EXPLANATORY STATEMENT

Issued by the authority of the Assistant Minister for Social Services

Aged Care Act 1997

Aged Care (Subsidy, Fees and Payments) Determination 2014

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.

The Act provides that for each type of aged care, the Minister may determine the amount of subsidy payable to an approved provider for the provision of that type of aged care.

The purpose of the *Aged Care (Subsidy, Fees and Payments) Determination 2014* (the Determination) is to:

- set the amount, or in some cases the method, for calculating the amount of residential care subsidy, home care subsidy and flexible care subsidy that is payable in respect of a day from 1 July 2014. This includes the amounts of basic subsidy and supplements;
- describe the reductions to subsidy that may be made for care recipients in residential care and home care; and
- describe certain matters relating to the payment of home care fees and accommodation payments.

This Determination applies only in respect of care recipients who are not continuing care recipients. Continuing care recipients are those who entered a care service before 1 July 2014 and since that time have not left the service for a continuous period of more than 28 days (other than because the person is on leave) or before moving to another service, made a written choice to be subject to the new rules relating to fees and payments that take effect on 1 July 2014. The amount of subsidy and supplements payable in respect of continuing care recipients is detailed in the *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014*.

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

Consultation

In April 2012, the former Government launched a major program of aged care reforms. The reform agenda was developed in close consultation with the aged care sector, including consumers, industry and professional bodies.

As part of the consultation on the proposed changes to the Act, and to delegated legislation, arising from the reforms, the former Government communicated its intention to examine the delegated legislation and, where possible, simplify it.

This intent was communicated in November 2012, with the public release of a paper providing an overview of the proposed legislative changes. A video presentation detailing the proposed reforms was also made available online to assist members of the public to understand these changes.

During late 2012 and in the first half of 2013, briefing sessions were held across Australia to provide information and to explain, in detail, the proposed legislative changes included in the package of Bills introduced into Parliament on 13 March 2013. As part of these consultations, the intention to make related changes to delegated legislation was again discussed. For those interested members of the public unable to attend the briefings, the presentation, supporting handouts, a detailed Question and Answer document and an information video were made available online.

In early 2014 consultation was undertaken on those aged care principles that reflected significant policy changes. As this Determination does not include any substantial policy issues (because it focuses on prescribing amounts of subsidy) an exposure draft of the Determination was not released for public comment.

Regulation Impact Statement

The Office of Best Practice Regulation has advised that no RIS is required (OBPR ID 16682).

Commencement

This Determination commences on 1 July 2014.

ATTACHMENT

Details of the Aged Care (Subsidy, Fees and Payments) Determination 2014

Chapter 1 - Preliminary

Section 1 - Name of Determination
This section states that the name of the determination is the *Aged Care (Subsidy, Fees and Payments) Determination 2014* (the Determination).

Section 2 - Commencement
This section states that the Determination commences on 1 July 2014.

Section 3 - Authority
This section provides that the authority for making the Determination is the *Aged Care Act 1997* (the Act).

The authority for making specific determinations is set out in the following table:

Subsidy, supplement or reduction in subsidy	**Authority in Aged Care Act 1997**
Residential care—basic subsidy amount	subsection 44-3(2)
Amounts of primary supplements - respite supplement	subsection 44-5(3)
Oxygen supplement	subsection 44-5(3)
Enteral feeding supplement	subsection 44-5(3)
Dementia and severe behaviours supplement	subsection 44-5(3)
Payroll tax supplement	subsection 44-5(3)
Amount of adjusted subsidy reduction	subsection 44-19(2)
Care subsidy reduction - annual cap	subsection 44-21(7)
Care subsidy reduction - lifetime cap	subsection 44-21(8)
Care subsidy reduction - means tested amount	subsection 44-22(3)
Accommodation supplement	subsection 44-28(4)
Hardship supplement	subsection 44-30(5)
Viability supplement	subsection 44-27(3)
Veterans' supplement	subsection 44-27(3)
Homeless supplement	subsection 44-27(3)
Home care subsidy - basic subsidy amount	subsection 48-2(2)
Home care subsidy - oxygen supplement	subsection 48-3(3)

Home care subsidy - enteral feeding supplement	subsection 48-3(3)
Home care subsidy - Dementia and cognition supplement	subsection 48-3(3)
Home care subsidy - Veterans' supplement	subsection 48-3(3)
Care subsidy reduction	section 48-7
Home care subsidy - Hardship supplement	subsection 48-10(4)
Home care subsidy - viability supplement	subsection 48-9(3)
Flexible care subsidy	section 52-1
Home care fees	paragraph 52D-3(a)
Maximum amount of accommodation payment	section 52G-3
Maximum rate of interest on outstanding amount of daily payment	subsection 52H-3(4)

Section 4 - Definitions
This section provides that, in this Determination ***Act*** means the *Aged Care Act 1997*.

Chapter 2 - Residential care subsidy

Part 1 - Basic subsidy amount

Division 1 - Care recipients receiving residential care other than as respite care

Section 5 - Purpose of this Division
The purpose of this Division is to describe the basic subsidy amount for a day for a care recipient who is being provided with residential care other than as respite care.

Section 6 - Definitions
This section provides that, for the purpose of the Division, ***ACFI classification*** means a classification, or renewal of a classification, of a care recipient under the Act and relevant principles. The definition refers to both the *Classification Principles 1997,* as in force on or after the commencement of Schedule 1 to the *Aged Care Amendment (Residential Care) Act 2007* and the *Classification Principles 2014*. The relevant principles will be determined based on the date of the Aged Care Funding Instrument (ACFI) classification.

Section 7 - Basic subsidy amount for day on or after date of effect of ACFI classification
This section describes how to calculate the basic subsidy amount (for a day) in respect of a care recipient who has an ACFI classification that is in effect.

In summary, the basic subsidy amount for a day for a care recipient is the ACFI amount for the care recipient, which is calculated by adding up the applicable domain category amounts, as set out in the table in section 7.

A note in this section refers readers to Division 26 of the Act to determine when a classification of a care recipient takes effect.

Section 8 - Basic subsidy amount for day before date of effect of ACFI classification - late receipt of appraisal or reappraisal
Subsection 25-1(4) of the Act provides that if there is no classification of the care recipient, the care recipient is taken to be classified at the lowest applicable classification level under the *Classification Principles 2014.*

This section shows how to calculate the basic subsidy amount in respect of a care recipient who has been classified at the lowest applicable ACFI classification level and for whom an appraisal or reappraisal is not received within the appropriate period.

Different subsidy amounts apply depending on when the Secretary receives an appraisal or reappraisal. In particular, where an appraisal or reappraisal has been received by the Secretary more than 3 months after the end of the appraisal or reappraisal period, the basic subsidy amount in respect of a care recipient will be nil.

Section 9 - Basic subsidy amount for care recipients on extended hospital leave
This section shows how to calculate the basic subsidy amount in respect of a care recipient who has an ACFI classification that is in effect and who is on extended hospital leave.

Different amounts apply depending on the duration of the care recipient's extended hospital leave.

For the first 28 days that the care recipient is on leave, the basic subsidy amount is the amount calculated under section 7 or 8 (whichever is applicable). For any other day, the basic subsidy amount is half that amount.

Section 10 - Basic subsidy amount for care recipients on pre-entry leave
This section states that the basic subsidy amount for a day for a care recipient who is on pre-entry leave is 30 per cent of the amount calculated under section 7 or 8 (whichever is applicable).

The section also refers readers to subsection 42-3(3) of the Act to determine the circumstances where a care recipient is on pre-entry leave.

Division 2 - Care recipients receiving residential care as respite care

Section 11 - Purpose of this Division
This Division outlines the method for calculating the basic subsidy amount that is payable to an approved provider for a day for a care recipient being provided with residential respite care.

Section 12 - Basic subsidy amount for days within maximum number for provision of respite care
This section states the basic subsidy amount in respect of a care recipient if, on the day in question, the number of days the care recipient has received respite care is less than the maximum number of days allowable for the care recipient to receive respite care.

Different basic subsidy amounts apply depending on the care recipient's classification level.

Section 13 - Basic subsidy amount for days equal to or exceeding maximum number for provision of respite care
This section states that the basic subsidy amount in respect of a care recipient is nil if, on the day in question, the care recipient has exceeded the maximum number of days allowable for the care recipient to receive respite care, as specified under paragraph 23(1)(c) of the *Subsidy Principles 2014*. That paragraph provides that the maximum number of days is 63 unless the number of days has been increased by the Secretary.

Section 14 - Basic subsidy amount for care recipient in residential care service exceeding respite care proportion
This section states that the basic subsidy amount in respect of a care recipient is nil if, on the day in question, the residential care service is providing a greater proportion of care to recipients of respite care than the conditions attached to the allocation of places to the provider permit.

Part 2 - Amounts of primary supplements

Division 1 - Respite supplement

Section 15 - Purpose of this Division
This purpose of this Division is to outline the method for calculating the respite supplement that is payable to residential care services for each eligible care recipient being provided with respite care through the service on that day.

The respite supplement is set out in Subdivision A of Division 3 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*.

Section 16 - Definitions
This section includes definitions used to determine the respite supplement. These definitions draw upon existing definitions in the Act.

allocation of places means an allocation of places to the approved provider of the residential care service made under Division 14 of the Act. Division 14 of the Act describes how allocation of places are decided.

certified residential care service means a residential care service that is certified under Part 2.6 of the Act. Part 2.6 of the Act describes how a residential care service is certified and the circumstances in which certification ceases to have effect.

conditions, in relation to a residential care service, means conditions under section 14-5 or 14-6 of the Act attached to an allocation of places to the approved provider of the service.

Section 17 - Care recipients whose classification level is low level residential respite care

This section states the daily amount of the respite supplement in respect of a care recipient who is being provided with low level residential respite care. Different amounts apply based on whether or not the respite care is being provided through a certified residential care service.

Section 18 - Care recipients whose classification level is high level residential respite care

This section states the daily amount of the respite supplement in respect of a care recipient who is being provided with high level residential respite care. Different amounts apply for residential care services that are certified and are not certified.

If the proportion of respite care provided by the residential care service is equal to or more than 70 per cent of the specified proportion of respite care for the approved provider of the service for the relevant year, the section specifies an increaseddaily amount of the respite supplement.

Section 19 - How to work out the actual proportion of respite care provided through a residential care service for a relevant year

This section sets out the steps to follow when calculating the actual proportion of respite care provided through a residential care service for a relevant year.

The actual proportion of respite care is worked out as follows:

- Step 1 - Work out, for the relevant year and for each care recipient to whom the residential care service provided residential care in the relevant year, the total number of respite bed days provided by the residential care service.
- Step 2 - Add together each of the total numbers of respite bed days worked out under step 1.
- Step 3 - Identify, for each care recipient in step 1, the total number of respite bed days provided in the relevant year that exceeded the maximum number of days (as specified in section 23 of the *Subsidy Principles 2014*) on which residential care as respite care could be provided to the care recipient during the relevant financial year.
- Step 4 - Add together each of the total numbers of respite bed days identified under step 3.
- Step 5 - Identify each respite bed day provided by the residential care service in the relevant year that exceeded the proportion of care for recipients of respite care that was specified in the conditions that applied in respect of the residential care service at the time the respite carewas provided.
- Step 6 - Add together all the respite bed days identified under step 5.
- Step 7 - Add the total number of respite bed days worked out under step 4 to the total number of respite bed days worked out under step 6.
- Step 8 - Subtract the sum worked out under step 7 from the total number of respite bed days worked out under step 2.

This section defines ***respite bed day*** as a day on which the residential care service provided the care recipient with residential care as respite care.

Section 20 - How to work out the specified proportion of respite care provided through a residential care service for a relevant year
This section sets out the steps to follow when calculating the specified proportion of respite care provided through a residential care service for a relevant year.

The specified proportion of respite care is worked out as follows:

- Step 1 - Work out the proportion of care for recipients of respite care, expressed as a number of notional respite bed days, as specified in the conditions that applied in respect of the residential care service at the start of the relevant year.
- Step 2 - Work out the applicable period of time in relation to the proportion of care worked out under step 1.
- Step 3- Multiply the number worked out in step 1 by the number worked out in step 2.
- Step 4 - If the basis for the calculation of the proportion of care in relation to the residential care service changes during the relevant year, work out the proportion of care for recipients of respite care, expressed as a number of notional respite bed days, as specified in the conditions that applied at the time the change took effect.
- Step 5 - Work out the applicable period of time in relation to the proportion of care worked out under step 4.
- Step 6 - Multiply the proportion of care worked out under step 4 by the applicable period of time worked out under step 5.
- Step 7 - Repeat steps 4 to 6 in respect of each further change to the basis for the calculation of the proportion of care in relation to the residential care service in the relevant year.
- Step 8 - Add the amount worked out under step 3 to any amount or amounts worked out under step 6.

The section states that a proportion of care is taken to have been in effect for a residential care service for the period that:

- commences on the first day of the relevant year or the first day on which the basis for the calculation of the proportion of care changed; and
- ends on the last day of the relevant year or the last day before the day on which the basis for calculation of the proportion of care changed.

The section includes the following definitions:

applicable period of time in relation to a proportion of care worked out under step 1 or 4 (as applicable) of the method statement (described above), means the number of days during which the proportion of care was in effect in the relevant year in relation to the residential care service.

basis for the calculation of the proportion of care means any factor that is relevant to the calculation of the proportion of care through the residential care service, including the number of places allocated in respect of the service and the conditions of allocation.

notional respite bed day means a day on which the residential care service is required to provide a care recipient with residential care as respite care.

Section 21 - Number of days or proportion of specified care exceeded
This section states that a respite care supplement will be nil in respect of:

- a care recipient who has already been provided the maximum number of days of respite care for the relevant financial year; and
- a care recipient that is beyond the proportion of respite care as specified in the conditions attached to the allocation of places to the approved provider.

A note in this section refers readers to section 23 of the *Subsidy Principles 2014,* which sets out the maximum number of days on which a care recipient may be provided with residential care as respite care during a financial year. The maximum number of days is 63 unless the number of days has been increased by the Secretary.

Division 2 - Oxygen supplement

Section 22 - Purpose of this Division
This purpose of this Division is to outline the method for calculating the amount of the oxygen supplement for a particular day that is payable to an approved provider of residential care in respect of an eligible care recipient.

The eligibility criteria for the oxygen supplement are outlined in Subdivision B of Division 3 of Part 3 of Chapter 2 of the *Subsidy Principles 2014.*

Section 23 - Amount of oxygen supplement
This section states the daily amount of the oxygen supplement in respect of an eligible care recipient.

The section also outlines how to calculate the amount of oxygen supplement to be payable where the actual cost to the approved provider of administering oxygen to the care recipient is equal to, or more than, 125 per cent of the daily rate.

Division 3 - Enteral feeding supplement

Section 24 - Purpose of this Division
The purpose of this Division is to outline the method for calculating the amount of the enteral feeding supplement for a particular day, payable to an approved provider of residential care in respect of an eligible care recipient.

The eligibility criteria for the enteral feeding supplement are outlined in Subdivision C of Division 3 of Part 3 of Chapter 2 of the *Subsidy Principles 2014.*

Section 25 - Amount of enteral feeding supplement
This section states the daily amount of the enteral feeding supplement in respect of an eligible care recipient. Different amounts apply for bolus and non-bolus feeding.

The section also outlines how to calculate the amount of enteral feeding supplement payable where the actual cost to the approved provider of providing enteral feeding to the care recipient is equal to, or more than, 125 per cent of the daily rate.

Division 4 - Dementia and severe behaviours supplement

Section 26 - Purpose of this Division
The purpose of this Division is to set the amount of the dementia and severe behaviours supplement for a particular day, payable to an approved provider of residential care in respect of an eligible care recipient.

The eligibility criteria for the dementia and severe behaviours supplement are set out in Subdivision D of Division 3 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*.

Section 27 - Amount of dementia and severe behaviours supplement
This section states the daily amount of the dementia and severe behaviours supplement in respect of an eligible care recipient.

Section 28 - Expiry of this Division
This section provides that this Division (which includes provisions relating to the dementia and severe behaviours supplement) expires on 1 November 2014 as if it had been repealed by another legislative instrument.

Leaving the provisions on the face of the legislation for a period of time after cessation of the supplement ensures transparency. This provision then enables the redundant provisions to be removed from the Principles without the need for further repeal.

Division 5 - Payroll tax supplement

Subdivision A - Preliminary

Section 29 - Purpose of this Division
This purpose of this Division is to outline the method for calculating the amount of the payroll tax supplement for a particular day, payable to an approved provider of residential care in respect of an eligible care recipient.

The section also provides that this Division (which includes provisions relating to the payroll tax supplement) expires on 1 April 2015 as if it had been repealed by another legislative instrument.

Leaving the provisions on the face of the legislation for a period of time after cessation of the supplement ensures transparency. This provision then enables the redundant provisions to be removed from the Principles without the need for further repeal.

Section 30 - Definitions
This section defines terms used in this Division.

direct provider means an approved provider of a residential care service that is taken, under subsection 31(2), to have a direct payroll tax liability in relation to the residential care provided to eligible care recipients through the service during a relevant payment period.

eligible care recipient means a care recipient in respect of whom an approval is in effect under Part 2.3 of the Act as a recipient of residential care and who is not classified at the lowest applicable classification level.

indirect provider means an approved provider of a residential care service that is taken, under subsection 31(3), to have an indirect payroll tax liability in relation to the residential care provided to eligible care recipients through the service during a relevant payment period.

Section 31 - How to work out the amount of the payroll tax supplement - general
This section sets out the method for calculating the amount of the payroll tax supplement for a particular day. The amount varies depending on whether the approved provider is taken to have a direct, or an indirect, payroll tax liability in relation to the residential care provided to the eligible care recipient.

The section states that an approved provider is taken to have:

- a direct payroll tax liability in relation to the residential care provided to eligible care recipients during the relevant payment period, if under the eligibility criteria referred to in section 36 of the *Subsidy Principles 2014*, the Secretary is satisfied that the provider is a registered entity that has incurred a payroll tax liability.

- an indirect payroll tax liability in relation to the residential care provided to eligible care recipients during the relevant payment period, if under the eligibility criteria referred to in section 36 of the *Subsidy Principles 2014*, the Secretary is satisfied that the provider is a non-registered entity that has incurred a payroll tax liability.

Subdivision B - Amount of payroll tax supplement - direct providers

Section 32 - Purpose of this Subdivision
This section explains that Subdivision B sets out how to work out the amount of the payroll tax supplement for a day in a payment period for an approved provider who is taken to have a direct payroll tax liability in relation to the residential care service in question.

Section 33 - How to work out the amount of the payroll tax supplement
This section sets out the steps to follow when calculating the amount of the payroll tax supplement for a particular day, payable to an approved provider with a direct payroll tax liability.

The payroll tax supplement is worked out as follows:

- Step 1 - Work out the total amount of Commonwealth subsidy payments for the relevant residential care service using section 34.
- Step 2 - Subtract the approved provider's prescribed tax free threshold amount (worked out using section 35) from the amount worked out under step 1.
- Step 3 - Multiply the amount worked out under step 2 by the approved provider's prescribed rate of payroll tax worked out using section 36.
- Step 4 - Work out the number of days (***resident days***) on which eligible care recipients were provided with residential care during the payment period through a

residential care service in relation to which the approved provider has accreditation.
- Step 5 - Divide the amount worked out under step 3 by the number of resident days worked out under step 4.

Section 34 - How to work out the total amount of Commonwealth subsidies paid
For step 1 of the method statement in section 33, this section states that the total amount of Commonwealth subsidy payments is the sum of all payments made by the Commonwealth to the approved provider in respect of residential care provided to care recipients by the approved provider through that service, including:
- all subsidies and supplements (other than the amount of any payroll tax supplement to which this Division applies) worked out in accordance with steps 1 and 2 as set out in the residential care subsidy calculator in subsection 44-2(2) of the Act; and
- all subsidies and supplements (other than the amount of any payroll tax supplement to which this Division applies) worked out in accordance with steps 1 and 2 (and, if applicable, step 3 in relation to extra service reductions) as set out in the residential care subsidy calculator in subsection 44-2(2) of the *Aged Care (Transitional Provisions) Act 1997*.

Section 35 - How to work out the approved provider's prescribed tax free threshold amount
For step 2 of the method statement in section 33, this section specifies how to work out the approved provider's prescribed tax free threshold amount.

The prescribed tax free threshold amount is worked out as follows. Work out the approved provider's tax free threshold in accordance with the laws of the relevant State or Territory and either:
- divide the approved provider's prescribed tax free threshold by the number of payment periods to which the prescribed tax free threshold applies; or
- if the approved provider is treated by the revenue office of the relevant State or Territory as a member of a business group of accredited residential care services, divide the approved provider's prescribed tax free threshold by the product of the number of members in that business group and the number of payment periods to which the prescribed tax free threshold applies.

Section 36 - How to work out the approved provider's prescribed rate of payroll tax
For step 3 of the method statement in section 33, this section states that the approved provider's prescribed rate of payroll tax is to be worked out in accordance with the applicable State or Territory law for calculating the amount of payroll tax paid or payable by the approved provider in that State or Territory.

Subdivision C - Amount of payroll tax supplement - indirect providers

Section 37 - Purpose of this Subdivision
This section explains that Subdivision C describes how to work out the amount of the payroll tax supplement for a day in a payment period for an approved provider who is taken to have an indirect payroll tax liability in relation to the residential care service in question.

Section 38 - How to work out the amount of the payroll tax supplement
This section sets out the steps to follow when calculating the amount of the payroll tax supplement for a particular day, payable to an approved provider of residential care service who is an indirect provider.

The payroll tax supplement is worked out as follows:
- Step 1 - Work out the total amount of Commonwealth subsidy payments for the relevant residential care service using section 39.
- Step 2 - Multiply the amount worked out under step 1 by the approved provider's prescribed rate of payroll tax worked out using section 40.
- Step 3 - Work out the number of days (***resident days***) on which eligible care recipients were provided with residential care during the payment period through a residential care service in relation to which the approved provider has accreditation.
- Step 4 - Divide the amount worked out under step 2 by the number of resident days worked out under step 3.
- Step 5 - Multiply the amount worked out under step 4 by the applicable portion for the approved provider set out in the table in section 41.

Section 39 - How to work out the total amount of Commonwealth subsidies paid
This section specifies how to work out the total amount of Commonwealth subsidy payments made to an indirect provider of a residential care service, to be used for the purposes of calculating the payroll tax supplement.

For step 1 of the method statement in section 38, this section states that the total amount of Commonwealth subsidy payments is the sum of all payments made by the Commonwealth to the approved provider in respect of residential care provided to care recipients by the approved provider through that service, including:
- all subsidies and supplements (other than the amount of any payroll tax supplement to which this Division applies) worked out in accordance with steps 1 and 2 as set out in the residential care subsidy calculator in subsection 44-2(2) of the Act; and
- all subsidies and supplements (other than the amount of any payroll tax supplement to which this Division applies) worked out in accordance with steps 1 and 2 (and, if applicable, step 3 in relation to extra service reductions) as set out in the residential care subsidy calculator in subsection 44-2(2) of the *Aged Care (Transitional Provisions) Act 1997.*

Section 40 - How to work out the approved provider's prescribed rate of payroll tax
For step 2 of the method statement in section 38, this section states that the prescribed rate of payroll tax is to be worked out in accordance with the applicable State or Territory law for calculating the amount of indirect payroll tax paid or payable by the approved provider in that State or Territory.

Section 41 - What is the applicable portion for an approved provider?
This section specifies how to work out the applicable portion for an indirect provider, to be used for the purposes of calculating the payroll tax supplement.

The applicable portion is the number specified in Column 2 of an item included in the table in section 41 that relates to the band specified in column 1 of the item that applies to the approved provider.

The section defines the following terms that are used in the section.

indirect salary and wages, means the amount of salary and wages:
- incurred by an organisation contracted by the approved provider to supply services for the purposes of a residential care service in relation to which the provider has accreditation; and
- identified, in addition to the payroll tax payable on that amount, in an invoice issued by the organisation for payment by the provider.

total payroll, in respect of a payment period, means the sum of:
- the amount of salary and wages paid or payable by the approved provider for services supplied directly by the provider for the purposes of a residential care service in relation to which the provider has accreditation; and
- the amount of indirect salary and wages paid or payable by the provider in connection with that residential care service.

Part 3 - Reductions in subsidy

Section 42 - Purpose of this Part
This purpose of this Part is to provide the following:
- the amount of the adjusted subsidy reduction for a day (for subsection 44-19(2) of the Act);
- the annual cap for a start-date year for certain classes of care recipients (for subsection 44-21(7) of the Act);
- the lifetime cap for a care recipient (for subsection 44-21(8) of the Act);
- the first asset threshold and second asset threshold (for subsection 44-22(3) of the Act); and
- the maximum home value (for subsection 44-26B(1) of the Act).

Section 43 - Amount of adjusted subsidy reduction
Subsection 44-19(2) of the Act states that the adjusted subsidy reduction for a particular day is the amount determined by the Minister by legislative instrument.

In accordance with that subsection, this section states the daily amount of adjusted subsidy reduction for a care recipient.

Section 44 - Care subsidy reduction - annual cap
Subsection 44-21(7) of the Act states that the annual cap, for a care recipient, is the amount determined by the Minister by legislative instrument for the class of care recipients of which the care recipient is a member.

In accordance with that subsection, this section states the annual cap amount (for a start-date year) for a care recipient being provided with residential care.

A note in this section reminds readers that ***start-date year*** is defined in clause 1 of Schedule 1 to the Act.

Section 45 - Care subsidy reduction - lifetime cap
Section 44-21 of the Act sets out the steps to follow when calculating the care subsidy reduction for an eligible care recipient. In accordance with that section, this section states the lifetime cap of the care subsidy reduction.

Section 46 - Care subsidy reduction - means tested amount - first asset threshold and second asset threshold
Section 44-22 of the Act sets out the steps to follow when calculating the means tested amount for an eligible care recipient. In accordance with that section, this section states the first and second asset threshold amounts.

Section 47 - Value of person's assets - maximum home value
Section 44-26B of the Act sets out definitions for various terms relevant to calculating the value of a person's assets under section 44-26A. Section 44-26B defines maximum home value to be the amount determined by the Minister by legislative instrument. In accordance with that section, this section states the maximum home value amount.

Part 4 - Amounts of other supplements

Division 1 - Accommodation supplement

Section 48 - Purpose of this Division
This purpose of this Division is to prescribe the daily amount of the accommodation supplement, payable to an approved provider of residential care, in respect of an eligible care recipient.

Subdivision A of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014* specifies other matters that relate to the determination of the amount of accommodation supplement payable for a care recipient for a day.

Section 49 - Definitions
This section includes definitions used to determine the accommodation supplement.

assisted resident has the meaning given by clause 1 of Schedule 1 to the *Aged Care (Transitional Provisions) Act 1997*.

concessional resident has the meaning given by clause 1 of Schedule 1 to the *Aged Care (Transitional Provisions) Act 1997*.

low-means care recipient has the same meaning as in the *Subsidy Principles 2014*.

newly built residential care service has the meaning given by section 50.

relevant residential care service, in relation to an eligible care recipient and a day, means the residential care service through which the care recipient is being provided with residential care on that day.

supported resident has the meaning given by clause 1 of Schedule 1 to the *Aged Care (Transitional Provisions) Act 1997*.

These definitions draw upon existing definitions in the *Aged Care (Transitional Provisions) Act 1997* and *Subsidy Principles 2014.*

Section 50 - Meaning of newly built residential care service
This section provides that a residential care service is a newly built residential care service if each building in which residential care is provided to care recipients through the service was:

- completed on or after 20 April 2012; or
- converted, on or after 20 April 2012, from one or more buildings that, before that date, were used for a purpose other than providing residential care to care recipients through a residential care service.

A residential care service is also a newly built residential care if:

- more than one building is used to provide residential care to care recipients through the service; and
- one or more of those buildings was completed on or after 20 April 2012 or converted, on or after 20 April 2012, from one or more buildings that, before that date, were used for a purpose other than providing residential care to care recipients through a residential care service; and
- none of those buildings had been used, before 20 April 2012, to provide residential care to care recipients through a residential care service.

Example A
Assume an approved provider purchased land to develop a residential aged care service. Two buildings were then constructed for the purpose of providing residential care to care recipients. One of these buildings was completed before 20 April 2012 while the other was completed on 20 April 2012. As neither of the two buildings was used to provide residential care to care recipients before 20 April 2012 the requirements of the definition of newly built residential care service has been met. If both buildings had been completed on or after 20 April 2012, the requirements would also have been met.

Example B
Assume an approved provider purchased a site with three existing buildings for the purpose of developing a residential care service. The existing buildings were previously used as hotel buildings. The provider converted the three existing buildings to buildings suitable for providing residential care to care recipients. The conversion of two of those existing buildings was completed on 31 March 2012 while the conversion of the third building was completed on 20 April 2012.

As none of the three buildings had been used to provide residential care to care recipients before 20 April 2012, the requirements of the definition of newly built residential care service are satisfied.

Section 51 - Amount of accommodation supplement – matters relating to relevant residential care service
This section describes the different amounts of accommodation supplement that apply depending on whether the service in question fulfils the definition of newly built residential care service or significantly refurbished service, and whether the service meets or does not meet building requirements specified in Schedule 1 to the *Aged Care (Transitional Provisions) Principles 2014*. The amount of accommodation supplement that may be payable is also influenced by the care recipient's means tested amount (as described in section 52).

If not more than 40 per cent of the care recipients are assisted residents, concessional residents, low-means care residents or supported residents, the section states that the maximum accommodation supplement amount is reduced by 25 per cent.

Section 52 - Amount of accommodation supplement - matters relating to eligible care recipient
This section provides that the daily amount of the accommodation supplement for a care recipient will depend on the care recipient's means and whether a financial hardship determination is applicable.

If an eligible care recipient's means tested amount (as defined by section 44-22 of the Act) on a day is:

- equal to or more than the amount of accommodation supplement amount for the day for the care recipient under section 51 - the amount of the accommodation supplement for the day for the care recipient is nil; and
- less than the accommodation supplement amount for the day for the care recipient under section 51 (but greater than zero) - the amount of the accommodation supplement for the day for the care recipient is the difference between the relevant amount of the accommodation supplement under section 51 and the care recipient's means tested amount on the day.

If a financial hardship determination applies under subsection 52K-1(1) of the Act, the daily amount of the accommodation supplement will be the difference between the daily amount of accommodation supplement for the day for the care recipient under section 51 and the amount specified in the hardship determination made by the Secretary.

If an eligible care recipient is on pre-entry leave (as defined in subsection 42-3(3) of the Act), no accommodation supplement is payable.

Division 2 - Hardship supplement

Section 53 - Purpose of this Division
This Division sets out the amount of the hardship supplement for a day for a care recipient in relation to whom a determination is in force under section 44-31 of the Act.

Further information about eligibility for a hardship determination is included in Subdivision B of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*.

Section 54 - Amount of hardship supplement
This section provides that the amount of the hardship supplement for a day for a care recipient in relation to whom a financial hardship determination is in force is the difference between the maximum daily amount of resident fees for the care recipient (worked out under section 52C-3 of the Act) and the amount specified in the financial hardship determination.

If an eligible care recipient is on pre-entry leave (as defined in subsection 42-3(3) of the Act), no hardship supplement is payable.

Division 3 - Viability supplement

Section 55 - Purpose of this Division
There are three viability supplement schemes:
- the 1997 scheme (which was put in place when the Act commenced operation);
- a modified scheme which was put in place in 2001; and
- a scheme which commenced operation on 1 January 2005.

Each scheme has its own criteria and different amounts of viability supplement are payable, depending on the circumstances of the residential care service and which scheme the service is part of.

The purpose of this Division is to set out the amount of the viability supplement payable under each of the three schemes.

Section 56 - Definitions
This section includes definitions relevant to the viability supplement.

1997 scheme service has the same meaning as in the *Subsidy Principles 2014*.

2001 scheme service has the same meaning as in the *Subsidy Principles 2014*.

2005 scheme service has the same meaning as in the *Subsidy Principles 2014*.

Isolated Remote Area means a Statistical Local Area classified as "Other Remote" in the RRMA Classification.

Remote Centre means a Statistical Local Area classified as "Remote Centre" in the RRMA Classification.

RRMA Classification means the *Rural, Remote and Metropolitan Area Classification*, 1991 Census Edition, published by the Australian Government Publishing Service, as in force in November 1994.

Rural Outside Large Centre means a Statistical Local Area classified as "Other Rural" or "Small Rural Centre" in the RRMA Classification.

Section 57 - Amount of viability supplement - care recipients being provided with residential care through 1997 scheme services
This section specifies how to work out the daily amount of the viability supplement in respect of a care recipient, payable to the approved provider, if, on the day in question, residential care is provided through a 1997 scheme service (as defined in the *Subsidy Principles 2014*).

Section 58 - Amount of viability supplement - care recipients being provided with residential care through 2001 scheme services
This section specifies how to work out the daily amount of the viability supplement in respect of a care recipient, payable to the approved provider, if, on the day in question, residential care is provided through a 2001 scheme service (as defined in the *Subsidy Principles 2014*).

Section 59 - Amount of viability supplement - care recipients being provided with residential care through 2005 scheme services
This section specifies how to work out the daily amount of the viability supplement in respect of a care recipient, payable to the approved provider, if, on the day in question, residential care is provided through a 2005 scheme service (as defined in the *Subsidy Principles 2014*).

Section 60 - Amount of viability supplement - safety net for former 1997 scheme service or 2001 scheme service
This section specifies the daily amount of the viability supplement in respect of a care recipient, payable to the approved provider, if the residential care service is considered a 2005 scheme because of subsection 66(6) or (7) of the *Subsidy Principles 2014* and has attained a score of 40 or 45 using the calculator set out in subsection 66(2) of those principles.

Division 4 - Veterans' supplement

Section 61 - Purpose of this Division
The purpose of this Division is to set the amount of the veterans' supplement for a particular day, payable to an approved provider of residential care in respect of an eligible care recipient.

The eligibility criteria for the veterans' supplement are set out in Subdivision D of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014.*

Section 62 - Amount of veterans' supplement
This section states the daily amount of the veterans' supplement for a care recipient.

Division 5 - Homeless supplement

Section 63 - Purpose of this Division
The purpose of this Division is to set the amount of the homeless supplement for a particular day, payable to an approved provider of residential care in respect of an eligible care recipient.

The eligibility criteria for the homeless supplement are set out in Subdivision E of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*.

Section 64 - Amount of homeless supplement
This section states the daily amount of the homeless supplement for a care recipient.

Chapter 3 - Home care subsidy

Part 1 - Basic subsidy amount

Section 65 - Purpose of this Part
The purpose of this Part is to set out the basic subsidy amounts for a day for a care recipient who is being provided with home care.

Section 66 - Definitions
This section includes definitions used in the methods for working out the basic subsidy amount.

suspension period, in relation to the provision of home care, means the period for which the provision of home care is suspended under section 46-2 of the Act.

transition care has the meaning given by section 106 of the *Subsidy Principles 2014*.

Section 67 - Basic subsidy amount - general
This section states the daily amount of basic subsidy payable in respect of care recipients receiving home care. Different basic subsidy amounts apply depending on the level of care received by the care recipient.

Section 68 - Basic subsidy amount - during suspension period
This section specifies how to calculate the daily amount of basic subsidy for a home care recipient if the provision of home care to the care recipient is suspended on a temporary basis in accordance with section 46-2 of the Act.

The section describes different amounts of basic subsidy that are payable depending on the reason why the home care has been suspended. Different basic subsidy amounts apply depending on:

- whether home care is suspended because the care recipient is receiving transition care or is attending hospital for the purposes of receiving hospital treatment;
- whether home care is suspended because the care recipient is receiving respite care;
- whether home care is suspended for any other reason; and
- how long the home care agreement has been suspended for.

Part 2 - Amounts of primary supplements

Division 1 - Oxygen supplement

Section 69 - Purpose of this Division
The purpose of this Division is to set out the daily amount of the oxygen supplement that is payable to a home care provider in relation to an eligible care recipient. The

eligibility criteria for the oxygen supplement are set out in Subdivision A of Division 2 of Part 2 of Chapter 3 of the *Subsidy Principles 2014*.

Section 70 - Amount of oxygen supplement
This section states the daily amount of the oxygen supplement for an eligible care recipient.

Where the actual cost to the approved provider of administering oxygen to the care recipient is equal to, or more than, 125 per cent of the daily rate, the amount of oxygen supplement paid is the equivalent to that actual cost.

Division 2 - Enteral feeding supplement

Section 71 - Purpose of this Division
The purpose of this Division is to set out the daily amount of the enteral feeding supplement that is payable to a home care provider in relation to an eligible care recipient. The eligibility criteria for the enteral feeding supplement are set out in Subdivision B of Division 2 of Part 2 of Chapter 3 of the *Subsidy Principles 2014*.

Section 72 - Amount of enteral feeding supplement
This section states the daily amount of the enteral feeding supplement for an eligible care recipient. Different amounts apply for bolus and non-bolus feeding.

Where the actual cost to the approved provider of providing enteral feeding to the care recipient is equal to, or more than, 125 per cent of the daily rate, the amount of enteral feeding supplement paid is the equivalent to that actual cost.

Division 3 - Dementia and cognition supplement

Section 73 - Purpose of this Division
The purpose of this Division is to set out the daily amount of the dementia and cognition supplement that is payable to a home care provider in relation to an eligible care recipient. The eligibility criteria for the dementia and cognition supplement are set out in Subdivision C of Division 2 of Part 2 of Chapter 3 of the *Subsidy Principles 2014*.

Section 74 - Amount of dementia and cognition supplement
This section states that the daily amount of the dementia and cognition supplement for a care recipient is 10 per cent of the basic subsidy amount for a day.

Division 4 - Veterans' supplement

Section 75 - Purpose of this Division
The purpose of this Division is to set out the daily amount of veterans' supplement that is payable to a home care provider in relation to an eligible care recipient. The eligibility criteria for the veterans' supplement are set out in Subdivision D of Division 2 of Part 2 of Chapter 3 of the *Subsidy Principles 2014*.

Section 76 - Amount of veterans' supplement
This section states the daily amount of the veterans' supplement for a care recipient is 10 per cent of the basic subsidy amount for a day.

Part 3 - Reductions in subsidy

Section 77 - Purpose of this Part
Subsection 48-7 of the Act describes how to calculate the care subsidy reduction for a care recipient. The care subsidy reduction reduces the total amount of subsidy payable to an approved provider and is based on the income of the care recipient.

Section 48-7 of the Act refers to a number of concepts needed to calculate the care subsidy reduction for a care recipient such as:
- the first and second income caps;
- the income threshold for a care recipient;
- the annual cap for a start-date year for certain classes of care recipients; and
- the lifetime cap for a care recipient.

This Part of the Principles sets the dollar value of each of these caps and thresholds.

Section 78 - Care subsidy reduction - first cap and second cap
Paragraph (c) of steps 4 and 5 of the care subsidy reduction calculator in subsection 48-7(2) of the Act refer to the first and second cap amount which may be determined by the Minister by legislative instrument. This section describes the first and second cap amounts.

Section 79 - Care subsidy reduction - income threshold
Subsection 48-7(6) of the Act states that the income threshold is the amount determined by the Minister by legislative instrument.

In accordance with that subsection, this section states the income threshold amount for an eligible care recipient. Different amounts apply if the care recipient is a member of a couple, a member of an illness separated couple, or not a member of a couple.

Section 80 - Care subsidy reduction - annual cap
Subsection 48-7(7) of the Act states that the annual cap for the care recipient is the amount determined by the Minister by legislative instrument for the class of care recipients of which the care recipient is a member.

In accordance with that subsection, this section states the annual cap amount for a start date year for certain classes of care recipients who are being provided with home care. Different amounts apply if the income of the care recipient is below or above the income threshold.

Section 81 - Care subsidy reduction - lifetime cap
Subsection 48-7(8) of the Act states that the lifetime cap is the amount determined by the Minister by legislative instrument.

In accordance with that subsection, this section states the lifetime cap amount, in respect of a home care recipient.

Part 4 - Amounts of other supplements

Division 1 - Hardship supplement

Section 82 - Purpose of this Division
This Division sets out the amount of the hardship supplement for a day for a care recipient in relation to whom a hardship determination is in force under section 48-11 of the Act.

Further information about eligibility for a hardship determination is included in Subdivision A of Division 4 of Part 2 of Chapter 3 of the *Subsidy Principles 2014*.

Section 83 - Amount of hardship supplement
This section provides that the amount of the hardship supplement for a day for a care recipient in relation to whom a financial hardship determination is in force is the difference between the maximum daily amount of home care fees for the care recipient (worked out under section 52D-2 of the Act) and the amount specified in the financial hardship determination.

Division 2 - Viability supplement

Section 84 - Purpose of this Division
The purpose of this Division is to set out the amount of viability supplement for a day for a care recipient. The circumstances in which the viability supplement will be paid are set out in Subdivision B of Division 4 of Part 2 of Chapter 3 of the *Subsidy Principles 2014*.

Section 85 - Amount of viability supplement
This section states the amount of viability supplement payable in respect of a care recipient. Different amounts apply depending on the ARIA value for the location where the care recipient resided on the relevant day.

Chapter 4 - Flexible care subsidy

Part 1 - Amount of flexible care subsidy - care provided through multi-purpose service

Division 1 - Preliminary

Section 86 - Purpose of this Part
Section 52-1 of the Act provides for the Minister to determine amounts of flexible care subsidy by legislative instrument. In accordance with that section, this Part sets out the method for calculating the amounts of flexible care subsidy payable for a particular day, in respect of care provided through a multi-purpose service care provider.

Section 87 - Definitions
This section includes definitions used to determine the flexible care subsidy payable in relation to a multi-purpose service.

accessible location means a location that has an ARIA value of more than 1.84, but not more than 3.51.

adjusted subsidy reduction multi-purpose service means a multi-purpose service specified in the table in section 100.

ARIA value, in relation to a location, means the value given to that location in accordance with the methodology set out in the document titled *Measuring Remoteness: Accessibility/Remoteness Index of Australia (ARIA)*, Occasional Papers: New Series Number 14, published by the Health Department in October 2001, as the document existed on 1 July 2013. The document is available through the Health Department's website (www.health.gov.au).

Category A service has the meaning given by section 88.

Category B service has the meaning given by section 89.

Category C service has the meaning given by section 90.

Health Department means the Department responsible for the administration of the *National Health Act 1953*.

high care place means a place allocated in respect of a multi-purpose service that is designated by the Secretary as being a high care place.

highly accessible location means a location that has an ARIA value of not more than 1.84.

home care place means a place allocated in respect of a multi-purpose service for the provision of care equivalent to home care.

Isolated Remote Area means a Statistical Local Area classified as "Other Remote" in the RRMA Classification.

low care place means a place allocated in respect of a multi-purpose service that is designated by the Secretary as being a low care place.

moderately accessible location means a location that has an ARIA value of more than 3.51, but not more than 5.8.

multi-purpose service has the meaning given by section 104 of the *Subsidy Principles 2014*.

Remote Centre means a Statistical Local Area classified as "Remote Centre" in the RRMA Classification.

remote location means a location that has an ARIA value of more than 5.8, but not more than 9.08.

RRMA Classification means the *Rural, Remote and Metropolitan Area Classification*, 1991 Census Edition, published by the Australian Government Publishing Service, as in force in November 1994.

Rural Outside Large Centre means a Statistical Local Area classified as "Other Rural" or "Small Rural Centre" in the RRMA Classification.

very remote location means a location that has an ARIA value of more than 9.08, but not more than 12.

viability supplement equivalent amount, for a multi-purpose service and a day, means:

- for a Category A service - the amount specified in the table in section 97 that relates to the service for the day; or
- for a Category B service - the amount specified in section 98 that relates to the service for the day; or
- for a Category C service - the amount specified in section 99 that relates to the service for the day; or
- for any other multi-purpose service - nil.

Division 2 - Categories of multi-purpose service

Section 88 - Category A services
This section specifies the criteria and point system for classifying a multi-purpose service as a Category A service.

A Category A service is one that was in operation on 31 December 2004 and on 1 January 2005 had a particular point score that is worked out using a scoring system described in the section.

The scoring system takes into account factors such as the location of the service, the number of beds, whether the service is unable to co-locate with another service, the proportion of supported, concessional or assisted residents, and whether the service caters largely for people with special needs.

Different amounts of viability supplement are payable depending on whether the service is a Category A, B, C or other type of multi-purpose service.

Section 89 - Category B services
This section specifies the criteria and point system for classifying a multi-purpose service as a Category B service.

The scoring system takes into account factors such as the location of the service, the number of places, and whether more than 50 per cent of the care recipients are people with special needs.

Section 90 - Category C services
This section specifies the criteria and point system for classifying a multi-purpose service as a Category C service.

The scoring system takes into account factors such as the location of the service, the number of places, and whether more than 50 per cent of the care recipients are people with special needs.

Division 3 - Amount of flexible care subsidy

Section 91 - Amount of flexible care subsidy
This section sets out the formula for calculating the amount of flexible care subsidy payable for a particular day, in respect of flexible care provided through a multi-purpose service. The formula take into account the number of high and low care places allocated in respect of the service.

Section 92 - Applicable amount for high care place
This section sets out the formula for calculating the daily amount of flexible care subsidy that is payable for a high care place in a multi-purpose service. A different formula applies depending on whether or not the multi-purpose service is an adjusted subsidy reduction multi-purpose service.

Section 93 - Applicable amount for low care place
This section sets out the formula for calculating the daily amount of flexible care subsidy that is payable for a low care place in a multi-purpose service.

Section 94 - Respite supplement equivalent amount
This section specifies the respite supplement equivalent amount of flexible care subsidy payable for a multi-purpose service. The amount is based on the total number of high and low care places allocated to the service.

Section 95 - Dementia and veterans' supplement equivalent amounts
This section specifies the equivalent amounts of flexible care subsidy payable for a multi-purpose service for:
- the dementia and severe behaviours supplement (payable for each high and low care place allocated to the service) for a day before 1 August 2014;
- the veterans' supplement (payable for each high and low care place allocated to the service); and
- the dementia and cognition supplement and veterans' supplement (payable for each home care place allocated to the service).

Section 96 - Additional amount of home care subsidy
This section specifies an additional daily amount of subsidy that is payable in respect of home care places allocated to a multi-purpose service. This additional amount is based on the location of the service. The location of the service is determined be reference to the ARIA value for the service.

Division 4 - Viability supplement equivalent amounts

Section 97 - Viability supplement equivalent amounts for Category A services
This section specifies the viability supplement equivalent amount for a multi-purpose service that is a Category A service (the criteria for such services are described in section 88). The amount payable to Category A services varies based on the degree of isolation of the service and the total number of places allocated to the service.

Section 98 - Viability supplement equivalent amounts for Category B services
This section specifies the viability supplement equivalent amount for a multi-purpose service that is a Category B service (the criteria for such services are described in section 89). The amount payable to Category B services varies based on the score obtained by applying the scoring system detailed in subsection 89(2).

Section 99 - Viability supplement equivalent amounts for Category C services
This section specifies the viability supplement equivalent amount for a multi-purpose service that is a Category C service (the criteria for such services are described in section 90). The amount payable to Category C services varies based on the score obtained by applying the scoring system detailed in subsection 90(2).

Division 5 - Adjusted subsidy reduction multi-purpose services

Section 100 - Adjusted subsidy reduction multi-purpose services
The table in this section lists the adjusted subsidy reduction multi-purpose services and the number of places for each service.

This section is used to define an adjusted subsidy reduction multi-purpose service in accordance with section 87 and to calculate the applicable amounts for high care places in accordance with subsection 92(2).

Division 6 - Concessional resident equivalent amounts

Section 101 - Concessional resident equivalent amount
The table is this section lists the concessional resident equivalent amounts for a multi-purpose service by the region in which the multi-purpose service is located.

This section is used to calculate the applicable amounts for high and low care places in accordance with sections 92 and 93.

Part 2 - Amount of flexible care subsidy - care provided through innovative care service

Section 102 - Purpose of this Part
This Part sets out the method for working out the amount of flexible care subsidy for a day for a care recipient who is being provided with care through an innovative care service.

Section 103 - Definitions
This section includes definitions used to determine the flexible care subsidy payable in respect of an innovative care service.

dementia and cognition supplement means the dementia and cognition supplement set out in Subdivision C of Division 2 of Part 2 of Chapter 3 of the *Subsidy Principles 2014*.

eligible care recipient means a care recipient who would be eligible for the dementia and cognition supplement or the veterans' supplement if the care recipient were receiving home care.

innovative care service has the meaning given by section 105 of the *Subsidy Principles 2014*.

veterans' supplement means the veterans' supplement set out in Subdivision D of Division 2 of Part 2 of Chapter 3 of the *Subsidy Principles 2014*.

Section 104 - Amount of flexible care subsidy
This section states the daily amount of the flexible care subsidy for a care recipient who is being provided with care through an innovative care service. Different amounts apply depending on which of the listed approved providers is providing the service.

The section also states that an additional amount may be payable to the approved provider if the care recipient is an eligible care recipient as defined in section 103. That is, if the care recipient would be eligible for the dementia and cognition supplement or the veterans' supplement if the care recipient were receiving home care.

Part 3 - Amount of flexible care subsidy - care provided as transition care

Section 105 - Purpose of this Part
This Part sets out the method for calculating the amount of flexible care subsidy for a day for a care recipient who is being provided with transition care (as defined in section 106 of the *Subsidy Principles 2014*) through a flexible care service.

Section 106 - Amount of flexible care subsidy
This section states that the daily flexible care subsidy amount for a care recipient being provided with transition care is the sum of the basic subsidy amount and the dementia and veterans' supplement equivalent amount for the day. The section then sets out the relevant basic subsidy amount and the dementia and veterans' supplement equivalent amount.

Chapter 5 - Fees and payments

Part 1 - Home care fees

Section 107 - Purpose of this Part
Section 52D-3(a) of the Act provides that the ***basic daily care fee*** for a care recipient is the amount obtained by rounding down to the nearest cent the amount equal to 17.5 per cent of the basic age pension amount (worked out on a per day basis) unless the

Minister has determined a different amount by legislative instrument. Different amounts may be prescribed for different classes of care recipient.

This Part prescribes a different amount of basic daily care fee for care recipients who have suspended their home care agreement because they are receiving transition care or residential respite care.

Section 108 - Basic daily care fee
This section provides that if the provision of home care is suspended under section 46-2 of the Act, and during the suspension period the care recipient is receiving transition care or residential respite care, the basic daily care fee during the suspension period is nil. This recognises that the care recipient may instead be paying a fee to the respite or transition care provider.

Part 2 - Accommodation payments

Section 109 - Purpose of this Part
Section 52G-3 of the Act provides that the Minister may, by legislative instrument, determine the maximum amount of accommodation payment that an approved provider may charge a person.

In accordance with that section, this section specifies the maximum refundable accommodation deposit amount that an approved provider may charge a person and the method for working out the maximum daily accommodation payment amount that an approved provider may charge (based on the maximum refundable accommodation deposit amount).

Section 110 - Maximum refundable accommodation deposit amount
This section states the maximum refundable accommodation deposit amount that an approved provider may charge a person.

A note in this section informs readers that if an approved provider wishes to charge more than the maximum amount, they must apply to the Aged Care Pricing Commissioner for approval.

Section 111 - Maximum daily accommodation payment amount
This section sets out the steps used to calculate the maximum daily accommodation payment amount, based on the maximum refundable accommodation deposit amount described in section 110. An accommodation payment can be paid as a refundable accommodation deposit, daily accommodation payment or a combination of both.

Part 3 - Daily payments

Section 112 - Purpose of this Part
Subsection 52H-3(4) of the Act states that the interest rate charged on the balance of any amount of daily payment must not exceed the maximum rate determined by the Minister, by legislative instrument.

In accordance with that subsection, this Part specifies the maximum rate of interest that may be charged on an outstanding amount of daily payment.

Section 113 - Maximum rate of interest that may be charged on outstanding amount of daily payment

This section sets out the steps used to calculate the maximum rate of interest that may be charged on an outstanding amount of daily payment.

The maximum permissible interest rate is worked out as follows:

- Step 1 - Work out the general interest charge rate for the relevant day under section 8AAD of the *Taxation Administration Act 1953.*
- Step 2- Multiply the rate worked out at step 1 by the number of days in the calendar year in which the relevant day falls.
- Step 3 - Subtract 3 percentage points from the amount worked out at step 2.

Statement of Compatibility with Human Rights

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

Aged Care (Subsidy, Fees and Payments) Determination 2014

The *Aged Care (Subsidy, Fees and Payments) Determination 2014* (the Determination) 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 purpose of the *Aged Care (Subsidy, Fees and Payments) Determination 2014* (the Determination) is to:

- set the amount, or in some cases the method, for calculating the amount of residential care subsidy, home care subsidy and flexible care subsidy that is payable in respect of a day from 1 July 2014. This includes the amounts of basic subsidy and supplements;
- describe the reductions to subsidy that may be made for care recipients in residential care and home care; and
- describes certain matters relating to the payment of home care fees and accommodation payments.

Human Rights Implications

The Determination 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 Determination specifies the amount of subsidy payable to approved providers for the provision of care and services to people with a condition of frailty or disability who require assistance to achieve and maintain the highest attainable standard of physical and mental health.

The Determination also specifies the amounts of additional payments in the form of supplements that are payable to approved providers to ensure that people with special needs, including people who live in rural or remote areas, people who are financially or socially disadvantaged, people from Aboriginal and Torres Strait Islander communities and people who are homeless or at risk of becoming homeless, are provided with the aged care services they need.

Conclusion

This legislative instrument is compatible with human rights as it promotes the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

Senator the Hon Mitch Fifield
Assistant Minister for Social Services