



Aged Care Legislation Amendment (Transition Care) Instrument 2021

I, Richard Colbeck, Minister for Senior Australians, Aged Care Services, make the following instrument.

Dated 8 June 2021

Richard Colbeck
Minister for Senior Australians, Aged Care Services

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1 Name

This instrument is the *Aged Care Legislation Amendment (Transition Care) Instrument 2021*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	16 June 2021
2. Schedule 1, Part 1, Division 1	The day after this instrument is registered.	16 June 2021
3. Schedule 1, Part 1, Division 2	1 July 2021.	1 July 2021
4. Schedule 1, Part 2	The day after this instrument is registered.	16 June 2021

Note: This table relates only to the provisions of this instrument as originally made.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

- (a) the *Aged Care Act 1997*;
- (b) 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Transition care

Division 1—Hospital in the home

Approval of Care Recipients Principles 2014

1 Section 4 (definition of *in-patient hospital episode*)

Repeal the definition.

2 Section 4

Insert:

hospital episode has the meaning given by section 4 of the *Subsidy Principles 2014*.

3 Subparagraph 8(a)(i)

Omit “an in-patient hospital episode”, substitute “a hospital episode”.

4 Paragraph 8(b)

Repeal the paragraph, substitute:

(b) is, at the time the assessment is undertaken, admitted to a hospital; and

Subsidy Principles 2014

5 Section 4 (definition of *in-patient hospital episode*)

Repeal the definition.

6 Section 4

Insert:

hospital episode, in relation to a care recipient, means a continuous period during which the care recipient:

- (a) is admitted to a hospital; and
- (b) is provided with acute care or subacute care, or both.

7 Subparagraph 106(a)(i)

Repeal the subparagraph, substitute:

(i) after the conclusion of a hospital episode; and

8 Section 106 (note)

Omit “*In-patient hospital episode*”, substitute “*Hospital episode*”.

Division 2—Continuity of transition care

Approval of Care Recipients Principles 2014

9 Section 4

Insert:

episode of transition care has the meaning given by section 4 of the *Subsidy Principles 2014*.

10 Paragraph 8A(c)

Omit “or flexible care in the form of transition care”, substitute “, or is not in an episode of transition care”.

11 Paragraph 8A(f)

Omit “received flexible care in the form of transition care”, substitute “been in an episode of transition care”.

12 Subsection 16(1)

After “is not provided”, insert “or is not taken to be provided for the purposes of subparagraph 50-1(1)(b)(iii) of the Act”.

13 After subsection 16(1)

Insert:

Note: Section 102B of the *Subsidy Principles 2014* sets out when an approved provider is taken to provide transition care to a care recipient for the purposes of subparagraph 50-1(1)(b)(iii) of the Act.

Subsidy Principles 2014

14 Section 4 (definition of *episode of transition care*)

Repeal the definition, substitute:

episode of transition care: see section 111AA.

15 Subsection 9(2)

Repeal the subsection (including the note), substitute:

(2) The care recipient must be in an episode of transition care.

Note: *Episode of transition care* is defined in section 111AA.

16 After section 102A

Insert:

102B Circumstances in which flexible care is taken to be provided—transition care

For the purposes of subparagraph 50-1(1)(b)(iii) of the Act, an approved provider is taken to provide flexible care to a care recipient on any day that is disregarded for the purposes of subsection 111AA(1).

Schedule 1 Amendments

Part 1 Transition care

Note: Certain days are disregarded when working out whether a care recipient is provided with a continuous period of transition care for the purposes of an *episode of transition care*: see subsections 111AA(1) and (2).

17 Subsection 111(5) (note)

Repeal the note, substitute:

Note: *Further transition care needs* is defined in section 4.

18 At the end of Division 4 of Part 2 of Chapter 4

Add:

111AA Meaning of *episode of transition care*

- (1) An *episode of transition care*, in relation to a care recipient and an approved provider, means a continuous period during which the care recipient is provided with flexible care in the form of transition care by the approved provider.
- (2) In working out whether a period is a continuous period for the purposes of subsection (1), disregard any day, up to a total of 7 days, during which the care is not provided.

Part 2—Reconsideration and review of decisions

Aged Care Quality and Safety Commission Rules 2018

19 At the end of subsection 41(1)

Add:

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

20 Subsection 41(3) (note)

Repeal the note, substitute:

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

21 At the end of subsection 44(2)

Add:

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

22 Paragraph 45(d)

Omit “the reconsideration of the decision”, substitute “reconsideration of the decision to revoke the accreditation, or the decision regarding the day the revocation is to take effect”.

23 At the end of subsection 77(1)

Add:

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

24 Subsection 77(3) (note)

Repeal the note, substitute:

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

25 Subsection 77(4) (note)

Repeal the note, substitute:

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

26 Paragraph 78(d)

Omit “the reconsideration of the decision”, substitute “reconsideration of the decision to revoke the accreditation, or the decision regarding the day the revocation is to take effect”.

27 Section 98 (table item 4, column 1)

Omit “section 41”, substitute “subsection 41(1)”.

28 Section 98 (table item 5, column 1)

Omit “paragraph 41(3)(a)”, substitute “subsection 41(3)”.

29 Section 98 (table item 6, column 1)

Omit “section 44 or 77”, substitute “subsection 44(1)”.

30 Section 98 (after table item 6)

Insert:

6A	A decision under subsection 44(2) regarding the day revocation of accreditation is to take effect	The approved provider of the service
6B	A decision under subsection 77(1) to revoke the accreditation of an accredited service	The approved provider of the service
6C	A decision under subsection 77(3) regarding the day revocation of accreditation is to take effect	The approved provider of the service

31 Section 98 (table item 7, column 1)

Omit “paragraph 77(4)(a)”, substitute “subsection 77(4)”.

32 Paragraph 104(1)(b)

Omit “site audit report or review audit report”, substitute “performance report”.