



Aged Care Amendment (Implementing Care Reform) Act 2022

No. 47, 2022

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

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Registered nurses		3
	<i>Aged Care Act 1997</i>	3
Schedule 2—Capping home care charges		5
	<i>Aged Care Act 1997</i>	5
Schedule 3—Transparency of information		6
	<i>Aged Care Act 1997</i>	6



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

[Assented to 9 November 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Aged Care Amendment (Implementing Care Reform) Act 2022*.

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
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	9 November 2022
2. Schedule 1	1 April 2023.	1 April 2023
3. Schedule 2	1 January 2023.	1 January 2023
4. Schedule 3	1 December 2022.	1 December 2022

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Registered nurses

Aged Care Act 1997

1 After paragraph 54-1(1)(b)

Insert:

- (ba) if section 54-1A applies to the provider—to comply with subsection 54-1A(2);

2 After section 54-1

Insert:

54-1A Responsibility relating to registered nurses

- (1) This section applies to an approved provider if:
 - (a) the provider provides:
 - (i) residential care to care recipients in a residential facility; or
 - (ii) flexible care of a kind specified in the Quality of Care Principles to care recipients in a residential facility; and
 - (b) an exemption from this section has not been granted, in accordance with the Quality of Care Principles, to the provider in relation to the residential facility.
- (2) The provider must, on and after 1 July 2023, ensure at least one registered nurse (within the meaning of the *Health Insurance Act 1973*) is on site, and on duty, at all times at the residential facility.
- (3) The Quality of Care Principles may make provision for, or in relation to, the granting of an exemption from this section to an approved provider in relation to a residential facility.
- (4) Without limiting subsection (3), the Quality of Care Principles made for the purposes of that subsection must:
 - (a) provide for the circumstances in which an exemption from this section may be granted (on application or otherwise) to an approved provider in relation to a residential facility, including that:
 - (i) such an exemption may be granted by the Secretary; and

- (ii) before granting such an exemption, the Secretary must be satisfied that the provider has taken reasonable steps to ensure that the clinical care needs of the care recipients in the facility will be met during the period for which the exemption is in force; and
 - (b) provide that such an exemption that is granted to an approved provider in relation to a residential facility must not be in force for more than 12 months; and
 - (c) provide that more than one such exemption may be granted to an approved provider in relation to a residential facility; and
 - (d) provide for the conditions that may apply to such an exemption that is granted to an approved provider in relation to a residential facility.
- (5) If an exemption from this section is granted to an approved provider in relation to a residential facility, the Secretary must make publicly available information about the exemption, including:
 - (a) the name of the provider and the facility; and
 - (b) the period for which the exemption is in force; and
 - (c) any conditions that apply to the exemption; and
 - (d) any other information of a kind specified in the Quality of Care Principles.

Schedule 2—Capping home care charges

Aged Care Act 1997

1 After paragraph 56-2(a)

Insert:

- (aa) not to charge for ceasing to provide the care to the care recipient;
- (ab) to comply with such requirements as are specified in the User Rights Principles in relation to the prices charged by the approved provider for, or in connection with, the provision of care or services to the care recipient;

2 Application provisions

- (1) Paragraph 56-2(aa) of the *Aged Care Act 1997*, as inserted by this Schedule, applies in relation to an approved provider that ceases to provide home care to a care recipient on or after the commencement of this item.
- (2) Paragraph 56-2(ab) of the *Aged Care Act 1997*, as inserted by this Schedule, applies in relation to care or services provided on or after the commencement of this item.

Schedule 3—Transparency of information

Aged Care Act 1997

1 In the appropriate position in Division 86

Insert:

86-10 Information about aged care services that must be made publicly available

- (1) The Secretary must, in accordance with the Information Principles, make publicly available information in relation to *aged care services.
- (2) Without limiting subsection (1), the Information Principles may provide for any or all of the following:
 - (a) information about the *aged care provided through an *aged care service, or a specified class of aged care services, that must be made publicly available;
 - (b) information about the approved provider of an aged care service, or a specified class of approved providers of aged care services, that must be made publicly available;
 - (c) the way in which specified information, or a specified class of information, must be made publicly available;
 - (d) the period within which specified information, or a specified class of information, must be made publicly available.
- (3) Information made publicly available under subsection (1) must not include *personal information about an individual (other than an individual who is one of the *key personnel of an approved provider).

2 Application provision

Section 86-10 of the *Aged Care Act 1997*, as inserted by this Schedule, applies in relation to information whether the information was acquired or created before, on or after the commencement of this item.

*[Minister's second reading speech made in—
House of Representatives on 27 July 2022
Senate on 26 September 2022]*

(50/22)

No. 47, 2022

Aged Care Amendment (Implementing Care Reform) Act 2022

7