

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Aged Care

*Australian Aged Care Quality Agency Act 2013*

*Quality Agency Principles Amendment Principle 2016*

### **Purpose**

The *Quality Agency Principles Amendment Principle 2016* (the Amending Principle) amends the *Quality Agency Principles 2013* to simplify arrangements for full cost recovery of accreditation services.

The Amending Principle removes details of how accreditation fees are calculated and indexation arrangements of accreditation fees. This will be replaced by cost recovery fees for accreditation services set by the Chief Executive Officer of the Australian Aged Care Quality Agency (Quality Agency) under Section 15 of the *Australian Aged Care Quality Agency Act 2013* (the Act). The fees will be publically available on the Quality Agency website <http://www.aacqa.gov.au>.

### **Background**

As part of the 2015–16 Budget measures, the Australian Government announced its decision to expand the scope of cost recovery arrangements for residential aged care accreditation services. This is in line with the Australian Government policy on cost recovery which sets out that users of Government services pay the efficient cost of those services.

### **Commencement**

The instrument commences the day after the Amending Principle is registered on the Federal Register of Legislation.

### **Consultation**

Consultation with the aged care sector on the expansion of cost recovery for accreditation services was first undertaken in January 2016 through the National Aged Care Alliance Quality Advisory Group. Further consultation is being undertaken through the exhibition of a draft Cost Recovery Implementation Statement on the Quality Agency website in May 2016.

### **Regulation Impact Statement (RIS)**

A Short Form Regulation Impact Statement (RIS) for the May 2015-16 cost recovery Budget proposal has been assessed by the Office of Best Practice Regulation (OBPR) as compliant with Australian Government requirements (OBPR ID 18287).

This Amending Principle is a legislative instrument for the purposes of the *Legislation Act 2003*.

## **Explanation of the provisions**

### Section 1

This section provides how the proposed instrument is to be cited, that is, as *Quality Agency Principles Amendment Principle 2016*.

### Section 2

This section sets out the commencement of this instrument. The commencement date is on registration of the Amending Principle.

### Section 3

This section provides the authority for making this instrument. This instrument is made under section 53 of the *Australian Aged Care Quality Agency Act 2013* (the Act).

Under subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act), where an act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Accordingly, the power in section 53 of the Act is relied on, in conjunction with subsection 33(3) of the Acts Interpretation Act, to vary the Quality Agency Principles.

### Section 4

This section 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**

### *Quality Agency Principles 2013*

#### **Item 1 – Section 1.4 - Definitions**

This item repeals the definition of ***CPI number*** as this definition is only used in the indexation of application fees in Chapter 2 Part 7 which is to be repealed by item 9 below.

#### **Item 2 - Section 1.4 - Definitions**

This item repeals the definition of **earlier CPI number** as this definition is only used in the indexation of application fees in Chapter 2 Part 7 which is to be repealed by item 9 below.

**Item 3 - Section 1.4 - Definitions**

This item repeals the definition of **indexable amount** as this definition is only used in the indexation of application fees in Chapter 2 Part 7 which is to be repealed by item 9 below.

**Item 4 - Section 1.4 - Definitions**

This item repeals the definition of **latest CPI number** as this definition is only used in the indexation of application fees in Chapter 2 Part 7 which is to be repealed by item 9 below.

**Item 5 – Part 1 Division 1 Section 2.3 (1)(d)**

This item omits the words ‘under section 2.5’ from paragraph 2.3(1)(d) because section 2.5 is to be repealed by item 6 below.

**Item 6 – Part 1 Division 1 Section 2.5**

This item repeals section 2.5 as the fees are no longer going to be set out in the Quality Agency Principles, and will instead be published directly by the CEO of the Quality Agency on the Agency’s website.

**Item 7 Part 1 Division 3 Subdivision B Section 2.10**

This item makes minor editorial change to section 2.10 to cross-reference applications made under section 2.2 of the Principles.

**Item 8 Part 1 Division 3 Subdivision B Section 2.10**

This item makes a minor editorial change to section 2.11 to cross-reference applications made under section 2.2 of the Principles.

**Item 9 – Item 6 Part 7 Miscellaneous Section 2.73**

This item repeals all of Part 7 of Chapter 2 of the Principles, which sets out how application fees are indexed each year. Instead the CEO of the Quality Agency will publish the applicable application fees and update the published figures as necessary after indexation.

## **Statement of Compatibility with Human Rights**

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

### **Quality Agency Principles Amendment Principle 2016**

This Principle 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*.

#### **Background**

The legislative instrument reflects the Government's commitment to reduce red tape and administrative costs on business.

The *Quality Agency Principles Amendment Principle 2016* amends the *Quality Agency Principles 2013* to implement the 2015-16 Budget decision to cost recover, through a fee for service, accreditation services provided by the Australian Aged Care Quality Agency (the Quality Agency). These services include initial accreditation and re-accreditation.

Currently, accreditation services are partially cost recovered by the Quality Agency. Legislative amendments are required as a result of the 2015-16 Budget decision to fully cost recover accreditation services (initial accreditation, accreditation of previously accredited services and re-accreditation) by the Quality Agency from approved providers of Commonwealth funded residential aged care services.

The amendments do not affect any human rights in relation to the rights of approved providers.

#### **Human rights implications**

This Principle does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Principle is compatible with human rights as it does not raise any human rights issues.

**The Hon Sussan Ley MP, Minister for Aged Care**