

## EXPLANATORY STATEMENT

### *Aged Care Act 1997*

#### *Sanctions Amendment (Appointment of Administrators and Advisers) Principles 2017*

#### Authority

In accordance with Item 22 of the table to section 96-1 of the *Aged Care Act 1997* (the Act), the Minister may, by legislative instrument, make Sanctions Principles, providing for matters required or permitted by Part 4.4 of the Act or necessary or convenient to be provided in order to carry out or give effect to Part 4.4 of the Act.

#### Purpose

The *Sanctions Amendment (Appointment of Administrators and Advisers) Principles 2017* amends the *Sanctions Principles 2014* to specify requirements for appointing advisers and administrators under Part 4.4 of the Act.

#### Background

The Secretary may impose sanctions on an approved provider that does not meet its responsibilities under the Act. The Secretary can specify that in lieu of revocation of its approved provider status, the provider can appoint an administrator or adviser to assist it to comply with its responsibilities under the Act.

In the *Budget Savings (Omnibus) Act 2016* amendments were made to the Act which removed the requirement that such administrators and advisers be approved by the Secretary.

There remains an expectation, however, that certain classes of persons will be excluded from being appointed as an administrator or adviser. Under the Act, disqualified individuals must not be key personnel of an approved provider. As an administrator or adviser carries similar responsibilities, it is appropriate that the same exclusions apply.

#### Consultation

The Red Tape Reduction Action Plan was endorsed by the Aged Care Sector Committee and published on the Department of Health's website. This Action Plan sets out a range of actions to reduce the regulation in the aged care sector, including the removal of adviser and administrator panels.

An out of session paper was also provided the Aged Care Sector Committee in May 2015. This paper provided an overview of the measure, and requested feedback from committee members. No significant feedback was received from the Aged Care Sector Committee.

The instrument commences the day after it is registered.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

## ATTACHMENT

### **Details of the *Sanctions Amendment (Appointment of Administrators and Advisers) Principles 2017***

#### **1 Name**

Section 1 states that the name of the instrument is the *Sanctions Amendment (Appointment of Administrators and Advisers) Principles 2017*.

#### **2 Commencement**

Section 2 states the instrument commences the day after it is registered.

#### **3 Authority**

Section 3 states that the authority for the making of this instrument is the *Aged Care Act 1997*.

#### **4 Schedules**

Section 4 states that each instrument that is specified in the Schedule is amended or repealed as set out in the Schedule.

### **Schedule 1 Amendments**

#### **Item 1 Part 3**

This item repeals the current Part 3 and substitutes a new Part 3. This new Part specifies that:

- disqualified individuals are excluded from being appointed as an administrator or adviser; and
- the matters the Secretary must take into account when specifying a period within which the approved provider must appoint an adviser or administrator.

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

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

### ***Sanctions Amendment (Appointment of Administrators and Advisers) Principles 2017***

This Disallowable 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 Disallowable Legislative Instrument**

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

The *Sanctions Amendment (Appointment of Administrators and Advisers) Principles 2017* amends the *Sanctions Principles 2014*. The *Budget Savings (Omnibus) Act 2016* removed the requirement for advisers and administrators to be approved by the Secretary. This instrument excludes certain classes of persons from being appointed as an administrator or adviser, including disqualified individuals.

#### **Human rights implications**

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues. No human rights are affected by this instrument.

**The Hon Ken Wyatt, AM MP  
Minister for Aged Care**