

## EXPLANATORY STATEMENT

Issued by the authority of the Minister for Mental Health and Ageing

*Aged Care Act 1997*

*Classification Amendment (Aged Care Funding Instrument) Principle 2013*

The *Aged Care Act 1997* (the Act) provides for the regulation and funding of aged care services. Persons who are approved under the Act to provide aged care services (approved providers) can be eligible to receive subsidy payments in respect of the care they provide to approved care recipients.

Section 96-1 of the Act allows the Minister to make Principles providing for various matters required or permitted by a Part or section of the Act. Among the Principles made under section 96-1 are the *Classification Principles 1997* (the Principles).

Part 2.4 of the Act and the Principles deal with a number of matters relating to the classification of care recipients. The classification of care recipients may affect the amounts of subsidy payable to an approved provider for providing care to the care recipient.

The purpose of the *Classification Amendment (Aged Care Funding Instrument) Principle 2013* (the Amending Principle) is to update the definitions for the Aged Care Funding Instrument Answer Appraisal Pack (the ACFI Answer Appraisal Pack) and the Aged Care Funding Instrument User Guide (the ACFI User Guide). Updated definitions are required because amendments are being made to those documents from 1 July 2013.

The ACFI Answer Appraisal Pack and the ACFI User Guide, approved by the Minister for Mental Health and Ageing, assist users to answer the 12 care need questions that form part of the ACFI, and to collect diagnostic information about mental and behavioural disorders and other medical conditions. This information is used to identify the care needs for clients in the following care domains: activities of daily living (ADL); behaviour (BEH); and complex health care (CHC).

The revised versions of the ACFI User Guide and ACFI Answer Appraisal Pack include three changes which will improve the evidence requirements and enhance the guidance provided to users for questions in the BEH domain and the CHC domain. The Amending Principle ensures the updated documents are used as the guidance authority.

The Amending Principle is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### Consultation

The changes to the ACFI Answer Appraisal Pack and the ACFI User Guide have been the subject of consultation with consumers, approved providers and health

professionals through the ACFI Monitoring Group and the ACFI Technical Reference Group.

The ACFI Answer Appraisal Pack and the ACFI User Guide are also available on the Department of Health and Ageing website.

#### Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) has advised that no Regulation Impact Statement is required (OBPR ID 14911).

#### Commencement

The Amending Principle commences on 1 July 2013.

**Details of the Classification Amendment (Aged Care Funding Instrument)**  
**Principle 2013**

**Clause 1 – Name of principle**

This clause states that the name of the Amending Principle is the *Classification Amendment (Aged Care Funding Instrument) Principle 2013*.

**Clause 2 - Commencement**

This clause states that the Amending Principle commences on 1 July 2013.

**Clause 3 – Authority**

This clause provides that the authority for the making of the Amending Principle is the *Aged Care Act 1997* (the Act).

**Clause 4 – Schedule(s)**

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

**Schedule 1 – Amendments**

**Item 1 - Section 9.3 (definition of *Answer Appraisal Pack*)**

Item 1 repeals the current definition and substitutes an updated definition to reference a revised version of the ACFI Answer Appraisal Pack, available on the Department of Health and Ageing website.

The revised version of the ACFI Answer Appraisal Pack includes changes which will further strengthen the evidence requirements and enhance the guidance provided to users.

**Item 2 - Section 9.3 (definition of *User Guide*)**

Item 3 repeals the current definition of the ACFI User Guide and substitutes an updated definition to reference a revised version of the ACFI User Guide, available on the Department of Health and Ageing website.

The revised version of the ACFI User Guide includes changes which will further strengthen the evidence requirements and enhance the guidance provided to users.

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Classification Amendment (Aged Care Funding Instrument) Principle 2013***

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The *Classification Principles 1997* (the Principles) set out the requirements for the classification of care recipients in regards to the subsidy payable to an approved provider for providing care to the care recipient.

The *Classification Amendment (Aged Care Funding Instrument) Principle 2013* (Legislative Instrument) implements changes made to the Aged Care Funding Instrument (ACFI) User Guide and Answer Appraisal Pack.

The revised versions of the ACFI User Guide and ACFI Answer Appraisal Pack include three changes which will further strengthen the evidence requirements and enhance the guidance provided to users for questions in the behaviours (BEH) domain and the complex health care (CHC) domain. The Legislative Instrument ensures the updated documents are used as the guidance authority. These additions to the ACFI User Guide and ACFI Answer Appraisal Pack support the original intention of the ACFI and reinforce current good practice within the sector of using evidence based assessment tools to assess resident's care needs.

### **Human Rights Implications**

The Legislative Instrument is compatible with the right to an adequate standard of living and the right to the enjoyment of the highest attainable standard of physical and mental health as contained in article 11(1) and article 12(1) of the International Covenant on Economic, Social and Cultural Rights, and article 25 and article 28 of the Convention on the Rights of Persons with Disabilities.

The Legislative Instrument promotes these rights by ensuring that appropriate assessment tools or evidence are used to assess resident's care needs and that the Principles correctly refer to the most up to date version of the ACFI Answer Appraisal Pack and ACFI User Guide. By updating references to documents, this Legislative Instrument ensures that subsidies paid by the Commonwealth under the *Aged Care Act 1997* will be appropriately aligned with the level of care required by care recipients.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it promotes the human right to health and the right to an adequate standard of living.

**The Hon Mark Butler MP  
Minister for Mental Health and Ageing**