

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Aged Care and Senior Australians

Aged Care Act 1997

Aged Care Legislation Amendment (Subsidies-COVID-19 Support Supplement and Workforce Continuity Funding Measures No. 2) Instrument 2020

The *Aged Care Act 1997* (the Act) and the *Aged Care (Transitional Provisions) Act 1997* (the TP Act) provide for the regulation and funding of aged care.

Persons who are approved under the Act to provide aged care services (approved providers) can be eligible to receive subsidy payments under the Act. Approved providers may also be eligible to receive subsidy payments under the TP Act in respect of the care they provide to continuing care recipients. Continuing care recipients are those who entered an aged care service before 1 July 2014 and since that time have not left the service for a continuous period of more than 28 days (other than because the person is on leave), or before moving to another service, have not made a written choice to be subject to new rules relating to fees and payments that came into effect on 1 July 2014.

Both the Act and the TP Act provides that for each type of aged care, the Minister may determine the amount of subsidy and supplement payable to an approved provider for the provision of that type of aged care.

Purpose

The *Aged Care Legislation Amendment (Subsidies-COVID-19 Support Supplement and Workforce Continuity Funding Measures No. 2) Instrument 2020* (the Amending Instrument) amends the *Aged Care (Subsidy, Fees and Payments) Determination 2014*; the *Aged Care (Transitional Provisions) Principles 2014*; the *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014*; and the *Subsidy Principles 2014* (the Subsidy Principles).

The Act and the TP Act provide that an amount of residential care subsidy may include the amount of any relevant ‘other supplements’ (section 44-2 of the Act). Section 44-27 of the Act provides that the other supplements for a care recipient under the residential care subsidy calculator are any of the supplements prescribed in the section (for example, the hardship supplement), if applicable to the care recipient in respect of a payment period.

Paragraph 44-27(1)(c) of the Act provides that other supplements may be set out in the Subsidy Principles. Subsection 44-27(2) provides that the Subsidy Principles may specify the circumstances in which an other supplement set out for the purposes of paragraph 44-27(1)(c) will apply for a care recipient in respect of a payment period. Subsection 44-27(3) provides that the Minister may determine the amount, or the way in which the amount of the supplement is to be worked out, of any other supplements set out for the purposes of paragraph 44-27(1)(c).

Section 52-1 of the Act provides that the amount of flexible care subsidy payable in respect of a day is the amount determined, or worked out in accordance with a method determined, by the Minister by legislative instrument. This includes providing for or incorporating any

other supplement set out in the Subsidy Principles.

Section 96-1 of the Act provides that the Minister has the power to make instruments providing for matters required or permitted, or necessary or convenient, in order to give effect to the relevant Part or section of the Act.

These provisions are mirrored in the equivalent sections in the TP Act.

The COVID-19 support supplement is an 'other supplement' for the purposes of sections 44-27 and 52-1 of the Act and sections 44-27 and 52-1 of the TP Act.

The first payment of COVID-19 support supplement was paid for February 2020.

The purpose of the Amending Instrument is to:

- prescribe a second COVID-19 support supplement payment, which is payable for each day in June 2020 that a care recipient was being provided care by their approved provider. This will enable approved providers to receive the second COVID-19 support supplement payment as a lump sum after they lodge their claims in October 2020; and
- continue, from 1 September 2020, the temporary increases to the viability supplement and to the homeless supplement which had ended on 31 August 2020.

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

Background

The additional funding supports the provision of residential and flexible care to senior Australians during the COVID-19 pandemic and responds to financial pressures impacting approved providers of residential and flexible aged care as a result of recent COVID-19 outbreaks.

Senior Australians in residential care are a group at high risk in the COVID-19 pandemic. It is critical the delivery of care to these vulnerable Australians is not compromised by the higher costs incurred by approved providers due to COVID-19.

Schedule 1 of the Amending Instrument implements the second COVID-19 support supplement payment. Like the first COVID-19 support supplement payment, the second COVID-19 support supplement payment will be paid for residential care recipients, residential respite care recipients, and flexible care recipients. The additional funding is aimed at covering the additional costs of caring for the health and wellbeing of aged care recipients during the COVID-19 pandemic.

Providers are incurring additional expenses to ensure essential regular and effective communication with residents and their families about preparations for potential COVID-19 outbreaks, and during outbreaks, including any changes to facility management and operations, such as access and visitation.

The recent increasing number of COVID-19 affected aged care residents is placing additional financial pressure on the aged care sector to prevent, respond to and prepare for ongoing and future outbreaks of COVID-19 infections. The second COVID-19 support supplement payment provides additional funding to support the sector in meeting these additional costs.

Providers in areas that have not been affected by recent outbreaks are still experiencing additional costs and pressures as they prepare for, and try to avoid an outbreak. This includes increased communication with residents and families around how the provider is mitigating risk, e.g. infection prevention and control measures, and it's preparedness for an outbreak.

Aged care services can be categorised as being in either metropolitan or non-metropolitan areas using the Modified Monash Model (MMM) classification system rating of the street location of the service.

The MMM classification system is a geographical classification system developed by the Department of Health for categorising metropolitan, regional, rural and remote locations. This system is based on both geographical remoteness and population size using population data published by the Australian Bureau of Statistics, as that system exists on 1 January 2017 (section 4 of the Subsidy Principles).

The Modified Monash Model (MMM) classification system classifies major city metropolitan areas in Australia as MMM1. The remaining classifications from MMM2 through to MMM7 are non-metropolitan rural or remote areas. This information is available on the Department of Health website via this URL/link: <https://www.health.gov.au/health-workforce/health-workforce-classifications/modified-monash-model>.

Residential care subsidies and supplements are paid on a per care recipient per day basis for a payment period of a calendar month. The number of care recipients can fluctuate as people are admitted to or discharged from care.

The calculation of the amount of the second COVID-19 support supplement to be paid to residential care approved providers is based on the number of days of residential care and residential respite care they provided to approved care recipients during June 2020. Using a particular month of data is consistent with how claims and payments are made as part of the normal payment cycle to providers. The June 2020 month allows a stable month of data to be used in the calculation and facilitates the payment being made in a timely manner.

Flexible care subsidies and supplements are paid on a per allocated place per day basis. The calculation of the amount of COVID-19 support supplement for flexible care approved providers takes into account the number of residential care places allocated to Multi-Purpose Services and flexible care services during June 2020.

The COVID-19 support supplement funding provided by these measures is as follows:

- \$32.48 per day for residential and flexible care services located in metropolitan areas (MMM1) for both permanent and respite care recipients; and
- \$47.81 per day for residential and flexible care services located in areas other than metropolitan areas (MMM2 to MMM7) for both permanent and respite care recipients.

The amount of the COVID-19 support supplement is higher in non-metropolitan areas in recognition of the additional costs experienced by approved providers of residential and flexible aged care in regional, rural and remote areas of Australia.

These payment rates provide a lump sum payment of around \$975 per resident for a residential care service in a MMM1 metropolitan location and around \$1,435 per resident for

regional, rural and remote locations.

The amendments introduced by Schedule 1 apply in respect of a retrospective payment period, however, these amendments are beneficial because they will provide for additional funding to be distributed to approved providers after they have lodged their claims for subsidy on or after 1 October 2020. The additional funding provided by the second COVID-19 support supplement payment helps ensure the viability of residential and flexible care providers.

Schedule 2 of the Amending Instrument continues temporary increases to the viability and homeless supplements that were paid for six months from 1 March 2020 to 31 August 2020.

The temporary increases to the viability and homeless supplements that were paid to 31 August 2020 were ended by the *Aged care (Subsidy, Fees and Payments) Amendment (Cessation of Temporary Funding Increases) Determination 2020*; and by the *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020*. These instruments commenced on 1 September 2020. Schedule 2 of the Amending Instrument restores, from 1 September 2020, the viability and homeless supplement amounts that had applied on 31 August 2020.

The viability supplement is paid to services in regional, rural and remote areas in recognition of the higher costs involved in providing care in those areas.

The homeless supplement is paid to mainstream residential aged care providers in recognition of the higher costs associated with caring for residents with complex care needs associated with their history, or risk of, homelessness.

The temporary increases to the viability and homeless supplements that had been paid to 31 August 2020 were part of the initial response to the COVID-19 pandemic. The Amending Instrument continues, from 1 September 2020, the temporary increases to those supplements, providing this additional support for eligible services with funding weighted according to their unique mix of challenges resulting from COVID-19.

Authority

The Act and the TP Act both provide that for each type of aged care, the Minister may determine the amount of subsidy and supplement payable to an approved provider for the provision of that type of aged care.

The authority for making specific determinations in the Amending Instrument is set out in the following tables:

<i>Aged Care Act 1997</i>	
Residential care	Section
Other supplement amount	subsections 44-27(3)
Home care	
Other supplement amount	subsection 48-9(3)
Flexible care	
Flexible care subsidy	section 52-1

<i>Aged Care (Transitional Provisions) Act 1997</i>	
Residential care	Section
Other supplement amount	subsection 44-27(3)
Home care	
Other supplement amount	subsection 48-1(3)
Flexible care	
Flexible care subsidy	section 52-1

Reliance on subsection 33(3) of the *Acts Interpretation Act 1901*

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

Consultation

Due to the need to address the immediate financial impacts being experienced in aged care from recent outbreaks of COVID-19, no specific consultation was undertaken with respect to the amount of the second COVID-19 support supplement payment for June 2020, or for the continuation from 1 September 2020 of the temporary increases to the viability supplement and the homeless supplement set out by the Amending Instrument.

Commencement

Schedule 1 to the Amending Instrument commences the day after it is registered on the Federal Register of Legislation.

Part 1 of Schedule 2 to the Amending Instrument commences immediately after the commencement of the *Aged Care (Subsidy, Fees and Payments) Amendment (Cessation of Temporary Funding Increases) Determination 2020*.

Part 2 of Schedule 2 to the Amending Instrument commences immediately after the commencement of the *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020*.

In effect, both Part 1 and Part 2 of Schedule 2 commence on 1 September 2020.

The retrospective commencement of Schedule 2 to the Amending Determination is a beneficial change which will not disadvantage either care recipients or approved providers. There will be no liabilities imposed on either care recipients or approved providers as a result of the retrospective commencement. Consistent with subsection 12(4) of the *Legislation Act 2003*, the Act does not contain any provision contrary to retrospective commencement of the Amending Determination.

Regulation Impact Statement (RIS)

The Office of Best Practice Regulation (OBPR) was consulted about the second COVID-19 support supplement payment. OBPR advised that the proposal is non-regulatory and has zero regulatory costs and that a Regulatory Impact Statement is not required for the Amending Instrument (OBPR ID 26445). OBPR previously advised that a Regulation Impact Statement was not required for the temporary aged care funding increases which are being continued by this Amending Instrument (OBPR ID 26422).

Details of the Aged Care Legislation Amendment (Subsidies-COVID-19 Support Supplement and Workforce Continuity Funding Measures No. 2) Instrument 2020

Section 1 states that the name of the Amending Instrument is the *Aged Care Legislation Amendment (Subsidies-COVID-19 Support Supplement and Workforce Continuity Funding Measures No. 2) Instrument 2020*.

Section 2 states that sections 1 to 4 and anything in the instrument that is not covered elsewhere by the commencement information table, commences the day after this instrument is registered.

Section 2 also states that Schedule 1 commences the day after this instrument is registered.

Section 2 states that Part 1 of Schedule 2 commences immediately after the commencement of the *Aged Care (Subsidy, Fees and Payments) Amendment (Cessation of Temporary Funding Increases) Determination 2020*.

Section 2 also states that Part 2 of Schedule 2 commences immediately after the commencement of the *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (Cessation of Temporary Funding Increases) Determination 2020*.

In effect, both Part 1 and Part 2 of Schedule 2 commence on 1 September 2020.

Section 3 provides that the authority for the making of this instrument is the *Aged Care Act 1997* and the *Aged Care (Transitional Provisions) Act 1997*.

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 amends the following four legislative instruments:

- The *Aged Care (Subsidy, Fees and Payments) Determination 2014* (the Subsidy, Fees and Payments Determination);
- The *Aged Care (Transitional Provisions) Principles 2014* (the Transitional Provisions Principles);
- The *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014* (the Transitional Provisions Determination); and
- The *Subsidy Principles 2014* (the Subsidy Principles).

The amendments to the Subsidy Principles and the Subsidy, Fees and Payments Determination apply to care recipients under the Act.

The amendments to the Transitional Provisions Principles and the Transitional Provisions Determination apply to continuing care recipients under the TP Act.

Schedule 2 amends the following legislative instruments:

- The Subsidy, Fees and Payments Determination; and
- The Transitional Provisions Determination.

Schedule 1 – COVID-19 support supplement

Aged Care (Subsidy, Fees and Payments) Determination 2014

Item 1 – Section 4

Item 1 amends section 4 to insert a definition for “COVID-19 support payment period”, which has the same meaning as in the Subsidy Principles (see item 12).

Item 2 – Division 6 of Part 4 of Chapter 2 (heading)

Item 2 omits “(for February 2020 payment period)” from the heading of Division 6 of Part 4 of Chapter 2 and substitutes in its place “(for COVID-19 support payment periods)”.

Item 3 – Section 64B

Item 3 repeals section 64B and replaces it with a new section 64B. The new section 64B includes a table that sets out the amounts of COVID-19 support supplement in respect of a care recipient provided with residential care through a residential care service for a day during the payment period beginning on 1 February 2020, and for a day during the payment period beginning on 1 June 2020. The table included in the new section 64B sets out different amounts of the COVID-19 support supplement based on both the payment period and on the MMM classification of the street address of the residential care service.

Item 4 – Section 91A

Item 4 repeals section 91A and replaces it with a new section 91A. The new section 91A sets out the COVID-19 support supplement equivalent amount for a day in respect of flexible care that is provided through a multi-purpose service. The new section 91A has two subsections.

The new subsection 91A(1) sets out that the amount of flexible care subsidy for a day in respect of the flexible care provided through a multi-purpose service is the sum of the amount worked out under section 91; and the COVID-19 support supplement equivalent amount for the day for the service multiplied by the number of high care places and low care places allocated in respect of the multi-purpose service.

The new subsection 91A(2) defines “COVID-19 support period” and “COVID-19 support supplement equivalent amount” for the purposes of section 91A.

A COVID-19 support period is defined to be each of the following:

- the period between 1 February 2020 and 29 February 2020; and
- the period between 1 June 2020 and 30 June 2020.

The COVID-19 support supplement equivalent amount is set out by a table providing for different COVID-19 support supplement equivalent amounts for a day in respect of periods between 1 February 2020 and 29 February 2020, and between 1 June 2020 and 30 June 2020. The table included in the new subsection 91A(2) sets out different COVID-19 support supplement equivalent amounts based on both the period and the MMM classification of the street address of the multi-purpose service.

The COVID-19 support supplement for flexible care subsidy applies to continuing care recipients under the TP Act through Chapter 3A of the Transitional Provisions Principles.

Aged Care (Transitional Provisions) Principles 2014

Item 5 – Section 4

Item 5 amends section 4 to insert a definition for “COVID-19 support payment period”, which has the same meaning as in the Subsidy Principles (see item 12).

Item 6 – Subdivision E of Division 8 of Part 3 of Chapter 2 (heading)

Item 6 omits “(for February 2020 payment period)” from the heading of Subdivision E of Division 8 of Part 3 of Chapter 2 and substitutes “(for COVID-19 support payment periods)”.

Item 7 – Section 64 (heading)

Item 7 omits “(for February 2020 payment period)” from the section 64 heading.

Item 8 – Section 64

Item 8 omits the words “the payment period beginning on 1 February 2020” and substitutes in their place “a COVID-19 support payment period”.

Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014

Item 9 – Section 5

Item 9 amends section 5 of the Transitional Provisions Determination to insert a definition for “COVID-19 support payment period”, which has the same meaning as in the Subsidy Principles (see item 12).

Item 10 – Division 6 of Part 4 of Chapter 2 (heading)

Item 10 omits “(for February 2020 payment period)” from the heading of Division 6 of Part 4 of Chapter 2 and substitutes “(for COVID-19 payment periods)”.

Item 11 – Section 79B

Item 3 repeals section 79B and replaces it with a new section 79B. The new section 79B includes a table that sets out the amounts of COVID-19 support supplement for a day in respect of a care recipient provided with residential care through a residential care service during the payment period beginning on 1 February 2020, and during the payment period beginning on 1 June 2020. The table included in the new section 79B sets out different amounts of the COVID-19 support supplement based on both the payment period and on the MMM classification of the street address of the residential care service.

Subsidy Principles 2014

Item 12 – Section 4

Item 12 amends section 4 by defining the term “COVID-19 support payment period”. The definition provides that each of the following payment periods are a COVID-19 support payment period:

- The payment period beginning on 1 February 2020; and
- The payment period beginning on 1 June 2020.

Item 13 – Subdivision F of Division 5 of Part 3 of Chapter 2 (heading)

Item 13 omits “(for February 2020 payment period)” from the heading of Subdivision F of Division 5 of Part 3 of Chapter 2 and substitutes “(for COVID-19 support payment periods)”.

Item 14 – Section 70AA (heading)

Item 14 omits “(for February 2020 payment period)” from the heading of section 70AA and substitutes “(for COVID-19 support payment periods)”.

Item 15 – Section 70AA

Item 15 omits “the payment period beginning in 1 February 2020” and substitutes “a COVID-19 support payment period”.

Schedule 2 – Workforce continuity funding

Part 1 – Amounts of viability and homeless supplements (for care recipients)

Aged Care (Subsidy, Fees and Payments) Determination 2014

Item 1 – Section 57 (table)

This item provides for the change of amounts in relation to the amount of viability supplement for residential care through a 1997 scheme service (as defined in section 56 of the Subsidy, Fees and Payments Determination) by repealing the table to section 57 and substituting a new table with the new amounts.

Item 2 – Section 58 (table)

This item provides for the change of amounts in relation to the amount of viability supplement for residential care through a 2001 scheme service (as defined in section 56 of the Subsidy, Fees and Payments Determination) by repealing the table to section 58 and substituting a new table with the new amounts.

Item 3 – Section 59 (table)

This item provides for the change of amounts in relation to the amount of viability supplement for residential care through a 2005 scheme service (as defined in section 56 of the Subsidy, Fees and Payments Determination) by repealing the table to section 59 and substituting a new table with the new amounts.

Item 4 – Subsection 60(2)

This item provides for the change of the amount of viability supplement – safety net for former 1997 scheme services and 2001 scheme services by omitting “\$2.63” and substituting “\$3.41”

Item 5 – Section 60A (table)

This item provides for the change of amounts in relation to the amount of viability supplement for residential care through a 2017 scheme service (as defined in section 56 of the Subsidy, Fees and Payments Determination) by repealing the table to section 60A and substituting a new table with the new amounts.

Item 6 – Subsection 60B(4)

This item provides for the change of the amount of viability supplement – safety net for former 1997 scheme services, 2001 scheme services and certain 2005 scheme services by omitting “\$2.63” and substituting “\$3.41”

Item 7 – Section 64

This item provides for the change of the amount of homeless supplement by omitting “\$21.64” and substituting “\$28.03”

Item 8 – Section 84A (table in the definition of *ARIA value viability supplement amount*)

This item provides for the change of amounts in relation to the amount of viability supplement for home care by repealing the table to the definition of *ARIA value viability supplement amount* in section 84A and substituting a new table with the new amounts.

Item 9 – Section 84A (table in the definition of *MMM classification viability supplement amount*)

This item provides for the change of amounts in relation to the amount of viability supplement for home care by repealing the table to the definition of *MMM classification viability supplement amount* in section 84A and substituting a new table with the new amounts.

Item 10 – Section 87 (table in the definition of *ARIA value additional amount*)

This item provides for the change of amounts in relation to the amount of viability supplement for a home care place allocated in respect of a multi-purpose service by repealing the table to the definition of *ARIA value additional amount* in section 87 and substituting a new table with the new amounts.

Item 11 – Section 87 (table in the definition of *MMM classification additional amount*)

This item provides for the change of amounts in relation to the amount of viability supplement for a home care place allocated in respect of a multi-purpose service by repealing the table to the definition of *MMM classification additional amount* in section 87 and substituting a new table with the new amounts.

The note to the table has also been repealed and a new note has been substituted to replace an outdated reference to the Doctor Connect website. The new note now refers the reader to the Department of Health website and aligns with the note to the table in item 9.

Item 12 – Section 97 (table)

This item provides for the change of amounts in relation to the viability supplement equivalent amounts for Category A multi-purpose services by repealing the table to section 97 and substituting a new table with the new amounts.

Item 13 – Section 98 (table)

This item provides for the change of amounts in relation to the viability supplement equivalent amounts for Category B multi-purpose services by repealing the table to section 98 and substituting a new table with the new amounts.

Item 14 – Section 99 (table)

This item provides for the change of amounts in relation to the viability supplement equivalent amounts for Category C multi-purpose services by repealing the table to section 99 and substituting a new table with the new amounts.

Item 15 – Section 99A (table)

This item provides for the change of amounts in relation to the viability supplement equivalent amounts for Category D multi-purpose services by repealing the table to section 99A and substituting a new table with the new amounts.

Part 2 – Amount of homeless supplement (for continuing care recipients)

Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014

Item 16 – Section 79

This item provides for the change of the amount of homeless supplement by omitting “\$21.64” and substituting “\$28.03”

Statement of Compatibility with Human Rights

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

Aged Care Legislation Amendment (Subsidies-COVID-19 Support Supplement and Workforce Continuity Funding Measures No. 2) Instrument 2020

The *Aged Care Legislation Amendment (Subsidies-COVID-19 Support Supplement and Workforce Continuity Funding Measures No. 2) Instrument 2020* is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny Act) Act 2011*.

Overview of Legislative Instrument

The *Aged Care Legislation Amendment (Subsidies-COVID-19 Support Supplement and Workforce Continuity Funding Measures No. 2) Instrument 2020* (the Amending Instrument) amends the *Aged Care (Subsidy, Fees and Payments) Determination 2014*; the *Aged Care (Transitional Provisions) Principles 2014*; the *Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014*; and the *Subsidy Principles 2014*.

The purpose of Schedule 1 of the Amending Instrument is to make a second COVID-19 support supplement payment for each day in June 2020 that a care recipient was being provided residential care by their approved provider. This will enable approved providers to receive the COVID-19 support supplement as a lump sum after they lodge their claims in October 2020.

The purpose of Schedule 2 of the Amending Instrument is to restore, from 1 September 2020, the amounts of the viability and homeless supplements back to the temporarily higher amounts of those supplements that had been in effect on 31 August 2020.

Human Rights Implications

The Amending Instrument engages the following human rights as contained in article 11(1) and article 12(1) of the *International Convention on Economic, Social and Cultural Rights* and articles 25 and 28 of the *Convention of the Rights of Persons with Disabilities*:

- the right to an adequate standard of living, including with respect to food, clothing and housing, and to the continuous improvement of living conditions; and
- the right to the enjoyment of the highest attainable standard of physical and mental health.

The Australian Government recognizes that aged care is a critical sector that faces additional costs of caring for the health and wellbeing of residents due to the COVID-19 pandemic.

The Amending Instrument provides additional aged care funding in light of recent outbreaks of the COVID-19 both in Victoria and other areas of Australia to support approved providers of residential care to provide care for senior Australians during the pandemic.

The Amending Instrument also provides additional funding by continuing, from 1 September 2020, the temporarily higher amounts of the viability and homeless supplements that had ended on 31 August 2020.

The viability supplement is paid to services in regional, rural and remote areas in recognition of the higher costs involved in providing care in those areas.

The homeless supplement is paid to mainstream residential aged care providers in recognition of the higher costs associated with caring for residents with complex care needs associated with their history, or risk of, homelessness.

The temporary increases to the viability and homeless supplements provide additional support for eligible services with funding weighted according to their unique mix of challenges resulting from COVID-19.

The Amending Instrument increases the amount of funding payable to approved providers for the provision of care and services to people with a condition of frailty or disability who require assistance to achieve and maintain the highest attainable standard of physical and mental health. The additional funding will assist approved providers with additional costs incurred as a result of the COVID-19 pandemic. This will assist approved providers to provide care to their care recipients in accordance with an adequate standard of living and the right to the enjoyment of the highest attainable standard of physical and mental health.

The additional aged care funding in this legislative instrument supports the viability of the residential and flexible aged care sectors that are being financially impacted by COVID-19.

Legislation requires government-subsidised aged care homes meet standards to ensure that quality care and services are provided to all residents. The Australian Government's spending on aged care will protect residential aged care recipient's rights to an adequate standard of living.

Conclusion

This legislative instrument is compatible with human rights as it promotes the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

**Senator the Hon Richard Colbeck
Minister for Aged Care and Senior Australians**