



Aged Care Quality and Safety Commission Rules 2018

made under the

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About this compilation

This compilation

This is a compilation of the *Aged Care Quality and Safety Commission Rules 2018* that shows the text of the law as amended and in force on 1 December 2022 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

Division 1—Introduction

1 Name

This instrument is the *Aged Care Quality and Safety Commission Rules 2018*.

3 Authority

This instrument is made under the *Aged Care Quality and Safety Commission Act 2018*.

Section 4

Division 2—Definitions

4 Definitions

- Note: A number of expressions used in this instrument are defined in the Commission Act, including the following:
- (a) aged care consumer;
 - (b) aged care service;
 - (c) approved provider;
 - (d) Commissioner;
 - (e) Commonwealth-funded aged care service;
 - (f) service provider.

In this instrument:

Aboriginal and Torres Strait Islander service means a service provided under the program known as the National Aboriginal and Torres Strait Islander Flexible Aged Care Program.

- Note: An Aboriginal and Torres Strait Islander service is a Commonwealth-funded aged care service (see subsection 8(1) of the Commission Act and section 8 of this instrument).

accredited service means:

- (a) a residential care service, or a flexible care service, that has been accredited or re-accredited under Part 3 for a particular period and that period has not ended; or
- (b) a residential care service for which a determination under section 42-5 of the Aged Care Act is in force; or
- (c) a flexible care service that is a deemed accredited service.

Aged Care Quality Standards means the Aged Care Quality Standards set out in the *Quality of Care Principles 2014*.

assessment contact: see section 5.

assessment team means:

- (a) for a site audit of a residential service—the assessment team formed under subsection 32(1) to conduct the audit; or
- (aa) for a quality audit of a home service—the assessment team formed under subsection 53A(1) to conduct the audit; or
- (b) for a review audit of an accredited service—the assessment team formed under subsection 71(1) to conduct the audit.

commencing service: see section 6.

Commission Act means the *Aged Care Quality and Safety Commission Act 2018*.

complainant means a person who makes a complaint.

complaint means a complaint made under subsection 11(1).

complaints reviewable decision means a reviewable Commissioner decision of a kind mentioned in item 1 or 2 of the table in section 98.

deemed accredited service: see section 7.

flexible care place means a capacity within a flexible care service for provision of flexible care in the form of short-term restorative care or transition care to a person.

former complaints scheme means:

- (a) the repealed *Complaints Principles 2015*, as in force at any time before they were repealed; or
- (b) the repealed *Complaints Principles 2014*, as in force at any time before they were repealed; or
- (c) the administrative scheme for the resolution of complaints about service providers of Commonwealth-funded aged care services, as it existed at any time before 30 May 2018.

home care setting has the same meaning as in the *Subsidy Principles 2014*.

home service means:

- (a) a home care service; or
- (b) a flexible care service through which short-term restorative care or transition care is provided in a home care setting; or
- (c) a home support service.

home service provider of a home service means:

- (a) for a home care service or flexible care service through which short-term restorative care or transition care is provided in a home care setting—the approved provider of the service; or
- (b) for a home support service—the service provider of the service.

home support service means a service provided under the program known as the Commonwealth Home Support Programme.

Note: A home support service is a Commonwealth-funded aged care service (see subsection 8(1) of the Commission Act and section 8 of this instrument).

interested person: see section 98.

internal reviewer means:

- (a) the Commissioner; or
- (b) a delegate of the Commissioner referred to in paragraph 100(1)(b), 101(1)(b) or 102(1)(b).

nominated representative of an aged care consumer means:

- (a) if the aged care consumer is a care recipient—the representative of the care recipient within the meaning of the *Records Principles 2014*; or
- (b) if the aged care consumer is a person who is a recipient of a Commonwealth-funded aged care service—a person who represents the consumer.

Section 4

Note: The approved provider of an aged care service must keep up-to-date records of the name and contact details of at least one nominated representative of each care recipient (see paragraph 7(r) of the *Records Principles 2014*).

performance report:

- (a) for a residential service (other than a recommencing service) for which an application for re-accreditation has been made: see paragraph 40A(1)(a); or
- (b) for a home service for which a quality review is conducted: see paragraph 57(1)(a); or
- (c) for an accredited service, previously accredited service or home service for which an assessment contact to which section 68 applies is made: see paragraph 68A(1)(a); or
- (d) for an accredited service for which a review audit is conducted: see paragraph 76A(1)(a).

plan for continuous improvement: see subsection 62(2).

police certificate, for a person, means a report about a person's criminal conviction record prepared by:

- (a) the Australian Federal Police; or
- (b) the Australian Criminal Intelligence Commission; or
- (c) an agency accredited by the Australian Criminal Intelligence Commission; or
- (d) the police force or police service of a State or Territory.

previously accredited service means:

- (a) a residential care service, or a flexible care service, that was an accredited service but is no longer such a service; or
- (b) a flexible care service if:
 - (i) flexible care in the form of short-term restorative care is provided through the service; and
 - (ii) the short-term restorative care is provided in a facility where residential care is provided through a residential care service; and
 - (iii) on the day the approved provider of the flexible care service is allocated flexible care places under Division 14 of Part 2.2 of the Aged Care Act, the residential care service is a previously accredited service under paragraph (a) of this definition.

provider responsibility information means information raising an issue or issues about:

- (a) the responsibilities of the approved provider of an aged care service under the Aged Care Act or the Aged Care Principles; or
- (b) the responsibilities of the service provider of a Commonwealth-funded aged care service under the funding agreement that relates to the service.

quality audit report: see subsection 56(1).

quality review, of a home service, means a quality review of the service conducted under Part 4.

Quality Review Guidelines means the Quality Review Guidelines for the program known as the National Aboriginal and Torres Strait Islander Flexible Aged Care Program, published by the Commission and as in force from time to time.

Note: The Quality Review Guidelines could in 2019 be viewed on the Commission's website (<https://www.agedcarequality.gov.au>).

re-accreditation, of an accredited service or a previously accredited service, means the accreditation of the service for a further period under Part 3.

recommencing service: a previously accredited service is a **recommencing service** if:

- (a) the approved provider of the service has made an application under subsection 27(2) for the re-accreditation of the service; and
- (b) the approved provider of the service has been allocated places for the service under Part 2.2 of the Aged Care Act; and
- (c) at the time the application was made, residential care was not being provided for those places through the service.

reconsideration decision means a decision made under subsection 100(2), 101(2) or 102(3).

register of banning orders means the register mentioned in section 74GI of the Commission Act.

regulatory reviewable decision means a reviewable Commissioner decision of a kind mentioned in an item (other than items 1 and 2) of the table in section 98.

relevant provider, for an issue raised in a complaint or provider responsibility information, means the approved provider of an aged care service, or service provider of a Commonwealth-funded aged care service, to which the issue relates.

residential care setting has the same meaning as in the *Subsidy Principles 2014*.

residential service means an accredited service, or a previously accredited service, to which an application made under subsection 27(2) relates.

resolution process means the resolution process undertaken under section 15.

reviewable Commissioner decision: see section 98.

review audit, of an accredited service, means a review audit of the service conducted under Division 6 of Part 5.

review audit report: see subsection 76(1).

serious offence conviction: a person has a **serious offence conviction** if the person has been:

- (a) convicted of murder or sexual assault; or
- (b) convicted of, and sentenced to imprisonment for, any other form of assault.

Section 5

short-term restorative care has the same meaning as in the *Subsidy Principles 2014*.

site audit, of a residential service, means a site audit of the service conducted under Subdivision D of Division 3 of Part 3.

site audit report: see subsection 40(1).

transition care has the same meaning as in the *Subsidy Principles 2014*.

5 Meaning of *assessment contact*

An *assessment contact* with the approved provider of an accredited service or a previously accredited service, or the home service provider of a home service, is any form of contact (other than a site audit, a review audit or a quality review) between a regulatory official and the provider for either or both of the following purposes:

- (a) to assess the provider's performance, in relation to the service, against the Aged Care Quality Standards;
- (b) to monitor the quality of care and services provided by the provider through the service.

6 Meaning of *commencing service*

- (1) A residential care service is a *commencing service* if:
 - (a) an approved provider has been allocated places for the service under Part 2.2 of the Aged Care Act; and
 - (b) residential care has not previously been provided for those places through the service; and
 - (c) the service is not an accredited service or a previously accredited service.
- (2) A flexible care service through which short-term restorative care is provided in a residential care setting is a *commencing service* if:
 - (a) the short-term restorative care is provided in a facility where residential care is provided through a residential care service; and
 - (b) that residential care service is a commencing service.

7 Meaning of *deemed accredited service*

If:

- (a) flexible care in the form of short-term restorative care is provided through a flexible care service; and
- (b) the short-term restorative care is provided in a facility where residential care is provided through a residential care service; and
- (c) the residential care service is an accredited service for a particular period; the flexible care service is a *deemed accredited service* for that period.

Division 3—Commonwealth funded programs

8 Specification of programs

For the purposes of subsection 8(1) of the Commission Act, the following programs are specified:

- (a) the program known as the Commonwealth Home Support Programme;
- (b) the program known as the National Aboriginal and Torres Strait Islander Flexible Aged Care Program.

Note: A Commonwealth-funded aged care service is a service provided under such a program.

Part 2—Complaints and provider responsibility information

Division 1—Introduction

9 Simplified outline of this Part

This Part establishes a scheme for dealing with complaints made, or provider responsibility information given, to the Commissioner about the following matters:

- (a) the responsibilities of the approved provider of an aged care service under the Aged Care Act or the Aged Care Principles;
- (b) the responsibilities of the service provider of a Commonwealth-funded aged care service under the funding agreement that relates to the service.

If the Commissioner receives a complaint that raises an issue about such responsibilities, the Commissioner must, in relation to the issue, decide to take no further action, resolve the issue to the complainant's satisfaction or decide to undertake a resolution process.

If the Commissioner receives provider responsibility information that raises an issue about such responsibilities, the Commissioner may decide to undertake a resolution process in relation to the issue.

Division 2—Purpose of this Part

10 Purpose of this Part

This Part is made for the purposes of subsections 21(1), (2) and (3) of the Commission Act.

Division 3—Making complaints to the Commissioner

11 Complaint may be made to the Commissioner

- (1) A person may make a complaint to the Commissioner raising an issue or issues about:
 - (a) the responsibilities of the approved provider of an aged care service under the Aged Care Act or the Aged Care Principles; or
 - (b) the responsibilities of the service provider of a Commonwealth-funded aged care service under the funding agreement that relates to the service.
- (2) A complaint may be made orally or in writing.
- (3) A complaint may be made anonymously.
- (4) If a complainant makes a complaint, the complainant may ask the Commissioner to keep the following confidential:
 - (a) the identity of the complainant;
 - (b) the identity of a person identified in the complaint;
 - (c) any other details included in the complaint.

12 Withdrawal of complaint

- (1) If a complainant makes a complaint, the complainant may withdraw the complaint, either orally or in writing, at any time.
- (2) The Commissioner may deal, or continue to deal, with the complaint despite the withdrawal of the complaint.

Note: A complainant who withdraws a complaint will not be notified under this Part of certain matters (see subsections 14(3) and 17(3)) or be able to apply under Part 7 for the reconsideration of the Commissioner's decision in relation to the complaint.

Division 4—Dealing with complaints and provider responsibility information

13 Dealing with complaint

- (1) If the Commissioner receives a complaint, the Commissioner must, in relation to each issue raised in the complaint:
 - (a) decide to take no further action in relation to the issue under section 14; or
 - (b) take appropriate action to resolve the issue to the satisfaction of the complainant; or
 - (c) decide to undertake a resolution process in relation to the issue under section 15.

Note: For the purposes of the Commissioner resolving the complaint, an authorised officer may enter premises and exercise search powers in relation to the premises in accordance with Division 2 of Part 8 of the Commission Act.

- (2) Without limiting subsection (1), the Commissioner may do one or more of the following for the purposes of that subsection:
 - (a) consider documents;
 - (b) discuss the issue, in person or by other means, with any of the following:
 - (i) the complainant (if any);
 - (ii) the relevant provider for the issue;
 - (iii) any other person;
 - (c) request information or documents from any person.

14 Commissioner may decide to take no further action in relation to issue

- (1) The Commissioner may decide to take no further action in relation to an issue raised in a complaint if the Commissioner is satisfied that:
 - (a) the issue is frivolous, vexatious or not raised in good faith; or
 - (b) the issue is, or has been, the subject of legal proceedings; or
 - (c) the issue is already being dealt with, or has already been dealt with, under this Part or a former complaints scheme; or
 - (d) the issue is better dealt with, or is already being dealt with, under this instrument (other than this Part); or
 - (e) the issue relates to a matter that occurred more than 1 year before the complaint was made and is not ongoing; or
 - (f) the complaint has been withdrawn under section 12; or
 - (g) the issue is subject to a coronial inquiry; or
 - (h) an aged care consumer identified in the complaint does not wish the issue to be considered by the Commissioner; or
 - (i) the issue is better dealt with by another person or body; or
 - (j) the relevant provider for the issue has addressed the issue to the Commissioner's satisfaction; or

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- (k) having regard to all the circumstances, no further action in relation to the issue is required.

Note: The complainant may request the Commissioner to reconsider the decision under Part 7.

- (2) If the Commissioner decides to take no further action in relation to an issue raised in the complaint, the Commissioner must, as soon as possible, give written notice of the following to the complainant:
 - (a) the decision and the reasons for the decision;
 - (b) information about how the complainant may apply for the reconsideration of the decision;
 - (c) any other appropriate information.
- (3) However, the Commissioner is not required to comply with subsection (2) if:
 - (a) the complaint was made anonymously; or
 - (b) the complaint has been withdrawn under section 12; or
 - (c) the complainant has requested not to be notified in relation to the complaint.
- (4) If the Commissioner decides to take no further action in relation to an issue raised in the complaint, the Commissioner may give the relevant provider for the issue written notice of the decision and the reasons for the decision.

15 Commissioner may undertake resolution process in relation to issue

- (1) The Commissioner may decide to undertake a resolution process under this section in relation to:
 - (a) an issue raised in a complaint; or
 - (b) an issue raised in provider responsibility information received by the Commissioner.
- (2) In undertaking a resolution process in relation to an issue raised in the complaint or information, the Commissioner may take any one or more of the following actions:
 - (a) request the relevant provider for the issue to examine and attempt to resolve the issue and report back to the Commissioner;
 - (b) request the following to participate in a conciliation process:
 - (i) the complainant (if any);
 - (ii) the relevant provider for the issue;
 - (iii) any other person;
 - (c) undertake an investigation of the issue;
 - (d) refer the issue to mediation.

Note: For the purposes of the Commissioner resolving the complaint or dealing with the provider responsibility information, an authorised officer may enter premises and exercise search powers in relation to the premises in accordance with Division 2 of Part 8 of the Commission Act.

- (3) Without limiting subsection (2), the Commissioner may do one or more of the following in taking action under that subsection:
- (a) consider documents;
 - (b) discuss the issue, in person or by other means, with any of the following:
 - (i) the complainant (if any);
 - (ii) the relevant provider for the issue;
 - (iii) any other person;
 - (c) request information or documents from any person.

16 Requirement to notify relevant providers of resolution process

- (1) If the Commissioner decides to undertake a resolution process in relation to an issue raised in a complaint or provider responsibility information, the Commissioner must give written notice, as soon as practicable, of the issue to the relevant provider for the issue.
- (2) Subsection (1) does not apply if the Commissioner considers that the giving of the notice will, or is likely to:
- (a) impede the resolution of the issue; or
 - (b) place the safety, health or well-being of the complainant (if any), an aged care consumer or any other person at risk; or
 - (c) place the complainant (if any) or an aged care consumer at risk of intimidation or harassment.

17 Commissioner may decide to end resolution process

- (1) The Commissioner may decide to end a resolution process in relation to an issue raised in a complaint or provider responsibility information if the Commissioner is satisfied that:
- (a) if the issue was raised in a complaint—the issue has been resolved because the complainant and the relevant provider for the issue have agreed on an outcome; or
 - (b) the relevant provider for the issue has addressed the issue to the satisfaction of the Commissioner; or
 - (c) the Commissioner has given a direction under section 19 to the relevant provider for the issue; or
 - (d) if the relevant provider for the issue is the approved provider of an aged care service—the Commissioner has initiated action under Part 7B or section 74EB, 74EC, 74ED or 74EE of the Commission Act that relates to the issue; or
 - (e) if the relevant provider for the issue is the service provider of a Commonwealth-funded aged care service—the Commissioner has been notified that the Commonwealth has initiated, under the funding agreement that relates to the service, action that relates to the issue; or
 - (f) the complaint has been withdrawn under section 12; or
 - (g) the issue is better dealt with by another person or body; or
 - (h) the continuation of the resolution process is not required because:

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- (i) despite reasonable inquiries by the Commissioner, the circumstances giving rise to the issue cannot be determined; or
 - (ii) the issue is frivolous, vexatious or not raised in good faith; or
 - (iii) the issue is, or has been, the subject of legal proceedings; or
 - (iv) the issue is already being dealt with, or has already been dealt with, under this Part or a former complaints scheme; or
 - (v) the issue is better dealt with, or is already being dealt with, under this instrument (other than this Part); or
 - (vi) the issue is subject to a coronial inquiry; or
 - (vii) an aged care consumer identified in the complaint, or in the provider responsibility information, does not wish the issue to be considered by the Commissioner; or
- (i) having regard to all the circumstances, the continuation of the resolution process is not required.

Note: The complainant or relevant provider for the issue may request the Commissioner to reconsider the decision under Part 7.

- (2) If the Commissioner decides to end the resolution process in relation to an issue raised in the complaint or provider responsibility information, the Commissioner must, as soon as possible, give written notice of the following to the complainant (if any) and the relevant provider for the issue:
- (a) the decision and the reasons for the decision;
 - (b) information about how the complainant (if any) or relevant provider may apply for the reconsideration of the decision;
 - (c) any other appropriate information.
- (3) However, the Commissioner is not required to comply with subsection (2) in relation to any complainant if:
- (a) the complaint was made anonymously; or
 - (b) the complaint has been withdrawn under section 12; or
 - (c) the complainant has requested not to be notified in relation to the complaint.
- (4) The Commissioner may provide different information in the notice given to the complainant (if any) and the relevant provider for the issue.

18 Commissioner may give information about resolution process to person or body with sufficient interest

The Commissioner may give information about a resolution process in relation to an issue raised in a complaint or provider responsibility information to any person or body that the Commissioner considers has a sufficient interest in the issue.

Division 5—Directions

19 Commissioner may give directions to relevant providers

- (1) If, in undertaking a resolution process in relation to an issue raised in a complaint or provider responsibility information that relates to the approved provider of an aged care service, the Commissioner becomes satisfied that the provider is not meeting the provider's responsibilities under the Aged Care Act or the Aged Care Principles, the Commissioner may, in writing, direct the provider to take specified action in order to meet those responsibilities.
- (2) If, in undertaking a resolution process in relation to an issue raised in a complaint or provider responsibility information that relates to the service provider of a Commonwealth-funded aged care service, the Commissioner becomes satisfied that the provider is not meeting the provider's responsibilities under the funding agreement that relates to the service, the Commissioner may, in writing, direct the provider to take specified action in order to meet those responsibilities.

20 Notification of intention to give directions to relevant providers

- (1) Before the Commissioner gives a direction under section 19 to the relevant provider for an issue raised in a complaint or provider responsibility information, the Commissioner must give the provider written notice of the Commissioner's intention to give the direction.
- (2) The notice must:
 - (a) set out the concerns of the Commissioner about:
 - (i) if the relevant provider is the approved provider of an aged care service—the apparent failure of the provider to meet the provider's responsibilities under the Aged Care Act or the Aged Care Principles; or
 - (ii) if the relevant provider is the service provider of a Commonwealth-funded aged care service—the apparent failure of the provider to meet the provider's responsibilities under the funding agreement that relates to the service; and
 - (b) invite the relevant provider to respond, in writing, to the notice within a period specified in the notice.
- (3) The Commissioner must consider any response given to the Commissioner within the specified period.

Note: If the Commissioner is satisfied that the relevant provider has addressed the issue, the Commissioner may decide to end the resolution process under paragraph 17(1)(b).

21 Relevant providers must comply with directions given by the Commissioner

- (1) If the Commissioner gives a direction to a relevant provider for an issue raised in a complaint or provider responsibility information under section 19, the relevant provider must comply with the direction.

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- (2) If the relevant provider for the issue fails to comply with the direction, the Commissioner must give the relevant provider a written notice that:
- (a) sets out the reasons why the Commissioner is satisfied that the provider has failed to comply with the direction; and
 - (b) sets out the information that the Commissioner relied on in deciding that the relevant provider has failed to comply with the direction.

Note 1: If the approved provider of an aged care service fails to comply with the direction, the Commissioner may initiate action under Part 7B or Part 8A of the Commission Act.

Note 2: If the service provider of a Commonwealth-funded aged care service fails to comply with the direction, the Commonwealth may initiate action under the funding agreement that relates to the service.

Division 6—Other matters

22 Referral of issue to Secretary etc.

- (1) Nothing in this Part prevents the Commissioner from referring an issue raised in a complaint or provider responsibility information to the Secretary or another person or body.
- (2) If the Commissioner refers an issue raised in a complaint or provider responsibility information under subsection (1), the Commissioner may continue to deal with the complaint or information under this Part.

23 Taking of other action not prevented by this Part

- (1) Nothing in this Part prevents the Commissioner from taking action under the Commission Act in relation to an issue raised in a complaint or provider responsibility information.
- (2) Nothing in this Part prevents the Commonwealth from taking action under the funding agreement that relates to a Commonwealth-funded aged care service in relation to an issue raised in a complaint or provider responsibility information.

Part 2A—Code of Conduct

23AA Simplified outline of this Part

This Part makes provision for the Code of Conduct that applies to approved providers and their aged care workers and governing persons.

Note: For the definitions of *approved provider*, *aged care worker* of an approved provider, and *governing person* of an approved provider, see section 7 of the Commission Act.

23AB Purpose of this Part

This Part is made for the purposes of section 74AE of the Commission Act.

23AC Code of Conduct

The provisions of the Code of Conduct set out in clause 1 of Schedule 1 apply to the following in accordance with clause 2 of Schedule 1:

- (a) approved providers;
- (b) aged care workers of approved providers;
- (c) governing persons of approved providers.

Note: For provisions relevant to compliance with the Code of Conduct, see the following:

- (a) for requirements for approved providers and their aged care workers and governing persons to comply with the Code of Conduct, and civil penalties for non-compliance—Part 8AA of the Commission Act;
- (b) for responsibilities of approved providers in relation to the Code of Conduct—paragraphs 54-1(1)(g) and (ga) of the *Aged Care Act 1997*;
- (c) for sanctions for non-compliance with responsibilities—Part 7B of the Commission Act;
- (d) for the Commissioner’s complaints functions and code functions—sections 18 and 18A of the Commission Act and Parts 2 and 2B of this instrument;
- (e) for enforcement of responsibilities and requirements—Part 8A of the Commission Act.

Part 2B—Commissioner's Code of Conduct functions

Division 1—Introduction

23BA Simplified outline of this Part

The Commissioner may take action, and do other things, in relation to compliance by an approved provider, or an individual who is or was an aged care worker or governing person of an approved provider, with the provisions of the Code of Conduct that apply or applied to them.

This Part does not affect the powers that the Commissioner has apart from this Part.

Part 2B Commissioner's Code of Conduct functions

Division 2 Purpose of this Part

Section 23BB

Division 2—Purpose of this Part

23BB Purpose of this Part

This Part is made for the purposes of subsections 21(1), (3A) and (3B) of the Commission Act.

Division 3—Taking action

23BC Purpose of this Division

This Division sets out actions that the Commissioner may take in relation to compliance by any of the following with the provisions of the Code of Conduct that apply or applied to them:

- (a) an approved provider;
- (b) an individual who is or was an aged care worker of an approved provider;
- (c) an individual who is or was a governing person of an approved provider.

Note: The Commissioner may also take other action (see section 23BI of these Rules).

23BD Actions the Commissioner may take

General

- (1) The Commissioner may do any one or more of the following in relation to the compliance:
 - (a) discuss the compliance, in person or by other means, with any of the following:
 - (i) if the compliance is compliance by an approved provider—the approved provider;
 - (ii) if the compliance is compliance by an individual who is or was an aged care worker or governing person of an approved provider—the individual or the approved provider, or both;
 - (iii) any other person;
 - (b) request information or documents from any person;
 - (c) consider information and documents;
 - (d) carry out an investigation;
 - (e) refer information about the compliance to another person or body;
 - (f) take any other action that the Commissioner considers reasonable in the circumstances.

Note: The Commissioner may also require a person to attend before an authorised officer to answer questions or give information or documents that are relevant to compliance with the Code of Conduct (see section 74FA of the Commission Act).

- (2) To avoid doubt, the Commissioner may carry out an investigation under paragraph (1)(d):
 - (a) independently of any other person or body; or
 - (b) jointly with another person or body.

Requiring action by approved providers

- (3) If the compliance is compliance by an approved provider, or an individual who is or was an aged care worker or governing person of an approved provider, the

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Commissioner may require the approved provider to do any one or more of the following:

- (a) carry out an internal investigation into the compliance in a specified manner and give the Commissioner a written report on the investigation within a specified period;
- (b) engage an appropriately qualified and independent expert, at the approved provider's expense, to carry out an investigation into the compliance in a specified manner and give the Commissioner a written report on the investigation within a specified period;
- (c) undertake specified action in relation to the compliance within a specified period.

Requiring action by individuals

- (4) If the compliance is compliance by an individual who is or was an aged care worker or governing person of an approved provider, the Commissioner may require the individual to undertake specified action in relation to the compliance within a specified period.

Referring information and requiring action by approved providers

- (5) If the compliance is compliance by an individual who is or was an aged care worker or governing person of an approved provider, the Commissioner may, in writing, refer information about the compliance to the approved provider and require the provider to take appropriate action in relation to the compliance.

Referring information does not prevent Commissioner taking other action

- (6) If information about the compliance is referred under paragraph (1)(e) or subsection (5), this does not prevent the Commissioner from taking other action in relation to the compliance.

Oral requirements to also be given in writing

- (7) If the Commissioner gives a requirement under this section orally, the Commissioner must also give the requirement in writing as soon as practicable after giving the requirement orally.

23BE Actions dealing with outcomes of investigations

If an investigation is carried out in relation to the compliance under paragraph 23BD(1)(d) or as required under paragraph 23BD(3)(a) or (b), the Commissioner may take any action to deal with the outcome of the investigation that the Commissioner considers appropriate.

23BF Further investigations

If an investigation is carried out in relation to the compliance under paragraph 23BD(1)(d) or as required under paragraph 23BD(3)(a) or (b), this does not prevent the Commissioner carrying out a further investigation in

relation to the compliance under paragraph 23BD(1)(d), or requiring a further investigation to be carried out in relation to the compliance under paragraph 23BD(3)(a) or (b), on the basis of new information.

23BG Procedural fairness

In taking action under this Division, the Commissioner must have due regard to procedural fairness.

Division 4—Doing other things

23BH Notices about investigations carried out by Commissioner that are closed

- (1) This section applies if:
 - (a) the Commissioner carries out an investigation under paragraph 23BD(1)(d) in relation to compliance with the Code of Conduct by an approved provider or an individual who is or was an aged care worker or governing person of an approved provider; and
 - (b) the investigation is closed; and
 - (c) at the time the investigation is closed, the Commissioner is not taking any other action in relation to the compliance under the Commission Act or these Rules (including this Part).
- (2) The Commissioner must give a written notice setting out the outcomes of the investigation to:
 - (a) if the compliance is compliance by an approved provider—the approved provider; or
 - (b) if the compliance is compliance by an individual who is or was an aged care worker or governing person of an approved provider—the individual and the approved provider.

23BI Taking of other action not prevented by this Part

Nothing in this Part prevents the Commissioner from taking action under the Commission Act or another provision of these Rules in relation to compliance with the Code of Conduct.

- Note: For other provisions relevant to compliance with the Code of Conduct, see the following:
- (a) for requirements for approved providers and their aged care workers and governing persons to comply with the Code of Conduct, and civil penalties for non-compliance—Part 8AA of the Commission Act;
 - (b) for responsibilities of approved providers in relation to the Code of Conduct—paragraphs 54-1(1)(g) and (ga) of the *Aged Care Act 1997*;
 - (c) for sanctions for non-compliance with responsibilities—Part 7B of the Commission Act;
 - (d) for the Commissioner's complaints functions—section 18 of the Commission Act and Part 2 of this instrument;
 - (e) for enforcement of responsibilities and requirements—Part 8A of the Commission Act.

Part 2C—Register of banning orders

Division 1—Simplified outline of this Part

23CA Simplified outline of this Part

Certain information must be included in the register of banning orders.

An individual may request access to information about the individual that is included in the register and may seek the correction of such information.

The Commissioner may correct information that is included in the register of banning orders.

The register of banning orders may be published on the Commission's website.

Division 2—Information in register of banning orders

23CB Information that must be included in the register of banning orders

For the purposes of paragraph 74GI(1)(h) of the Commission Act, the following information is specified in relation to each individual against whom a banning order has been made at any time:

- (a) the State or Territory, suburb and postcode of the individual's last known place of residence;
- (b) if the Commissioner considers that further information is necessary to identify the individual—further information, including personal information, that the Commissioner considers is sufficient to identify the individual.

Note 1: For other information that must be included in the register in relation to each individual against whom a banning order has been made, see subsection 74GI(1) of the Commission Act.

Note 2: For the application of subsection 74GI(1) of the Commission Act to banning orders, see subsections 74GI(2) and (3) of that Act.

Example: For paragraph (b), if 2 individuals who work in aged care have the same name, suburb and postcode, and a banning order is made in relation to one of those individuals, the Commissioner could include information in the register to identify the individual in relation to whom the banning order is made.

Division 3—Accessing and correcting information

23CC Purpose of this Division

This Division is made for the purposes of subsection 74GI(6) of the Commission Act.

23CD Accessing information in the register

An individual against whom a banning order has been made may request that the Commissioner provide the individual with access to information (if any) that is included in the register of banning orders in relation to the individual.

Note: The Commissioner must, in certain circumstances, give an individual access to personal information that the Commissioner holds about the individual (see Australian Privacy Principle 12 in Schedule 1 to the *Privacy Act 1988*).

23CE Seeking correction of information in the register

An individual against whom a banning order has been made may request that the Commissioner make a correction to information that is included in the register of banning orders in relation to the individual.

Note: The Commissioner must, in certain circumstances, take reasonable steps to correct personal information that is wrong or misleading so that the information is accurate, up to date, complete, relevant and not misleading (see Australian Privacy Principle 13 in Schedule 1 to the *Privacy Act 1988*).

23CF Corrections on the Commissioner's initiative

If the Commissioner considers that information that is included in the register of banning orders in relation to an individual is inaccurate, out-of-date, incomplete, irrelevant or misleading, the Commissioner may correct the information.

Note: The Commissioner must, in certain circumstances, take reasonable steps to correct personal information that is wrong or misleading so that the information is accurate, up to date, complete, relevant and not misleading (see Australian Privacy Principle 13 in Schedule 1 to the *Privacy Act 1988*).

Division 4—Publication of register of banning orders

23CG Making the register of banning orders publicly available

(1) This section is made for the purposes of subsection 74GI(7) of the Commission Act.

(2) The register of banning orders may be published on the Commission’s website.

Note: For the information that must be included in the register, see subsection 74GI(1) of the Commission Act and section 23CB of this instrument.

(3) Despite subsection (1), a part of the register of banning orders must not be published if the Commissioner considers that the publication of the part would be contrary to:

- (a) the public interest; or
- (b) the interests of one or more care recipients.

Part 3—Accreditation of residential aged care services

Division 1—Introduction

24 Simplified outline of this Part

This Part provides for the accreditation of commencing services and the re-accreditation of residential services.

If an application is made to the Commissioner to accredit a commencing service or to re-accredit a recommencing service, the Commissioner must decide whether to accredit or re-accredit the service for 1 year.

If an application is made to the Commissioner to re-accredit a residential service (other than a recommencing service), then:

- (a) the Commissioner must form an assessment team to conduct a site audit of the service; and
- (b) the assessment team must prepare a site audit report for the Commissioner; and
- (c) the Commissioner must give a copy of the site audit report to the approved provider of the residential service; and
- (d) the provider may give the Commissioner a written response to the site audit report; and
- (e) the Commissioner must prepare a performance report about the service and give a copy to the provider; and
- (f) the Commissioner must decide whether to re-accredit the service for a further period; and
- (g) if the Commissioner decides not to re-accredit the service, the Commissioner may revoke the service's accreditation.

The Commissioner may give the approved provider of an accredited service a reminder notice about the service's accreditation.

Certain decisions of the Commissioner under this Part must be published on the Commission's website.

Division 2—Specified aged care services

25 Specification of aged care services

For the purposes of subparagraph 19(a)(ii) of the Commission Act, flexible care services through which short-term restorative care is provided in a residential care setting are specified.

Division 3—Accreditation of residential aged care services

Subdivision A—Purpose of this Division

26 Purpose of this Division

This Division is made for the purposes of subsection 21(1) and paragraphs 21(4)(a) and (g) of the Commission Act.

Subdivision B—Applications for accreditation or re-accreditation

27 Approved provider may apply for accreditation or re-accreditation of residential aged care services

- (1) The approved provider of a commencing service may apply to the Commissioner for the accreditation of the service.
- (2) The approved provider of an accredited service, or a previously accredited service, may apply to the Commissioner for the re-accreditation of the service.

28 Applications for accreditation or re-accreditation

- (1) An application made under section 27 by the approved provider of a commencing service, an accredited service or a previously accredited service must:
 - (a) be made in writing; and
 - (b) be in the form approved by the Commissioner; and
 - (c) include an undertaking by the provider, that if the service were to be accredited or re-accredited under this Part, the provider will undertake continuous improvement in relation to the service as measured against the Aged Care Quality Standards; and
 - (d) be accompanied by any other information or documents specified by the Commissioner; and
 - (e) be accompanied by any fee specified by the Commissioner.
- (2) The Commissioner must not accept the application if the application does not comply with subsection (1).

Subdivision C—Accreditation of commencing services and re-accreditation of recommencing services

29 Commissioner must decide whether to accredit commencing service or re-accredit recommencing service

- (1) This section applies if:
 - (a) an application is made under subsection 27(1) by the approved provider of a commencing service; or

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(b) an application is made under subsection 27(2) by the approved provider of a recommencing service.

- (2) The Commissioner must decide whether to accredit or re-accredit the service:
- (a) within 14 days after the application is received by the Commissioner; or
 - (b) by any later day agreed by the Commissioner and the approved provider.

Note: The approved provider may request the Commissioner to reconsider the decision under Part 7.

- (3) In making the decision, the Commissioner:
- (a) must take into account:
 - (i) the application; and
 - (ii) any relevant information about the approved provider given to the Commissioner by the Secretary; and
 - (iii) whether the Commissioner is satisfied that, if the service were to be accredited or re-accredited under this Part, the approved provider will undertake continuous improvement in relation to the service as measured against the Aged Care Quality Standards; and
 - (b) may take into account any other relevant matter.
- (4) If the Commissioner decides to accredit or re-accredit the service, the Commissioner must:
- (a) accredit or re-accredit the service for 1 year; and
 - (b) decide whether there are any areas in which improvements in relation to the service must be made to ensure that the Aged Care Quality Standards are complied with.

30 Notification of decision to accredit commencing service or re-accredit recommencing service

- (1) If the Commissioner decides under section 29 to accredit a commencing service or re-accredit a recommencing service, the Commissioner must, within 14 days after making the decision, give written notice of the following to the approved provider of the service:
- (a) the decision;
 - (b) the period of accreditation or re-accreditation;
 - (c) any areas in which improvements in relation to the service must be made to ensure that the Aged Care Quality Standards are complied with;
 - (d) how the provider may apply for the re-accreditation of the service.
- (2) The Commissioner must, within 28 days after making the decision, give the approved provider of the service a certificate that states the period of accreditation or re-accreditation for the service.

31 Notification of decision not to accredit commencing service or re-accredit recommencing service

If the Commissioner decides under section 29 not to accredit a commencing service or not to re-accredit a recommencing service, the Commissioner must, within 14 days after making the decision, give the approved provider of the service:

- (a) written notice of the following:
 - (i) the decision;
 - (ii) the reasons for the decision;
 - (iii) how the provider may apply for the reconsideration of the decision;and
- (b) a copy of any information given to the Commissioner by the Secretary that was taken into account in making the decision.

Subdivision D—Re-accreditation of residential services other than recommencing services

32 Commissioner must appoint assessment team to conduct site audit

- (1) If an application is made under subsection 27(2) by the approved provider of an accredited service or a previously accredited service (other than a recommencing service), the Commissioner must, as soon as practicable after receiving the application:
 - (a) appoint one or more quality assessors to form an assessment team to conduct a site audit of the service; and
 - (b) give the team any information or documents that accompanied the application under paragraph 28(1)(d).
- (2) However, the Commissioner must not appoint a quality assessor to form the assessment team to conduct the site audit of the accredited service or previously accredited service if:
 - (a) at any time during the 3 year period preceding the proposed appointment, the assessor was employed by, or provided services to, the approved provider of the service; or
 - (b) the assessor has a pecuniary or other interest that could conflict with the proper conduct of the audit.

33 Form of words and poster to be used to tell care recipients etc. about site audit

- (1) If an application is made under subsection 27(2) by the approved provider of an accredited service or a previously accredited service (other than a recommencing service), the Commissioner must, as soon as practicable after receiving the application, give the provider:
 - (a) a written notice specifying the form of words to be used to tell care recipients of the service, and the nominated representatives of those care recipients, about the site audit of the service that is to be conducted; and

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- (b) a poster to inform those care recipients and representatives about the site audit.
- (2) However, the Commissioner is not required to comply with subsection (1) if the Commissioner gave the approved provider a notice and poster under section 46 in relation to the re-accreditation of the accredited service or previously accredited service.

34 Approved provider must inform care recipients etc. about site audit

- (1) The approved provider of a residential service must take all reasonable steps to ensure that each care recipient of the service, and the nominated representatives of such a care recipient, are made aware of the following matters:
 - (a) that a site audit of the service is to be conducted;
 - (b) the period during which the site audit could occur;
 - (c) that the care recipients of the service and the nominated representatives of those care recipients:
 - (i) will be given an opportunity to talk to members of the assessment team for the site audit; and
 - (ii) may give information to the Commission about the care and services those care recipients are receiving;
 - (d) how to contact the Commission.
- (2) The reasonable steps taken by the approved provider of the residential service under subsection (1) must include, but are not limited to, the following:
 - (a) giving written information (including the form of words specified in the notice given to the provider under paragraph 33(1)(a) or 46(1)(a)) to each care recipient of the service and the nominated representatives of such a care recipient;
 - (b) displaying copies of the poster given to the approved provider under paragraph 33(1)(b) or 46(1)(b) in one or more prominent locations at the premises of the service.
- (3) The approved provider of the residential service must comply with subsection (1) as soon as practicable after the later of the following events occurs:
 - (a) the approved provider receives the notice given under paragraph 33(1)(a) or 46(1)(a);
 - (b) the approved provider makes the application under subsection 27(2) for the re-accreditation of the service.

36 Conduct of site audit of residential service

- (1) The assessment team for a site audit of a residential service must conduct the audit:
 - (a) at the premises of the service; and
 - (b) in accordance with any directions given to the team by the Commissioner.

Note: A regulatory official may, for the purposes of this section, enter premises and exercise search powers in relation to the premises in accordance with Division 3 of Part 8 of the Commission Act.

- (2) In conducting the site audit of the residential service, the assessment team must:
 - (a) assess the quality of care and services provided through the service against the Aged Care Quality Standards; and
 - (b) consider any relevant information about the quality of care and services provided through the service that was given to the team:
 - (i) by a care recipient, or former care recipient, of the service; or
 - (ii) by a nominated representative of such a care recipient or former care recipient; and
 - (d) consider any relevant information given to the team by the Commissioner, including any information or documents given to the team under paragraph 32(1)(b); and
 - (e) consider any relevant information given to the Commissioner or the team by the approved provider of the service.

37 Approved provider must take steps to inform care recipients that site audit has commenced

- (1) As soon as practicable after the assessment team for a site audit of a residential service starts to conduct the audit, the approved provider of the service must take reasonable steps to inform the care recipients of the service, and the nominated representatives of those care recipients, that the audit has started.
- (2) The reasonable steps taken by the approved provider of the residential service under subsection (1) must include, but are not limited to, displaying in one or more prominent locations at the premises of the service any posters given to the provider by the assessment team for the purpose of the provider complying with that subsection.

38 Site audit meetings and discussions

- (1) On each day on which a site audit of a residential service is conducted, a member of the assessment team for the audit must meet with the person at the premises of the service who is in charge of the service to discuss the progress of the audit.
- (2) The assessment team for the site audit of the residential service must also meet at least 10% of the care recipients of the service, or the nominated representatives of those care recipients, during the conduct of the audit to discuss the care and services that those care recipients are receiving.
- (3) If a care recipient of the residential service, or a nominated representative of such a recipient, asks to meet the assessment team, or a member of the team, during the site audit of the service, the approved provider of the service must take all reasonable steps to enable a member of the team to meet the recipient or representative privately.

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- (4) If a former care recipient of the residential service, or a nominated representative of such a recipient, asks to talk to the assessment team, or a member of the team, during the site audit of the service, the approved provider of the service must tell a member of the team about the request.

39 Exit meeting

On the last day on which a site audit of a residential service is conducted, a member of the assessment team for the audit must meet with the person at the premises of the service who is in charge of the service to discuss the key issues that the team identified during the audit.

40 Site audit report prepared by assessment team

Site audit report must be prepared

- (1) The assessment team for a site audit of a residential service must prepare a written report (the **site audit report**) about the audit.
- (2) The site audit report:
 - (a) must include an assessment of the approved provider's performance, in relation to the residential service, against the Aged Care Quality Standards; and
 - (b) may also include any other matters the assessment team considers relevant.

Site audit report must be given to the Commissioner

- (3) The assessment team must give the site audit report to the Commissioner within 7 days after the site audit of the residential service is completed.

Copy of site audit report to be given to approved provider

- (4) As soon as practicable after receiving the site audit report, the Commissioner must give a copy of the report to the approved provider of the residential service.
- (5) The approved provider of the residential service may, within 14 days after receiving the copy of the site audit report, give the Commissioner a written response to the report.

40A Performance report prepared by Commissioner

- (1) If the Commissioner is given, under subsection 40(3), a site audit report about a site audit of a residential service, the Commissioner must, within 28 days after the Commissioner is given the report:
 - (a) prepare a written report (the **performance report**) about the service; and
 - (b) give a copy of the performance report to the approved provider of the service.
- (2) In preparing the performance report, the Commissioner must take into account the following matters:

- (a) the site audit report;
 - (b) any response to the site audit report given to the Commissioner by the approved provider of the service under subsection 40(5);
 - (c) any relevant information given to the Commissioner, or to the assessment team for the site audit of the service:
 - (i) by a care recipient, or former care recipient, of the service; or
 - (ii) by a nominated representative of such a care recipient or former care recipient;
 - (d) any relevant information about the approved provider of the service given to the Commissioner by the Secretary;
 - (e) any other relevant matter.
- (3) The performance report:
- (a) must include an assessment of the approved provider's performance, in relation to the residential service, against the Aged Care Quality Standards; and
 - (b) may specify any areas in which improvements in relation to the residential service must be made to ensure the Aged Care Quality Standards are complied with; and
 - (c) may also include any other matters the Commissioner considers relevant.

41 Commissioner must decide whether to re-accredit residential service

- (1) If the Commissioner gives, under subsection 40A(1), a performance report about a residential service to the approved provider of the service, the Commissioner must, within 7 days after doing so, decide whether to re-accredit the service.

Note: The approved provider may request the Commissioner to reconsider the decision under Part 7.

- (2) In making the decision, the Commissioner must take into account the following matters:
- (a) the performance report;
 - (b) the matters mentioned in subsection 40A(2);
 - (c) whether the Commissioner is satisfied that, if the service were to be re-accredited under this Part, the provider will undertake continuous improvement in relation to the service as measured against the Aged Care Quality Standards.

- (3) If the Commissioner decides to re-accredit the residential service under subsection (1), the Commissioner must decide the further period for which the service is to be accredited.

Note: The approved provider may request the Commissioner to reconsider the decision under Part 7.

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42 Notification of decision to re-accredit residential service

- (1) If the Commissioner decides to re-accredit a residential service under section 41, the Commissioner must, within 14 days after making the decision, give written notice of the following to the approved provider of the service:
 - (a) the decision;
 - (b) the further period of accreditation, and the reasons for deciding that further period;
 - (c) how the provider may apply for the reconsideration of the further period of accreditation;
 - (g) how the provider may apply for the re-accreditation of the service.
- (2) The Commissioner must, within 28 days after making the decision, give the approved provider of the residential service a certificate of accreditation for the service that states the further period of accreditation.

43 Notification of decision not to re-accredit residential service

If the Commissioner decides not to re-accredit a residential service under section 41, the Commissioner must, within 14 days after making the decision, give the approved provider of the service:

- (a) written notice of the following:
 - (i) the decision;
 - (ii) the reasons for the decision;
 - (iii) how the provider may apply for the reconsideration of the decision;and
- (b) a copy of any information given to the Commissioner by the Secretary that was taken into account in making the decision.

Subdivision E—Revocation of accreditation of accredited service

44 Decision to revoke accreditation of accredited service

- (1) If the Commissioner decides not to re-accredit an accredited service under section 41, the Commissioner may revoke the accreditation of the accredited service.

Note: The approved provider may request the Commissioner to reconsider the decision under Part 7.
- (2) If the Commissioner decides to revoke the accreditation of an accredited service under subsection (1), the Commissioner must decide the day on which the revocation is to take effect.

Note: The approved provider may request the Commissioner to reconsider the decision under Part 7.

45 Notification of decision to revoke accreditation of accredited service

If the Commissioner decides to revoke the accreditation of an accredited service under section 44, the Commissioner must, within 14 days after making the decision, give written notice of the following to the approved provider of the service:

- (a) the decision;
- (b) the reasons for the decision;
- (c) the day the revocation is to take effect;
- (d) how the provider may apply for reconsideration of the decision to revoke the accreditation, or the decision regarding the day the revocation is to take effect.

Subdivision F—Reminder notices about accreditation

46 Reminder notices

- (1) Before the period of accreditation of an accredited service ends, the Commissioner may give the approved provider of the service:
 - (a) a written notice specifying the following matters:
 - (i) the day on which the period of accreditation is due to end;
 - (ii) a day on or before which the provider must apply for the re-accreditation of the service under subsection 27(2) in order for section 47 not to apply in relation to the application;
 - (iii) the form of words to be used, if the provider applies for the re-accreditation of the service, to tell care recipients of the service, and the nominated representatives of those care recipients, about the site audit of the service that will be conducted in relation to the application; and
 - (b) a poster to inform those care recipients and representatives of the site audit.
- (2) In specifying a particular day under subparagraph (1)(a)(ii), the Commissioner must have regard to the likelihood that the Commissioner would make a decision under section 41 in relation to the re-accreditation of the accredited service before the end of the service's period of accreditation if the application were made on or after that particular day.

47 Late application for re-accreditation after reminder notice

- (1) This section applies in relation to an application made under subsection 27(2) for the re-accreditation of an accredited service if:
 - (a) the Commissioner gave the approved provider of the service a notice under paragraph 46(1)(a) in relation to the service; and
 - (b) the application is made after the day specified in the notice under subparagraph 46(1)(a)(ii).
- (2) To avoid doubt:

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- (a) the assessment team for a site audit of the accredited service is not required:
 - (i) to complete the audit before the service's period of accreditation (the **accreditation period**) ends; or
 - (ii) to give the site audit report for the audit to the Commissioner under subsection 40(3) any earlier than within the period specified in that subsection even if that period will end after the accreditation period ends; and
- (b) the Commissioner is not required to make a decision under section 41 in relation to the re-accreditation of the service any earlier than within the period specified in subsection 41(1) even if that period will end after the accreditation period ends.

Subdivision G—Publication of decisions relating to accreditation

48 Commissioner must publish decisions relating to accreditation

Commencing services and recommencing services

- (1) If the Commissioner decides under section 29 to accredit a commencing service or re-accredit a recommencing service, the Commissioner must, as soon as practicable after making the decision, publish the decision on the Commission's website.

Note: For the disclosure of protected information, see Division 4 of Part 7 of the Commission Act.

- (2) If:
 - (a) the Commissioner decides under section 29 not to accredit a commencing service or not to re-accredit a recommencing service; and
 - (b) no request for the reconsideration of the decision is made within the period (the **reconsideration period**) mentioned in paragraph 99(3)(c);the Commissioner must, within 28 days after the end of the reconsideration period, publish the decision on the Commission's website.

Note 1: If a request for the reconsideration of the decision is made, the reconsideration decision must be published under section 104.

Note 2: For the disclosure of protected information, see Division 4 of Part 7 of the Commission Act.

Residential services other than recommencing services

- (3) If:
 - (a) the Commissioner:
 - (i) decides under section 41 to re-accredit a residential service for a further period; or
 - (ii) decides under section 41 not to re-accredit a residential service; or
 - (iii) decides under section 44 to revoke the accreditation of an accredited service; and

(b) no request for the reconsideration of the decision is made within the period (the *reconsideration period*) mentioned in paragraph 99(3)(c);
the Commissioner must, within 28 days after the end of the reconsideration period, publish on the Commission's website the decision and the performance report about the service considered in making the decision.

Note 1: If a request for the reconsideration of the decision is made, the reconsideration decision must be published under section 104.

Note 2: For the disclosure of protected information, see Division 4 of Part 7 of the Commission Act.

Part 4—Quality reviews of services

Division 1—Introduction

49 Simplified outline of this Part

This Part provides for quality reviews of home services and Aboriginal and Torres Strait Islander services.

A quality review of a home service must be conducted at least once every 3 years. The process is as follows:

- (a) the Commissioner must form an assessment team to conduct a quality audit of the service;
- (b) the assessment team must prepare a quality audit report for the Commissioner;
- (c) the Commissioner must give a copy of the quality audit report to the home service provider of the service;
- (d) the provider may give the Commissioner a written response to the quality audit report;
- (e) the Commissioner must prepare a performance report about the service, give a copy to the provider and publish the report on the Commission's website.

A quality review of an Aboriginal and Torres Strait Islander service must be conducted in accordance with the Quality Review Guidelines.

Division 2—Specified aged care services

50 Specification of aged care services

For the purposes of subparagraph 19(b)(ii) of the Commission Act, the following aged care services are specified:

- (a) flexible care services through which short-term restorative care is provided in a home care setting;
- (b) flexible care services through which transition care is provided in a home care setting by a person other than the approved provider in respect of the flexible care service, on the approved provider's behalf, under a contract or arrangement entered into between the approved provider and the other person.

Division 3—Quality reviews of services

Subdivision A—Purpose of this Division

51 Purpose of this Division

This Division is made for the purposes of subsection 21(1) and paragraphs 21(4)(c) and (g) of the Commission Act.

Subdivision B—Quality reviews of home services

52 Quality reviews must be conducted every 3 years

- (1) The Commissioner must ensure that a quality review of a home service is conducted at least once every 3 years in accordance with this Subdivision.
- (2) If the same person or body provides 2 or more of the following:
 - (a) a home care service;
 - (b) a flexible care service through which short-term restorative care is provided in a home care setting;
 - (ba) a flexible care service through which transition care is provided in a home care setting by a person other than the approved provider in respect of the flexible care service, on the approved provider's behalf, under a contract or arrangement entered into between the approved provider and the other person;
 - (c) a home support service;the Commissioner may, if the Commissioner considers it appropriate to do so, conduct a quality review of those services at the same time.

53 Quality reviews must include quality audits

- (1) A quality review of a home service must include a quality audit of the home service.
- (2) A quality audit of a home service:
 - (a) must be conducted on the premises of the home service provider of the service; and
 - (b) may, in addition, be conducted on premises on which the service is provided.

Note: A regulatory official may, for the purposes of this section, enter premises and exercise search powers in relation to the premises in accordance with Division 3 of Part 8 of the Commission Act.

53A Commissioner must appoint assessment team to conduct quality audit

- (1) The Commissioner must:

- (a) appoint one or more quality assessors to form an assessment team to conduct a quality audit of a home service; and
 - (b) give the team any relevant information or documents.
- (2) However, the Commissioner must not appoint a quality assessor to form the assessment team to conduct the quality audit of the service if:
- (a) at any time during the 3 year period preceding the proposed appointment, the assessor was employed by, or provided services to, the home service provider of the service; or
 - (b) the assessor has a pecuniary or other interest that could conflict with the proper conduct of the audit.

53B Notice of quality audit

- (1) The Commissioner must give the home service provider of a home service a written notice:
- (a) specifying the day or days on which a quality audit of the home service is to be conducted; and
 - (b) setting out the form of words to be used to tell aged care consumers of the service, and the nominated representatives of those consumers, about the quality audit.
- (2) If the home service provider of a home service is given a notice under subsection (1), the provider must take all reasonable steps to use the form of words set out in the notice to tell each aged care consumer of the service, and the nominated representatives of those consumers, about the quality audit.
- (3) If the quality audit is to be conducted on premises on which the home service is provided, the Commissioner must give the occupier of the premises a written notice specifying the day or days on which the quality audit is to be conducted on the premises.
- (4) The Commissioner is not required to comply with subsection (1) or (3) if the Commissioner considers, on reasonable grounds, that the home service provider of the home service may not be complying with the Aged Care Quality Standards in relation to the service.

54 Conduct of quality audit

- (1) The assessment team for a quality audit of a home service must conduct the audit in accordance with any directions given to the team by the Commissioner.
- (2) In conducting the quality audit of the home service, the assessment team must:
- (a) assess the quality of care and services provided through the service against the Aged Care Quality Standards; and
 - (b) consider any relevant information about the quality of care and services provided through the service that was given to the team by:
 - (i) an aged care consumer, or former aged care consumer, of the service;or

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- (ii) a nominated representative of such an aged care consumer or former aged care consumer; and
- (c) consider any relevant information given to the team by the Commissioner, including any information or documents given to the team under paragraph 53A(1)(b); and
- (d) consider any relevant information given to the Commissioner or the team by the home service provider of the service.

55 Quality audit meetings and discussions

- (1) On each day on which a quality audit of a home service is conducted at the premises of the home service provider of the service, a member of the assessment team for the audit must meet with the home service provider to discuss the progress of the audit.
- (2) If an aged care consumer of the home service, or a nominated representative of such a consumer, asks to meet the assessment team, or a member of the team, during the quality audit, the home service provider of the service must take all reasonable steps to enable a member of the team to meet the consumer or representative privately.
- (3) If a former aged care consumer of the home service, or a nominated representative of such a consumer, asks to talk to the assessment team, or a member of the team, during the quality audit, the home service provider of the service must tell a member of the team about the request.

55A Exit meeting

On the last day on which a quality audit of a home service is conducted, a member of the assessment team for the audit must meet with the home service provider to discuss the key issues that the team identified during the audit.

56 Quality audit report prepared by assessment team

Quality audit report must be prepared

- (1) The assessment team for a quality audit of a home service must prepare a written report (the **quality audit report**) about the service.
- (2) The quality audit report:
 - (a) must include an assessment of the home service provider's performance, in relation to the home service, against the Aged Care Quality Standards; and
 - (b) may also include any other matters the assessment team considers relevant.

Quality audit report must be given to the Commissioner

- (3) The assessment team must give the quality audit report to the Commissioner within 7 days after quality audit is completed.

Copy of quality audit report to be given to home service provider

- (4) As soon as practicable after receiving the quality audit report, the Commissioner must give a copy of the report to the home service provider of the home service.
- (5) The home service provider of the home service may, within 14 days after receiving the copy of the quality audit report, give the Commissioner a written response to the report.

57 Performance report prepared by Commissioner

- (1) If the Commissioner is given, under subsection 56(3), a quality audit report about a home service, the Commissioner must, within 28 days after the Commissioner is given the report:
 - (a) prepare a written report (the **performance report**) about the service; and
 - (b) give a copy of the performance report to the home service provider of the service; and
 - (c) publish the report on the Commission's website.
- (2) In preparing the performance report, the Commissioner must take into account the following matters:
 - (a) the quality audit report;
 - (b) any response to the quality audit report given to the Commissioner by the home service provider of the service under subsection 56(5);
 - (c) any relevant information given to the Commissioner, or to the assessment team for the quality audit of the service:
 - (i) by an aged care consumer, or a former aged care consumer, of the service; or
 - (ii) a nominated representative of such an aged care consumer or former aged care consumer;
 - (d) any relevant information about the home service provider of the service given to the Commissioner by the Secretary;
 - (e) any other relevant matter.
- (3) The performance report:
 - (a) must include an assessment of the home service provider's performance, in relation to the home service, against the Aged Care Quality Standards; and
 - (b) may specify any areas in which improvements in relation to the home service must be made to ensure the Aged Care Quality Standards are complied with; and
 - (c) may also include any other matters the Commissioner considers relevant.

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Subdivision C—Quality reviews of Aboriginal and Torres Strait Islander services

58 Quality reviews of Aboriginal and Torres Strait Islander services

The Commissioner must conduct a quality review of an Aboriginal and Torres Strait Islander service in accordance with the Quality Review Guidelines.

Part 5—Monitoring of services

Division 1—Introduction

59 Simplified outline of this Part

This Part provides for the monitoring of accredited services, previously accredited services, home services and Aboriginal and Torres Strait Islander services.

The approved provider of an accredited service or a residential service, and the home service provider of a home service, must have a plan for continuous improvement for the service. The plan must, among other things, set out how the provider will:

- (a) assess the quality of care and services provided through the service against the Aged Care Quality Standards; and
- (b) monitor and improve the quality of care and services provided through the service as measured against those Standards.

The Commissioner may direct the provider to revise the plan for continuous improvement for the service.

A regulatory official may make an assessment contact with the approved provider of an accredited service or a previously accredited service, or the home service provider of a home service, in accordance with arrangements notified to the provider or at any other time (with or without notice).

If a purpose of the assessment contact is to assess the provider's performance, in relation to a service covered by the assessment contact, against the Aged Care Quality Standards:

- (a) a regulatory official must prepare an assessment contact report for the Commissioner; and
- (b) the Commissioner must give a copy of the report to the provider; and
- (c) the provider may give the Commissioner a written response to the report; and
- (d) the Commissioner must prepare a performance report about the service, give a copy to the provider and publish the report on the Commission's website.

The Commissioner may arrange for a review audit of an accredited service to be conducted in certain circumstances. The process is as follows:

- (a) the Commissioner must form an assessment team to conduct the review audit;
- (b) the assessment team must prepare a review audit report for the Commissioner;

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- (c) the Commissioner must give a copy of the report to the approved provider of the service;
- (d) the provider may give the Commissioner a written response to the report;
- (e) the Commissioner must prepare a performance report about the service and give a copy to the provider.

Following the review audit the Commissioner must decide whether to revoke the service's accreditation. If the Commissioner decides not to revoke the service's accreditation, the Commissioner must decide whether to vary the service's period of accreditation. The Commissioner's decisions must be published on the Commission's website.

The Commissioner must monitor an Aboriginal and Torres Strait Islander service in accordance with the Quality Review Guidelines.

Division 2—Specified aged care services

60 Specification of aged care services

For the purposes of subparagraph 19(c)(iii) of the Commission Act, the following aged care services are specified:

- (a) flexible care services through which short-term restorative care is provided in a residential care setting;
- (b) flexible care services through which short-term restorative care is provided in a home care setting;
- (c) flexible care services through which transition care is provided in a residential care setting;
- (d) flexible care services through which transition care is provided in a home care setting by a person other than the approved provider in respect of the flexible care service, on the approved provider's behalf, under a contract or arrangement entered into between the approved provider and the other person.

Part 5 Monitoring of services

Division 3 Purpose of Divisions 4 to 8

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Division 3—Purpose of Divisions 4 to 8

61 Purpose of Divisions 4 to 8

Divisions 4 to 8 of this Part are made for the purposes of subsection 21(1), paragraphs 21(4)(d), (e) and (g) and subsections 21(5) and (6) of the Commission Act.

Division 4—Plans for continuous improvement

62 Plans for continuous improvement required for accredited services, residential services and home care services

- (1) The approved provider of an accredited service or a residential service and the home service provider of a home service must have a plan for continuous improvement for the service.
- (2) A *plan for continuous improvement* for a service is a written plan that sets out:
 - (a) how the provider of the service will:
 - (i) assess the quality of care and services provided through the service against the Aged Care Quality Standards; and
 - (ii) monitor and improve the quality of care and services as measured against those Standards; and
 - (b) if there are any areas in which improvements in relation to the service are needed to ensure that the Aged Care Quality Standards are complied with—how the provider of the service will make those improvements.

Note 1: Standard 8 of the Aged Care Quality Standards requires a provider to have an effective organisation wide governance system relating to continuous improvement.

Note 2: The provider may be directed to revise the plan for continuous improvement under section 63A.

63 Commissioner may request plans for continuous improvement

- (1) The Commissioner may, by written notice given to the approved provider of an accredited service or a residential service, or the home service provider of a home service, request the provider to give the Commissioner a copy of the plan for continuous improvement for the service.
- (2) The provider must comply with the request within 14 days after the notice is given.

63A Commissioner may direct revision of plans for continuous improvement

- (1) This section applies if the Commissioner reasonably believes that it is necessary for the plan for continuous improvement for an accredited service, a residential service or a home service to be revised to ensure that the Aged Care Quality Standards are complied with in relation to the service.
- (2) The Commissioner may, by written notice given to the approved provider of the accredited service or residential service, or the home service provider of the home service, direct the provider:
 - (a) to revise the plan for continuous improvement for the service; and
 - (b) to give the Commissioner a copy of the revised plan.
- (3) The provider must comply with the request within 14 days after the notice is given.

Division 5—Assessment contacts by regulatory officials

64 Assessment contacts by regulatory officials with providers of services

- (1) A regulatory official may make an assessment contact with the approved provider of an accredited service or a previously accredited service, or the home service provider of a home service:
 - (a) in accordance with the arrangements notified to the provider under section 65; or
 - (b) at any other time (with or without notice).

Note: A regulatory official may, for the purposes of this section, enter premises and exercise search powers in relation to the premises in accordance with Division 3 of Part 8 of the Commission Act.

- (2) If an approved provider provides a residential care service and also provides a flexible care service through which short-term restorative care is provided in a residential care setting, a regulatory official may, if the official considers it appropriate to do so, make a single assessment contact with the provider under subsection (1) that covers those services.
- (3) If a home service provider provides 2 or more home services, a regulatory official may, if the official considers it appropriate to do so, make a single assessment contact with the provider under subsection (1) that covers those services.
- (4) If an approved provider of an accredited service or a previously accredited service is also a home service provider of a home service, a regulatory official may, if the official considers it appropriate to do so, make a single assessment contact with the provider under subsection (1) that covers those services.

65 Arrangements for assessment contacts

The Commissioner may give the approved provider of an accredited service or a previously accredited service, or the home service provider of a home service, written notice of the arrangements for assessment contacts with the provider.

66 Assessment contacts in the form of visits to premises

- (1) This section applies if:
 - (a) an assessment contact with the approved provider of an accredited service or a previously accredited service, or the home service provider of a home service, is to be made by a regulatory official in accordance with the arrangements notified to the provider under section 65; and
 - (b) the contact is to be made in the form of a visit to the premises of the service.

Note: A regulatory official who makes a visit to the premises may enter the premises and exercise search powers in relation to the premises in accordance with Division 3 of Part 8 of the Commission Act.

Accredited services or previously accredited services

- (2) For a visit to the premises of an accredited service or a previously accredited service, the official may, before the visit takes place, give the approved provider of the service a poster to inform the care recipients of the service, and the nominated representatives of those care recipients, about the assessment contact.
- (3) If a provider receives a poster under subsection (2), the provider must, as soon as practicable after receiving the poster, display it in one or more prominent locations at the premises of the service.

Home services

- (4) For a visit to the premises of a home service, the official may, before the visit takes place, give the home service provider of the service written notice of the form of words to be used to tell the aged care consumers of the service, and the nominated representatives of those consumers, about the assessment contact.
- (5) If a provider receives a written notice under subsection (4), the provider must take all reasonable steps to use the form of words set out in the notice to tell each aged care consumer of the service, and the nominated representatives of those consumers, about the assessment contact.

67 Regulatory official may request information or documents relating to the purpose of assessment contact

- (1) If:
 - (a) a regulatory official makes an assessment contact with the approved provider of an accredited service or a previously accredited service or the home service provider of a home service; and
 - (b) the contact is made otherwise than in the form of a visit to the premises of the service;the official may, in writing or orally, request the provider of the service to give the official specified information or documents relating to the purpose of the contact within a specified period.
- (2) If a request is made under subsection (1), the approved provider or home service provider (as the case may be) must comply with the request.

68 Assessment contacts made to assess performance—assessment contact report prepared by regulatory official

Assessment contact report must be prepared

- (1) This section applies if a purpose of an assessment contact between a regulatory official and the approved provider of an accredited service or a previously accredited service, or the home service provider of a home service, is to assess the provider's performance, in relation to a service covered by the assessment contact, against the Aged Care Quality Standards.

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- (2) A regulatory official must prepare a written report (the **assessment contact report**) about the service.
- (3) The assessment contact report must:
 - (a) include an assessment of the provider's performance, in relation to the service, against the Aged Care Quality Standards;
 - (b) may also include any other matters the regulatory official considers relevant.

Assessment contact report must be given to the Commissioner

- (4) The regulatory official must give the assessment contact report to the Commissioner within 7 days after the assessment contact is completed.

Copy of assessment contact report to be given to provider

- (5) As soon as practicable after receiving the assessment contact report, the Commissioner must give a copy of the report to the provider.
- (6) The provider may, within 14 days after receiving the copy of the assessment contact report, give the Commissioner a written response to the report.

68A Performance report prepared by Commissioner

- (1) If the Commissioner is given, under subsection 68(4), an assessment contact report about an accredited service, a previously accredited service or a home service, the Commissioner must, within 28 days after the Commissioner is given the report:
 - (a) prepare a written report (the **performance report**) about the service; and
 - (b) give a copy of the performance report to the approved provider of the accredited service or previously accredited service or the home service provider of the home service; and
 - (c) publish the report on the Commission's website.
- (2) In preparing the performance report, the Commissioner must take into account the following matters:
 - (a) the assessment contact report;
 - (b) any response to the assessment contact report given to the Commissioner by the provider under subsection 68(6);
 - (c) any relevant information given to the Commissioner, or to a regulatory official:
 - (i) by an aged care consumer or a former aged care consumer of the service; or
 - (ii) a nominated representative of such an aged care consumer or former aged care consumer;
 - (d) any relevant information about the provider given to the Commissioner by the Secretary;
 - (e) any other relevant matter.

- (3) The performance report:
- (a) must include an assessment of the provider's performance, in relation to the service, against the Aged Care Quality Standards; and
 - (b) may specify any areas in which improvements in relation to the service must be made to ensure the Aged Care Quality Standards are complied with; and
 - (c) may also include any other matters the Commissioner considers relevant.

Division 6—Review audits of accredited services

Subdivision A—Conduct of review audits of accredited services

70 When Commissioner may arrange for review audit of accredited service

- (1) The Commissioner may arrange for a review audit of an accredited service to be conducted if:
 - (a) the Commissioner considers, on reasonable grounds, that the approved provider may not be complying with the Aged Care Quality Standards in relation to the service; or
 - (aa) the approved provider of the service has notified the Commissioner of a change of circumstances under section 9-1 of the Aged Care Act; or
 - (b) the Commissioner becomes aware that:
 - (ii) a transfer of allocated places in relation to the service has taken effect under Subdivision 16-A of Division 16 of Part 2.2 of that Act; or
 - (iii) the premises at which the service is provided have changed since the service was last accredited or re-accredited under Part 3 of this instrument.
- (3) A review audit of an accredited service may be arranged with or without notice being given to the approved provider of the service.

71 Commissioner must appoint quality assessors to form assessment team to conduct review audit

- (1) If the Commissioner decides, or is required, under section 70 to arrange for a review audit of an accredited service to be conducted, the Commissioner must appoint 2 or more quality assessors to form an assessment team to conduct the audit.
- (2) However, the Commissioner must not appoint a quality assessor to form the assessment team to conduct the review audit of the accredited service if:
 - (a) at any time during the 3 year period preceding the proposed appointment, the assessor was employed by, or provided services to, the approved provider of the service; or
 - (b) the assessor has a pecuniary or other interest that could conflict with the proper conduct of the audit.

72 Poster to be used to tell care recipients about review audit

- (1) If a review audit of an accredited service is to be conducted, the Commissioner, or the assessment team for the audit, must give the approved provider of the service a poster to inform the care recipients of the service, and the nominated representatives of those care recipients, about the audit.

- (2) The approved provider of the accredited service must, as soon as practicable after being given the poster, display the poster in one or more prominent locations at the premises of the service.

73 Conduct of review audit of accredited service

- (1) The assessment team for a review audit of an accredited service must conduct the audit:

- (a) at the premises of the service; and
- (b) in accordance with any directions given to the team by the Commissioner.

Note: A regulatory official may, for the purposes of this section, enter premises and exercise search powers in relation to the premises in accordance with Division 3 of Part 8 of the Commission Act.

- (2) In conducting the review audit of the accredited service, the assessment team must:
 - (a) assess the quality of care and services provided through the service against the Aged Care Quality Standards; and
 - (b) consider any relevant information about the quality of care and services provided through the service that was given to the team by:
 - (i) a care recipient, or former care recipient, of the service; or
 - (ii) a nominated representative of such a care recipient or former care recipient; and
 - (c) consider any relevant information about the approved provider of the service given to the team by the Commissioner; and
 - (d) consider any relevant information given to the Commissioner or the team by the provider of the service.

74 Review audit meetings and discussions

- (1) On each day on which a review audit of an accredited service is conducted, a member of the assessment team for the audit must meet the person at the premises of the service who is in charge of the service to discuss the progress of the audit.
- (2) The assessment team for the review audit of the accredited service must also meet at least 10% of the care recipients of the service, or the nominated representatives of those care recipients, during the audit to discuss the care and services that those care recipients are receiving.
- (3) If a care recipient of the accredited service, or a nominated representative of such a recipient, asks to meet the assessment team, or a member of the assessment team, during the review audit of the service, the approved provider of the service must take all reasonable steps to enable a member of the team to meet the recipient or representative privately.
- (4) If a former care recipient of the accredited service, or a nominated representative of such a recipient, asks to talk to the assessment team, or a member of the team,

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during the site audit of the service, the approved provider of the service must tell a member of the team about the request.

75 Exit meeting

On the last day on which a review audit of an accredited service is conducted, a member of the assessment team for the audit must meet with the person at the premises of the service who is in charge of the service to discuss the key issues that the team identified during the audit.

76 Review audit report prepared by assessment team

Review audit report must be prepared

- (1) The assessment team for a review audit of an accredited service must prepare a written report (the **review audit report**) about the audit.
- (2) The review audit report:
 - (a) must include an assessment of the approved provider's performance, in relation to the accredited service, against the Aged Care Quality Standards; and
 - (b) may also include any other matters the assessment team considers relevant.

Review audit report must be given to the Commissioner

- (3) The assessment team must give the review audit report to the Commissioner within 7 days after the review audit of the accredited service is completed.

Copy of review audit report to be given to approved provider

- (4) As soon as practicable after receiving the review audit report, the Commissioner must give a copy of the report to the approved provider of the accredited service.
- (5) The approved provider of the accredited service may, within 14 days after receiving the copy of the review audit report, give the Commissioner a written response to the report.

76A Performance report prepared by Commissioner

- (1) If the Commissioner is given, under subsection 76(3), a review audit report about a review audit of an accredited service, the Commissioner must, within 28 days after the Commissioner is given the report:
 - (a) prepare a written report (the **performance report**) about the service; and
 - (b) give a copy of the performance report to the approved provider of the service.
- (2) In preparing the performance report, the Commissioner must take into account the following matters:
 - (a) the review audit report;

- (b) any response to the review audit report given to the Commissioner by the approved provider of the service under subsection 76(5);
 - (c) any relevant information given to the Commissioner, or to the assessment team for the review audit of the service:
 - (i) by a care recipient, or former care recipient, of the service; or
 - (ii) by a nominated representative of such a care recipient or former care recipient;
 - (d) any relevant information about the approved provider of the service given to the Commissioner by the Secretary;
 - (e) any other relevant matter.
- (3) The performance report:
- (a) must include an assessment of the approved provider's performance, in relation to the accredited service, against the Aged Care Quality Standards; and
 - (b) may specify any areas in which improvements in relation to the accredited service must be made to ensure the Aged Care Quality Standards are complied with; and
 - (c) may also include any other matters the Commissioner considers relevant.

Subdivision B—Revocation of accreditation of accredited service following review audit

77 Commissioner must decide whether to revoke accreditation of accredited service

- (1) If the Commissioner gives, under subsection 76A(1), a performance report about an accredited service to the approved provider of the service, the Commissioner must, within 7 days after doing so, decide whether to revoke the accreditation of the service.

Note: The approved provider may request the Commissioner to reconsider the decision under Part 7.

- (2) In making the decision, the Commissioner must take into account the following matters:
- (a) the performance report;
 - (b) the matters mentioned in subsection 76A(2);
 - (c) whether the Commissioner is satisfied that, if the accreditation of the service is not revoked, the provider will undertake continuous improvement in relation to the service as measured against the Aged Care Quality Standards.

- (3) If the Commissioner decides to revoke the accreditation of the accredited service under subsection (1), the Commissioner must decide the day on which the revocation takes effect.

Note: The approved provider may request the Commissioner to reconsider the decision under Part 7.

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- (4) If the Commissioner decides not to revoke the accreditation of the accredited service under subsection (1), the Commissioner must decide whether to vary the service's period of accreditation.

Note: The approved provider may request the Commissioner to reconsider the decision under Part 7.

78 Notification of decision to revoke accreditation of accredited service

If the Commissioner decides to revoke the accreditation of an accredited service under section 77, the Commissioner must, within 14 days after making the decision, give written notice of the following to the approved provider of the service:

- (a) the decision;
- (b) the reasons for the decision;
- (c) the day on which the revocation is to take effect;
- (d) how the provider may apply for reconsideration of the decision to revoke the accreditation, or the decision regarding the day the revocation is to take effect.

79 Notification of decision not to revoke accreditation of accredited service

- (1) If the Commissioner decides under section 77 not to revoke the accreditation of an accredited service, the Commissioner must, within 14 days after making the decision, give written notice of the following to the approved provider of the service:

- (a) the decision;
- (b) the reasons for the decision;
- (c) if the Commissioner decides to vary the service's period of accreditation under paragraph 77(4)(a):
 - (i) the day on which the period of accreditation, as so varied, will end; and
 - (ii) how the provider may apply for the reconsideration of the decision.

- (2) If the Commissioner decides to vary the accredited service's period of accreditation under paragraph 77(4)(a), the Commissioner must, within 28 days after making the decision, give the approved provider of the service a new certificate of accreditation for the service that states the period of accreditation, as so varied.

Subdivision C—Publication of decisions relating to accreditation

80 Commissioner must publish decisions relating to accreditation following review audit

- (1) If the Commissioner decides under section 77:
- (a) not to revoke the accreditation of an accredited service; and
 - (b) not to vary the service's period of accreditation;

the Commissioner must, as soon as practicable after making the decision, publish on the Commission's website the decision and the performance report about the service considered in making the decision.

Note: For the disclosure of protected information, see Division 4 of Part 7 of the Commission Act.

(2) If:

- (a) the Commissioner decides under section 77:
 - (i) not to revoke the accreditation of an accredited service but to vary the service's period of accreditation; or
 - (ii) to revoke the accreditation of an accredited service;
- (b) no request for the reconsideration of the decision is made within the period (the ***reconsideration period***) mentioned in paragraph 99(3)(c);

the Commissioner must, within 28 days after the end of the reconsideration period, publish on the Commission's website the decision and the performance report about the service considered in making the decision.

Note 1: If a request for the reconsideration of the decision is made, the reconsideration decision must be published under section 104.

Note 2: For the disclosure of protected information, see Division 4 of Part 7 of the Commission Act.

Part 5 Monitoring of services

Division 8 Monitoring of Aboriginal and Torres Strait Islander services

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Division 8—Monitoring of Aboriginal and Torres Strait Islander services

86 Monitoring of Aboriginal and Torres Strait Islander services

The Commissioner must monitor an Aboriginal and Torres Strait Islander service in accordance with the Quality Review Guidelines.

Part 6—Registration of quality assessors

Division 1—Introduction

87 Simplified outline of this Part

This Part provides for the registration of persons as quality assessors.

A person may apply to the Commissioner to be registered as a quality assessor. The Commissioner must register the person for a period of 1 year if the Commissioner is satisfied of certain matters.

A quality assessor may apply one or more times to the Commissioner to be registered as a quality assessor for a further 1 year. The Commissioner must register the person if the Commissioner is satisfied of certain matters.

The Commissioner must cancel a person's registration as a quality assessor if the Commissioner is satisfied that the person has a serious offence conviction recorded against the person in Australia or another country. The Commissioner must also cancel a person's registration as a quality assessor if requested to do so by the person.

The Commissioner may cancel a person's registration as a quality assessor if the Commissioner is satisfied the person's performance of the functions, and exercise of the powers, as a quality assessor has not been satisfactory or the person has failed to comply with certain obligations.

Division 2—Registration of quality assessors

88 Purpose of this Division

This Division is made for the purposes of subsection 21(1) and paragraph 21(4)(f) of the Commission Act.

89 Application for registration as quality assessor

- (1) A person may apply to the Commissioner to be registered as a quality assessor.
- (2) The application must:
 - (a) be made in writing; and
 - (b) be in a form approved by the Commissioner; and
 - (c) if, at any time after turning 16, the applicant has been a citizen or permanent resident of a country other than Australia—be accompanied by a statutory declaration that the applicant does not have a serious offence conviction in that country; and
 - (d) be accompanied by any other information or documents specified by the Commissioner; and
 - (e) be accompanied by any fee specified by the Commissioner.

Note: Paragraph (c) does not affect the operation of Part VIIC of the *Crimes Act 1914* (see section 95 of this instrument).

- (3) The Commissioner must not accept the application if the application does not comply with subsection (2).

90 Registration as quality assessor

Decision to register applicant as quality assessor

- (1) If an application is made under section 89, the Commissioner must register the applicant as a quality assessor for a period of 1 year if the Commissioner is satisfied that:
 - (a) the applicant has successfully completed any relevant course specified by the Commissioner; and
 - (b) the applicant has participated in an orientation program delivered by the Commission; and
 - (c) a police certificate, issued for the applicant after the application was made, does not record that the applicant has a serious offence conviction in Australia; and
 - (d) if, at any time after turning 16, the applicant has been a citizen or permanent resident of a country other than Australia—the applicant does not have a serious offence conviction in that country; and
 - (e) if the applicant was previously registered as a quality assessor—the applicant's performance of the functions, and exercise of the powers, as a quality assessor was satisfactory; and

- (f) the applicant meets any other requirements specified by the Commissioner.
- (2) If the Commissioner registers the applicant as a quality assessor under subsection (1), the Commissioner must give the applicant a written notice that sets out the following matters:
- (a) the decision;
 - (b) the period of registration;
 - (c) the applicant's obligations as a quality assessor.

Refusal to register applicant as quality assessor

- (3) The Commissioner must refuse to register the applicant as a quality assessor if the Commissioner is not satisfied of the matters mentioned in subsection (1).
- (4) If the Commissioner refuses under subsection (3) to register the applicant as a quality assessor, the Commissioner must give the applicant a written notice setting out the decision and the reasons for the decision.

91 Application for registration as quality assessor for further period

- (1) A quality assessor may apply to the Commissioner to be registered as a quality assessor for a further period.

Note: A quality assessor may apply more than once under this subsection to be registered as a quality assessor for a further period.

- (2) The application must:
- (a) be made in writing; and
 - (b) be in a form approved by the Commissioner; and
 - (c) if, at any time after turning 16, the applicant has been a citizen or permanent resident of a country other than Australia—be accompanied by a statutory declaration that the applicant does not have a serious offence conviction in that country; and
 - (e) be accompanied by any other information or documents specified by the Commissioner; and
 - (f) be accompanied by any fee specified by the Commissioner.

Note: Paragraph (c) does not affect the operation of Part VIIC of the *Crimes Act 1914* (see section 95 of this instrument).

- (3) The Commissioner must not accept the application if the application does not comply with subsection (2).

92 Registration as quality assessor for further period

Registration for further period

- (1) If an application is made under section 91, the Commissioner must register the applicant as a quality assessor for a further period of 1 year if the Commissioner is satisfied that:
- (a) the applicant has complied with the obligations set out in:

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- (i) if the applicant has not previously made an application under section 91—the notice given to the applicant under subsection 90(2); or
 - (ii) otherwise—the notice last given to the applicant under subsection (2) of this section; and
 - (b) the applicant has completed, during the applicant’s current period of registration:
 - (i) any mandatory training required by the Commissioner; and
 - (ii) not less than 15 hours of professional development approved by the Commissioner, including any training mentioned in subparagraph (i); and
 - (c) the applicant’s performance of the functions, and exercise of the powers, as a quality assessor has been satisfactory; and
 - (d) a police certificate, issued for the applicant not more than 2 years before the end of the applicant’s current period of registration, does not record that the applicant has a serious offence conviction in Australia; and
 - (e) if, at any time after turning 16, the applicant has been a citizen or permanent resident of a country other than Australia—the applicant does not have a serious offence conviction in that country; and
 - (f) the applicant meets any other requirements specified by the Commissioner.
- (2) If the Commissioner registers the applicant as a quality assessor for a further period under subsection (1), the Commissioner must give the applicant a written notice that sets out the following matters:
- (a) the decision;
 - (b) the further period of registration;
 - (c) the applicant’s obligations as a quality assessor.

Refusal to register for a further period

- (3) The Commissioner must refuse to register the applicant as a quality assessor for a further period if the Commissioner is not satisfied of the matters mentioned in subsection (1).
- (4) If the Commissioner refuses under subsection (3) to register the applicant as a quality assessor for a further period, the Commissioner must give the applicant a written notice setting out the decision and the reasons for the decision.

93 Quality assessor must inform Commissioner of serious offence conviction

If a quality assessor has a serious offence conviction recorded against the assessor in Australia or another country, the assessor must, as soon as practicable after the conviction is recorded, give written notice of the conviction to the Commissioner.

94 Cancellation of registration as quality assessor

- (1) The Commissioner must cancel the registration of a person as a quality assessor if the Commissioner is satisfied that the person has a serious offence conviction recorded against the person in Australia or another country.
- (2) The Commissioner must cancel the registration of a person as a quality assessor if the person requests, in writing, the Commissioner to do so.
- (3) The Commissioner may cancel the registration of a person as a quality assessor if the Commissioner is satisfied that:
 - (a) the person's performance of the functions, and exercise of the powers, as a quality assessor has not been satisfactory; or
 - (b) the person has failed to comply with the obligations set out in:
 - (i) if the person has never made an application under section 91—the notice given to the person under subsection 90(2); or
 - (ii) otherwise—the notice last given to the person under subsection 92(2).

Note: The person may request the Commissioner to reconsider the decision under Part 7.

- (4) If the Commissioner cancels a person's registration as a quality assessor under subsection (1), (2) or (3), the Commissioner must give the person written notice of the cancellation and the reasons for the cancellation.

95 Operation of Part VIIC of the *Crimes Act 1914*

Nothing in this Part affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

Part 6A—Incident management and prevention

Division 1—Introduction

95A Simplified outline of this Part

This Part sets out how the Commissioner may deal with reportable incidents notified by an approved provider or a service provider of a Commonwealth-funded aged care service.

The action that the Commissioner may take in relation to a reportable incident notified by an approved provider or such a service provider includes:

- (a) requiring the provider to give further information that the Commissioner requires to deal with the incident; and
- (b) requiring the provider to give a final report about the incident; and
- (c) referring the incident to police or persons or bodies with responsibilities in relation to the incident; and
- (d) requiring or requesting the provider to undertake remedial action in relation to the incident; and
- (e) requiring an investigation of the incident to be carried out.

The Commissioner may also carry out an inquiry in relation to certain matters, including a reportable incident for an approved provider.

Division 2—Reportable incidents

Subdivision A—Purpose of this Division for approved providers

95B Purpose of this Division

This Division is made for the purposes of subsections 21(1) and (7) of the Commission Act.

Subdivision B—Notices and reports about reportable incidents

95C Commissioner’s powers relating to notices about reportable incidents

Priority 1

- (1) The Commissioner may do any of the following in relation to a notice about a priority 1 reportable incident required to be given by an approved provider under subsection 15NE(5) of the *Quality of Care Principles 2014*:
 - (a) require the provider to include in the notice specified further information that the Commissioner requires to deal with the reportable incident;
 - (b) require the provider to give the notice within a specified period;
 - (c) decide that the provider is not required to give the Commissioner a notice about the reportable incident under that subsection.

Priority 2

- (2) If an approved provider gives a priority 2 notice about a reportable incident under subsection 15NF(1) of the *Quality of Care Principles 2014*, the Commissioner may require the provider to give the Commissioner within a specified period a notice under subsection (3) of that section that includes specified further information that the Commissioner requires to deal with the reportable incident.

Notice of decision

- (3) The Commissioner must give the approved provider written notice of a decision under this section as soon as practicable after making the decision.

95D Commissioner may decide certain reportable incidents not required to be notified

The Commissioner may decide that an approved provider is not required to give a notice under section 15NE or 15NF of the *Quality of Care Principles 2014* about a specified reportable incident if the Commissioner is satisfied that:

- (a) the same incident has been repeatedly alleged by a care recipient to have occurred; and
- (b) the allegation is the result of a delusion of the residential care recipient.

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95E Commissioner may require final report on reportable incident

- (1) If an approved provider gives a notice under section 15NE or 15NF of the *Quality of Care Principles 2014* about a reportable incident, the Commissioner may require the provider to give the Commissioner a final report that includes specified information about the reportable incident.
- (2) The Commissioner may specify the period in which the report is to be given.
- (3) If the Commissioner is given a final report about a reportable incident, the Commissioner may take any action in response to the report that the Commissioner considers appropriate.

95F Approved forms

The Commissioner must, in writing, approve one or more forms for the purposes of a provision of Division 4 of Part 4B of the *Quality of Care Principles 2014* that provides for something to be in an approved form.

Subdivision C—Commissioner’s actions in dealing with reportable incidents

95G Actions the Commissioner may take in dealing with reportable incidents

- (1) The Commissioner may, upon receiving a notice about a reportable incident given by an approved provider under section 15NE or 15NF of the *Quality of Care Principles 2014*, do one or more of the following:
 - (a) refer the incident to whichever of the following the Commissioner considers appropriate:
 - (i) the Australian Federal Police;
 - (ii) the police force or police service of a State or Territory;
 - (aa) refer the incident to a person or body with responsibilities in relation to the incident;
 - (b) require or request the provider to undertake specified remedial action in relation to the incident within a specified period, including remedial action to ensure the safety, health and well-being of care recipients affected by the incident;
 - (c) require the provider to:
 - (i) carry out an internal investigation into the incident in the manner and within the period specified by the Commissioner; and
 - (ii) give the Commissioner a report on the investigation in the manner and within the period specified by the Commissioner;
 - (d) require the provider to:
 - (i) engage an appropriately qualified and independent expert, at the expense of the provider, to carry out an investigation into the incident in the manner and within the period specified by the Commissioner; and

- (ii) give the Commissioner a report on the investigation in the manner and within the period specified by the Commissioner;
 - (e) carry out an inquiry in relation to the incident in accordance with section 95H;
 - (f) take any other action to deal with the reportable incident that the Commissioner considers reasonable in the circumstances.
- (2) If a reportable incident is investigated under paragraph (1)(c) or (d), the Commissioner may take any action to deal with the outcome of the investigation that the Commissioner considers appropriate.

95H Commissioner's inquiries in relation to reportable incidents

- (1) The Commissioner may inquire into any of the following:
- (a) a reportable incident for an approved provider;
 - (b) a series of reportable incidents that relate to the aged care provided by one or more approved providers;
 - (c) the compliance of one or more approved providers with Division 4 of Part 4B of the *Quality of Care Principles 2014*.
- (2) An inquiry may be carried out under paragraph (1)(a) or (b) whether or not any of the reportable incidents have been notified to the Commissioner under section 15NE or 15NF of the *Quality of Care Principles 2014*.
- (3) An inquiry may be carried out as the Commissioner thinks fit.
- (4) Without limiting subsection (3), the Commissioner may:
- (a) consult with other persons, organisations and governments on matters relating to the inquiry; and
 - (b) request information or documents that are relevant to the inquiry from any person; and
 - (c) provide opportunities for care recipients to participate in the inquiry.
- (5) The Commissioner may prepare and publish a report setting out the Commissioner's findings in relation to the inquiry.

95J Taking of other action not prevented by this Division

Nothing in this Division prevents the Commissioner from taking action under the Commission Act in relation to:

- (a) a reportable incident for an approved provider; or
- (b) information or documents given to the Commissioner under this Division or Part 4B of the *Quality of Care Principles 2014*.

Division 3—Reportable incidents for service providers of Commonwealth-funded aged care services

Subdivision A—Purpose of this Division

95K Purpose of this Division

This Division is made for the purposes of subsections 21(1) and (8) of the Commission Act.

Subdivision B—Dealing with a reportable incident for a service provider

95L Commissioner may require further information in relation to a reportable incident

If:

- (a) a service provider of a Commonwealth-funded aged care service notifies the Commissioner of a reportable incident for the service provider in accordance with the funding agreement that relates to the service; and
- (b) the Commissioner requires further information in order to deal with the reportable incident;

the Commissioner may, by written notice, require the service provider to give the Commissioner specified information in relation to the reportable incident within a specified period.

95M Commissioner may deal with a reportable incident by taking certain action

- (1) This section applies if a service provider of a Commonwealth-funded aged care service notifies the Commissioner of a reportable incident for the service provider in accordance with the funding agreement that relates to the service.
- (2) The Commissioner may do any one or more of the following:
 - (a) refer the reportable incident to whichever of the following the Commissioner considers appropriate:
 - (i) the Australian Federal Police;
 - (ii) the police force or police service of a State or Territory;
 - (b) refer the reportable incident to a person or body with responsibilities in relation to the incident;
 - (c) require or request the service provider to undertake specified remedial action in relation to the reportable incident within a specified period, including remedial action to ensure the safety, health and well-being of a recipient of the Commonwealth-funded aged care service affected by the incident;
 - (d) require the service provider:
 - (i) to carry out an internal investigation of the reportable incident in the manner, and within the period, specified by the Commissioner; and

- (ii) to give the Commissioner a report of the investigation in the manner, and within the period, specified by the Commissioner;
 - (e) require the service provider to give the Commissioner, within the period specified in subsection (3), a final report about the reportable incident that includes information specified by the Commissioner;
 - (f) take any other action to deal with the reportable incident that the Commissioner considers reasonable in the circumstances.
- (3) The period for the purposes of paragraph (2)(e) is:
- (a) the period of 84 days starting on the day after the requirement under that paragraph is made; or
 - (b) such other period as is specified by the Commissioner.
- (4) If the Commissioner is given a report of an internal investigation of a reportable incident carried out by a service provider, the Commissioner may take any action to deal with the outcome of the investigation that the Commissioner considers appropriate.
- (5) If the Commissioner is given a final report about a reportable incident, the Commissioner may take any action in response to the report that the Commissioner considers appropriate.

95N Taking of other action not prevented by this Division

Nothing in this Division prevents the Commonwealth from taking action under the funding agreement that relates to a Commonwealth-funded aged care service, or the Commissioner from taking action under the Commission Act, in relation to:

- (a) a reportable incident for the service provider of the service; or
- (b) information or documents given to the Commissioner under this Division; or
- (c) information or documents relating to such a reportable incident given to the Commissioner or the Commonwealth under the funding agreement.

Part 7—Reconsideration and review of decisions

Division 1—Introduction

96 Simplified outline of this Part

This Part provides for the reconsideration and review of certain decisions made under this instrument.

An interested person for a reviewable Commissioner decision may request the Commissioner to reconsider the decision. If the interested person makes such a request, the Commissioner must personally reconsider the decision or cause the decision to be reconsidered by an appropriate delegate of the Commissioner.

The Commissioner, or an appropriate delegate of the Commissioner, may also reconsider a regulatory reviewable decision if the Commissioner or delegate is satisfied that there is sufficient reason to do so.

An interested person for a reviewable Commissioner decision may apply to the Administrative Appeals Tribunal for review of a reconsideration decision that relates to a regulatory reviewable decision.

Division 2—Reconsideration and review of decisions

97 Purpose of this Division

This Division is made for the purposes of subsection 21(1) and paragraphs 21(3)(f) and (4)(h) of the Commission Act.

98 Reviewable Commissioner decisions and interested persons

A decision by the Commissioner referred to in an item of column 1 of the following table is a *reviewable Commissioner decision*. A person or body referred to in column 2 of the item is the *interested person* for the decision.

Reviewable Commissioner decisions and interested persons		
Item	Column 1 Decision	Column 2 Interested person
1	A decision under section 14 to take no further action in relation to an issue raised in a complaint (other than a complaint that has been withdrawn under section 12)	The complainant
2	A decision under section 17 to end a resolution process in relation to an issue raised in a complaint (other than a complaint that has been withdrawn under section 12)	Both of the following: (a) the complainant; (b) the relevant provider for the issue
3	A decision under section 29 not to accredit a commencing service	The approved provider of the service
3A	A decision under section 29 not to re-accredit a recommencing service	The approved provider of the service
4	A decision under subsection 41(1) not to re-accredit a residential service	The approved provider of the service
5	A decision under subsection 41(3) on the further period for which a residential service is to be accredited	The approved provider of the service
6	A decision under subsection 44(1) to revoke the accreditation of an accredited service	The approved provider of the service
6A	A decision under subsection 44(2) regarding the day revocation of accreditation is to take effect	The approved provider of the service
6B	A decision under subsection 77(1) to revoke the accreditation of an accredited service	The approved provider of the service
6C	A decision under subsection 77(3) regarding the day revocation of accreditation is to take effect	The approved provider of the service
7	A decision under subsection 77(4) to vary an accredited service's period of accreditation	The approved provider of the service
7A	A decision under subsection 90(3) to refuse to register a person as a quality assessor	The person
7B	A decision under subsection 92(3) to refuse to register a person as a quality assessor for a further period	The person

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Reviewable Commissioner decisions and interested persons		
Item	Column 1 Decision	Column 2 Interested person
8	A decision under subsection 94(3) to cancel a person's registration as a quality assessor	The person

99 Interested person may request reconsideration of reviewable Commissioner decision

- (1) An interested person for a reviewable Commissioner decision may request the Commissioner to reconsider the decision.
- (2) If the request is to reconsider a complaints reviewable decision, the request:
 - (a) may be made in writing or orally; and
 - (b) must set out the reasons for the request; and
 - (c) must be given to the Commissioner within 42 days after the interested person is notified of the decision.
- (3) If the request is to reconsider a regulatory reviewable decision, the request must:
 - (a) be made in writing; and
 - (b) set out the reasons for the request; and
 - (c) be given to the Commissioner within 14 days after the interested person is notified of the decision.

100 Reconsideration of complaints reviewable decision

- (1) If a request is made under section 99 by an interested person for a complaints reviewable decision, the Commissioner must:
 - (a) personally reconsider the decision; or
 - (b) cause the decision to be reconsidered by a delegate of the Commissioner:
 - (i) who was not involved in making the decision; and
 - (ii) who occupies a position that is at least the same level as that occupied by the person who made the decision.

Reconsideration decision

- (2) After reconsidering the complaints reviewable decision, the internal reviewer must:
 - (a) affirm the decision; or
 - (b) set the decision aside and decide to undertake a resolution process (the **new resolution process**) under Part 2 in relation to an issue raised in the complaint to which the complaints reviewable decision relates.
- (3) After the internal reviewer makes the reconsideration decision, the internal reviewer must, within 56 days after the request was received, give the interested person for the complaints reviewable decision written notice of:

- (a) the reconsideration decision; and
- (b) the reasons for the decision.

New resolution process

- (4) If the internal reviewer decides to undertake the new resolution process, the internal reviewer must complete that process within 126 days after the request was received (the *resolution period*).
- (5) However, the internal reviewer may, before the end of the resolution period, decide to extend that period by a further 14 days.
- (6) If the internal reviewer extends the resolution period under subsection (5), the internal reviewer must, before the end of that period, give the complainant (if any) for the complaint, and the relevant provider for the issue raised in the complaint, written notice of:
 - (a) the decision; and
 - (b) the reasons for the decision.
- (7) If the internal reviewer decides to end the new resolution process under section 17, the decision is not a reviewable Commissioner decision for the purposes of section 98 unless:
 - (a) the decision to end the new resolution process is made under paragraph 17(1)(c); and
 - (b) the relevant complaints reviewable decision that was set aside under paragraph (2)(b) of this section was a decision made under section 17 (other than paragraph 17(1)(c)).

101 Reconsideration of regulatory reviewable decision

- (1) If a request is made under section 99 by an interested person for a regulatory reviewable decision, the Commissioner must:
 - (a) personally reconsider the decision; or
 - (b) cause the decision to be reconsidered by a delegate of the Commissioner:
 - (i) who was not involved in making the decision; and
 - (ii) who occupies a position that is at least the same level as that occupied by the person who made the decision.
- (2) After reconsidering the regulatory reviewable decision, the internal reviewer must:
 - (a) affirm the decision; or
 - (b) vary the decision; or
 - (c) set the decision aside and substitute a new decision.
- (3) After the internal reviewer makes the reconsideration decision, the internal reviewer must give the interested person for the regulatory reviewable decision, and the Secretary, written notice of the reconsideration decision and the reasons for the decision within:

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- (a) if the regulatory reviewable decision is a decision of a kind mentioned in item 3, 3A, 4 or 6 of the table in section 98—56 days after the request was received; and
- (b) otherwise—28 days after the request was received.

Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires the person to be notified of the person's review rights.

- (4) The reconsideration decision is taken to have been made under the provision under which the regulatory reviewable decision was made other than for the purposes of:
 - (a) the definition of *regulatory reviewable decision* in section 4; and
 - (b) section 98.

102 Reconsideration of regulatory reviewable decision on own initiative

- (1) Either of the following persons may reconsider a regulatory reviewable decision if satisfied that there is sufficient reason to do so:
 - (a) the Commissioner personally;
 - (b) a delegate of the Commissioner:
 - (i) who was not involved in making the decision; and
 - (ii) who occupies a position that is at least the same level as that occupied by the person who made the decision.
 - (2) If an internal reviewer decides under subsection (1) to reconsider a regulatory reviewable decision, the internal reviewer must give written notice to the interested person for the decision that the decision is to be reconsidered.
 - (3) After reconsidering the regulatory reviewable decision, the internal reviewer must:
 - (a) affirm the decision; or
 - (b) vary the decision; or
 - (c) set the decision aside and substitute a new decision.
 - (4) After the internal reviewer makes the reconsideration decision, the internal reviewer must give written notice of the reconsideration decision to the interested person for the regulatory reviewable decision, and the Secretary, within:
 - (a) if the regulatory reviewable decision is a decision of a kind mentioned in item 3, 4 or 6 of the table in section 98—within 56 days after the commencement of the reconsideration; and
 - (b) otherwise—within 14 days after the commencement of the reconsideration.
- Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires the person to be notified of the person's review rights.
- (5) The reconsideration decision is taken to have been made under the provision under which the regulatory reviewable decision was made other than for the purposes of:
 - (a) the definition of *regulatory reviewable decision* in section 4; and
 - (b) section 98.

103 Review by Administrative Appeals Tribunal

- (1) Applications may be made to the Administrative Appeals Tribunal for review of a reconsideration decision of an internal reviewer that relates to a regulatory reviewable decision.
- (2) An application under subsection (1) may be made only by, or on behalf of, the interested person for the regulatory reviewable decision.
- (3) Subsection (2) has effect despite subsection 27(1) of the *Administrative Appeals Tribunal Act 1975*.

104 Commissioner must publish certain reconsideration decisions etc.

- (1) Within 28 days after making a reconsideration decision that relates to a regulatory reviewable decision, the Commissioner must publish on the Commission's website:
 - (a) the reconsideration decision; and
 - (b) any performance report considered in making the reconsideration decision.
- (2) If a person applies for review of the reconsideration decision by the Administrative Appeals Tribunal, the Commissioner must publish, on the Commission's website, a notice stating that the reconsideration decision is subject to review by the Administrative Appeals Tribunal.
- (3) Within 28 days after the Administrative Appeals Tribunal makes a decision on an application for review of a reconsideration decision, the Commissioner must publish the Tribunal's decision on the Commission's website.

Note: For the disclosure of protected information, see Division 4 of Part 7 of the Commission Act.

Part 8 Information sharing and confidentiality

Division 1 Introduction

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Part 8—Information sharing and confidentiality

Division 1—Introduction

105 Simplified outline of this Part

This Part deals with information sharing and the disclosure of protected information by the Commissioner in certain circumstances.

Division 2—Information sharing

106 Purpose of this Division

This Division is made for the purposes of subsection 56(1) of the Commission Act.

108 Information about failure to comply with Quality Review Guidelines by service providers of Aboriginal and Torres Strait Islander services

- (1) If, in performing the regulatory functions, the Commissioner becomes aware of a failure by the service provider of an Aboriginal and Torres Strait Islander service to comply with the Quality Review Guidelines, the Commissioner must give the Secretary information about the failure for the purposes of the Secretary's functions or powers.
- (2) The Commissioner must give the information in writing and as soon as possible after becoming aware of the failure.

109 Information about failure to comply with Aged Care Quality Standards by service providers of home support services

- (1) If, in performing the regulatory functions, the Commissioner becomes aware of a failure by the service provider of a home support service to comply with the Aged Care Quality Standards in relation to the service, the Commissioner must give the Secretary information about the failure for the purposes of the Secretary's functions or powers.
- (2) The Commissioner must give the information in writing and as soon as possible after becoming aware of the failure.

Division 3—Protected information

110 Purpose of this Division

This Division is made for the purposes of paragraph 61(1)(j) of the Commission Act.

111 Permitted disclosure of protected information by Commissioner if aged care consumer's safety, health or well-being at risk

The Commissioner may disclose protected information to:

- (a) the approved provider of an aged care service; or
- (b) the service provider of a Commonwealth-funded aged care service;

if the Commissioner believes, on reasonable grounds, that not disclosing the information to the provider would place the safety, health or well-being of an aged care consumer of the service at risk.

Part 8A—Approval of providers of aged care

111A Circumstances in which Commissioner may require further information to be given within a shorter period

For the purposes of subsection 63C(3) of the Commission Act, the following circumstances are specified in relation to an application made under subsection 63B(1) of that Act:

- (a) the Commissioner is satisfied that the care for care recipients may be prejudiced by delay in deciding whether to approve the applicant as a provider of aged care;
- (b) the Commissioner is satisfied that the applicant, or one of the key personnel of the applicant, has:
 - (i) previously been refused approval as a provider of aged care; or
 - (ii) had their approval as a provider of aged care revoked.

Note: For paragraph (a), an example of when delay in deciding whether to approve a person as a provider of aged care may prejudice care for care recipients is when allocated places have been transferred and it is necessary to relocate care recipients.

Part 8B Sanctions for non-compliance with aged care responsibilities of approved providers

Division 1 Introduction

Section 111B

Part 8B—Sanctions for non-compliance with aged care responsibilities of approved providers

Division 1—Introduction

111B Simplified outline of this Part

<p>This Part specifies matters relating to the imposition of sanctions under section 63N of the Commission Act and the lifting of such sanctions.</p>

Division 2—Imposition of sanctions by the Commissioner

111C When sanctions come into effect and cease to have effect—matters to which Commissioner must have regard

For the purposes of subsection 63N(6) of the Commission Act, in doing any one or more of the matters mentioned in paragraph 63N(6)(a), (b) or (c) of that Act in relation to a sanction imposed on an approved provider for non-compliance with one or more of the aged care responsibilities of the provider, the Commissioner must have regard to the following matters:

- (a) whether the non-compliance is of a minor or serious nature;
- (b) whether the non-compliance has occurred previously and, if so, how many times it has previously occurred;
- (c) whether the non-compliance threatens the health, welfare or interests of care recipients to whom the provider is providing care;
- (d) whether the non-compliance would threaten the health, welfare or interests of care recipients to whom the provider may provide care in the future;
- (e) if the provider has given an undertaking as required by a notice given to the provider under subsection 63T(2) of the Commission Act—whether or not the provider has complied with the undertaking;
- (f) if the provider has agreed to do one or more things as required by a notice given to the provider under subsection 63U(2) of the Commission Act—whether or not the provider has complied with the agreement;
- (g) any risks to the health, welfare or interests of care recipients to whom the provider is providing care or may provide care in the future;
- (h) the period likely to be needed to establish whether any improvement in the provider's compliance with those responsibilities can be sustained;
- (i) the period needed for the taking of reasonable steps to inform the following persons about the imposition of the sanction and the consequences of the imposition of the sanction:
 - (i) each care recipient who is likely to be affected by the imposition of the sanction;
 - (ii) the nominated representative of such a care recipient.

111D Other sanctions that may be imposed on approved providers

For the purposes of paragraph 63R(o) of the Commission Act, the following sanctions are specified:

- (a) if an approved provider has not made a payment as required under section 21F of the *User Rights Principles 2014* (as in force before 1 September 2021)—requiring the provider to make the payment within a specified period;
- (aa) if an approved provider has not made a payment as required under section 21F or 37 of the *User Rights Principles 2014* (as in force on or after 1 September 2021)—requiring the provider to make the payment within a specified period;

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- (b) if an approved provider has charged a care recipient to whom the provider provides home care an amount for, or in relation to, the care or a service that is greater than the amount that the provider is permitted to charge under section 21M of the *User Rights Principles 2014*—requiring the provider to repay the overcharged amount within a specified period.

Division 3—Notices that must, or may, be given before sanctions are imposed

111E Period to appoint eligible adviser—matters Commissioner must take into account when specifying period

For the purposes of subsection 63U(4) of the Commission Act, in specifying the period within which an approved provider must appoint an eligible adviser, the Commissioner must take into account:

- (a) the location of the aged care service conducted by the provider; and
- (b) the nature of the provider's non-compliance with the aged care responsibilities of the provider; and
- (c) whether there is an immediate and severe risk to the safety, health and well-being of care recipients to whom the provider is providing care as a result of the non-compliance; and
- (d) the availability of persons who have appropriate qualifications, skills or experience to assist the provider to comply with the provider's aged care responsibilities; and
- (e) any other relevant matter.

Division 4—Lifting of sanctions imposed on approved providers

111F Lifting of sanctions—other matters to which the Commissioner must have regard

For the purposes of paragraph 63X(3)(b) of the Commission Act, in deciding whether it is appropriate for a sanction imposed on an approved provider for non-compliance with one or more of the aged care responsibilities of the approved provider to be lifted, the Commissioner must have regard to:

- (a) the matters mentioned in paragraphs 111C(a) to (g) of this instrument; and
- (b) whether any changes made by the provider are likely to result in a sustained improvement in the provider's compliance with those responsibilities.

Part 9—Transitional, application and saving provisions

Division 1—Provisions relating to the commencement of this instrument

Subdivision A—Preliminary

112 Definitions

In this Division:

additional functions instrument means the *Australian Aged Care Quality Agency (Other Functions) Instrument 2015*, as in force immediately before the transition time.

CEO means the Chief Executive Officer of the Australian Aged Care Quality Agency appointed under section 16 of the Quality Agency Act.

Complaints Commissioner means the Aged Care Complaints Commissioner appointed under section 95A-2 of the Aged Care Act, as in force immediately before the transition time.

Complaints Principles means the *Complaints Principles 2015*, as in force immediately before the transition time.

Quality Agency Act means the *Australian Aged Care Quality Agency Act 2013*, as in force immediately before the transition time.

Quality Agency Principles means the *Quality Agency Principles 2013*, as in force immediately before the transition time.

Quality Framework means the Quality Framework for the program known as the National Aboriginal and Torres Strait Islander Flexible Aged Care Program, published by the Department and as in force from time to time.

Note: The Quality Framework could in 2019 be viewed on the Commission's website (<https://www.agedcarequality.gov.au>).

transition time means the commencement of this instrument.

Subdivision B—Complaints

113 Pending complaints

- (1) This section applies in relation to a complaint made, or taken to have been made, under the Complaints Principles if:
 - (a) the complaint was made before the transition time; and
 - (b) immediately before that time, the complaint has not been finally dealt with by the Complaints Commissioner.

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- (2) The complaint is taken, after the transition time, to have been made to the Commissioner under section 11 of this instrument and may be dealt with, or may continue to be dealt with, under Part 2 of this instrument.
- (3) If, before the transition time, a thing was done by the Complaints Commissioner in relation to the complaint, then the thing has effect, after that time, as if it had been done by the Commissioner.

114 Information received pre-transition but not finally dealt with

- (1) This section applies if:
 - (a) before the transition time, the Complaints Commissioner received, otherwise than in a complaint, information of a kind referred to in section 11 of the Complaints Principles; and
 - (b) immediately before that time, the information has not been finally dealt with by the Complaints Commissioner.
- (2) The information is taken, after the transition time, to have been received by the Commissioner under this instrument and may be dealt with, or may continue to be dealt with, under Part 2 of this instrument.
- (3) If, before the transition time, a thing was done by the Complaints Commissioner in relation to the information, then the thing has effect, after that time, as if it had been done by the Commissioner.

115 Saving of pre-transition notice of intention to issue directions to approved provider etc.

- (1) This section applies in relation to a notice given by the Complaints Commissioner under subsection 15(3) of the Complaints Principles if:
 - (a) the notice was given before the transition time; and
 - (b) immediately before that time, the applicable period referred to in subsection 15(6) of those Principles has not ended.
- (2) Despite the repeal of the Complaints Principles, the notice continues to have effect, after the transition time, as if it were a notice given by the Commissioner under subsection 20(1) of this instrument.

116 Saving of pre-transition directions given to approved provider etc.

- (1) This section applies in relation to a direction given by the Complaints Commissioner under subsection 15(7) of the Complaints Principles if:
 - (a) the direction was given before the transition time; and
 - (b) immediately before that time, the direction still has effect.
- (2) Despite the repeal of the Complaints Principles, the direction continues to have effect, after the transition time, as if it were a direction given by the Commissioner under section 19 of this instrument.

Subdivision C—Accreditation of residential aged care services

117 Saving of accreditation of residential aged care services

- (1) This section applies if:
 - (a) before the transition time, an aged care service was an accredited service under the Quality Agency Principles; and
 - (b) immediately before that time, the period of accreditation of the service has not ended.
- (2) Despite the repeal of the Quality Agency Principles, the aged care service is taken, after the transition time, to be an accredited service for the purposes of this instrument until that period ends.

118 Pending applications for accreditation of residential aged care services

- (1) This section applies in relation to an application made under subsection 2.2(1) of the Quality Agency Principles if:
 - (a) the application was made before the transition time; and
 - (b) immediately before that time, the CEO has not made a decision on the application.
- (2) The application is taken, after the transition time, to have been made to the Commissioner under subsection 27(1) of this instrument and may be dealt with, or may continue to be dealt with, under Subdivision C of Division 3 of Part 3 of this instrument.
- (3) If, before the transition time, a thing was done in relation to the application under, or for the purposes of, the Quality Agency Principles, then the thing has effect, after that time, as if it had been done under, or for the purposes of, this instrument.

119 Pending applications for re-accreditation of residential aged care services

- (1) This section applies in relation to an application made under subsection 2.2(2) of the Quality Agency Principles if:
 - (a) the application was made before the transition time; and
 - (b) immediately before that time, the CEO has not made a decision on the application.
- (2) The application is taken, after the transition time, to have been made to the Commissioner under subsection 27(2) of this instrument and may be dealt with, or may continue to be dealt with, under Subdivisions D and E of Division 3 of Part 3 of this instrument.
- (3) If, before the transition time, a thing was done in relation to the application under, or for the purposes of, the Quality Agency Principles, then the thing has effect, after that time, as if it had been done under, or for the purposes of, this instrument.

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120 Saving of reminder notices about accreditation

- (1) This section applies in relation to a notice given by the CEO under subsection 2.1A(1) of the Quality Agency Principles if:
 - (a) the notice was given before the transition time; and
 - (b) immediately before that time, the notice still has effect.
- (2) Despite the repeal of the Quality Agency Principles, the notice continues to have effect, after the transition time, as if it were a notice given by the Commissioner under subsection 46(1) of this instrument.

121 Publication of certain pre-transition decisions relating to accreditation

- (1) If:
 - (a) a decision of a kind mentioned in subsection 2.26(1) of the Quality Agency Principles is made before the transition time; and
 - (b) the decision is a decision that may be reconsidered in accordance with Part 6 of Chapter 2 of those Principles; and
 - (c) immediately before that time, the CEO has not complied with subsection 2.26(3) of those Principles in relation to the decision;then, subsection 48(2) of this instrument applies, after the transition time, in relation to the decision as if the decision were a decision of a kind mentioned in paragraph 48(2)(a) of this instrument.
- (2) If:
 - (a) a decision of a kind mentioned in subsection 2.48(1) of the Quality Agency Principles is made before the transition time; and
 - (b) the decision is a decision that may be reconsidered in accordance with Part 6 of Chapter 2 those Principles; and
 - (c) immediately before that time, the CEO has not complied with subsection 2.48(3) of those Principles in relation to the decision;then, subsection 80(2) of this instrument applies, after the transition time, in relation to the decision as if the decision were a decision of a kind mentioned in paragraph 80(2)(a) of this instrument.

Subdivision D—Quality reviews of services

122 Continuation of quality reviews of home aged care services

- (1) This section applies in relation to a quality review of an aged care service under Divisions 1 and 2 of Part 2 of Chapter 3 of the Quality Agency Principles (the *old provisions*) if:
 - (a) the review began before the transition time; and
 - (b) immediately before that time, the review has not been completed.
- (2) The quality review may, after the transition time, continue to be conducted under Part 4 of this instrument.

- (3) The Commissioner may make any arrangements as are necessary for the purposes of completing the quality review under Part 4 of this instrument.
- (4) If, before the transition time, a thing was done in relation to the quality review under, or for the purposes of, the old provisions, then the thing has effect, after that time, as if it had been done under, or for the purposes of, Part 4 of this instrument.

123 Continuation of quality reviews of Aboriginal and Torres Strait Islander services

- (1) This section applies in relation to a quality review of an Aboriginal and Torres Strait Islander service under paragraph 1(a) of Schedule 1 to the additional functions instrument if:
 - (a) the quality review began before the transition time; and
 - (b) immediately before that time, the quality review has not been completed.
- (2) The quality review may, after the transition time, continue to be conducted in accordance with the Quality Framework.
- (3) The Commissioner may make any arrangements as are necessary for the purposes of completing the quality review in accordance with the Quality Framework.

124 Continuation of quality reviews of home support services

- (1) This section applies in relation to a quality review of a home support service under paragraph 2(a) of Schedule 1 to the additional functions instrument (the *old provision*) if:
 - (a) the quality review began before the transition time; and
 - (b) immediately before that time, the quality review has not been completed.
- (2) The quality review may, after the transition time, continue to be conducted under Part 4 of this instrument.
- (3) The Commissioner may make any arrangements as are necessary for the purposes of completing the quality review under Part 4 of this instrument.
- (4) If, before the transition time, a thing was done in relation to the quality review for the purposes of the old provision, then the thing has effect, after that time, as if it had been done for the purposes of Part 4 of this instrument.

Subdivision E—Monitoring of services

125 Saving of arrangements for assessment contacts

- (1) This section applies in relation to arrangements for assessment contacts for an aged care service if:
 - (a) the arrangements were notified to the approved provider of the service under the Quality Agency Principles before the transition time; and

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- (b) immediately before that time, those arrangements are still in effect.
- (2) Despite the repeal of the Quality Agency Principles, the arrangements continue, after the transition time, to have effect, and may be dealt with, as if they had been notified under this instrument.

126 Action following pre-transition assessment contact

- (1) This section applies in relation to an assessment contact with the approved provider of an aged care service if:
 - (a) the contact was made under the Quality Agency Principles before the transition time; and
 - (b) immediately before that time, the CEO has not complied with whichever of section 2.34 or 3.16 of those Principles is applicable in relation to the contact.
- (2) Section 68 of this instrument applies, after the transition time, in relation to the assessment contact as if the contact had been made by a regulatory official.

127 Continuation of review audits of accredited services

- (1) This section applies in relation to a review audit of an accredited service under Division 4 of Part 2 of Chapter 2 of the Quality Agency Principles (the *old provisions*) if:
 - (a) the audit began before the transition time; and
 - (b) immediately before that time, the audit has not been completed.
- (2) The review audit may, after the transition time, continue to be conducted under Division 6 of Part 5 of this instrument.
- (3) The Commissioner may make any arrangements as are necessary for the purposes of completing the review audit under Division 6 of Part 5 of this instrument.
- (4) If, before the transition time, a thing was done in relation to the review audit under, or for the purposes of, the old provisions, then the thing has effect, after that time, as if it had been done under, or for the purposes of, Division 6 of Part 5 of this instrument.

128 Saving of timetable for improvement etc.

- (1) This section applies in relation to a timetable for improvement if:
 - (a) the timetable was notified to the approved provider of an aged care service under the Quality Agency Principles before the transition time; and
 - (b) immediately before that time, the period set out in the timetable, or that period as extended by the CEO, has not ended.
- (2) Despite the repeal of the Quality Agency Principles, the timetable for improvement continues, after the transition time, to have effect as if it had been notified to the approved provider under this instrument.

- (3) Sections 81 to 83 of this instrument apply, after the transition time, in relation to the timetable for improvement as if it had been notified to the approved provider under this instrument.

129 Saving of notice directing revision of plan for continuous improvement

- (1) This section applies in relation to a notice given by the CEO under subsection 2.63(3) or 3.18(3) of the Quality Agency Principles if:
- (a) the notice was given before the transition time; and
 - (b) immediately before that time, the period referred to in subsection 2.63(4) or 3.18(4) of those Principles (as the case may be) has not ended.
- (2) Despite the repeal of the Quality Agency Principles, the notice continues, after the transition time, to have effect as if it had been given by the Commissioner under subsection 84(1) of this instrument.

Subdivision F—Registration of quality assessors

130 Continuation of registration as quality assessor

- (1) This section applies in relation to a person who, immediately before the transition time, was registered as a quality assessor for a period under Part 3 of Chapter 2 of the Quality Agency Principles.
- (2) The person is taken, after the transition time, to be registered as a quality assessor under Part 6 of this instrument.
- (3) Despite the repeal of the Quality Agency Principles, the notice (the *registration notice*) given to the person under subsection 2.51(4) or 2.53(3) of those Principles that relates to that period of registration continues to have effect, after the transition time, as if the repeal had not happened.
- (4) Section 94 of this instrument applies in relation to the person's registration as a quality assessor as if paragraph (3)(b) of that section were replaced with the following paragraph:
- “(b) the person has failed to comply with the obligations set out in the registration notice.”.

Subdivision G—Reconsideration and review of decisions

131 Request for reconsideration of pre-transition decisions relating to complaints

- (1) This section applies in relation to a decision made under paragraph 7(a) or section 14 of the Complaints Principles if:
- (a) the decision was made before the transition time; and
 - (b) immediately before that time, the period (the *reconsideration period*) referred to in paragraph 22(5)(b) of those Principles during which a person or body may apply for the reconsideration of the decision has not ended.

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- (2) Sections 99 and 100 of this instrument apply, after the transition time, in relation to the decision as if:
- (a) the decision were a complaints reviewable decision; and
 - (b) the person or body were an interested person for the complaints reviewable decision; and
 - (c) paragraph 99(2)(c) of this instrument were replaced with the following paragraph:
“(c) must be given to the Commissioner before the end of the reconsideration period.”.

132 Request for reconsideration of pre-transition decisions relating to accreditation or registration of quality assessors

- (1) This section applies in relation to a decision of a particular kind mentioned in an item of the table in section 2.66 of the Quality Agency Principles if:
- (a) the decision was made before the transition time; and
 - (b) immediately before that time, the period (the *reconsideration period*) referred to in paragraph 2.67(2)(c) of those Principles during which a person or body may apply for the reconsideration of the decision has not ended.
- (2) Sections 99 and 101 of this instrument apply, after the transition time, in relation to the decision as if:
- (a) the decision were a regulatory reviewable decision; and
 - (b) the person or body were an interested person for the regulatory reviewable decision; and
 - (c) paragraph 99(3)(c) of this instrument were replaced with the following paragraph:
“(c) be given to the Commissioner before the end of the reconsideration period.”.

133 Pending applications for reconsideration of decisions relating to complaints

- (1) This section applies in relation to an application made under subsection 22(1) or (3) of the Complaints Principles for the reconsideration of a decision (the *original decision*) if:
- (a) the application was made before the transition time; and
 - (b) immediately before that time, the application has not been finally dealt with by the Complaints Commissioner.
- (2) The application is taken, after the transition time, to be a request made to the Commissioner under section 99 of this instrument and may be dealt with, or may continue to be dealt with, under Part 7 of this instrument as if:
- (a) the original decision were a complaints reviewable decision; and
 - (b) the applicant were the interested person for the complaints reviewable decision.
- (3) If:

- (a) before the transition time, the Complaints Commissioner decided to undertake a new resolution process under paragraph 23(1)(b) of the Complaints Principles in relation to the application; and
 - (b) immediately before that time, the new resolution process has not been completed in accordance with section 23 of those Principles;
- the Commissioner may, after that time, complete that resolution process in accordance with Part 2, and section 100, of this instrument.
- (4) If, before the transition time, a thing was done by the Complaints Commissioner in relation to the application, then the thing has effect, after that time, as if it had been done by the Commissioner.

134 Pending requests for reconsideration of decisions relating to accreditation or registration of quality assessors

- (1) This section applies in relation to a request (the *pending request*) made under section 2.67 of the Quality Agency Principles for the reconsideration of a decision (the *original decision*) of a particular kind mentioned in an item of the table in section 2.66 of those Principles if:
- (a) the pending request was made before the transition time; and
 - (b) immediately before that time, the CEO has not made a decision on the pending request.
- (2) The pending request is taken, after the transition time, to be a request made to the Commissioner under section 99 of this instrument and may be dealt with, or may continue to be dealt with, under Part 7 of this instrument as if:
- (a) the original decision were a regulatory reviewable decision of the same kind; and
 - (b) the person or body who made the request were the interested person for the regulatory reviewable decision.
- (3) If, before the transition time, a thing was done by the CEO in relation to the pending request, then the thing has effect, after that time, as if it had been done by the Commissioner.

135 Reconsideration of pre-transition decisions relating to accreditation or registration of quality assessor at the Commissioner's own initiative

- (1) This section applies if a decision of a kind mentioned in an item of the table in section 2.66 of the Quality Agency Principles is made before the transition time.
- (2) Section 102 of this instrument applies, after the transition time, in relation to the decision as if:
- (a) the decision were a regulatory reviewable decision; and
 - (b) if the decision relates to the accreditation of an aged care service—the approved provider of the service were an interested person for the regulatory reviewable decision; and

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- (c) if the decision relates to the cancellation of a person's registration as a quality assessor under the Quality Agency Principles—the person were an interested person for the regulatory reviewable decision.

136 Review by the Administrative Appeals Tribunal of certain pre-transition decisions

- (1) This section applies to a decision made under subsection 2.68(1) or 2.69(3) of the Quality Agency Principles if:
 - (a) the decision was made before the transition time; and
 - (b) immediately before that time, both of the following apply:
 - (i) an application for review of the decision by the Administrative Appeals Tribunal has not been made;
 - (ii) the time for a person to make such an application has not ended (including any extensions of that time under section 29 of the *Administrative Appeals Tribunal Act 1975*).
- (2) Subsection 103(1) of this instrument applies, after the transition time, in relation to the decision as if it were a reconsideration decision that relates to a regulatory reviewable decision.

137 Publication of certain pre-transition reconsideration decisions etc.

If:

- (a) a decision is made under section 2.68 or 2.69 of the Quality Agency Principles before the transition time; and
- (b) immediately before that time, the CEO has not complied with either or both of subsections 2.71(1) and 2.72(1) of those Principles (as applicable) in relation to the decision;

then, section 104 of this instrument applies, after the transition time, in relation to the decision as if the decision were a reconsideration decision that relates to a regulatory reviewable decision.

Division 2—Amendments made by the Aged Care Legislation Amendment (Single Quality Framework Consequential Amendments and Transitional Provisions) Instrument 2019

138 Definitions

In this Division:

Accreditation Standards means the Accreditation Standards set out in the *Quality of Care Principles 2014*, as in force immediately before the SQF commencement time.

amending instrument means the *Aged Care Legislation Amendment (Single Quality Framework Consequential Amendment and Transitional Provisions) Instrument 2019*.

Flexible Care Standards means the Flexible Care Standards set out in the *Quality of Care Principles 2014*, as in force immediately before the SQF commencement time.

Home Care Standards means the Home Care Standards set out in the *Quality of Care Principles 2014*, as in force immediately before the SQF commencement time.

SQF commencement time means the start of 1 July 2019.

139 Pending applications for accreditation of a commencing service

- (1) This section applies in relation to an application if:
 - (a) the application was made by the approved provider of a commencing service under subsection 27(1); and
 - (b) the application was made before the SQF commencement time; and
 - (c) immediately before that time, the Commissioner had not made a decision on the application.
- (2) Subject to this section, the amendments of Subdivision C of Division 3 of Part 3 made by the amending instrument apply in relation to the application.
- (3) For the purposes of making a decision under paragraph 29(3)(b) in relation to the application, the Commissioner may take into account the extent of the approved provider's compliance, before the SQF commencement time, with the Accreditation Standards or the Flexible Care Standards (as applicable).

140 Pending applications for re-accreditation of an accredited service or a previously accredited service

- (1) This section applies in relation to an application if:

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- (a) the application was made by the approved provider of a residential service, under subsection 27(2); and
 - (b) the application was made before the SQF commencement time; and
 - (c) immediately before that time, the Commissioner had not made a decision on the application.
- (2) Subject to this section, the amendments of Subdivision D of Division 3 of Part 3 made by the amending instrument apply in relation to the application.

Site audits

- (3) If:
- (a) a site audit of the service began before the SQF commencement time; and
 - (b) immediately before that time, the site audit had not been completed;
- then:
- (c) despite the amendments of paragraphs 36(2)(a) and 40(2)(a) made by the amending instrument, those paragraphs, as in force immediately before the SQF commencement time, continue to have effect in relation to the site audit as if the amendments had not been made; and
 - (d) for the purposes of:
 - (i) taking into account whether the Commissioner is satisfied that the approved provider will undertake continuous improvement in relation to the service under subparagraph 41(2)(a)(v); or
 - (ii) making a decision under paragraph 41(3)(b) in relation to the service; the Commissioner may take into account the extent of the approved provider's compliance, before the SQF commencement time, with the Accreditation Standards or the Flexible Care Standards (as applicable).
- (4) If a site audit of the service did not begin before the SQF commencement time, the amendments of that Subdivision made by the amending instrument, apply in relation to the site audit.

141 Quality reviews of home services

- (1) This section applies in relation to a quality review of a home service if:
- (a) the review began before the SQF commencement time; and
 - (b) immediately before that time, the review had not been completed.
- (2) If:
- (a) a site visit to the premises of the home service provider of the home service, or to the premises on which the home service is provided, as part of the quality review began before the SQF commencement time; and
 - (b) immediately before that time, the site visit had not been completed;
- then:
- (c) despite the amendments of paragraphs 54(a), 56(2)(a) and 57(2)(a) made by the amending instrument, those paragraphs, as in force immediately

before the SQF commencement time, continue to have effect in relation to the site visit as if the amendments had not been made; and

- (d) for the purposes of preparing a final report under paragraph 57(2)(b) in relation to the service, the Commissioner may take into account the extent of the home service provider's compliance, before the SQF commencement time, with the Home Care Standards or the Flexible Care Standards (as applicable).
- (3) If a site visit of to the premises of the home service provider of the home service, or to the premises on which the home service is provided, as part of the quality review did not begin before the SQF commencement time, the amendments of Subdivision B of Division 3 of Part 4 made by the amending instrument apply in relation to the site visit.

142 Assessment contacts initiated but not completed before the SQF commencement time

- (1) This section applies in relation to an assessment contact with the approved provider of an accredited service, or the home service provider of a home service, if the assessment contact:
 - (a) was first made by a regulatory official before the SQF commencement time; and
 - (b) immediately before the SQF commencement time, the regulatory official had not given the provider written notice under section 68 in relation to the assessment contact.
- (2) Despite the amendments of section 5 and Division 5 of Part 5 made by the amending instrument, those provisions, as in force immediately before the SQF commencement time, continue to have effect in relation to the assessment contact.

143 Assessment contacts initiated after the SQF commencement time in relation to timetables for improvement notified before the SQF commencement time

- (1) This section applies in relation to an assessment contact with the approved provider of an accredited service, or the home service provider of a home service, if:
 - (a) a timetable for improvement in relation to the service was:
 - (i) notified to the provider under section 30, 42, 68 or 79 before the SQF commencement time; or
 - (ii) notified to the home service provider of a home service under section 68 before the SQF commencement time; or
 - (iii) specified in a final report under section 57 given to the home service provider of a home service before the SQF commencement time; and
 - (b) immediately before the SQF commencement time, the period set out in the timetable, or as extended under section 83, had not ended; and

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- (c) the assessment contact is made in relation to the timetable for improvement after the SQF commencement time.

Definition of assessment contact

- (2) Section 5, as amended by the amending instrument, applies in relation to the assessment contact as if:
 - (a) in relation to the approved provider of an accredited service—
paragraph 5(1)(a) included a reference to the Accreditation Standards or the Flexible Care Standards (as applicable); and
 - (b) in relation to the home service provider of a home service—
paragraph 5(2)(a) included a reference to the Home Care Standards or the Flexible Care Standards (as applicable).

Action following assessment contact by regulatory official

- (3) For the purposes of preparing the written notice under paragraph 68(a) in relation to the service, the regulatory official may take into account the extent of the provider's compliance before the SQF commencement time with the Accreditation Standards, the Home Care Standards or the Flexible Care Standards (as applicable).

144 Review audits

- (1) This section applies in relation to a review audit of an accredited service if:
 - (a) the review audit:
 - (i) began before the SQF commencement time; and
 - (ii) immediately before that time, the audit had not been completed; or
 - (b) the review audit:
 - (i) is arranged by the Commissioner after the SQF commencement time in relation to a request made by the approved provider of the accredited service for reconsideration of a regulatory reviewable decision (other than a decision of a kind mentioned in item 8 of the table in section 98 of this instrument); and
 - (ii) the regulatory reviewable decision was made before the SQF commencement time.
- (2) Despite the amendments of Subdivision A of Division 6 of Part 5 made by the amending instrument, that Subdivision, as in force immediately before the SQF commencement time, continues to have effect in relation to the review audit.

145 Revocation following review audit

- (1) This section applies in relation to a decision whether to revoke the accreditation of an accredited service under subsection 77(1) that:
 - (a) follows a review audit of the accredited service; and
 - (b) is made after the SQF commencement time.

- (2) Subdivision B of Division 6 of Part 5, as amended by the amending instrument, applies in relation to the decision, whether the review audit was conducted before or after the SQF commencement time.
- (3) If section 144 applies in relation to the review audit, for the purposes of:
 - (a) taking into account whether the Commissioner is satisfied that the approved provider will undertake continuous improvement in relation to the service under subparagraph 77(2)(a)(v); or
 - (b) making a decision under paragraph 77(4)(b) in relation to the service; the Commissioner may take into account the extent of the provider's compliance, before the SQF commencement time, with the Accreditation Standards or the Flexible Care Standards (as applicable).

146 Timetables for improvement

Subdivision A of Division 7 of Part 5, as amended by the amending instrument, applies in relation to a timetable for improvement that:

- (a) is notified to the approved provider of an accredited service under section 30, 42, 68 or 79 after the SQF commencement time; or
- (b) is notified to the home service provider of a home service under section 68 after the SQF commencement time; or
- (c) is specified in a final report under section 57 given to the home service provider of a home service after the SQF commencement time.

147 Direction to revise plan for continuous improvement if there is failure to comply with relevant Standards

- (1) This section applies if:
 - (a) the Commissioner finds, before or after the SQF commencement time, that the approved provider of an accredited service, or the home service provider of a home service, has failed to comply, before that time, with the Accreditation Standards, Home Care Standards or Flexible Care Standards (as applicable) in relation to the service; and
 - (b) the Commissioner has not given the provider a notice under subsection 84(1) in relation to the finding.
- (2) The Commissioner may, after the SQF commencement time, give the provider a notice under subsection 84(1), as amended by the amending instrument, in relation to the finding.

148 Failure to comply with relevant Standards that places safety, health or well-being of aged care consumer at serious risk

- (1) This section applies if:
 - (a) the Commissioner finds, before or after the SQF commencement time, that the approved provider of an accredited service, or the home service provider of a home service, has failed to comply, before that time, with the

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Accreditation Standards, Home Care Standards or Flexible Care Standards (as applicable) in relation to the service; and

- (b) the Commissioner has not complied with subsections 85(2), (3) and (4) in relation to the finding.
- (2) Despite the amendments of section 85 made by the amending instrument, that section, as in force immediately before the SQF commencement time, continues to have effect in relation to the finding.

149 Information about failure to comply with Home Care Standards by service providers of home support services

- (1) This section applies if:
- (a) the Commissioner becomes aware, before or after the SQF commencement time, of a failure, before that time, by the service provider of a home support service to comply with the Home Care Standards in relation to the service; and
 - (b) the Commissioner has not given the Secretary information about the failure.
- (2) Despite the amendment of section 109 made by the amending instrument, that section, as in force immediately before the SQF commencement time, continues to have effect in relation to the failure.

Division 3—Amendments made by the Aged Care Quality and Safety Commission Amendment (Integration of Functions) Rules 2019

150 Definitions

In this Division:

amending instrument means the *Aged Care Quality and Safety Commission Amendment (Integration of Functions) Rules 2019*.

151 Complaints

The amendments of section 13 made by the amending instrument apply in relation to a complaint received by the Commissioner before, on or after 1 January 2020.

152 Applications for accreditation of a commencing service

Applications made before 1 January 2020

- (1) Subdivision C of Division 3 of Part 3, as in force on 1 January 2020, applies in relation to an application made by the approved provider of a commencing service under subsection 27(1) if:
 - (a) the application was made before 1 January 2020; and
 - (b) immediately before 1 January 2020, the Commissioner had not made a decision on the application.

Applications made on or after 1 January 2020

- (2) Subdivision C of Division 3 of Part 3, as in force on 1 January 2020, applies in relation to an application made by the approved provider of a commencing service under subsection 27(1) on or after 1 January 2020.

153 Pending applications for re-accreditation of an accredited service or a previously accredited service (other than a recommencing service)

- (1) This section applies in relation to an application made by the approved provider of an accredited service or a previously accredited service (other than a recommencing service) under subsection 27(2) if:
 - (a) the application was made before 1 January 2020; and
 - (b) immediately before 1 January 2020, the Commissioner had not made a decision on the application.
- (2) Subdivision D of Division 3 of Part 3, as in force on 1 January 2020, applies in relation to the application.

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154 Publication of decisions made before 1 January 2020 relating to re-accreditation of an accredited service or a previously accredited service (other than a recommending service)

- (1) This section applies if, before 1 January 2020, the Commissioner made a decision mentioned in subsection 48(2) as in force immediately before 1 January 2020.
- (2) Subsection 48(2), as in force immediately before 1 January 2020, continues to have effect in relation to the decision.

155 Quality reviews of home services

- (1) This section applies in relation to a quality review of a home service if:
 - (a) the review began before 1 January 2020; and
 - (b) immediately before 1 January 2020, the review had not been completed.
- (2) Subdivision B of Division 3 of Part 4, as in force immediately before 1 January 2020, continues to have effect in relation to the quality review.

156 Publication of performance reports for home services

Paragraph 57(1)(c) applies in relation to a performance report for a home service for which a quality review is conducted if the report is prepared on or after 1 July 2020.

157 Quality reviews of Aboriginal and Torres Strait Islander services

- (1) This section applies in relation to a quality review of an Aboriginal and Torres Strait Islander service under section 58 if:
 - (a) the quality review began before 1 January 2020; and
 - (b) immediately before 1 January 2020, the quality review had not been completed.
- (2) The quality review must be completed in accordance with the Quality Review Guidelines.
- (3) The Commissioner may make any arrangements that are necessary for the purposes of completing the quality review in accordance with the Quality Review Guidelines.

158 Assessment contacts initiated but not completed before 1 January 2020

- (1) This section applies in relation to an assessment contact with the approved provider of an accredited service, or the home service provider of a home service, if the assessment contact:
 - (a) was first made by a regulatory official before 1 January 2020; and

- (b) immediately before 1 January 2020, the regulatory official had not given the provider written notice under section 68 in relation to the assessment contact.
- (2) Sections 68 and 68A, as in force on 1 January 2020, apply in relation to the assessment contact as if a purpose of the assessment contact was to assess the provider's performance, in relation to the service, against the Aged Care Quality Standards.

159 Arranging for review audits of accredited services

Despite the repeal of paragraph 70(1)(d) by the amending instrument, the Commissioner may arrange for a review audit of an accredited service to be conducted if:

- (a) the approved provider of the service has requested the reconsideration of a regulatory reviewable decision (other than a decision of a kind mentioned in item 8 of the table in section 98); and
- (b) the regulatory reviewable decision was made before 1 January 2020.

160 Conduct of review audits of accredited services

- (1) This section applies in relation to a review audit of an accredited service if:
 - (a) the review audit began before 1 January 2020; and
 - (b) immediately before 1 January 2020, the audit had not been completed.
- (2) The amendments of Subdivision A of Division 6 of Part 5 made by the amending instrument apply in relation to the review audit.

161 Revocation following review audit

- (1) This section applies in relation to a decision whether to revoke the accreditation of an accredited service under subsection 77(1) that:
 - (a) follows a review audit of the accredited service that began, but was not completed, before 1 January 2020; and
 - (b) is made on or after 1 January 2020.
- (2) The amendments of Subdivisions B and C of Division 6 of Part 5 made by the amending instrument apply in relation to the decision.

162 Publication of decisions made before 1 January 2020 relating to accreditation following review audit

- (1) This section applies if, before 1 January 2020, the Commissioner made a decision mentioned in section 80.
- (2) Section 80, as in force immediately before 1 January 2020, continues to have effect in relation to the decision.

Part 9 Transitional, application and saving provisions

Division 3 Amendments made by the Aged Care Quality and Safety Commission Amendment (Integration of Functions) Rules 2019

Section 163

163 Reviewable Commissioner decisions

The amendments of section 98 made by the amending instrument apply in relation to a decision made before, on or after 1 January 2020.

164 Reconsideration of complaints reviewable decisions

The amendments of section 100 made by the amending instrument apply in relation to a request for reconsideration made before, on or after 1 January 2020.

165 Reconsideration of regulatory reviewable decisions

The amendments of section 101 made by the amending instrument apply in relation to a request for reconsideration made before, on or after 1 January 2020.

Division 4—Amendments made by the Aged Care Legislation Amendment (Reportable Incidents) Instrument 2022

166 Final report about reportable incident

Subsection 95E(3), as inserted by the *Aged Care Legislation Amendment (Reportable Incidents) Instrument 2022*, applies in relation to a final report given to the Commissioner before, on or after 1 December 2022.

167 Action by Commissioner to deal with a reportable incident

Paragraphs 95G(1)(a) and (aa), as inserted by the *Aged Care Legislation Amendment (Reportable Incidents) Instrument 2022*, apply in relation to a reportable incident notified before, on or after 1 December 2022.

168 Reportable incidents for a service provider of a Commonwealth-funded aged care service

Division 3 of Part 6A, as inserted by the *Aged Care Legislation Amendment (Reportable Incidents) Instrument 2022*, applies in relation to a reportable incident notified on or after 1 December 2022.

Schedule 1—Code of Conduct

Note: See section 23AC.

1 Code of Conduct

When providing care, supports and services to people, I must:

- (a) act with respect for people’s rights to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions; and
- (b) act in a way that treats people with dignity and respect, and values their diversity; and
- (c) act with respect for the privacy of people; and
- (d) provide care, supports and services in a safe and competent manner, with care and skill; and
- (e) act with integrity, honesty and transparency; and
- (f) promptly take steps to raise and act on concerns about matters that may impact the quality and safety of care, supports and services; and
- (g) provide care, supports and services free from:
 - (i) all forms of violence, discrimination, exploitation, neglect and abuse; and
 - (ii) sexual misconduct; and
- (h) take all reasonable steps to prevent and respond to:
 - (i) all forms of violence, discrimination, exploitation, neglect and abuse; and
 - (ii) sexual misconduct.

2 Application to approved providers and aged care workers and governing persons of approved providers

- (1) The provisions of the Code of Conduct set out in clause 1 apply as if:
 - (a) the references to “care, supports and services” were references to care, including aged care; and
 - (b) the references to “people” were references to care recipients; and
 - (c) the reference to “I” was a reference to all of the following:
 - (i) an approved provider;
 - (ii) an aged care worker of an approved provider;
 - (iii) a governing person of an approved provider.
- (2) For the purposes of the application of the provisions of the Code of Conduct set out in clause 1 to the provision of care, including aged care, to care recipients by a governing person of an approved provider (in accordance with subclause (1) of this clause), the provisions apply to the performance by the governing person of the responsibilities and functions of the governing person.

Clause 2

Note: For the definitions of ***approved provider***, ***aged care worker*** of an approved provider, and ***governing person*** of an approved provider, see section 7 of the Commission Act.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Aged Care Quality and Safety Commission Rules 2018	24 Dec 2018 (F2018L01837)	1 Jan 2019 (s 2(1) item 1)	
Aged Care Legislation Amendment (Single Quality Framework Consequential Amendments and Transitional Provisions) Instrument 2019	3 Apr 2019 (F2019L00515)	Sch 1 (items 1–41): 1 July 2019 (s 2(1) item 1)	—
Aged Care Quality and Safety Commission Amendment (Integration of Functions) Rules 2019	20 Dec 2019 (F2019L01684)	1 Jan 2020 (s 2(1) item 1)	—
Aged Care Legislation Amendment (New Commissioner Functions) Instrument 2019	23 Dec 2019 (F2019L01696)	Sch 1 (items 8–36): 1 Jan 2020 (s 2(1) item 1)	—
Aged Care Legislation Amendment (Serious Incident Response Scheme) Instrument 2021	9 Mar 2021 (F2021L00222)	Sch 1 (items 3, 6–9): 1 Apr 2021 (s 2(1) item 1)	—
Aged Care Legislation Amendment (Transition Care) Instrument 2021	15 June 2021 (F2021L00753)	Sch 1 (items 19–32): 16 June 2021 (s 2(1) item 4)	—
Aged Care Legislation Amendment (Requirements for Staff Members and Volunteers) Instrument 2021	15 June 2021 (F2021L00758)	Sch 1 (items 17–20): 16 June 2021 (s 2(1) item 1)	—
Aged Care Legislation Amendment (Improved Home Care Payment Administration) Instrument 2021	18 Aug 2021 (F2021L01133)	Sch 1 (item 23): 1 Sept 2021 (s 2(1) item 1)	—
Aged Care Legislation Amendment (Reportable Incidents) Instrument 2022	29 Sept 2022 (F2022L01275)	Sch 2: 1 Dec 2022 (s 2(1) item 3)	—
Aged Care Legislation Amendment (Transition Care) Instrument 2022	11 Nov 2022 (F2022L01453)	Sch 1 (items 1–7): 1 Dec 2022 (s 2(1) item 1)	—

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Aged Care Quality and Safety Commission Amendment (Code of Conduct and Banning Orders) Rules 2022	14 Nov 2022 (F2022L01457)	1 Dec 2022 (s 2(1) item 1)	—
Aged Care Legislation Amendment (Incident Management and Reporting) Instrument 2022	30 Nov 2022 (F2022L01542)	Sch 1 (items 1, 2): 1 Dec 2022 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
Division 1	
s 2	rep LA s 48D
Division 2	
s 4	am F2019L00515; F2019L01684; F2019L01696, F2021L00222; F2021L00758; F2022L01453; F2022L01457; F2022L01542
s 5	am F2019L00515
	rs F2019L01684
s 7	rs F2019L01684
Part 2	
Division 1	
s 9	am F2019L01684
Division 4	
s 13	am F2019L01684; F2019L01696
s 15	am F2019L01696; F2022L01457
s 17	am F2019L01696; F2021L00222
Division 5	
s 21	am F2019L01684; F2019L01696; F2021L00222
Division 6	
s 23	am F2019L01696; F2021L00222
Part 2	
Part 2	ad F2022L01457
s 23AA	ad F2022L01457
s 23AB	ad F2022L01457
s 23AC	ad F2022L01457
Part 2B	
Part 2B	ad F2022L01457
Division 1	
s 23BA	ad F2022L01457
Division 2	
s 23BB	ad F2022L01457
Division 3	
s 23BC	ad F2022L01457
s 23BD	ad F2022L01457
s 23BE	ad F2022L01457
s 23BF	ad F2022L01457
s 23BG	ad F2022L01457
Division 4	

Endnote 4—Amendment history

Provision affected	How affected
s 23BH.....	ad F2022L01457
s 23BI.....	ad F2022L01457
Part 2C	
Part 2C.....	ad F2022L01457
Division 1	
s 23CA.....	ad F2022L01457
Division 2	
s 23CB.....	ad F2022L01457
Division 3	
s 23CC.....	ad F2022L01457
s 23CD.....	ad F2022L01457
s 23CE.....	ad F2022L01457
s 23CF.....	ad F2022L01457
Division 4	
s 23CG.....	ad F2022L01457
Part 3	
Division 1	
s 24.....	rs F2019L01684
Division 3	
Subdivision B	
s 28.....	am F2019L00515
Subdivision C	
Subdivision C.....	rs F2019L01684
s 29.....	am F2019L00515 rs F2019L01684
s 30.....	am F2019L00515 rs F2019L01684
s 31.....	rs F2019L01684
Subdivision D	
Subdivision D heading.....	rs F2019L01684
s 32.....	am F2019L01684
s 33.....	am F2019L01684
s 35.....	rep F2019L01684
s 36.....	am F2019L00515; F2019L01684
s 38.....	am F2019L01684
s 40.....	am F2019L00515; F2019L01684
s 40A.....	ad F2019L01684
s 41.....	am F2019L00515 rs F2019L01684 am F2021L00753

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Endnote 4—Amendment history

Provision affected	How affected
s 42	am F2019L00515; F2019L01684
s 43	am F2019L01684
Subdivision E	
s 44	am F2021L00753
s 45	am F2019L01684; F2021L00753
Subdivision G	
s 48	rs F2019L01684
Part 4	
Division 1	
s 49	rs F2019L01684
Division 2	
s 50	rs F2022L01453
Division 3	
Subdivision B	
s 52	am F2022L01453
s 53	am F2019L00515
	rs F2019L01684
s 53A	ad F2019L01684
s 53B	ad F2019L01684
s 54	am F2019L00515
	rs F2019L01684
s 55	rs F2019L01684
s 55A	ad F2019L01684
s 56	am F2019L00515
	rs F2019L01684
s 57	am F2019L00515
	rs F2019L01684
Subdivision C	
s 58	am F2019L01684
Part 5	
Division 1	
s 59	am F2019L00515
	rs F2019L01684
Division 2	
s 60	am F2022L01453
Division 4	
s 62	rs F2019L00515
	am F2019L01684
s 63	rep F2019L00515
	ad F2019L01684

Endnote 4—Amendment history

Provision affected	How affected
s 63A	ad F2019L01684
Division 5	
Division 5 heading.....	rs F2019L01684
Subdivision A heading.....	rep F2019L01684
s 64	rs F2019L01684
s 65	rs F2019L01684
s 66	rs F2019L01684
s 67	am F2019L01684
s 68	am F2019L00515
	rs F2019L01684
s 68A	ad F2019L01684
Subdivision B	rep F2019L01684
s 69	rep F2019L01684
Division 6	
Subdivision A	
s 70	am F2019L00515; F2019L01684; F2019L01696
s 73	am F2019L00515; F2019L01684
s 74	am F2019L01684
s 76	am F2019L00515; F2019L01684
s 76A	ad F2019L01684
Subdivision B	
s 77	am F2019L00515
	rs F2019L01684
	am F2021L00753
s 78	am F2019L01684; F2021L00753
s 79	am F2019L00515; F2019L01684
Subdivision C	
s 80	am F2019L01684
Division 7 heading.....	am F2019L00515
	rep F2019L01684
Division 7	rep F2019L01684
s 81	rs F2019L00515
	rep F2019L01684
s 82	rep F2019L00515
s 83	rep F2019L01684
Subdivision B heading.....	am F2019L00515
	rep F2019L01684
s 84	am F2019L00515
	rep F2019L01684
s 85	am F2019L00515

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Endnote 4—Amendment history

Provision affected	How affected
	rep F2019L01684
Division 8	
s 86	am F2019L01684
Part 6	
Division 2	
s 90	am F2021L00758
s 91	am F2019L01684
s 92	am F2021L00758
Part 6A	
Part 6A	ad F2021L00222
Division 1	
s 95A	ad F2021L00222
	rs F2022L01275
Division 2	
Division 2 heading.....	am F2022L01275
s 95B	ad F2021L00222
s 95C	ad F2021L00222
s 95D	ad F2021L00222
	am F2022L01542
s 95E.....	ad F2021L00222
	am F2022L01275
s 95F.....	ad F2021L00222
s 95G	ad F2021L00222
	am F2022L01275; F2022L01542
s 95H	ad F2021L00222
	am F2022L01275; F2022L01457; F2022L01542
s 95J.....	ad F2021L00222
	rs F2022L01275
Division 3	
Division 3	ad F2022L01275
Subdivision A	
s 95K	ad F2022L01275
Subdivision B	
s 95L.....	ad F2022L01275
s 95M.....	ad F2022L01275
s 95N	ad F2022L01275
Part 7	
Division 1	
s 96	am F2019L01696
Division 2	

Endnote 4—Amendment history

Provision affected	How affected
s 98	am F2019L01684; F2019L01696; F2021L00753
s 99	am F2019L01696
s 100	am F2019L01684; F2019L01696
s 101	am F2019L01684; F2019L01696
s 102	am F2019L01696
s 103	am F2019L01696
s 104	am F2021L00753
Part 8	
Division 2	
s 107	rep F2019L01684
s 108	am F2019L01684
s 109	am F2019L00515
Part 8A	
Part 8A	ad F2019L01696
s 111A	ad F2019L01696
Part 8B	
Part 8B	ad F2019L01696
Division 1	
s 111B	ad F2019L01696
Division 2	
s 111C	ad F2019L01696
s 111D	ad F2019L01696
	am F2021L01133
Division 3	
s 111E	ad F2019L01696
Division 4	
s 111F	ad F2019L01696
Part 9	
Division 1	
Division 1 heading	rs F2019L00515
Subdivision A	
Subdivision A heading	ad F2019L00515
s 112	am F2019L00515; F2019L01684
Subdivision B	
Division 2 heading	rep F2019L00515
Subdivision B heading	ad F2019L00515
Subdivision C	
Division 3 heading	rep F2019L00515
Subdivision C heading	ad F2019L00515
Subdivision D	

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Endnote 4—Amendment history

Provision affected	How affected
Division 4 heading.....	rep F2019L00515
Subdivision D heading.....	ad F2019L00515
Subdivision E	
Division 5 heading.....	rep F2019L00515
Subdivision E heading.....	ad F2019L00515
Subdivision F	
Division 6 heading.....	rep F2019L00515
Subdivision F heading.....	ad F2019L00515
Subdivision G	
Division 7 heading.....	rep F2019L00515
Subdivision G heading.....	ad F2019L00515
s 131.....	am F2019L01696
s 132.....	am F2019L01696
s 133.....	am F2019L01696
s 134.....	am F2019L01696
s 135.....	am F2019L01696
Division 2	
Division 2.....	ad F2019L00515
s 138.....	ad F2019L00515
s 139.....	ad F2019L00515
s 140.....	ad F2019L00515
s 141.....	ad F2019L00515
s 142.....	ad F2019L00515
s 143.....	ad F2019L00515
s 144.....	ad F2019L00515
s 145.....	ad F2019L00515
s 146.....	ad F2019L00515
s 147.....	ad F2019L00515
s 148.....	ad F2019L00515
s 149.....	ad F2019L00515
Division 3	
Division 3.....	ad F2019L01684
s 150.....	ad F2019L01684
s 151.....	ad F2019L01684
s 152.....	ad F2019L01684
s 153.....	ad F2019L01684
s 154.....	ad F2019L01684
s 155.....	ad F2019L01684
s 156.....	ad F2019L01684
s 157.....	ad F2019L01684

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Provision affected	How affected
s 158	ad F2019L01684
s 159	ad F2019L01684
s 160	ad F2019L01684
s 161	ad F2019L01684
s 162	ad F2019L01684
s 163	ad F2019L01684
s 164	ad F2019L01684
s 165	ad F2019L01684
Division 4	
Division 4	ad F2022L01275
s 166	ad F2022L01275
s 167	ad F2022L01275
s 168	ad F2022L01275
Schedule 1	
Schedule 1	ad F2022L01457
c 1	ad F2022L01457
c 2	ad F2022L01457