



Aged Care Amendment (Residential Care) Act 2006

No. 133, 2006

**An Act to amend the *Aged Care Act 1997*, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	2
Schedule 1—Harmonising aged care and pension requirements in relation to income streams and asset disposals		3
	<i>Aged Care Act 1997</i>	3
Schedule 2—Delegations		5
	<i>Aged Care Act 1997</i>	5



Aged Care Amendment (Residential Care) Act 2006

No. 133, 2006

An Act to amend the *Aged Care Act 1997*, and for related purposes

[Assented to 9 November 2006]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Aged Care Amendment (Residential Care) Act 2006*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	9 November 2006
2. Schedule 1	1 January 2007.	1 January 2007
3. Schedule 2	The day on which this Act receives the Royal Assent.	9 November 2006

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Harmonising aged care and pension requirements in relation to income streams and asset disposals

Aged Care Act 1997

1 After subsection 44-10(1)

Insert:

- (1A) If a person who is receiving an *income support supplement or a *service pension has an income stream (within the meaning of the *Veterans' Entitlements Act 1986*) that was purchased on or after 20 September 2007, the value of the person's assets:
- (a) is taken to include the amount that the Secretary determines to be the value of that income stream that would be included in the value of the person's assets if Subdivision A of Division 11 of Part IIIB of the *Veterans' Entitlements Act 1986* applied for the purposes of this Act; and
 - (b) is taken to exclude the amount that the Secretary determines to be the value of that income stream that would not be included in the value of the person's assets if Subdivision A of Division 11 of Part IIIB of the *Veterans' Entitlements Act 1986* applied for the purposes of this Act.
- (1B) If a person who is not receiving an *income support supplement or a *service pension has an income stream (within the meaning of the *Social Security Act 1991*) that was purchased on or after 20 September 2007, the value of the person's assets:
- (a) is taken to include the amount that the Secretary determines to be the value of that income stream that would be included in the value of the person's assets if Division 1 of Part 3.12 of the *Social Security Act 1991* applied for the purposes of this Act; and
 - (b) is taken to exclude the amount that the Secretary determines to be the value of that income stream that would not be included in the value of the person's assets if Division 1 of Part 3.12 of the *Social Security Act 1991* applied for the purposes of this Act.

- (1C) The value of a person's assets is taken to include the amount that the Secretary determines to be the amount:
- (a) if the person is receiving an *income support supplement or a *service pension—that would be included in the value of the person's assets if Subdivisions B and BB of Division 11 of Part IIIB of the *Veterans' Entitlements Act 1986* applied for the purposes of this Act; and
 - (b) otherwise—that would be included in the value of the person's assets if Division 2 of Part 3.12 of the *Social Security Act 1991* applied for the purposes of this Act.

Note: Subdivisions B and BB of Division 11 of Part IIIB of the *Veterans' Entitlements Act 1986*, and Division 2 of Part 3.12 of the *Social Security Act 1991*, deal with disposal of assets.

2 Application of subsections 44-10(1A), (1B) and (1C)—working out the value of assets on or after 1 January 2007 for people entering an aged care service after that date

Subsections 44-10(1A), (1B) and (1C) of the *Aged Care Act 1997* apply to the working out of the value of a person's assets if:

- (a) the working out is done on or after 1 January 2007; and
- (b) the person enters an aged care service (within the meaning of that Act) on or after that date.

3 Application of subsection 44-10(1C)—assets disposed of on or after 10 May 2006

- (1) In determining an amount under paragraph 44-10(1C)(a) of the *Aged Care Act 1997*, the Secretary must take into account assets that a person disposes of (within the meaning of Subdivision B of Division 11 of Part IIIB of the *Veterans' Entitlements Act 1986*) on or after 10 May 2006.
- (2) In determining an amount under paragraph 44-10(1C)(b) of the *Aged Care Act 1997*, the Secretary must take into account assets that a person disposes of (within the meaning of Division 2 of Part 3.12 of the *Social Security Act 1991*) on or after 10 May 2006.

Schedule 2—Delegations

Aged Care Act 1997

1 Subsection 96-2(5)

Repeal the subsection, substitute:

- (5) The Secretary may, in writing, delegate to a person making an assessment for the purposes of section 22-4:
 - (a) all or any of the Secretary's functions under Part 2.3; and
 - (b) all or any of the Secretary's powers under the Residential Care Subsidy Principles that relate to respite supplement.

2 Application of amendment of subsection 96-2(5)

Despite the repeal and substitution of subsection 96-2(5) of the *Aged Care Act 1997* by this Schedule, delegations in force under that subsection immediately before the commencement of this Schedule continue to have effect on and from the commencement of this Schedule as if they had been made under paragraph 96-2(5)(a) of that Act as in force immediately after the commencement of this Schedule.

*[Minister's second reading speech made in—
Senate on 13 September 2006
House of Representatives on 31 October 2006]*

(123/06)
