



# **Aged Care Quality and Safety Commission Amendment (Integration of Functions) Rules 2019**

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I, Richard Colbeck, Minister for Aged Care and Senior Australians, make the following rules.

Dated 19 December 2019

Richard Colbeck  
Minister for Aged Care and Senior Australians

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## 1 Name

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

## 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 2020.	1 January 2020

Note: This table relates only to the provisions of this instrument as originally made.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*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Aged Care Quality and Safety Commission Rules 2018*

#### **1 Section 4 (after paragraph (a) of the definition of *assessment team*)**

Insert:

- (aa) for a quality audit of a home service—the assessment team formed under subsection 53A(1) to conduct the audit; or

#### **2 Section 4 (definitions of *final report* and *interim report*)**

Repeal the definitions.

#### **3 Section 4**

Insert:

***performance report:***

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

***quality audit report:*** see subsection 56(1).

#### **4 Section 4 (definition of *Quality Framework*)**

Repeal the definition.

#### **5 Section 4**

Insert:

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

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

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

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

**6 Section 5**

Repeal the section, substitute:

**5 Meaning of *assessment contact***

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

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

**7 Section 7**

Repeal the section, substitute:

**7 Meaning of *deemed accredited service***

If:

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

**8 Section 9**

Omit:

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.

substitute:

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

**9 Paragraph 13(1)(b)**

Omit "quickly", substitute "take appropriate action to".

**10 Paragraph 13(2)(c)**

After "information", insert "or documents".

**11 Paragraph 21(2)(b)**

Omit “direction; and”, substitute “direction.”.

**12 Paragraph 21(2)(c)**

Repeal the paragraph.

**13 Subsection 21(3)**

Repeal the subsection (not including the notes).

**14 Section 24**

Repeal the section, substitute:

**24 Simplified outline of this Part**

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

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

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

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

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

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

**15 Subdivision C of Division 3 of Part 3**

Repeal the Subdivision, substitute:



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**Subdivision C—Accreditation of commencing services and re-accreditation of recommencing services****29 Commissioner must decide whether to accredit commencing service or re-accredit recommencing service**

- (1) This section applies if:
  - (a) an application is made under subsection 27(1) by the approved provider of a commencing service; or
  - (b) an application is made under subsection 27(2) by the approved provider of a recommencing service.
- (2) The Commissioner must decide whether to accredit or re-accredit the service:
  - (a) within 14 days after the application is received by the Commissioner; or
  - (b) by any later day agreed by the Commissioner and the approved provider.

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

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

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

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

- (2) The Commissioner must, within 28 days after making the decision, give the approved provider of the service a certificate that states the period of accreditation or re-accreditation for the service.

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

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

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

**16 Subdivision D of Division 3 of Part 3 (heading)**

Repeal the heading, substitute:

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

**17 Subsection 32(1)**

Omit “previously accredited service,” substitute “previously accredited service (other than a recommencing service),”.

**18 Subsection 33(1)**

Omit “previously accredited service,” substitute “previously accredited service (other than a recommencing service),”.

**19 Section 35**

Repeal the section.

**20 Subparagraph 36(2)(b)(ii)**

After “recipient”, insert “or former care recipient”.

**21 Paragraph 36(2)(c)**

Repeal the paragraph.

**22 Paragraph 36(2)(e)**

After “to”, insert “the Commissioner or”.

**23 Section 38 (heading)**

After “meetings”, insert “and discussions”.

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**24 At the end of section 38**

Add:

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

**25 Section 40 (heading)**

Repeal the heading, substitute:

**40 Site audit report prepared by assessment team****26 Section 41**

Repeal the section, substitute:

**40A Performance report prepared by Commissioner**

- (1) If the Commissioner is given, under subsection 40(3), a site audit report about a site audit of a residential service, the Commissioner must, within 28 days after the Commissioner is given the report:
  - (a) prepare a written report (the *performance report*) about the service; and
  - (b) give a copy of the performance report to the approved provider of the service.
- (2) In preparing the performance report, the Commissioner must take into account the following matters:
  - (a) the site audit report;
  - (b) any response to the site audit report given to the Commissioner by the approved provider of the service under subsection 40(5);
  - (c) any relevant information given to the Commissioner, or to the assessment team for the site audit of the service:
    - (i) by a care recipient, or former care recipient, of the service; or
    - (ii) by a nominated representative of such a care recipient or former care recipient;
  - (d) any relevant information about the approved provider of the service given to the Commissioner by the Secretary;
  - (e) any other relevant matter.
- (3) The performance report:
  - (a) must include an assessment of the approved provider's performance, in relation to the residential service, against the Aged Care Quality Standards; and
  - (b) may specify any areas in which improvements in relation to the residential service must be made to ensure the Aged Care Quality Standards are complied with; and
  - (c) may also include any other matters the Commissioner considers relevant.

#### **41 Commissioner must decide whether to re-accredit residential service**

- (1) If the Commissioner gives, under subsection 40A(1), a performance report about a residential service to the approved provider of the service, the Commissioner must, within 7 days after doing so, decide whether to re-accredit the service.
- (2) In making the decision, the Commissioner must take into account the following matters:
  - (a) the performance report;
  - (b) the matters mentioned in subsection 40A(2);
  - (c) whether the Commissioner is satisfied that, if the service were to be re-accredited under this Part, the provider will undertake continuous improvement in relation to the service as measured against the Aged Care Quality Standards.
- (3) If the Commissioner decides to re-accredit the residential service under subsection (1), the Commissioner must decide the further period for which the service is to be accredited.

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

#### **27 Paragraphs 42(1)(d), (e) and (f)**

Repeal the paragraphs.

#### **28 Subsection 42(3)**

Repeal the subsection.

#### **29 Subsection 43(1)**

Omit "(1)".

#### **30 Subsection 43(2)**

Repeal the subsection.

#### **31 Subsection 45(1)**

Omit "(1)".

#### **32 Subsection 45(2)**

Repeal the subsection.

#### **33 Section 48**

Repeal the section, substitute:

#### **48 Commissioner must publish decisions relating to accreditation**

*Commencing services and recommencing services*

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

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

(2) If:

- (a) the Commissioner decides under section 29 not to accredit a commencing service or not to re-accredit a recommencing service; and
- (b) no request for the reconsideration of the decision is made within the period (the ***reconsideration period***) mentioned in paragraph 99(3)(c);

the Commissioner must, within 28 days after the end of the reconsideration period, publish the decision on the Commission's website.

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

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

*Residential services other than recommencing services*

(3) If:

- (a) the Commissioner:
  - (i) decides under section 41 to re-accredit a residential service for a further period; or
  - (ii) decides under section 41 not to re-accredit a residential service; or
  - (iii) decides under section 44 to revoke the accreditation of an accredited service; and
- (b) no request for the reconsideration of the decision is made within the period (the ***reconsideration period***) mentioned in paragraph 99(3)(c);

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

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

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

### **34 Section 49**

Repeal the section, substitute:

### **49 Simplified outline of this Part**

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

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

- (a) the Commissioner must form an assessment team to conduct a quality audit of the service;
- (b) the assessment team must prepare a quality audit report for the Commissioner;
- (c) the Commissioner must give a copy of the quality audit report to the home service provider of the service;

- (d) the provider may give the Commissioner a written response to the quality audit report;
- (e) the Commissioner must prepare a performance report about the service, give a copy to the provider and publish the report on the Commission's website.

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

### **35 Sections 53 to 57**

Repeal the sections, substitute:

#### **53 Quality reviews must include quality audits**

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

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

#### **53A Commissioner must appoint assessment team to conduct quality audit**

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

#### **53B Notice of quality audit**

- (1) The Commissioner must give the home service provider of a home service a written notice:
  - (a) specifying the day or days on which a quality audit of the home service is to be conducted; and
  - (b) setting out the form of words to be used to tell aged care consumers of the service, and the nominated representatives of those consumers, about the quality audit.

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

#### **54 Conduct of quality audit**

- (1) The assessment team for a quality audit of a home service must conduct the audit in accordance with any directions given to the team by the Commissioner.
- (2) In conducting the quality audit of the home service, the assessment team must:
  - (a) assess the quality of care and services provided through the service against the Aged Care Quality Standards; and
  - (b) consider any relevant information about the quality of care and services provided through the service that was given to the team by:
    - (i) an aged care consumer, or former aged care consumer, of the service; or
    - (ii) a nominated representative of such an aged care consumer or former aged care consumer; and
  - (c) consider any relevant information given to the team by the Commissioner, including any information or documents given to the team under paragraph 53A(1)(b); and
  - (d) consider any relevant information given to the Commissioner or the team by the home service provider of the service.

#### **55 Quality audit meetings and discussions**

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

### **55A Exit meeting**

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

### **56 Quality audit report prepared by assessment team**

*Quality audit report must be prepared*

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

*Quality audit report must be given to the Commissioner*

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

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

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

### **57 Performance report prepared by Commissioner**

- (1) If the Commissioner is given, under subsection 56(3), a quality audit report about a home service, the Commissioner must, within 28 days after the Commissioner is given the report:
  - (a) prepare a written report (the **performance report**) about the service; and
  - (b) give a copy of the performance report to the home service provider of the service; and
  - (c) publish the report on the Commission's website.
- (2) In preparing the performance report, the Commissioner must take into account the following matters:
  - (a) the quality audit report;
  - (b) any response to the quality audit report given to the Commissioner by the home service provider of the service under subsection 56(5);
  - (c) any relevant information given to the Commissioner, or to the assessment team for the quality audit of the service:
    - (i) by an aged care consumer, or a former aged care consumer, of the service; or
    - (ii) a nominated representative of such an aged care consumer or former aged care consumer;



- (d) any relevant information about the home service provider of the service given to the Commissioner by the Secretary;
- (e) any other relevant matter.

(3) The performance report:

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

### **36 Section 58**

Omit "Quality Framework", substitute "Quality Review Guidelines".

### **37 Section 59**

Repeal the section, substitute:

### **59 Simplified outline of this Part**

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

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

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

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

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

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

- (a) a regulatory official must prepare an assessment contact report for the Commissioner; and
- (b) the Commissioner must give a copy of the report to the provider; and
- (c) the provider may give the Commissioner a written response to the report; and

- (d) the Commissioner must prepare a performance report about the service, give a copy to the provider and publish the report on the Commission's website.

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

- (a) the Commissioner must form an assessment team to conduct the review audit;
- (b) the assessment team must prepare a review audit report for the Commissioner;
- (c) the Commissioner must give a copy of the report to the approved provider of the service;
- (d) the provider may give the Commissioner a written response to the report;
- (e) the Commissioner must prepare a performance report about the service and give a copy to the provider.

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

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

### **38 Section 62 (heading)**

Repeal the heading, substitute:

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

#### **39 Subsection 62(1)**

After "accredited service", insert "or a residential service".

#### **40 Subsection 62(2) (note 2)**

Omit "84", substitute "63A".

#### **41 Subsection 62(3)**

Repeal the subsection.

### **42 At the end of Division 4 of Part 5**

Add:

### **63 Commissioner may request plans for continuous improvement**

- (1) The Commissioner may, by written notice given to the approved provider of an accredited service or a residential service, or the home service provider of a home service, request the provider to give the Commissioner a copy of the plan for continuous improvement for the service.

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- (2) The provider must comply with the request within 14 days after the notice is given.

### **63A Commissioner may direct revision of plans for continuous improvement**

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

### **43 Division 5 of Part 5 (heading)**

Repeal the heading, substitute:

### **Division 5—Assessment contacts by regulatory officials**

#### **44 Subdivision A of Division 5 of Part 5 (heading)**

Repeal the heading.

#### **45 Sections 64 to 66**

Repeal the sections, substitute:

### **64 Assessment contacts by regulatory officials with providers of services**

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

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

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

- (4) If an approved provider of an accredited service or a previously accredited service is also a home service provider of a home service, a regulatory official may, if the official considers it appropriate to do so, make a single assessment contact with the provider under subsection (1) that covers those services.

## **65 Arrangements for assessment contacts**

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

## **66 Assessment contacts in the form of visits to premises**

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

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

### *Accredited services or previously accredited services*

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

### *Home services*

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

## **46 Paragraph 67(1)(a)**

After “accredited service”, insert “or a previously accredited service”.

## **47 Section 68**

Repeal the section, substitute:

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

*Assessment contact report must be prepared*

- (1) This section applies if a purpose of an assessment contact between a regulatory official and the approved provider of an accredited service or a previously accredited service, or the home service provider of a home service, is to assess the provider's performance, in relation to a service covered by the assessment contact, against the Aged Care Quality Standards.
- (2) A regulatory official must prepare a written report (the **assessment contact report**) about the service.
- (3) The assessment contact report must:
  - (a) include an assessment of the provider's performance, in relation to the service, against the Aged Care Quality Standards;
  - (b) may also include any other matters the regulatory official considers relevant.

*Assessment contact report must be given to the Commissioner*

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

*Copy of assessment contact report to be given to provider*

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

**68A Performance report prepared by Commissioner**

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

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

**48 Subdivision B of Division 5 of Part 5**

Repeal the Subdivision.

**49 Section 70 (heading)**

Omit "or must".

**50 Subparagraph 70(1)(b)(iii)**

Omit "instrument; or", substitute "instrument".

**51 Paragraphs 70(1)(c) and (d)**

Repeal the paragraphs.

**52 Subsection 70(2)**

Repeal the subsection.

**53 Subparagraph 73(2)(b)(ii)**

After "recipient", insert "or former care recipient".

**54 Paragraph 73(2)(c)**

Omit "Secretary", substitute "Commissioner".

**55 Section 74 (heading)**

After "meetings", insert "and discussions".

**56 At the end of section 74**

Add:

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

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**57 Section 76 (heading)**

Repeal the heading, substitute:

**76 Review audit report prepared by assessment team****58 Subsection 76(3)**

Omit “14”, substitute “7”.

**59 At the end of Subdivision A of Division 6 of Part 5**

Add:

**76A Performance report prepared by Commissioner**

- (1) If the Commissioner is given, under subsection 76(3), a review audit report about a review audit of an accredited service, the Commissioner must, within 28 days after the Commissioner is given the report:
  - (a) prepare a written report (the *performance report*) about the service; and
  - (b) give a copy of the performance report to the approved provider of the service.
- (2) In preparing the performance report, the Commissioner must take into account the following matters:
  - (a) the review audit report;
  - (b) any response to the review audit report given to the Commissioner by the approved provider of the service under subsection 76(5);
  - (c) any relevant information given to the Commissioner, or to the assessment team for the review audit of the service:
    - (i) by a care recipient, or former care recipient, of the service; or
    - (ii) by a nominated representative of such a care recipient or former care recipient;
  - (d) any relevant information about the approved provider of the service given to the Commissioner by the Secretary;
  - (e) any other relevant matter.
- (3) The performance report:
  - (a) must include an assessment of the approved provider’s performance, in relation to the accredited service, against the Aged Care Quality Standards; and
  - (b) may specify any areas in which improvements in relation to the accredited service must be made to ensure the Aged Care Quality Standards are complied with; and
  - (c) may also include any other matters the Commissioner considers relevant.

**60 Section 77**

Repeal the section, substitute:

**77 Commissioner must decide whether to revoke accreditation of accredited service**

- (1) If the Commissioner gives, under subsection 76A(1), a performance report about an accredited service to the approved provider of the service, the Commissioner must, within 7 days after doing so, decide whether to revoke the accreditation of the service.
- (2) In making the decision, the Commissioner must take into account the following matters:
  - (a) the performance report;
  - (b) the matters mentioned in subsection 76A(2);
  - (c) whether the Commissioner is satisfied that, if the accreditation of the service is not revoked, the provider will undertake continuous improvement in relation to the service as measured against the Aged Care Quality Standards.
- (3) If the Commissioner decides to revoke the accreditation of the accredited service under subsection (1), the Commissioner must decide the day on which the revocation takes effect.

Note: The approved provider may request the reconsideration of the decision: see Part 7.

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

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

**61 Subsection 78(1)**

Omit "(1)".

**62 Subsection 78(2)**

Repeal the subsection.

**63 Subparagraph 79(1)(c)(ii)**

Omit "decision;"; substitute "decision."

**64 Paragraph 79(1)(d)**

Repeal the paragraph.

**65 Subsection 79(3)**

Repeal the subsection.

**66 Subsections 80(1) and (2)**

Omit "any review audit report about the review audit of the service"; substitute "the performance report about the service".

**67 Division 7 of Part 5**

Repeal the Division.



**68 Section 86**

Omit “Quality Framework”, substitute “Quality Review Guidelines”.

**69 Paragraph 91(2)(d)**

Repeal the paragraph.

**70 Section 98 (after table item 3)**

Insert:

3A	A decision under section 29 not to re-accredit a recommencing service	The approved provider of the service
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**71 Section 98 (after table item 7)**

Insert:

7A	A decision under subsection 90(3) to refuse to register a person as a quality assessor	The person
7B	A decision under subsection 92(3) to refuse to register a person as a quality assessor for a further period	The person

**72 Subsection 100(3)**

Omit “28”, substitute “56”.

**73 Subsection 100(4)**

Omit “90”, substitute “126”.

**74 Paragraph 101(3)(a)**

After “3,”, insert “3A,”.

**75 Paragraph 101(3)(b)**

Omit “14 days after request”, substitute “28 days after the request”.

**76 Section 107**

Repeal the section.

**77 Section 108 (heading)**

Omit “Quality Framework”, substitute “Quality Review Guidelines”.

**78 Subsection 108(1)**

Omit “Quality Framework,”, substitute “Quality Review Guidelines,”.

**79 Section 112**

Insert:

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

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

## **80 In the appropriate position in Part 9**

Insert:

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

#### **150 Definitions**

In this Division:

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

#### **151 Complaints**

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

#### **152 Applications for accreditation of a commencing service**

*Applications made before 1 January 2020*

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

*Applications made on or after 1 January 2020*

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

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

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

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

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

**155 Quality reviews of home services**

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

**156 Publication of performance reports for home services**

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

**157 Quality reviews of Aboriginal and Torres Strait Islander services**

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

**158 Assessment contacts initiated but not completed before 1 January 2020**

- (1) This section applies in relation to an assessment contact with the approved provider of an accredited service, or the home service provider of a home service, if the assessment contact:
  - (a) was first made by a regulatory official before 1 January 2020; and
  - (b) immediately before 1 January 2020, the regulatory official had not given the provider written notice under section 68 in relation to the assessment contact.
- (2) Sections 68 and 68A, as in force on 1 January 2020, apply in relation to the assessment contact as if a purpose of the assessment contact was to assess the

provider's performance, in relation to the service, against the Aged Care Quality Standards.

### **159 Arranging for review audits of accredited services**

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

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

### **160 Conduct of review audits of accredited services**

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

### **161 Revocation following review audit**

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

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

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

### **163 Reviewable Commissioner decisions**

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

### **164 Reconsideration of complaints reviewable decisions**

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

**165 Reconsideration of regulatory reviewable decisions**

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