



# **Aged Care and Other Legislation Amendment Act 2014**

**No. 126, 2014**

**An Act to amend legislation relating to aged care,  
and for other purposes**

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



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## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
<b>Schedule 1—Amendments relating to aged care</b>		3
	<i>Aged Care Act 1997</i>	3
	<i>Aged Care (Transitional Provisions) Act 1997</i>	4
<b>Schedule 2—Amendments relating to home care costs and compensation payments</b>		6
Part 1—Amendments		6
	<i>Health and Other Services (Compensation) Act 1995</i>	6
Part 2—Application of amendments		10
<b>Schedule 3—Amendments relating to healthcare identifiers</b>		11
	<i>Healthcare Identifiers Act 2010</i>	11





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## **An Act to amend legislation relating to aged care, and for other purposes**

*[Assented to 4 December 2014]*

The Parliament of Australia enacts:

### **1 Short title**

*This Act may be cited as the *Aged Care and Other Legislation  
Amendment Act 2014*.*

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	4 December 2014
2. Schedule 1	The day after this Act receives the Royal Assent.	5 December 2014
3. Schedule 2	1 July 2015.	1 July 2015
4. Schedule 3	The day after this Act receives the Royal Assent.	5 December 2014

Note: This table relates only to the provisions of this Act as originally enacted.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

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

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments relating to aged care**

### *Aged Care Act 1997*

#### **1 Subparagraphs 44-5(1)(a)(v) and (vi)**

Repeal the subparagraphs.

#### **2 Subparagraph 48-3(1)(a)(v)**

Repeal the subparagraph.

#### **3 After paragraph 56-1(g)**

Insert:

(ga) to comply with the requirements of Part 3A.3 in relation to managing \*refundable deposits, accommodation bonds and entry contributions;

#### **4 Subparagraph 56-2(c)(ii)**

Omit “resident”, substitute “home care”.

#### **5 After paragraph 56-3(g)**

Insert:

(ga) to comply with the requirements of Part 3A.3 in relation to managing \*refundable deposits, accommodation bonds and entry contributions;

#### **6 Subsection 59-1(1)**

Omit “A resident agreement”, substitute “A \*resident agreement”.

#### **7 Subsection 59-1(3) (note)**

Omit “residential care”, substitute “\*resident”.

#### **8 Paragraph 63-1(1)(l)**

Omit “people acting for \*accreditation bodies”, substitute “the \*CEO of the Quality Agency”.

**9 Paragraph 66-1(ia)**

Omit “\*accommodating contributions”, substitute “\*accommodation contributions”.

**10 Subsection 94A-1(3)**

Repeal the subsection.

**11 Clause 1 of Schedule 1 (definition of *phased resident*)**

Repeal the definition.

***Aged Care (Transitional Provisions) Act 1997***

**12 Subsection 44-26(1)**

Omit “or a \*phased resident”.

**13 Subsections 44-26(3), (4) and (5)**

Repeal the subsections.

**14 Section 44-27**

Before “The other”, insert “(1)”.

**15 Paragraph 44-27(d)**

Repeal the paragraph.

**16 At the end of section 44-27**

Add:

- (2) The Aged Care (Transitional Provisions) Principles may specify, in respect of each other supplement set out for the purposes of paragraph (1)(e), the circumstances in which the supplement will apply to a care recipient in respect of a \*payment period.
- (3) The Minister may determine by legislative instrument, in respect of each such supplement, the amount of the supplement, or the way in which the amount of the supplement is to be worked out.

**17 Section 44-32**

Repeal the section.

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**18 Section 58-2 (resident fee calculator, step 1)**

Omit “, 58-3C or 58-4”, substitute “or 58-3C”.

**19 Paragraph 58-3(2)(b)**

Omit “or”.

**20 Paragraph 58-3(2)(c)**

Repeal the paragraph.

**21 Subsection 58-3(2)**

Omit “, 58-3C(3) or 58-4(4)”, substitute “or 58-3C(3)”.

**22 Section 58-4**

Repeal the section.

**23 Clause 1 of Schedule 1 (definition of *phased resident*)**

Repeal the definition.

**24 Clause 1 of Schedule 1 (definition of *standard resident contribution*)**

Omit “, 58-3C or 58-4”, substitute “or 58-3C”.

## Schedule 2—Amendments relating to home care costs and compensation payments

### Part 1—Amendments

#### *Health and Other Services (Compensation) Act 1995*

##### **1 Subsection 3(1) (at the end of the definition of *eligible benefit*)**

Add:

; or (d) a home care subsidy.

##### **2 Subsection 3(1)**

Insert:

*home care*, in relation to a compensable person, has the same meaning as in:

- (a) if the *Aged Care Act 1997* applies in relation to the person—that Act; and
- (b) if the *Aged Care (Transitional Provisions) Act 1997* applies in relation to the person—that Act.

*home care subsidy* has the same meaning as in:

- (a) in relation to home care under the *Aged Care Act 1997*—that Act; and
- (b) in relation to home care under the *Aged Care (Transitional Provisions) Act 1997*—that Act.

##### **3 Subsection 3(1) (definition of *residential care*)**

Repeal the definition, substitute:

*residential care*, in relation to a compensable person, has the same meaning as in:

- (a) if the *Aged Care Act 1997* applies in relation to the person—that Act; and
- (b) if the *Aged Care (Transitional Provisions) Act 1997* applies in relation to the person—that Act.

**4 Division 2 of Part 2 (heading)**

Repeal the heading, substitute:

**Division 2—Nursing home benefit, residential care subsidy  
and home care subsidy**

**5 Section 9 (heading)**

Repeal the heading, substitute:

**9 Reimbursement of amounts payable for nursing home care,  
residential care or home care**

**6 Paragraph 9(1)(b)**

Omit “or residential”, substitute “, residential care or home”.

**7 After subsection 9(2A)**

Insert:

(2B) Despite Part 3.2 of the *Aged Care Act 1997* and Part 3.2 of the *Aged Care (Transitional Provisions) Act 1997*, home care subsidy is not payable in respect of home care if, under the reimbursement arrangement, the whole or any part of the amount payable for home care has already been reimbursed before a claim for home care subsidy in respect of the home care has been submitted.

**8 Paragraph 9(3)(a)**

Omit “or residential”, substitute “, residential care or home”.

**9 Paragraph 9(3)(aa)**

Repeal the paragraph, substitute:

(aa) nursing home benefit, residential care subsidy or home care subsidy has been paid in respect of the nursing home care, residential care or home care; and

**10 Paragraph 9(3)(b)**

Omit “or residential”, substitute “, residential care or home”.

**11 Subsection 9(3)**

Omit “to the nursing home benefit or residential care”, substitute “to the nursing home benefit, residential care subsidy or home care”.

**12 Section 10 (heading)**

Repeal the heading, substitute:

**10 Recovering past payments of nursing home benefit, residential care subsidy or home care subsidy from judgments and settlements**

**13 Paragraph 10(1)(b)**

Omit “or residential”, substitute “, residential care or home”.

**14 Paragraph 10(1)(ba)**

Repeal the paragraph, substitute:

(ba) nursing home benefit, residential care subsidy or home care subsidy has already been paid in respect of that nursing home care, residential care or home care; and

**15 Paragraph 10(1)(c)**

Omit “or residential care”, substitute “, residential care subsidy or home care”.

**16 Subsection 10(1)**

Omit “to the nursing home benefit or residential care”, substitute “to the nursing home benefit, residential care subsidy or home care”.

**17 Paragraph 10(3)(a)**

Omit “or residential care”, substitute “, residential care expenses or home care”.

**18 Paragraph 17(1)(b)**

Omit “or residential”, substitute “, residential care or home”.

**19 Subparagraph 21(7)(b)(ii)**

Omit “or residential”, substitute “, residential care or home”.

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**20 Paragraph 23(5)(b)**

Omit “or residential”, substitute “, residential care or home”.

**21 Paragraphs 23(7)(b) and (c)**

Omit “or residential care”, substitute “, residential care needs or home care”.

**22 Subsection 23B(5)**

Omit “or residential”, substitute “, residential care or home”.

**23 Subparagraph 24(9)(b)(ii)**

Omit “or residential”, substitute “, residential care or home”.

## **Part 2—Application of amendments**

### **24 Application of amendments**

- (1) The amendments made by items 5 to 11 of this Schedule apply in relation to a reimbursement arrangement made in respect of an injury to a compensable person if:
  - (a) the arrangement is made on or after the day on which this Schedule commences; and
  - (b) the person is entitled, under the arrangement, to compensation by way of reimbursement of expenses incurred in respect of home care provided to the person in the course of treatment of, or as a result of, the injury.
- (2) The amendments made by items 12 to 17 of this Schedule apply in relation to a judgment or settlement made in respect of an injury to a compensable person if:
  - (a) the judgment or settlement is made on or after the day on which this Schedule commences; and
  - (b) home care is provided to that person in the course of treatment of, or as a result of, the injury; and
  - (c) home care subsidy is paid in respect of that home care.
- (3) For the purposes of subitems (1) and (2), it does not matter:
  - (a) when the injury occurred; or
  - (b) when a particular payment of home care subsidy is made.

## **Schedule 3—Amendments relating to healthcare identifiers**

### ***Healthcare Identifiers Act 2010***

#### **1 Section 5**

Insert:

***aged care***, in relation to a person, has the same meaning as in:

- (a) if the *Aged Care Act 1997* applies in relation to the person—that Act; and
- (b) if the *Aged Care (Transitional Provisions) Act 1997* applies in relation to the person—that Act.

***Aged Care Department*** means the Department administered by the Aged Care Minister.

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

***aged care purpose*** means:

- (a) the purpose of enabling the Aged Care Department to create and maintain a record about aged care provided to a person by an approved provider (within the meaning of the *Aged Care Act 1997*); or
- (b) the purpose of the Aged Care Department verifying the identity of a person who is receiving, or who is to receive, aged care.

#### **2 After section 12**

Insert:

##### **12A Disclosure for an aged care purpose**

*Disclosure by identified healthcare provider*

- (1) An identified healthcare provider is authorised to disclose identifying information of a healthcare recipient to the Aged Care Department for an aged care purpose.

- (2) The Aged Care Department is authorised:
  - (a) to collect the information; and
  - (b) to use the information for an aged care purpose.

*Disclosure by Aged Care Department*

- (3) The Aged Care Department is authorised to disclose identifying information of a healthcare recipient for an aged care purpose to:
  - (a) the service operator; or
  - (b) an identified healthcare provider.
- (4) The service operator is authorised:
  - (a) to collect the information; and
  - (b) to use the information for an aged care purpose.
- (5) The identified healthcare provider is authorised:
  - (a) to collect the information; and
  - (b) to use the information for an aged care purpose.

**3 After section 19C**

Insert:

**19D Disclosure to Aged Care Department**

- (1) The service operator is authorised:
  - (a) to use a healthcare identifier of a healthcare recipient; and
  - (b) to disclose a healthcare identifier of a healthcare recipient to the Aged Care Department;for an aged care purpose.
- (2) The Aged Care Department is authorised:
  - (a) to collect the healthcare identifier; and
  - (b) to use the healthcare identifier for an aged care purpose.

**4 After section 23**

Insert:



**23A Disclosure to Aged Care Department**

- (1) A healthcare provider is authorised to disclose a healthcare recipient's healthcare identifier to the Aged Care Department for an aged care purpose.
- (2) The Aged Care Department is authorised:
  - (a) to collect the healthcare identifier; and
  - (b) to use the healthcare identifier for an aged care purpose.

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*[Minister's second reading speech made in—  
House of Representatives on 25 September 2014  
Senate on 28 October 2014]*

(196/14)

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