



Aged Care Quality and Safety Commission Rules 2018

I, Ken Wyatt AM, Minister for Senior Australians and Aged Care, make the following rules.

Dated 20 December 2018

Ken Wyatt AM
Minister for Senior Australians and Aged Care

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Part 1—Preliminary

Division 1—Introduction

1 Name

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

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 January 2019.	1 January 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

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

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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).

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

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.

affected person: see section 98.

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
- (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 decision of a kind mentioned in item 1 or 2 of the table in section 98.

deemed accredited service: see section 7.

final report: see paragraph 57(1)(a).

flexible care has the same meaning as in the Aged Care Act.

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

flexible care service has the same meaning as in the Aged Care Act.

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

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

home service means:

- (a) a home care service; or
- (b) a flexible care service through which short-term restorative 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 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).

interim report: see subsection 56(1).

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

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- (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.

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*).

plan for continuous improvement: see subsections 62(2) and 63(2).

police report means a report about a person's criminal conviction record that is issued by:

- (a) the Australian Federal Police; or
(b) 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 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.

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

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

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

regulatory reviewable decision means a reviewable 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 has the same meaning as in the Aged Care Act.

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 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.

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).

5 Meaning of **assessment contact**

- (1) An **assessment contact** with the approved provider of an accredited service is any form of contact (other than a site audit or review audit) between a regulatory official and the provider for one or more of the following purposes:
 - (a) to assess the provider's performance, in relation to the service, against the Accreditation Standards or Flexible Care Standards (as applicable);
 - (b) to assist the provider's process of continuous improvement in relation to the service;
 - (c) to identify whether there is a need for a review audit of the service;
 - (d) to give the provider additional information or education about the accreditation or re-accreditation of the service.
- (2) An **assessment contact** with the home service provider of a home service is any form of contact (other than a quality review) between a regulatory official and the provider for one or more of the following purposes:
 - (a) to assess the provider's performance, in relation to the service, against the Home Care Standards or Flexible Care Standards (as applicable);
 - (b) to assist the provider's process of continuous improvement in relation to the service;
 - (c) to identify whether there is a need for a quality review of the service;

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- (d) to give the provider additional information or education about quality reviews of 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*

- (1) 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) 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 an accredited service for a particular period (the *accreditation period*);the flexible care service is a *deemed accredited service* during the period starting on that day and ending at the same time as the accreditation period ends.
- (2) If the residential care service is re-accredited under Part 3 of this instrument for another period (the *further accreditation period*), the flexible care service is a *deemed accredited service* during the period:
 - (a) starting on the first day of the further accreditation period; and
 - (b) ending at the same time as the further accreditation period ends.

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 each issue decide to take no further action in relation to the issue, quickly resolve the issue to the satisfaction of the complainant or decide to undertake a resolution process in relation to the issue.

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.

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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) quickly 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 complaints 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 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
 - (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.

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- (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 complaints 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 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 been notified that the Secretary has initiated action under Part 4.4 of the Aged Care 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:
 - (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

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(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.
- (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:

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- (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; and
- (c) states that a copy of the notice will be given to the Secretary.

(3) The Commissioner must give a copy of the notice to the Secretary.

Note 1: If the approved provider of an aged care service fails to comply with the direction, the Secretary may initiate action under Part 4.4 of the Aged Care 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 Secretary from taking action under Part 4.4 of the Aged Care 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 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, the Commissioner must decide whether to accredit the service for a period of 1 year.

If an application is made to the Commissioner to re-accredit a residential service, the Commissioner must form an assessment team to conduct a site audit of the service in accordance with Subdivision D of Division 3 of this Part. The assessment team for the audit must prepare a report about the audit for the Commissioner.

After the Commissioner is given the report about the audit of the residential service, the Commissioner must decide whether to re-accredit the service for a further period. 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.

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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 Accreditation Standards or Flexible Care Standards (as applicable); 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

29 Commissioner must decide whether to accredit commencing service

- (1) If an application is made under subsection 27(1) by the approved provider of a commencing service, the Commissioner must decide whether to accredit the service:
 - (a) within 16 days after the application is received by the Commissioner; or
 - (b) by any later day as agreed by the Commissioner and the provider.

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

- (2) In making a decision under subsection (1) in relation to the application, 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 commencing service were to be accredited under this Part, the approved provider will undertake continuous improvement in relation to the service as measured against the Accreditation Standards or Flexible Care Standards (as applicable); and
 - (b) may take into account any other relevant matter.
- (3) If the Commissioner decides to accredit the commencing service, the Commissioner must:
 - (a) 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 Accreditation Standards or Flexible Care Standards (as applicable) are complied with; and
 - (c) decide the arrangements for assessment contacts with the approved provider of the service.

30 Notification of decision to accredit commencing service

- (1) If the Commissioner decides to accredit a commencing service under section 29, 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;
 - (c) any areas in which improvements in relation to the service must be made to ensure that the Accreditation Standards or Flexible Care Standards (as applicable) are complied with, and the timetable for making the improvements;
 - (d) the arrangements for assessment contacts with the provider of the service;
 - (e) the circumstances in which a review audit of the service may be conducted;
 - (f) 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 commencing service a certificate of accreditation for the service that states the period of accreditation.
- (3) The Commissioner must, as soon as is practicable, give the Secretary a copy of a notice given under subsection (1).

31 Notification of decision not to accredit commencing service

- (1) If the Commissioner decides not to accredit a commencing service under section 29, the Commissioner must, within 14 days after making the decision, give the approved provider of the service:
 - (a) written notice of the following:

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- (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.
- (2) The Commissioner must, as soon as is practicable, give the Secretary a copy of a notice given under paragraph (1)(a).

Subdivision D—Re-accreditation of residential 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, 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, 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
 - (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.

35 Approved provider of residential service to be given notice of names of members of assessment team

At the start of a site audit of a residential service, the Commissioner must give the approved provider of the service a written notice that sets out the full name of each member of the assessment team for the audit.

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:

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- (a) assess the quality of care and services provided through the service against the Accreditation Standards or Flexible Care Standards (as applicable); 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; and
- (c) consider any relevant information about the approved provider of the service given to the team by the Secretary; 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 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

- (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.

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

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 Accreditation Standards or Flexible Care Standards (as applicable); 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.

41 Commissioner must decide whether to re-accredit residential service

- (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 decide whether to re-accredit the service:
 - (a) within 28 days after the Commissioner is given the report; or
 - (b) by any later day as agreed by the Commissioner and the approved provider of the service.
- (2) In making a decision under subsection (1) in relation to the residential service, the Commissioner:
 - (a) must take into account:
 - (i) the site audit report; and
 - (ii) any response to the site audit report given to the Commissioner by the approved provider of the service under subsection 40(5); and
 - (iii) any relevant information given to the Commissioner, or to the assessment team for the site audit of the service, by a care recipient, or former care recipient, of the accredited service or by a nominated representative of such a care recipient; and
 - (iv) any relevant information about the provider of the service given to the Commissioner by the Secretary; and
 - (v) 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

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Accreditation Standards or Flexible Care Standards (as applicable);
and

(b) may take into account any other relevant matter.

- (3) If the Commissioner decides to re-accredit the residential service under subsection (1), the Commissioner must decide:
- (a) the further period for which the service is to be accredited; and
 - (b) whether there are any areas in which improvements in relation to the service must be made to ensure that the Accreditation Standards or Flexible Care Standards (as applicable) are complied with; and
 - (c) the arrangements for assessment contacts with the approved provider of the service.

Note: The approved provider may request the Commissioner to reconsider the decision made under subsection (1) and paragraph (3)(a): see Part 7.

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;
 - (d) any areas in which improvements in relation to the service must be made to ensure that the Accreditation Standards or Flexible Care Standards (as applicable) are complied with, and the timetable for making the improvements;
 - (e) the arrangements for assessment contacts with the provider of the service;
 - (f) the circumstances in which a review audit of the service may be conducted;
 - (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.
- (3) The Commissioner must, as soon as is practicable, give the Secretary a copy of a notice given under subsection (1).

43 Notification of decision not to re-accredit residential service

- (1) 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.
- (2) The Commissioner must, as soon as is practicable, give the Secretary a copy of a notice given under paragraph (1)(a).

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.

45 Notification of decision to revoke accreditation of accredited service

- (1) 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 the reconsideration of the decision.
- (2) The Commissioner must, as soon as is practicable, give the Secretary a copy of a notice given under subsection (1).

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.

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- (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:
- (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

- (1) If the Commissioner decides under section 29 to accredit a commencing 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:
 - (i) decides under section 29 not to accredit a commencing service; or
 - (ii) decides under section 41 to re-accredit a residential service for a further period; or
 - (iii) decides under section 41 not to re-accredit a residential service; or
 - (iv) 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 any site audit report about the site audit of 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 and must include a site visit by quality assessors to the premises of the home service provider of the service. It may also include a site visit by quality assessors to premises on which the service is provided.

The quality assessors must prepare an interim report about the service for the Commissioner. The Commissioner must give a copy of the report to the home service provider of the service and the provider may give a written response to the report. Any such response must be considered by the Commissioner in preparing the final report about the service.

The Commissioner must give a copy of the final report about the service to the provider and the Secretary.

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

Division 2—Specified aged care services

50 Specification of aged care services

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

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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;
 - (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 site visits

- (1) A quality review of a home service:
 - (a) must include a site visit to the premises of the home service provider of the service; and
 - (b) may include a site visit to 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.
- (2) The Commissioner must give the home service provider of the home service a written notice:
 - (a) specifying the day or days on which the site visit to the premises of the provider 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 site visit.
- (3) If the home service provider of a home service is given a notice under subsection (2), 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 site visit.
- (4) If a site visit 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 site visit of the premises is to be conducted.

- (5) The Commissioner is not required to comply with subsection (2) or (4) if the Commissioner considers, on reasonable grounds, that the home service provider of the home service may not be complying with the Home Care Standards or Flexible Care Standards (as applicable) in relation to the service.

54 Conduct of site visit

If quality assessors are conducting a site visit of premises as part of a quality review of a home service, the quality assessors must:

- (a) assess the quality of care and services provided through the service against the Home Care Standards or Flexible Care Standards (as applicable); and
- (b) consider any relevant information about the quality of care and services provided through the service that was given to the quality assessors by:
 - (i) an aged care consumer, or former aged care consumer, of the service;
or
 - (ii) a nominated representative of such an aged care consumer; and
- (c) consider any relevant information about the home service provider of the service given to the Commissioner by the Secretary; and
- (d) consider any relevant information given to the Commissioner or the quality assessors by the provider of the service.

55 Site visit meetings

- (1) On each day on which quality assessors are conducting a site visit of premises as part of a quality review of a home service, one of those quality assessors must meet with the home service provider of the service to discuss the progress of the visit.
- (2) If an aged care consumer of the home service, or a nominated representative of such a consumer, asks to meet the quality assessors, or one of the quality assessors, during the site visit, the home service provider of the service must take all reasonable steps to enable one of the assessors to meet the consumer or representative privately.

56 Interim report

Interim report must be prepared

- (1) If quality assessors conduct a site visit or site visits of premises as part of a quality review of a home service, the quality assessors must prepare a written report (the ***interim report***) about the service.
- (2) The interim report:
 - (a) must include an assessment of the home service provider's performance, in relation to the home service, against the Home Care Standards or Flexible Care Standards (as applicable); and
 - (b) may also include any other matters the quality assessors consider relevant.

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Interim report must be given to the Commissioner

- (3) The quality assessors must give the interim report to the Commissioner within 7 days after the last site visit is completed.

Copy of interim report to be given to home service provider

- (4) As soon as practicable after receiving the interim 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 interim report, give the Commissioner a written response to the report.
- (6) If the Commissioner receives a written response from the home service provider of the home service under subsection (5), the Commissioner must consider the response in preparing the final report about the service.

57 Final report

- (1) Within 20 days after the home service provider of a home service is given a copy of the interim report about the service under subsection 56(4), the Commissioner must:
 - (a) prepare a written report (the **final report**) about the service; and
 - (b) give a copy of the final report to the provider of the service and the Secretary.
- (2) The final report:
 - (a) must include an assessment of the home service provider's performance, in relation to the home service, against the Home Care Standards or Flexible Care Standards (as applicable); and
 - (b) must specify any areas in which improvements in relation to the home service must be made to ensure the Home Care Standards or Flexible Care Standards (as applicable) are complied with, and the timetable for making the improvements; and
 - (c) must set out the arrangements for assessment contacts with the provider of the service; and
 - (d) may also include any other matters the Commissioner considers relevant.

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 Framework.

Part 5—Monitoring of services

Division 1—Introduction

59 Simplified outline of this Part

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

The approved provider of an accredited service and the home service provider of a home service must have a plan for continuous improvement. The plan must, among other things, set out how the provider will comply with the provider's obligations of continuous improvement in relation to the service under the Accreditation Standards, Home Care Standards or Flexible Care Standards (as applicable).

A regulatory official may make an assessment contact with the approved provider of an 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).

The Commissioner may arrange for a review audit of an accredited service to be conducted in certain circumstances. The Commissioner must arrange for a review audit of such a service to be conducted if requested to do so by the Secretary.

The assessment team for the review audit of an accredited service must prepare a report about the audit for the Commissioner. After being given the report, 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 take certain action if the approved provider of an accredited service, or the home service provider of a home service:

- (a) fails to comply with a timetable for improvement in relation to the service; or
- (b) fails to comply with the Accreditation Standards, Home Care Standards or Flexible Care Standards (as applicable) in relation to the service.

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

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.

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 Approved providers of accredited services must have plan for continuous improvement

- (1) The approved provider of an accredited service must have a plan for continuous improvement for the service.
- (2) A *plan for continuous improvement* for an accredited service is a written plan that sets out:
 - (a) how the approved provider of the service will comply with the provider's obligations of continuous improvement in relation to the service under the Accreditation Standards or Flexible Care Standards (as applicable); and
 - (b) if there are any areas in which improvements in relation to the service are needed to ensure that the Accreditation Standards or Flexible Care Standards (as applicable) are complied with—how the provider of the service will make those improvements.

Note: The approved provider may be directed to revise the plan for continuous improvement under section 84.

- (3) If the Commissioner requests the approved provider of an accredited service to give the Commissioner a copy of the plan for continuous improvement for the service, the provider must comply with the request.

63 Home service providers of home services must have plan for continuous improvement

- (1) 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 home service is a written plan that sets out:
 - (a) how the home service provider of the service will comply with the provider's obligations of continuous improvement in relation to the service under the Home Care Standards or Flexible Care Standards (as applicable); and
 - (b) if there are any areas in which improvements in relation to the service are needed to ensure that the Home Care Standards or Flexible Care Standards (as applicable) are complied with—how the provider of the service will make those improvements.

Note: The home service provider may be directed to revise the plan for continuous improvement under section 84.

- (3) If the Commissioner requests the home service provider of a home service to give the Commissioner a copy of the plan for continuous improvement for the service, the provider must comply with the request.

Division 5—Assessment contacts

Subdivision A—Assessment contacts by regulatory officials

64 Assessment contact by regulatory official with approved provider of accredited service

- (1) A regulatory official may make an assessment contact with the approved provider of an accredited service:
 - (a) in accordance with the arrangements notified to the provider under Part 3 or section 69; 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 one approved provider provides both:
 - (a) a residential care service; and
 - (b) 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 an assessment contact under subsection (1) with the provider relating to both services at the same time.

65 Assessment contact by regulatory official with home service provider of home service

- (1) A regulatory official may make an assessment contact with the home service provider of a home service:
 - (a) in accordance with the arrangements set out in a final report about the service given to the provider under section 57 or notified to the provider under section 69; 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 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;
 - (c) a home support service;a regulatory official may, if the official considers it appropriate to do so, make an assessment contact under subsection (1) with the person or body relating to those services at the same time.

Section 66

66 Assessment contacts in the form of visit to premises

Accredited service

- (1) If:
- (a) an assessment contact with the approved provider of an accredited service is to be made in accordance with the arrangements notified to the approved provider under Part 3 or section 69; and
 - (b) the contact is to be made in the form of a visit to the premises of the service;

a regulatory official must, before the visit takes place, give the provider a poster to inform the care recipients of the service, and the nominated representatives of those care recipients, about the assessment contact.

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.

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

Home service

- (3) If:
- (a) an assessment contact with the home service provider of a home service is to be made in accordance with the arrangements set out in a final report about the service given to the provider under section 57 or notified to the provider under section 69; and
 - (b) the contact is to be made in the form of a visit to the premises of the service;

a regulatory official must, before the visit takes place, give the provider 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.

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.

- (4) If the home service provider of a home service is given a notice under subsection (3), 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 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 Action following assessment contact by regulatory official

If a regulatory official makes an assessment contact with the approved provider of an accredited service, or the home service provider of a home service, the official must, within 21 days after making the contact, give the provider written notice of:

- (a) any areas in which improvements in relation to the service must be made to ensure that the Accreditation Standards, Home Care Standards or Flexible Care Standards (as applicable) are complied with; and
- (b) the timetable for making those improvements.

Subdivision B—Variation of arrangements for assessment contacts

69 Commissioner may vary arrangements for assessment contacts

- (1) The Commissioner may vary the arrangements for assessment contacts with the approved provider of an accredited service that have been:
 - (a) notified to the provider under Part 3; or
 - (b) previously notified to the provider under this section.
- (2) The Commissioner may vary the arrangements for assessment contacts with the home service provider of a home service that have been:
 - (a) set out in a final report about the service given to the provider under section 57; or
 - (b) previously notified to the provider under this section.
- (3) If the Commissioner varies under subsection (1) or (2) the arrangements for assessment contacts with the approved provider of an accredited service, or the home service provider of a home service, the Commissioner must give the provider written notice of the new arrangements.

Division 6—Review audits of accredited services

Subdivision A—Conduct of review audits of accredited services

70 When Commissioner may or must 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 Accreditation Standards or Flexible Care Standards (as applicable) in relation to the service; or
 - (b) the Commissioner becomes aware that:
 - (i) the approved provider of the service has notified the Secretary of a change of circumstances under section 9-1 of the Aged Care Act; or
 - (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; or
 - (c) the Commissioner considers that the approved provider has not complied with the arrangements for assessment contacts relating to the service that have been notified to the provider under Part 3, or section 69, of this instrument; or
 - (d) 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 of this instrument).
- (2) The Commissioner must arrange for a review audit of an accredited service to be conducted if the Secretary requests the Commissioner to do so.
- (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 Accreditation Standards or Flexible Care Standards (as applicable); 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; and
 - (c) consider any relevant information about the approved provider of the service given to the team by the Secretary; and
 - (d) consider any relevant information given to the Commissioner or the team by the provider of the service.

74 Review audit meetings

- (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.

Section 75

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

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 Accreditation Standards or Flexible Care Standards (as applicable); 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 14 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.

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 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 being given the report, decide whether to revoke the accreditation of the service.
- (2) In making a decision under subsection (1) in relation to the accredited service, the Commissioner:
 - (a) must take into account:
 - (i) the review audit report; and
 - (ii) any response to the review audit report given to the Commissioner by the approved provider of the service under subsection 76(5); and

- (iii) any relevant information given to the Commissioner, or to the assessment team for the review audit of the service, by a care recipient, or former care recipient, of the service or by a nominated representative of such a care recipient; and
 - (iv) any relevant information about the provider of the service given to the Commissioner by the Secretary; and
 - (v) whether the Commissioner is satisfied that, if the accreditation of the service were not revoked, the provider will undertake continuous improvement in relation to the service as measured against the Accreditation Standards or Flexible Care Standards (as applicable); and
- (b) may take into account any other relevant matter.
- (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 reconsideration of the decision under Part 7.

- (4) If the Commissioner decides not to revoke the accreditation of the accredited service under subsection (1), the Commissioner must decide:
- (a) whether to vary the service's period of accreditation; and
 - (b) whether there are any areas in which improvements in relation to the service must be made to ensure that the Accreditation Standards or Flexible Care Standards (as applicable) are complied with, and the timetable for making the improvements.

Note: The approved provider may request under Part 7 the reconsideration of the decision to vary the service's period of accreditation.

78 Notification of decision to revoke accreditation of accredited service

- (1) 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 the reconsideration of the decision.
- (2) The Commissioner must, as soon as is practicable, give the Secretary a copy of a notice given under subsection (1).

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;

Section 80

- (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;
 - (d) any areas in which improvements in relation to the service must be made to ensure that the Accreditation Standards or Flexible Care Standards (as applicable) are complied with, and the timetable for making the improvements.
- (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.
- (3) The Commissioner must, as soon as is practicable, give the Secretary a copy of a notice given under subsection (1).

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 any review audit report about the review audit of 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 any review audit report about the review audit of 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.

Division 7—Dealing with non-compliance with relevant Standards

Subdivision A—Timetables for improvement

81 Timetable for improvement given to approved provider of accredited service

- (1) This section applies if:
 - (a) the approved provider of an accredited service is notified of a timetable for improvement in relation to the service under section 30, 42, 68 or 79; and
 - (b) at the end of the period (the *improvement period*) set out in the timetable, or as extended under section 83, the Commissioner is not satisfied that the level of care and services provided through the service complies with the Accreditation Standards or Flexible Care Standards (as applicable).
- (2) The Commissioner must, as soon as practicable, but not later than 14 days, after the end of the improvement period, give the approved provider of the accredited service and the Secretary:
 - (a) a written notice setting out the reasons why the Commissioner is not satisfied of the matter mentioned in paragraph (1)(b); and
 - (b) a copy of any other relevant information.

82 Timetable for improvement given to home service provider of home service

- (1) This section applies if:
 - (a) either:
 - (i) the home service provider of a home service is notified of a timetable for improvement in relation to the service under section 68; or
 - (ii) a final report given under section 57 to the home service provider of a home service specifies a timetable for improvement in relation to the service; and
 - (b) at the end of the period (the *improvement period*) set out in the timetable, or as extended under section 83, the Commissioner is not satisfied that the level of care and services provided through the service complies with the Home Care Standards or Flexible Care Standards (as applicable).
- (2) The Commissioner must, as soon as practicable, but not later than 14 days, after the end of the improvement period, give the home service provider of the home service and the Secretary:
 - (a) a written notice setting out the reasons why the Commissioner is not satisfied of the matter mentioned in paragraph (1)(b); and
 - (b) a copy of any other relevant information.

83 Extension of period for improvement

- (1) If the approved provider of an accredited service, or the home service provider of a home service, is notified of a timetable for improvement in relation to the service under section 30, 42, 68 or 79, the Commissioner may, by written notice given to the provider, extend the period set out in the timetable.

Section 84

- (2) If a final report given under section 57 to the home service provider of a home service specifies a timetable for improvement in relation to the service, the Commissioner may, by written notice given to the provider, extend the period set out in the timetable.

Subdivision B—Non-compliance with relevant Standards

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

- (1) If the Commissioner finds that the approved provider of an accredited service, or the home service provider of a home service, has failed to comply with the Accreditation Standards, Home Care Standards or Flexible Care Standards (as applicable) in relation to the service, the Commissioner must by written notice given to the provider:
 - (a) inform the provider of the Commissioner’s finding and the reasons for the finding; and
 - (b) direct the provider to revise, within 14 days after the notice is given, the plan for continuous improvement for the service to set out how the provider will make improvements to ensure that the Accreditation Standards, Home Care Standards or Flexible Care Standards (as applicable) are complied with in relation to the service.
- (2) If the approved provider of an accredited service, or the home service provider of a home service, is given a direction under paragraph (1)(b), the provider must comply with the direction.

85 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 the Commissioner finds that the approved provider of an accredited service, or the home service provider of a home service, has failed to comply with the Accreditation Standards, Home Care Standards or Flexible Care Standards (as applicable) in relation to the service.
- (2) The Commissioner must, as soon as practicable after making the finding, decide whether the failure has placed, or may place, the safety, health or well-being of an aged care consumer of the service at serious risk.
- (3) If the Commissioner decides that the failure has placed, or may place, the safety, health or well-being of an aged care consumer of the service at serious risk, the Commissioner must, as soon as practicable after making the decision, give the approved provider or home service provider (as the case may be) written notice of:
 - (a) the Commissioner’s finding and the reasons for the finding; and
 - (b) the reasons for Commissioner’s decision that the failure has placed, or may place, the safety, health or well-being of an aged care consumer of the service at serious risk.
- (4) The Commissioner must, as soon as practicable, give a copy of a notice given under subsection (3) to the Secretary.

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 Framework.

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 report, 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.

Section 91

- (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
 - (d) be accompanied by evidence that 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
 - (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:
 - (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 report, 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

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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 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 affected person for a reviewable decision may request the Commissioner to reconsider the decision. If the affected 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 affected person for a reviewable decision may apply to the Administrative Appeals Tribunal for review of a reconsideration decision that relates to a regulatory reviewable decision.

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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 decisions and affected persons

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

Reviewable decisions and affected persons		
Item	Column 1 Decision	Column 2 Affected 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
4	A decision under section 41 not to re-accredit a residential service	The approved provider of the service
5	A decision under paragraph 41(3)(a) on the further period for which a residential service is to be accredited	The approved provider of the service
6	A decision under section 44 or 77 to revoke the accreditation of an accredited service	The approved provider of the service
7	A decision under paragraph 77(4)(a) to vary an accredited service's period of accreditation	The approved provider of the service
8	A decision under subsection 94(3) to cancel a person's registration as a quality assessor	The person

99 Affected person may request reconsideration of reviewable decision

- (1) An affected person for a reviewable 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 affected 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 affected person is notified of the decision.

100 Reconsideration of complaints reviewable decision

- (1) If a request is made under section 99 by an affected 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 28 days after the request was received, give the affected 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 90 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 decision for the purposes of section 98 unless:

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- (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 affected 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 affected person for the regulatory reviewable decision, and the Secretary, written notice of the reconsideration decision and the reasons for the decision 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—56 days after the request was received; and
 - (b) otherwise—14 days after 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 affected 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 affected 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 affected 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 site audit report or review audit 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.

Part 7 Reconsideration and review of decisions

Division 2 Reconsideration and review of decisions

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- (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

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.

107 Information about failure to comply with certain responsibilities of approved providers

- (1) This section applies if, in performing the regulatory functions, the Commissioner becomes aware of a failure by the approved provider of any of the following aged care services to comply with one or more of the provider's responsibilities under Part 4.1, 4.2 or 4.3 of the Aged Care Act:
 - (a) a residential care service;
 - (b) a home care service;
 - (c) a flexible care service through which short-term restorative care is provided in a home care setting or a residential care setting.
- (2) The Commissioner must, as soon as possible after becoming aware of the failure, give the Secretary, in writing, information about the failure for the purposes of the Secretary's functions or powers.

108 Information about failure to comply with Quality Framework 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 Framework, 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 Home Care 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 Home Care 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 9—Transitional, application and saving provisions

Division 1—Preliminary

112 Definitions

In this Part:

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.

transition time means the commencement of this instrument.

Division 2—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.
- (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.

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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.

Division 3—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.

Division 4—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.

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- (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.

Division 5—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
 - (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:

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- (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.

Division 6—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.”.

Division 7—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.
- (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 affected 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 affected 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 affected 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 affected 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.

Section 136

- (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 affected person for the regulatory reviewable decision; and
 - (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 affected 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.