  
28 Secretary or the \*Aged Care Pricing Commissioner".

29 **210 Subsection 85-5(7)**

30 After "Secretary" (wherever occurring), insert "or the \*Aged Care  
31 Pricing Commissioner".

32 **211 Subsection 85-5(8)**

33 After "Secretary" (wherever occurring), insert "or the \*Aged Care  
34 Pricing Commissioner".

1 **212 Subsection 85-5(8)**

2 Omit “Secretary’s”.

3 **213 Paragraph 86-1(a)**

4 After “this Act”, insert “or the *Aged Care (Transitional Provisions) Act*  
5 *1997*”.

6 **214 At the end of paragraph 86-2(1)(c)**

7 Add “or the *Aged Care (Transitional Provisions) Act 1997*”.

8 **215 Paragraph 86-2(2)(a)**

9 Repeal the paragraph, substitute:

- 10 (a) conduct that is carried out in the performance of a function or  
11 duty under this Act or the *Aged Care (Transitional*  
12 *Provisions) Act 1997* or the exercise of a power under, or in  
13 relation to, this Act or the *Aged Care (Transitional*  
14 *Provisions) Act 1997*; or

15 **216 Paragraph 86-9(1)(e)**

16 After “including”, insert “\*accommodation payments, \*accommodation  
17 contributions,”.

18 **217 At the end of paragraph 86-9(1)(h)**

19 Add “or the *Aged Care (Transitional Provisions) Act 1997*”.

20 **218 Subparagraph 88-1(1)(a)(i)**

21 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

22 **219 Paragraph 88-1(5)(b)**

23 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

24 **220 Paragraph 88-3(2)(c)**

25 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

26 **221 Paragraph 90-4(3)(d)**

27 Repeal the paragraph, substitute:

- 28 (d) whether claims for payments under Chapter 3 of this Act or  
29 Chapter 3 of the *Aged Care (Transitional Provisions) Act*

1                                    *1997* or other payments under this Act or the *Aged Care*  
2                                    (*Transitional Provisions*) Act 1997 have been properly made;

3                   **222 Paragraph 91-1(2)(b)**

4                                    Repeal the paragraph, substitute:

5                                    (b) assessing whether an approved provider’s claims for  
6                                    payments under Chapter 3 of this Act or Chapter 3 of the  
7                                    *Aged Care (Transitional Provisions) Act 1997* or other  
8                                    payments under this Act or the *Aged Care (Transitional*  
9                                    *Provisions) Act 1997* have been properly made;

10                   **223 At the end of paragraph 91-1(2)(f)**

11                                    Add “or the *Aged Care (Transitional Provisions) Act 1997*”.

12                   **224 Paragraph 92-1(b)**

13                                    Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

14                   **225 Paragraph 92-2(2)(b)**

15                                    Repeal the paragraph, substitute:

16                                    (b) assessing whether an approved provider’s claims for  
17                                    payments under Chapter 3 of this Act or Chapter 3 of the  
18                                    *Aged Care (Transitional Provisions) Act 1997* or other  
19                                    payments under this Act or the *Aged Care (Transitional*  
20                                    *Provisions) Act 1997* have been properly made;

21                   **226 Paragraph 93-1(2)(b)**

22                                    Repeal the paragraph, substitute:

23                                    (b) assessing whether an approved provider’s claims for  
24                                    payments under Chapter 3 of this Act or Chapter 3 of the  
25                                    *Aged Care (Transitional Provisions) Act 1997* or other  
26                                    payments under this Act or the *Aged Care (Transitional*  
27                                    *Provisions) Act 1997* have been properly made;

28                   **227 At the end of paragraph 93-1(2)(f)**

29                                    Add “or the *Aged Care (Transitional Provisions) Act 1997*”.

30                   **228 Paragraph 93-1(3)(b)**

31                                    Omit “subsidy under Chapter 3”, substitute “\*subsidy”.



1 **229 Subparagraph 93-1(4)(b)(ii)**

2 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

3 **230 Paragraph 93-4(2)(b)**

4 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

5 **231 Subparagraph 93-4(3)(b)(ii)**

6 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

7 **232 Subsection 95-1(1)**

8 Omit “subsidy under Chapter 3”, substitute “\*subsidy”.

9 **233 At the end of section 95-3**

10 Add “or the *Aged Care (Transitional Provisions) Act 1997*”.

11 **234 At the end of section 95-4**

12 Add “or the *Aged Care (Transitional Provisions) Act 1997*”.

13 **235 Section 96-1 (table items 3, 12 and 13)**

14 Repeal the items.

15 **236 Section 96-1 (table item 15)**

16 Repeal the item, substitute:

17

15	Fees and Payments Principles	Parts 3A.1, 3A.2 and 3A.3
15A	Grant Principles	Parts 5.1, 5.5, 5.6 and 5.7

18

19 **237 Section 96-1 (table items 17, 20 and 21)**

20 Repeal the items.

21 **238 Section 96-1 (after table item 22)**

22 Insert:

22A	Subsidy Principles	Parts 3.1, 3.2 and 3.3
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23 **239 Subsection 96-2(2A)**

24 Omit “44-8AA and 44-8AB”, substitute “44-26C”.

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1 **240 Subsection 96-2(2A) (note)**

2 Repeal the note, substitute:

3 Note: The Secretary's powers under section 44-26C relate to determinations  
4 of the value of persons' assets.

5 **241 Subsection 96-2(3) (note)**

6 Repeal the note, substitute:

7 Note: The calculation of a care recipient's total assessable income is relevant  
8 to working out amounts of subsidies, fees and payments.

9 **242 Paragraph 96-2(3A)(c)**

10 Repeal the paragraph.

11 **243 Paragraph 96-2(3A)(d)**

12 Omit "44-8AA(1)", substitute "44-26C(1)".

13 **244 Paragraph 96-2(3A)(e)**

14 Omit "44-8AB", substitute "44-26A".

15 **245 Paragraph 96-2(5)(b)**

16 Omit "Residential Care".

17 **246 At the end of subsection 96-3(1)**

18 Add "or the *Aged Care (Transitional Provisions) Act 1997*".

19 **247 Section 96-5 (note)**

20 Omit "\*accommodation bond agreements, \*accommodation charge  
21 agreements", substitute "accommodation agreements".

22 **248 Subsection 96-10(1)**

23 Omit "subsidies payable under Chapter 3, and amounts payable under  
24 subsection 44-8A(6).", substitute "\*subsidies".

25 **249 Clause 1 of Schedule 1**

26 Insert:

27 *accommodation agreement* means an agreement that meets the  
28 requirements set out in section 52F-3.

1 **250 Clause 1 of Schedule 1 (at the end of the definition of**  
2 **accommodation bond)**

3 Add:

4 Note: This Act contains rules about accommodation bonds, which are paid  
5 under the *Aged Care (Transitional Provisions) Act 1997*.

6 **251 Clause 1 of Schedule 1 (definition of accommodation**  
7 **bond agreement)**

8 Repeal the definition.

9 **252 Clause 1 of Schedule 1 (paragraph (b) of the definition of**  
10 **accommodation bond balance)**

11 Omit “section 57-19”, substitute “this Act or the *Aged Care*  
12 *(Transitional Provisions) Act 1997*”.

13 **253 Clause 1 of Schedule 1 (at the end of the definition of**  
14 **accommodation charge)**

15 Add:

16 Note: This Act contains rules about accommodation charges, which are paid  
17 under the *Aged Care (Transitional Provisions) Act 1997*.

18 **254 Clause 1 of Schedule 1 (definition of accommodation**  
19 **charge agreement)**

20 Repeal the definition.

21 **255 Clause 1 of Schedule 1**

22 Insert:

23 ***accommodation contribution*** means a contribution paid for  
24 accommodation provided with residential care.

25 ***accommodation payment*** means payment for accommodation  
26 provided with residential care or flexible care.

27 ***accommodation supplement*** means the supplement referred to in  
28 section 44-28.

29 **256 Clause 1 of Schedule 1 (definition of assisted resident)**

30 Repeal the definition.

1 **257 Clause 1 of Schedule 1 (definition of *charge exempt***  
2 ***resident*)**

3 Repeal the definition.

4 **258 Clause 1 of Schedule 1 (definition of *close relation*)**

5 Omit “44-11”, substitute “44-26B”.

6 **259 Clause 1 of Schedule 1**

7 Insert:

8 *combined care subsidy reduction* means a care subsidy reduction  
9 under section 44-21 or 48-7.

10 **260 Clause 1 of Schedule 1 (definition of *concessional***  
11 ***resident*)**

12 Repeal the definition.

13 **261 Clause 1 of Schedule 1**

14 Insert:

15 *continuing care recipient* means:

- 16 (a) a \*continuing residential care recipient; or  
17 (b) a \*continuing home care recipient; or  
18 (c) a \*continuing flexible care recipient.

19 *continuing flexible care recipient* means a person who:

- 20 (a) \*entered a flexible care service before 1 July 2014; and  
21 (b) has not:  
22 (i) ceased to be provided with flexible care by a flexible  
23 care service for a continuous period of more than 28  
24 days (other than because the person is on \*leave); or  
25 (ii) before moving to another flexible care service, made a  
26 written choice, in accordance with the Fees and  
27 Payments Principles, to be covered by Chapters 3 and  
28 3A of this Act in relation to the other service.

29 *continuing home care recipient* means a person who:

- 30 (a) \*entered a home care service before 1 July 2014; and  
31 (b) has not:
-

- 1 (i) ceased to be provided with home care by a home care  
2 service for a continuous period of more than 28 days  
3 (other than because the person is on \*leave); or  
4 (ii) before moving to another home care service, made a  
5 written choice, in accordance with the Fees and  
6 Payments Principles, to be covered by Chapters 3 and  
7 3A of this Act in relation to the other service.

8 ***continuing residential care recipient*** means a person who:

- 9 (a) \*entered a residential care service before 1 July 2014; and  
10 (b) has not:  
11 (i) ceased to be provided with residential care by a  
12 residential care service for a continuous period of more  
13 than 28 days (other than because the person is on  
14 \*leave); or  
15 (ii) before moving to another residential care service, made  
16 a written choice, in accordance with the Fees and  
17 Payments Principles, to be covered by Chapters 3 and  
18 3A of this Act in relation to the other service.

19 **262 Clause 1 of Schedule 1**

20 Insert:

21 ***daily accommodation contribution*** means \*accommodation  
22 contribution that:

- 23 (a) accrues daily; and  
24 (b) is paid by periodic payment.

25 ***daily accommodation payment*** means \*accommodation payment  
26 that:

- 27 (a) accrues daily; and  
28 (b) is paid by periodic payment.

29 **263 Clause 1 of Schedule 1 (definition of *daily income tested***  
30 ***reduction*)**

31 Repeal the definition.

32 **264 Clause 1 of Schedule 1**

33 Insert:

34 ***daily payment*** means:

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- 1 (a) \*daily accommodation payment; or  
2 (b) \*daily accommodation contribution.

3 **265 Clause 1 of Schedule 1 (definition of *dependent child*)**

4 Omit “44-11”, substitute “44-26B”.

5 **266 Clause 1 of Schedule 1**

6 Insert:

7 *eligible flexible care service* has the meaning given by  
8 subsection 52F-1(2).

9 **267 Clause 1 of Schedule 1 (definition of *high level of***  
10 ***residential care*)**

11 Repeal the definition.

12 **268 Clause 1 of Schedule 1 (definition of *homeowner*)**

13 Omit “44-11”, substitute “44-26B”.

14 **269 Clause 1 of Schedule 1 (definition of *low level of***  
15 ***residential care*)**

16 Repeal the definition.

17 **270 Clause 1 of Schedule 1**

18 Insert:

19 *maximum accommodation supplement amount* has the meaning  
20 given by subsection 44-21(6).

21 **271 Clause 1 of Schedule 1**

22 Insert:

23 *maximum home value* has the meaning given by section 44-26B.

24 **272 Clause 1 of Schedule 1**

25 Insert:

26 *means tested amount* has the meaning given by section 44-22.

- 1 **273 Clause 1 of Schedule 1 (definition of *member of a couple*)**  
2 Omit “44-11”, substitute “44-26B”.
- 3 **274 Clause 1 of Schedule 1 (definition of *partner*)**  
4 Omit “44-11”, substitute “44-26B”.
- 5 **275 Clause 1 of Schedule 1 (definition of *pensioner***  
6 ***supplement*)**  
7 Repeal the definition.
- 8 **276 Clause 1 of Schedule 1 (definition of *permitted*)**  
9 After “use of”, insert, “a \*refundable deposit or”.
- 10 **277 Clause 1 of Schedule 1 (definition of *permitted*)**  
11 Omit “57-17A”, substitute, “52N-1”.
- 12 **278 Clause 1 of Schedule 1 (definition of *post-2008 reform***  
13 ***resident*)**  
14 Repeal the definition.
- 15 **279 Clause 1 of Schedule 1 (definition of *post-September***  
16 ***2009 resident*)**  
17 Repeal the definition.
- 18 **280 Clause 1 of Schedule 1 (definition of *pre-2008 reform***  
19 ***resident*)**  
20 Repeal the definition.
- 21 **281 Clause 1 of Schedule 1 (definition of *pre-entry leave*)**  
22 Omit “section 44-5E”, substitute “subsection 42-3(3)”.
- 23 **282 Clause 1 of Schedule 1 (definition of *pre-September 2009***  
24 ***resident*)**  
25 Repeal the definition.
- 26 **283 Clause 1 of Schedule 1 (definition of *protected resident*)**  
27 Repeal the definition.
-

1       **284 Clause 1 of Schedule 1**

2               Insert:

3                       *refundable accommodation contribution* means \*accommodation  
4                       contribution that:

- 5                               (a) does not accrue daily; and  
6                               (b) is paid as a lump sum.

7                       *refundable accommodation deposit* means \*accommodation  
8                       payment that:

- 9                               (a) does not accrue daily; and  
10                              (b) is paid as a lump sum.

11                      *refundable deposit* means:

- 12                              (a) a \*refundable accommodation deposit; or  
13                              (b) a \*refundable accommodation contribution.

14                      *refundable deposit balance*, in relation to a \*refundable deposit is,  
15                      at a particular time, an amount equal to the difference between:

- 16                              (a) the amount of the refundable deposit; and  
17                              (b) any amounts that have been, or are permitted to be, deducted  
18                                  at the time from the refundable deposit under this Act as at  
19                                  that time.

20       **285 Clause 1 of Schedule 1 (definition of *standard resident***  
21               ***contribution*)**

22               Repeal the definition.

23       **286 Clause 1 of Schedule 1**

24               Insert:

25                      *start-date year*, for a care recipient, means a year beginning on:

- 26                              (a) the day on which the care recipient first \*entered an aged care  
27                                  service other than as a \*continuing care recipient; or  
28                              (b) an anniversary of that day.

29                      *subsidy* means subsidy paid under Chapter 3 of this Act or under  
30                      Chapter 3 of the *Aged Care (Transitional Provisions) Act 1997*.

31       **287 Clause 1 of Schedule 1 (definition of *supported resident*)**

32               Repeal the definition.

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1 **288 Clause 1 of Schedule 1 (definition of *unregulated lump***  
2 ***sum*)**

3 Omit “*Bond Security*”, substitute “*Accommodation Payment Security*”.

4 **289 Clause 1 of Schedule 1 (definition of *unregulated lump***  
5 ***sum balance*)**

6 Omit “*Bond Security*”, substitute “*Accommodation Payment Security*”.

1 **Part 2—Transitional and savings provisions**

2 **290 Definitions**

3 In this Part:

4 *commencement time* means the time when this Schedule commences.

5 *old law* means the *Aged Care Act 1997* as in force immediately before  
6 the commencement time.

7 **291 Approval of care recipients limited to low care**

8 An approval to receive residential care that was:

- 9 (a) limited to a low level of residential care; and  
10 (b) given under Part 2.3 of the old law; and  
11 (c) in force immediately before the commencement time;

12 is taken, after the commencement time, to have been given without  
13 being limited to a low level of residential care.

1 **Schedule 4—Amendments of other Acts**

2 **Part 1—Amendments commencing on 1 July 2013**

3 *A New Tax System (Goods and Services Tax) Act 1999*

4 **1 Section 38-30 (heading)**

5 Omit “**Community**”, substitute “**Home**”.

6 **2 Subsection 38-30(1)**

7 Omit “\*community care is *GST-free* if community care”, substitute  
8 “\*home care is *GST-free* if home care”.

9 **3 Subsection 38-30(3)**

10 Omit “\*community care”, substitute “\*home care”.

11 **4 Section 195-1 (definition of *community care*)**

12 Repeal the definition.

13 **5 Section 195-1**

14 Insert:

15 *home care* has the meaning given by section 45-3 of the *Aged Care*  
16 *Act 1997*.

1 **Part 2—Amendments commencing on 1 July 2014**

2 *A New Tax System (Goods and Services Tax) Act 1999*

3 **6 Subsection 38-30(1)**

4 Omit “Part 3-2 of the *Aged Care Act 1997*”, substitute “Part 3.2 of the  
5 *Aged Care Act 1997* or Part 3.2 of the *Aged Care (Transitional*  
6 *Provisions) Act 1997*”.

7 **7 Section 38-35**

8 After “that Act”, insert “or Part 3.3 of the *Aged Care (Transitional*  
9 *Provisions) Act 1997*”.

10 *Health and Other Services (Compensation) Act 1995*

11 **8 Subsection 3(1) (definition of residential care subsidy)**

12 Repeal the definition, substitute:

13 *residential care subsidy* has the same meaning as in:

- 14 (a) in relation to residential care under the *Aged Care Act*  
15 *1997*—the *Aged Care Act 1997*; and  
16 (b) in relation to residential care under the *Aged Care*  
17 *(Transitional Provisions) Act 1997*—the *Aged Care*  
18 *(Transitional Provisions) Act 1997*.

19 **9 Subsection 9(2A)**

20 After “1997”, insert “and Part 3.1 of the *Aged Care (Transitional*  
21 *Provisions) Act 1997*”.

22 **10 Paragraph 42(1)(f)**

23 Repeal the paragraph, substitute:

- 24 (f) whether the Secretary should make a determination under:  
25 (i) subsection 44-20(5) or (6) or 48-5(5) or (6) of the *Aged*  
26 *Care Act 1997*; or  
27 (ii) subsection 44-20(5) or (6) of the *Aged Care*  
28 *(Transitional Provisions) Act 1997*.

1 ***Human Services (Medicare) Act 1973***

2 **11 After subparagraph 41G(a)(iv)**

3 Insert:

4 (iva) the *Aged Care (Transitional Provisions) Act 1997*; or

5 ***Social Security Act 1991***

6 **12 Subsection 4(9)**

7 Omit all the words after “the person is”, substitute:

8 eligible for:

9 (a) a respite supplement in respect of that day under the Subsidy  
10 Principles made for the purposes of  
11 subparagraph 44-5(1)(a)(i) of the *Aged Care Act 1997*; or

12 (b) a respite care supplement in respect of that day under  
13 section 44-12 of the *Aged Care (Transitional Provisions) Act*  
14 *1997*.

15 **13 At the end of paragraph 8(8)(zna)**

16 Add:

17 Note 1: For *rent*, see subsection 13(2).

18 Note 2: Under subsections 11A(8) and (9), the principal home of a person  
19 in a care situation may be a place other than the place where the  
20 person receives care.

21 **14 After paragraph 8(8)(zna)**

22 Insert:

23 (znaa) while a person is liable to pay all or some of a daily  
24 accommodation payment or a daily accommodation  
25 contribution—any rent from the person’s principal home that  
26 the person, or the person’s partner, earns, derives or receives  
27 from another person;

28 Note 1: For *rent*, see subsection 13(2).

29 Note 2: Under subsections 11A(8) and (9), the principal home of a person  
30 in a care situation may be a place other than the place where the  
31 person receives care.

1 **15 Subsection 9(1D)**

2 Repeal the subsection, substitute:

3 (1D) To avoid doubt, none of the following is a financial investment for  
4 the purposes of this Act:

- 5 (a) an accommodation bond;  
6 (b) an accommodation bond balance;  
7 (c) a refundable deposit;  
8 (d) a refundable deposit balance.

9 **16 Subsection 11(1) (definition of *charge exempt resident*)**

10 After “Care”, insert “(Transitional Provisions)”.

11 **17 Subsection 11(1)**

12 Insert:

13 *daily accommodation contribution* has the same meaning as in the  
14 *Aged Care Act 1997*.

15 *daily accommodation payment* has the same meaning as in the  
16 *Aged Care Act 1997*.

17 **18 Subsection 11(1)**

18 Insert:

19 *refundable deposit* has the same meaning as in the *Aged Care Act*  
20 *1997*.

21 *refundable deposit balance* has the same meaning as in the *Aged*  
22 *Care Act 1997*.

23 **19 After subsection 11(3A)**

24 Insert:

25 (3AA) To avoid doubt, a refundable deposit balance in respect of a  
26 refundable deposit paid by a person is taken to be an asset of the  
27 person.

28 **20 Paragraph 11A(8)(a) (note 2)**

29 After “Care”, insert “(Transitional Provisions)”.

1 **21 After paragraph 11A(8)(b)**

2 Insert:

3 (ba) if the Secretary is satisfied that the residence was previously  
4 the person's principal home but that the person left it for the  
5 purpose of going into a care situation—any period during  
6 which:

7 (i) the person is liable to pay all or some of a daily  
8 accommodation payment or a daily accommodation  
9 contribution (or would be so liable to do so, assuming  
10 that no sanctions under Part 4.4 of the *Aged Care Act*  
11 *1997* were currently being imposed on the provider of  
12 the care concerned); and

13 (ii) the person, or the person's partner, is earning, deriving  
14 or receiving rent for the residence from another person;  
15 and

16 **22 Paragraph 11A(8)(c)**

17 Omit “or (b)”, substitute “, (b) or (ba)”.

18 **23 Paragraph 1099E(1)(b)**

19 After “*Care*”, insert “(*Transitional Provisions*)”.

20 **24 Subsection 1099J(1)**

21 After “*1997*”, insert “(as in force before 1 July 2014)”.

22 **25 Subsection 1099J(2)**

23 Omit “that Act”, substitute “the *Aged Care (Transitional Provisions)*  
24 *Act 1997*”.

25 **26 At the end of subsection 1118(1)**

26 Add:

27 ; (v) the amount of any refundable deposit balance in respect of a  
28 refundable deposit paid by the person.

29 ***Social Security (Administration) Act 1999***

30 **27 At the end of paragraph 126(1)(e)**

31 Add “or”.

1 **28 After paragraph 126(1)(e)**

2 Insert:

- 3 (f) a decision under section 44-24 of the *Aged Care*  
4 *(Transitional Provisions) Act 1997* by the Secretary or by a  
5 person to whom the Secretary has sub-delegated power under  
6 subsection 96-2(7) of that Act;

7 **29 At the end of paragraph 129(1)(e)**

8 Add “or”.

9 **30 After paragraph 129(1)(e)**

10 Insert:

- 11 (f) a decision under section 44-24 of the *Aged Care*  
12 *(Transitional Provisions) Act 1997* by the Secretary or by a  
13 person to whom the Secretary has sub-delegated power under  
14 subsection 96-2(7) of that Act;

15 **31 At the end of subsection 140(1)**

16 Add:

- 17 ; and (g) all decisions under section 44-24 of the *Aged Care*  
18 *(Transitional Provisions) Act 1997* by the Secretary or by a  
19 person to whom the Secretary has sub-delegated power under  
20 subsection 96-2(7) of that Act.

21 **32 At the end of subsection 178(1)**

22 Add:

- 23 ; and (c) all decisions under section 44-24 of the *Aged Care*  
24 *(Transitional Provisions) Act 1997* by the Secretary or by a  
25 person to whom the Secretary has sub-delegated power under  
26 subsection 96-2(7) of that Act.

27 ***Veterans’ Entitlements Act 1986***

28 **33 Section 5 (index)**

29 Insert:

30 accommodation bond balance 5L(1)

31



1 **34 Section 5 (index)**

2 Insert:

3 daily accommodation contribution 5L(1)

4 daily accommodation payment 5L(1)

5 **35 Section 5 (index)**

6 Insert:

7 refundable deposit 5L(1)

8 refundable deposit balance 5L(1)

9 **36 Paragraph 5H(8)(na)**

10 Repeal the paragraph, substitute:

11 (na) a payment of subsidy under Part 3.1 of the *Aged Care Act*  
12 *1997* or Part 3.1 of the *Aged Care (Transitional Provisions)*  
13 *Act 1997* made to an approved provider (within the meaning  
14 of those Acts) in respect of care provided to the person;

15 **37 After paragraph 5H(8)(nd)**

16 Insert:

17 (ne) a refundable deposit balance refunded to the person under the  
18 *Aged Care Act 1997*;

19 (nf) while a person is liable to pay a daily accommodation  
20 payment or a daily accommodation contribution—any rent  
21 from the person's principal home that the person, or the  
22 person's partner, earns, derives or receives from another  
23 person;

24 Note 1: For *rent*, see subsection 5N(2).

25 Note 2: Under subsections 5LA(8) and (9), the principal home of a  
26 person in a care situation may be a place other than the place  
27 where the person receives care.

28 **38 Subsection 5J(2C)**

29 Repeal the subsection, substitute:

1 (2C) To avoid doubt, none of the following is a financial investment for  
2 the purposes of this Act:

- 3 (a) an accommodation bond;  
4 (b) an accommodation bond balance;  
5 (c) a refundable deposit;  
6 (d) a refundable deposit balance.

7 Note: These expressions are defined in section 5L.

8 **39 Subsection 5L(1)**

9 Insert:

10 *accommodation bond balance* has the same meaning as in the  
11 *Aged Care Act 1997*.

12 **40 Subsection 5L(1)**

13 Insert:

14 *daily accommodation contribution* has the same meaning as in the  
15 *Aged Care Act 1997*.

16 *daily accommodation payment* has the same meaning as in the  
17 *Aged Care Act 1997*.

18 **41 Subsection 5L(1)**

19 Insert:

20 *refundable deposit* has the same meaning as in the *Aged Care Act*  
21 *1997*.

22 *refundable deposit balance* has the same meaning as in the *Aged*  
23 *Care Act 1997*.

24 **42 After subsection 5L(3B)**

25 Insert:

26 (3BA) To avoid doubt, a refundable deposit balance (within the meaning  
27 of the *Aged Care Act 1997*) in respect of a refundable deposit  
28 (within the meaning of that Act: see subsection (1) of this section)  
29 paid by a person is taken to be an asset of the person.

1 **43 After paragraph 5LA(8)(b)**

2 Insert:

- 3 (ba) if the Commission is satisfied that the residence was  
4 previously the person's principal home but that the person  
5 left it for the purpose of going into a care situation or  
6 becoming an aged care resident—any period during which:  
7 (i) the person is liable to pay all or some of a daily  
8 accommodation payment or a daily accommodation  
9 contribution (or would be liable to do so, assuming that  
10 no sanctions under Part 4.4 of the *Aged Care Act 1997*  
11 were currently being imposed on the provider of the  
12 care concerned); and  
13 (ii) the person, or the person's partner, is earning, deriving  
14 or receiving rent for the residence from another person;  
15 and

16 **44 Paragraph 5LA(8)(c)**

17 Omit "or (b)", substitute ", (b) or (ba)".

18 **45 Subsection 5LA(8) (note 4)**

19 After "Care", insert "(*Transitional Provisions*)".

20 **46 Subsection 5NC(8)**

21 Omit all the words after "the person is", substitute:

22 eligible for:

- 23 (a) a respite supplement in respect of that day under the Subsidy  
24 Principles made for the purposes of  
25 subparagraph 44-5(1)(a)(i) of the *Aged Care Act 1997*; or  
26 (b) a respite care supplement in respect of that day under  
27 section 44-12 of the *Aged Care (Transitional Provisions) Act*  
28 *1997*.

29 **47 After paragraph 52(1)(p)**

30 Insert:

- 31 (pa) the amount of any refundable deposit balance in respect of a  
32 refundable deposit paid by the person;

1 **48 Paragraph 13(1)(b) of Schedule 5**

2 After “Care”, insert “(Transitional Provisions)”.

3 **49 Subclause 13(1) of Schedule 5 (note)**

4 Repeal the note, substitute:

5 Note 1: *Accommodation bond* and *accommodation charge* have the same  
6 meanings as in the *Aged Care Act 1997*: see subsection 5L(1) of this  
7 Act.

8 Note 2: *Charge exempt resident* has the same meaning as in the *Aged Care*  
9 *(Transitional Provisions) Act 1997*: see clause 17 of this Schedule.

10 **50 Paragraph 13(2)(b) of Schedule 5**

11 After “Care”, insert “(Transitional Provisions)”.

12 **51 Subclause 13(2) of Schedule 5 (note)**

13 Repeal the note, substitute:

14 Note 1: *Accommodation bond* and *accommodation charge* have the same  
15 meanings as in the *Aged Care Act 1997*: see subsection 5L(1) of this  
16 Act.

17 Note 2: *Charge exempt resident* has the same meaning as in the *Aged Care*  
18 *(Transitional Provisions) Act 1997*: see clause 17 of this Schedule.

19 **52 Part 2A of Schedule 5 (heading)**

20 Omit “Aged Care Act 1997”, substitute “Aged Care (Transitional  
21 Provisions) Act 1997”.

22 **53 Clause 17 of Schedule 5 (definition of *charge exempt*  
23 *resident*)**

24 After “Care”, insert “(Transitional Provisions)”.

25 **54 Subclause 17B(1) of Schedule 5**

26 After “the *Aged Care Act 1997*”, insert “(as in force before 1 July  
27 2014)”.

28 **55 Subclause 17B(2) of Schedule 5**

29 Omit “that Act”, substitute “the *Aged Care (Transitional Provisions)*  
30 *Act 1997*”.

1 **Schedule 5—Aged Care (Transitional**  
2 **Provisions) Act 1997**

3 **Part 1—Enactment**

4 **1 Enactment of the *Aged Care (Transitional Provisions) Act***  
5 **1997**

6 (1) Without limiting the effect of the *Aged Care Act 1997* apart from this  
7 item, that Act, as in force immediately before the commencement of  
8 this item, is re-enacted as the *Aged Care (Transitional Provisions) Act*  
9 *1997*.

10 Note: This item creates a second version of the *Aged Care Act 1997*. This second version will  
11 be amended by Part 2 of this Schedule, and will continue in force provisions relating to  
12 subsidies, fees and payments for care recipients who were receiving care on 30 June  
13 2014.

14 (2) For the purposes of paragraph 40(1)(a) of the *Acts Interpretation Act*  
15 *1901*, the secular year in which the *Aged Care (Transitional Provisions)*  
16 *Act 1997* was passed is taken to be 1997 and its number is taken to be  
17 223.

18 Note: This means that the *Aged Care (Transitional Provisions) Act 1997* may be cited as Act  
19 No. 223 of 1997.

20 (3) Subitem (2) has effect despite section 39 of the *Acts Interpretation Act*  
21 *1901*.

1 **Part 2—Amendments**

2 *Aged Care (Transitional Provisions) Act 1997*

3 **2 Title**

4 Omit “relating to aged care”, substitute “to deal with transitional  
5 matters in connection with the *Aged Care (Living Longer Living  
6 Better) Act 2013*”.

7 **3 Section 1-1**

8 Omit “*Aged Care Act 1997*”, substitute “*Aged Care (Transitional  
9 Provisions) Act 1997*”.

10 **4 Section 1-2**

11 Repeal the section, substitute:

12 **1-2 Commencement**

13 This Act commences on 1 July 2014.

14 **1-2A Act applies to continuing care recipients**

15 This Act applies only in relation to \*continuing care recipients.

16 **5 Subsection 2-1(1)**

17 After “this Act”, insert “, in conjunction with the *Aged Care Act 1997*”.

18 **6 Paragraph 2-1(2)(a)**

19 After “this Act”, insert “and the *Aged Care Act 1997*”.

20 **7 Section 3-1**

21 After “This Act”, insert “, in conjunction with the *Aged Care Act  
22 1997*”.

23 **8 Section 3-1**

24 Omit “Chapter 3”, substitute “Chapter 3 of this Act and Chapter 3 of the  
25 *Aged Care Act 1997*”.

1 **9 Section 3-1**

2 Omit “Chapters 2 and 4”, substitute “Chapters 2 and 4 of the *Aged Care*  
3 *Act 1997* and Chapter 4 of this Act”.

4 **10 Section 3-1**

5 After “Chapter 5”, insert “of the *Aged Care Act 1997*”.

6 **11 Section 3-2 (heading)**

7 Omit “(Chapter 2)”.

8 **12 Section 3-2**

9 After “Chapter 3”, insert “of this Act”.

10 **13 Section 3-2**

11 After “Chapter 2”, insert “of the *Aged Care Act 1997*”.

12 **14 Section 3-3**

13 After “Chapter 3”, insert “of this Act”.

14 **15 Paragraph 3-3(a)**

15 After “Chapter 2”, insert “of the *Aged Care Act 1997*”.

16 **16 Section 3-4 (heading)**

17 Omit “(Chapter 4)”.

18 **17 Section 3-4**

19 Omit “Chapter 4”, substitute “Chapter 4 of this Act and Chapter 4 of the  
20 *Aged Care Act 1997*”.

21 **18 Section 3-4**

22 After “Chapter 2”, insert “of the *Aged Care Act 1997*”.

23 **19 Section 3-5 (heading)**

24 Omit “(Chapter 5)”.

25 **20 Section 3-5**

26 After “Chapter 5”, insert “of the *Aged Care Act 1997*”.

1 **21 Subsection 4-1(3)**

2 Omit “Parts 2.2, 2.5 and 3.1 apply”, substitute “Part 3.1 applies”.

3 **22 Subsection 4-1(3) (note)**

4 Omit “Parts 2.2, 2.5 and”, substitute “Part 3.1”.

5 **23 Subsection 4-1(3) (note)**

6 Omit “those Parts”, substitute “that Part”.

7 **24 Chapter 2**

8 Repeal the Chapter.

9 **25 Section 40-1**

10 After “Chapter 2”, insert “of the *Aged Care Act 1997*”.

11 **26 Section 40-1**

12 After “section 5-2”, insert “of that Act”.

13 **27 Section 40-1**

14 Omit “Chapter 4”, substitute “Chapter 4 of this Act and Chapter 4 of the  
15 *Aged Care Act 1997*”.

16 **28 Section 41-2**

17 Repeal the section, substitute:

18 **41-2 Residential care subsidy also dealt with in Aged Care**  
19 **(Transitional Provisions) Principles**

20 \*Residential care subsidy is also dealt with in the Aged Care  
21 (Transitional Provisions) Principles. Provisions in this Part indicate  
22 when a particular matter is or may be dealt with in those Principles.

23 Note: The Aged Care (Transitional Provisions) Principles are made by the  
24 Minister under section 96-1.

25 **29 Paragraphs 41-3(1)(b) and (2)(d)**

26 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
27 Provisions)”.



1 **30 Paragraph 42-1(1)(a)**

2 After “Part 2.2”, insert “of the *Aged Care Act 1997*”.

3 **31 Paragraph 42-1(1)(b)**

4 After “Part 2.3”, insert “of the *Aged Care Act 1997*”.

5 **32 Paragraph 42-1(1)(c)**

6 After “section 42-4”, insert “of the *Aged Care Act 1997*”.

7 **33 Subsection 42-1(1) (note 2)**

8 After “Part 2.3”, insert “of the *Aged Care Act 1997*”.

9 **34 Paragraph 42-1(4)(b)**

10 Omit “Part 2.3 is not limited under subsection 22-2(3)”, substitute  
11 “Part 2.3 of the *Aged Care Act 1997* is not limited under  
12 subsection 22-2(3) of that Act”.

13 **35 Subsection 42-1(4) (note)**

14 Omit “Division 7 (relating to a person’s approval as a provider of aged  
15 care services) or Division 20”, substitute “Division 7 of the *Aged Care*  
16 *Act 1997* (relating to a person’s approval as a provider of aged care  
17 services) or Division 20 of that Act”.

18 **36 Subsection 42-2(1)**

19 After “section 67A-5”, insert “of the *Aged Care Act 1997*”.

20 **37 Paragraph 42-2(3A)(b)**

21 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
22 Provisions)”.

23 **38 Paragraph 42-3(3)(b)**

24 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
25 Provisions)”.

26 **39 Sections 42-4, 42-5 and 42-6**

27 Repeal the sections.

1 **40 Subsection 43-1(3)**

2 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
3 Provisions)”.

4 **41 Paragraph 43-2(b)**

5 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
6 Provisions)”.

7 **42 Subsection 43-3(4)**

8 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
9 Provisions)”.

10 **43 At the end of subsection 43-3(5)**

11 Add “of the *Aged Care Act 1997*”.

12 **44 Paragraph 43-6(1)(a)**

13 After “Division 32”, insert “of the *Aged Care Act 1997*”.

14 **45 Subsection 43-6(2) (note)**

15 After “32-8(5)(b)”, insert “of the *Aged Care Act 1997*”.

16 **46 Subsection 43-6(3)**

17 Omit “Residential Care Subsidy” (wherever occurring), substitute  
18 “Aged Care (Transitional Provisions)”.

19 **47 Subsection 43-6(5) (paragraph (g) of the definition of**  
20 ***capital payment*)**

21 Repeal the paragraph, substitute:

22 (b) a payment of a kind specified in the Aged Care (Transitional  
23 Provisions) Principles.

24 **48 Subsection 43-8(1)**

25 After “section 14-5 or 14-6”, insert “of the *Aged Care Act 1997*”.

26 **49 Subsections 43-8(2) and (4)**

27 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
28 Provisions)”.

1 **50 At the end of section 43-9**

2 Add “of the *Aged Care Act 1997*”.

3 **51 Paragraph 44-3(3)(aa)**

4 Omit “Part 2.3 is limited under subsection 22-2(3)”, substitute “Part 2.3  
5 of the *Aged Care Act 1997* is limited under subsection 22-2(3) of that  
6 Act”.

7 **52 Paragraph 44-3(3)(cb)**

8 After “paragraph 26-1(a) or (b)”, insert “of the *Aged Care Act 1997*”.

9 **53 At the end of paragraph 44-3(3)(cc)**

10 Add “of the *Aged Care Act 1997*”.

11 **54 Paragraph 44-3(3)(e)**

12 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
13 Provisions)”.

14 **55 At the end of paragraph 44-5A(2)(d)**

15 Add “of the *Aged Care Act 1997*”.

16 **56 Paragraph 44-5A(4)(b)**

17 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
18 Provisions)”.

19 **57 Paragraph 44-5B(1)(c)**

20 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
21 Provisions)”.

22 **58 At the end of paragraph 44-6(2)(d)**

23 Add “of the *Aged Care Act 1997*”.

24 **59 Paragraph 44-6(5)(d)**

25 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
26 Provisions)”.

27 **60 Subparagraph 44-7(1)(c)(ii)**

28 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
29 Provisions)”.

1       **61 Subparagraphs 44-8(1)(c)(ii) and (iv)**

2               Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
3               Provisions)”.

4       **62 At the end of paragraph 44-8A(2)(c)**

5               Add “of the *Aged Care Act 1997*”.

6       **63 Paragraph 44-8A(4)(c)**

7               Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
8               Provisions)”.

9       **64 Subsection 44-8A(5)**

10              Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
11              Provisions)”.

12      **65 Paragraph 44-8A(6)(a)**

13              Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
14              Provisions)”.

15      **66 Subsection 44-10(1)**

16              Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
17              Provisions)”.

18      **67 Subsection 44-11(1) (paragraph (d) of the definition of**  
19              ***child*)**

20              Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
21              Provisions)”.

22      **68 Subsection 44-11(1) (paragraph (c) of the definition of**  
23              ***close relation*)**

24              Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
25              Provisions)”.

26      **69 Subsection 44-11(1) (definition of *homeowner*)**

27              Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
28              Provisions)”.

1 **70 Paragraph 44-11(2)(aa)**

2 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
3 Provisions)”.

4 **71 Subparagraph 44-11(2)(b)(iii)**

5 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
6 Provisions)”.

7 **72 Paragraph 44-11(3)(c)**

8 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
9 Provisions)”.

10 **73 Subparagraph 44-12(2)(a)(ii)**

11 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
12 Provisions)”.

13 **74 Paragraph 44-12(2)(b)**

14 After “Part 2.3”, insert “of the *Aged Care Act 1997*”.

15 **75 Paragraphs 44-12(2)(c) and (d)**

16 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
17 Provisions)”.

18 **76 At the end of paragraph 44-12(4)(a)**

19 Add “of the *Aged Care Act 1997*”.

20 **77 Paragraph 44-12(4)(f)**

21 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
22 Provisions)”.

23 **78 Paragraph 44-13(1)(c)**

24 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
25 Provisions)”.

26 **79 Subsection 44-13(3)**

27 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
28 Provisions)”.

1 **80 Paragraph 44-14(1)(c)**

2 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
3 Provisions)”.

4 **81 Subsection 44-14(3)**

5 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
6 Provisions)”.

7 **82 Subsections 44-16(1) and (2)**

8 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
9 Provisions)”.

10 **83 Paragraph 44-18(1)(b)**

11 After “Division 31”, insert “of the *Aged Care Act 1997*”.

12 **84 Paragraph 44-18(1)(b)**

13 After “paragraph 32-8(3)(b)”, insert “of the *Aged Care Act 1997*”.

14 **85 At the end of subsection 44-18(2)**

15 Add “of the *Aged Care Act 1997*”.

16 **86 Subsections 44-20(5), (6) and (8)**

17 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
18 Provisions)”.

19 **87 Paragraph 44-22(1)(c)**

20 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
21 Provisions)”.

22 **88 Subsections 44-22(2) and (4)**

23 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
24 Provisions)”.

25 **89 Subsection 44-24(5)**

26 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
27 Provisions)”.

1 **90 Subparagraphs 44-24(6)(c)(ii) and (7)(b)(ii)**

2 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
3 Provisions)”.

4 **91 Subsection 44-24(11)**

5 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
6 Provisions)”.

7 **92 Paragraph 44-27(e)**

8 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
9 Provisions)”.

10 **93 Subparagraphs 44-28(2)(b)(iv) and (c)(iii)**

11 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
12 Provisions)”.

13 **94 Subsection 44-29(2)**

14 Omit “Residential Care Subsidy” (wherever occurring), substitute  
15 “Aged Care (Transitional Provisions)”.

16 **95 Paragraph 44-30(2)(a)**

17 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
18 Provisions)”.

19 **96 Subsection 44-30(4)**

20 After “Division 36”, insert “of the *Aged Care Act 1997*”.

21 **97 Subsections 44-31(1) and (2)**

22 Omit “Residential Care Subsidy”, substitute “Aged Care (Transitional  
23 Provisions)”.

24 **98 Section 45-2**

25 Repeal the section, substitute:

1       **45-2 Home care subsidy also dealt with in Aged Care (Transitional**  
2                               **Provisions) Principles**

3                               \*Home care subsidy is also dealt with in the Aged Care  
4                               (Transitional Provisions) Principles. Provisions of this Part indicate  
5                               when a particular matter is or may be dealt with in those Principles.

6                               Note:       The Aged Care (Transitional Provisions) Principles are made by the  
7                               Minister under section 96-1.

8       **99 Subsection 45-3(2)**

9                               Omit “Home Care Subsidy”, substitute “Aged Care (Transitional  
10                              Provisions)”.

11       **100 Paragraph 46-1(1)(a)**

12                             After “Part 2.2”, insert “of the *Aged Care Act 1997*”.

13       **101 Paragraph 46-1(1)(b)**

14                             After “Part 2.3”, insert “of the *Aged Care Act 1997*”.

15       **102 Subsection 46-1(2) (note)**

16                             Omit “Division 7 (relating to a person’s approval as a provider of \*aged  
17                             care services) or Division 20”, substitute “Division 7 of the *Aged Care*  
18                             *Act 1997* (relating to a person’s approval as a provider of aged care  
19                             services) or Division 20 of that Act”.

20       **103 Subsection 46-2(3)**

21                             Omit “Home Care Subsidy”, substitute “Aged Care (Transitional  
22                             Provisions)”.

23       **104 Paragraph 47-2(b)**

24                             Omit “Home Care Subsidy”, substitute “Aged Care (Transitional  
25                             Provisions)”.

26       **105 Subsection 47-3(4)**

27                             Omit “Home Care Subsidy”, substitute “Aged Care (Transitional  
28                             Provisions)”.

29       **106 At the end of section 47-5**

30                             Add “of the *Aged Care Act 1997*”.

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1 **107 Section 49-2**

2 Repeal the section, substitute:

3 **49-2 Flexible care subsidy also dealt with in Aged Care (Transitional**  
4 **Provisions) Principles**

5 \*Flexible care subsidy is also dealt with in the Aged Care  
6 (Transitional Provisions) Principles. Provisions of this Part indicate  
7 when a particular matter is or may be dealt with in those Principles.

8 Note: The Aged Care (Transitional Provisions) Principles are made by the  
9 Minister under section 96-1.

10 **108 Paragraph 50-1(1)(a)**

11 After “Part 2.2”, insert “of the *Aged Care Act 1997*”.

12 **109 Subparagraph 50-1(1)(b)(i)**

13 After “Part 2.3”, insert “of the *Aged Care Act 1997*”.

14 **110 Subparagraph 50-1(1)(b)(ii)**

15 Omit “Flexible Care Subsidy”, substitute “Aged Care (Transitional  
16 Provisions)”.

17 **111 Subparagraph 50-1(1)(b)(ii)**

18 After “Part 2.3”, insert “of the *Aged Care Act 1997*”.

19 **112 Subparagraph 50-1(1)(b)(iii)**

20 Omit “Flexible Care Subsidy”, substitute “Aged Care (Transitional  
21 Provisions)”.

22 **113 Subsection 50-1(2) (note)**

23 Omit “Division 7 (relating to a person’s approval as a provider of \*aged  
24 care services) or Division 20”, substitute “Division 7 of the *Aged Care*  
25 *Act 1997* (relating to a person’s approval as a provider of aged care  
26 services) or Division 20 of that Act”.

27 **114 Subsection 50-2(1)**

28 Omit “Flexible Care Subsidy”, substitute “Aged Care (Transitional  
29 Provisions)”.

1 **115 Subsections 51-1(1) and (2)**

2 Omit “Flexible Care Subsidy”, substitute “Aged Care (Transitional  
3 Provisions)”.

4 **116 Division 53**

5 Repeal the Division.

6 **117 Part 4.1**

7 Repeal the Part.

8 **118 Divisions 55 and 56**

9 Repeal the Divisions.

10 **119 Division 57 (heading)**

11 Omit “and entry contributions”.

12 **120 Section 57-1**

13 Omit “The rules set out in this Division”, substitute “Rules set out in  
14 Part 3A.3 of the *Aged Care Act 1997*”.

15 **121 Paragraph 57-2(1)(c)**

16 Omit “section 57-3”, substitute “section 52M-1 of the *Aged Care Act*  
17 *1997*”.

18 **122 Paragraph 57-2(1)(d)**

19 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

20 **123 Paragraph 57-2(1)(k)**

21 Omit “(see section 57-17A)”, substitute “(see section 52N-1 of the *Aged*  
22 *Care Act 1997*)”.

23 **124 Paragraph 57-2(1)(ka)**

24 Omit “section 57-3”, substitute “section 52M-1 of the *Aged Care Act*  
25 *1997*”.

26 **125 Paragraph 57-2(1)(o)**

27 Omit “Part 4.4 from doing so (see paragraph 66-1(j))”, substitute  
28 “Part 4.4 of the *Aged Care Act 1997* from doing so (see  
29 paragraph 66-1(j) of that Act)”.

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1 **126 Paragraph 57-2(1)(p)**

2 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

3 **127 Subdivision 57-B**

4 Repeal the Subdivision.

5 **128 Paragraph 57-9(1)(l)**

6 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

7 **129 Paragraph 57-12(1)(c)**

8 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

9 **130 Subparagraphs 57-12(3)(a)(ii) and (b)(ii)**

10 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

11 **131 Section 57-13**

12 Omit “section 57-21”, substitute “Division 52P of the *Aged Care Act*  
13 *1997*”.

14 **132 Subsections 57-14(1) and (2)**

15 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

16 **133 Subsection 57-15(1)**

17 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

18 **134 Paragraphs 57-16(1)(a) and (2)(a)**

19 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

20 **135 Subsections 57-17(2) and (3)**

21 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

22 **136 Subdivision 57-EA**

23 Repeal the Subdivision.

24 **137 Subsections 57-18(3), (4) and (5)**

25 Omit “User Rights” (wherever occurring), substitute “Aged Care  
26 (Transitional Provisions)”.

1 **138 Paragraph 57-19(1)(c)**

2 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

3 **139 Subsections 57-20(1), (2), (4), (6) and (7)**

4 Omit “User Rights” (wherever occurring), substitute “Aged Care  
5 (Transitional Provisions)”.

6 **140 Subdivision 57-G**

7 Repeal the Subdivision.

8 **141 Paragraph 57-23(2)(b)**

9 Omit “section 57-21”, substitute “Division 52P of the *Aged Care Act*  
10 *1997*”.

11 **142 Subparagraph 57A-2(1)(a)(ii)**

12 After “section 22-2”, insert “of the *Aged Care Act 1997*”.

13 **143 Paragraph 57A-2(1)(d)**

14 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

15 **144 Paragraph 57A-2(1)(m)**

16 Omit “Part 4.4 from doing so (see paragraph 66-1(j))”, substitute  
17 “Part 4.4 of the *Aged Care Act 1997* from doing so (see  
18 paragraph 66-1(j) of that Act)”.

19 **145 Paragraph 57A-2(1)(n)**

20 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

21 **146 Subsection 57A-2(2)**

22 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

23 **147 Paragraph 57A-3(1)(g)**

24 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

25 **148 Subsection 57A-3(2)**

26 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

1 **149 Paragraph 57A-6(1)(c)**

2 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

3 **150 Subsections 57A-9(1) and (2)**

4 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

5 **151 Subsection 57A-10(1)**

6 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

7 **152 Subsection 57A-12(2)**

8 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

9 **153 Section 58-1**

10 After “paragraph 54-1(1)(a)”, insert “of the *Aged Care Act 1997*”.

11 **154 Section 58-1**

12 Omit “User Rights” (wherever occurring), substitute “Aged Care  
13 (Transitional Provisions)”.

14 **155 Section 58-2 (step 5)**

15 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

16 **156 Paragraph 58-5(a)**

17 After “Division 35”, insert “of the *Aged Care Act 1997*”.

18 **157 Division 59**

19 Repeal the Division.

20 **158 Section 60-1**

21 After “paragraph 54-1(1)(a)”, insert “of the *Aged Care Act 1997*”.

22 **159 Paragraph 60-1(d)**

23 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

24 **160 Subsections 60-2(1) and (2)**

25 Omit “User Rights”, substitute “Aged Care (Transitional Provisions)”.

1 **161 Divisions 61 and 62**

2 Repeal the Divisions.

3 **162 Parts 4.3 and 4.4**

4 Repeal the Parts.

5 **163 Chapter 5**

6 Repeal the Chapter.

7 **164 Section 84-1**

8 Repeal the section, substitute:

9 **84-1 What this Chapter is about**

10  
11

This Chapter deals with the reconsideration and administrative review of decisions (see Part 6.1).
--

12 **165 Section 85-1 (table items 1 to 39)**

13 Repeal the items.

14 **166 Section 85-1 (table items 54 to 59)**

15 Repeal the items, substitute:

16

54	A decision under the Aged Care (Transitional Provisions) Principles made under section 96-1 that is specified in the Principles to be a decision reviewable under this section	the provision specified in the Principles as the provision under which the decision is made
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17

18 **167 Parts 6.2 to 6.7**

19 Repeal the Parts.

20 **168 Section 96-1**

21 Repeal the section, substitute:

1 **96-1 Aged Care (Transitional Provisions) Principles**

2 The Minister may, by legislative instrument, make Aged Care  
3 (Transitional Provisions) Principles providing for matters:  
4 (a) required or permitted by this Act to be provided; or  
5 (b) necessary or convenient to be provided in order to carry out  
6 or give effect to this Act.

7 **169 Subsections 96-2(5) and (6)**

8 Repeal the subsections.

9 **170 Section 96-3**

10 Repeal the section.

11 **171 Section 96-4 (note)**

12 Omit “Chapter 4”, substitute “Chapter 4 of this Act and Chapter 4 of the  
13 *Aged Care Act 1997*”.

14 **172 Section 96-5 (note)**

15 Omit “, \*accommodation charge agreements, \*home care agreements,  
16 \*extra service agreements and \*resident agreements”, substitute “and  
17 accommodation charge agreements”.

18 **173 Sections 96-8, 96-9 and 96-10**

19 Repeal the sections.

20 **174 Clause 1 of Schedule 1 (definition of *accommodation***  
21 ***bond*)**

22 Repeal the definition, substitute:

23 *accommodation bond* has the same meaning as in the *Aged Care*  
24 *Act 1997*.

25 **175 Clause 1 of Schedule 1 (definition of *accommodation***  
26 ***bond balance*)**

27 Repeal the definition, substitute:

28 *accommodation bond balance* has the same meaning as in the  
29 *Aged Care Act 1997*.

1 **176 Clause 1 of Schedule 1 (definition of *accommodation***  
2 ***charge*)**

3 Repeal the definition, substitute:

4 *accommodation charge* has the same meaning as in the *Aged Care*  
5 *Act 1997*.

6 **177 Clause 1 of Schedule 1 (definition of *accreditation***  
7 ***requirement*)**

8 Repeal the definition, substitute:

9 *accreditation requirement* has the same meaning as in the *Aged*  
10 *Care Act 1997*.

11 **178 Clause 1 of Schedule 1 (definition of *advocacy grant*)**

12 Repeal the definition.

13 **179 Clause 1 of Schedule 1 (definitions of *Aged Care***  
14 ***Commissioner* and *Aged Care Pricing Commissioner*)**

15 Repeal the definitions.

16 **180 Clause 1 of Schedule 1 (definition of *approved provider*)**

17 Repeal the definition, substitute:

18 *approved provider* has the same meaning as in the *Aged Care Act*  
19 *1997*.

20 **181 Clause 1 of Schedule 1 (definition of *authorised officer*)**

21 Repeal the definition.

22 **182 Clause 1 of Schedule 1 (definition of *available for***  
23 ***allocation*)**

24 Repeal the definition.

25 **183 Clause 1 of Schedule 1 (definition of *capital expenditure*)**

26 Repeal the definition.

27 **184 Clause 1 of Schedule 1 (definition of *capital works costs*)**

28 Repeal the definition.



1 **185 Clause 1 of Schedule 1 (definition of *certified*)**

2 Repeal the definition, substitute:

3 *certified* has the same meaning as in the *Aged Care Act 1997*.

4 **186 Clause 1 of Schedule 1 (definition of *classification level*)**

5 Repeal the definition, substitute:

6 *classification level* has the same meaning as in the *Aged Care Act*  
7 *1997*.

8 **187 Clause 1 of Schedule 1 (definition of *community visitors***  
9 ***grant*)**

10 Repeal the definition.

11 **188 Clause 1 of Schedule 1**

12 Insert:

13 *continuing care recipient* has the same meaning as in the *Aged*  
14 *Care Act 1997*.

15 **189 Clause 1 of Schedule 1 (definition of *corporation*)**

16 Repeal the definition.

17 **190 Clause 1 of Schedule 1 (definition of *disqualified***  
18 ***individual*)**

19 Repeal the definition.

20 **191 Clause 1 of Schedule 1 (definition of *distinct part*)**

21 Repeal the definition, substitute:

22 *distinct part* has the same meaning as in the *Aged Care Act 1997*.

23 **192 Clause 1 of Schedule 1 (definitions of *entry contribution***  
24 ***balance and expiry date*)**

25 Repeal the definitions.

26 **193 Clause 1 of Schedule 1 (definition of *extra service***  
27 ***agreement*)**

28 Repeal the definition, substitute:

1                    *extra service agreement* has the same meaning as in the *Aged Care*  
2                    *Act 1997*.

3                    **194 Clause 1 of Schedule 1 (definition of *extra service place*)**

4                    Repeal the definition, substitute:

5                    *extra service place* has the same meaning as in the *Aged Care Act*  
6                    *1997*.

7                    **195 Clause 1 of Schedule 1 (definition of *extra service status*)**

8                    Repeal the definition, substitute:

9                    *extra service status* has the same meaning as in the *Aged Care Act*  
10                    *1997*.

11                    **196 Clause 1 of Schedule 1 (definition of *formal agreement*)**

12                    Repeal the definition.

13                    **197 Clause 1 of Schedule 1 (definition of *high level of*  
14                    *residential care*)**

15                    Omit “Classification”, substitute “Aged Care (Transitional Provisions)”.

16                    **198 Clause 1 of Schedule 1 (definition of *home care*  
17                    *agreement*)**

18                    Repeal the definition, substitute:

19                    *home care agreement* has the same meaning as in the *Aged Care*  
20                    *Act 1997*.

21                    **199 Clause 1 of Schedule 1 (definition of *key personnel*)**

22                    Repeal the definition.

23                    **200 Clause 1 of Schedule 1 (definition of *lowest applicable*  
24                    *classification level*)**

25                    Repeal the definition, substitute:

26                    *lowest applicable classification level* has the same meaning as in  
27                    the *Aged Care Act 1997*.

1 **201 Clause 1 of Schedule 1 (definition of *low level of***  
2 ***residential care*)**

3 Omit “Classification”, substitute “Aged Care (Transitional Provisions)”.

4 **202 Clause 1 of Schedule 1 (definitions of *Military***  
5 ***Rehabilitation and Compensation Commission,***  
6 ***monitoring powers and operator*)**

7 Repeal the definitions.

8 **203 Clause 1 of Schedule 1 (definition of *people with special***  
9 ***needs*)**

10 Repeal the definition, substitute:

11 *people with special needs* has the same meaning as in the *Aged*  
12 *Care Act 1997*.

13 **204 Clause 1 of Schedule 1 (definition of *permitted*)**

14 Repeal the definition, substitute:

15 *permitted* has the same meaning as in the *Aged Care Act 1997*.

16 **205 Clause 1 of Schedule 1 (definition of *personal***  
17 ***information*)**

18 Repeal the definition.

19 **206 Clause 1 of Schedule 1 (definition of *pre-allocation lump***  
20 ***sum*)**

21 Repeal the definition.

22 **207 Clause 1 of Schedule 1 (definition of *protected***  
23 ***information*)**

24 Repeal the definition.

25 **208 Clause 1 of Schedule 1 (definition of *provisional***  
26 ***allocation*)**

27 Repeal the definition, substitute:

28 *provisional allocation* has the same meaning as in the *Aged Care*  
29 *Act 1997*.

1 **209 Clause 1 of Schedule 1 (definitions of *provisional***  
2 ***allocation period, provisionally allocated, recoverable***  
3 ***amount, region and relinquish*)**

4 Repeal the definitions.

5 **210 Clause 1 of Schedule 1 (definition of *reportable assault*)**

6 Repeal the definition.

7 **211 Clause 1 of Schedule 1 (definition of *resident agreement*)**

8 Repeal the definition, substitute:

9 *resident agreement* has the same meaning as in the *Aged Care Act*  
10 *1997*.

11 **212 Clause 1 of Schedule 1 (definition of *residential care***  
12 ***grant*)**

13 Repeal the definition.

14 **213 Clause 1 of Schedule 1 (definition of *section 67-5 notice***  
15 ***time*)**

16 Repeal the definition.

17 **214 Clause 1 of Schedule 1 (definitions of *unregulated lump***  
18 ***sum and unregulated lump sum balance*)**

19 Repeal the definitions.

1 **Part 3—Transitional and savings provisions**

2 **215 Definitions**

3 In this Part:

4 *commencement time* means the time when this Part commences.

5 **216 Instruments under the *Aged Care Act 1997***

6 (1) This item applies if:

- 7 (a) an instrument made under a provision of the *Aged Care Act*  
8 *1997* was in force immediately before the commencement  
9 time; and  
10 (b) immediately after the commencement time, there is a  
11 corresponding provision in the *Aged Care (Transitional*  
12 *Provisions) Act 1997*.

13 (2) Without limiting its effect apart from this item, the instrument is also  
14 taken, after the commencement time, to have been made under the  
15 corresponding provision.

16 **217 Applications, requests and other processes begun under**  
17 **the *Aged Care Act 1997***

18 (1) This item applies if:

- 19 (a) a process begun (including by application or request) under a  
20 provision of the *Aged Care Act 1997* before the  
21 commencement time was not completed by that time; and  
22 (b) immediately after the commencement time, there is a  
23 corresponding provision in the *Aged Care (Transitional*  
24 *Provisions) Act 1997*.

25 (2) The process is taken, after the commencement time, to have been begun  
26 under the corresponding provision.