

EXPLANATORY STATEMENT

Issued by the authority of the Assistant Minister for Social Services

Aged Care Act 1997

*Aged Care (Residential Care Subsidy – Amount of Accommodation Supplement)
Determination 2014 (No. 1)*

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 residential aged care services (approved providers) can be eligible to receive residential care subsidy payments in respect of the care they provide to approved care recipients.

Subsection 44-5A(3) of the Act provides that the accommodation supplement for a particular day is the amount determined by the Minister by legislative instrument or worked out in accordance with a method determined by the Minister by legislative instrument.

The accommodation supplement is the daily amount that is paid to residential care services in respect of supported residents receiving care in eligible services (for example, services that are certified and are not providing care to the resident on an extra service basis).

In summary, supported residents are those who are being provided with residential care through a residential care service, who entered care on or after 20 March 2008 and whose assets are below a certain maximum asset threshold or in respect of whom the Secretary of the Department of Social Services has made a financial hardship determination.

The purpose of the *Aged Care (Residential Care Subsidy – Amount of Accommodation Supplement) Determination 2014 (No. 1)* (the Determination) is to set out a method for working out the amount of the accommodation supplement and set the maximum rate of accommodation supplement for a service that either meets or does not meet building requirements, with effect from 20 March 2014. This Determination also revokes *Aged Care (Residential Care Subsidy – Amount of Accommodation Supplement) Determination 2013 (No. 2)*.

Consultation

Routine indexation of the supplement uses a well-established formula based on the consumer price index (CPI) as a measure of the movements in the non-labour costs of providers. As this is in accordance with policy upon which extensive consultation was undertaken, no specific consultation was undertaken with respect to this indexation.

Information about the increase in the amount of the supplement will be disseminated via electronic media to approved providers.

This Determination commences on 20 March 2014.

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

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) has advised that no Regulation Impact Statement is required. (OBPR ID 11719)

Statement of Compatibility with Human Rights

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

Aged Care (Residential Care Subsidy – Amount of Accommodation Supplement) Determination 2014 (No. 1)

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 Legislative Instrument

The Determination provides a method for calculating the amount of accommodation supplement payable for a supported resident, with different rates that apply if the service meets or does not meet building requirements.

The Determination revokes and replaces *Aged Care (Residential Care Subsidy – Amount of Accommodation Supplement) Determination 2013 (No. 2)*, and increases the amount of the accommodation supplement payable to approved providers of residential aged care services in line with the changes to the consumer price index (CPI).

Human Rights Implications

The legislative instrument helps to ensure that the standard of care and services provided to recipients of residential aged care services is maintained and not unduly affected by the movements in the non-labour costs of providers.

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.

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.

Senator the Hon Mitch Fifield, Assistant Minister for Social Services