



## **Accountability Amendment (Financial Information) Principles 2021**

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

Dated 30 June 2021

Richard Colbeck  
Minister for Senior Australians and Aged Care Services

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# Contents

1	Name.....	1
2	Commencement .....	1
3	Authority.....	1
4	Schedules.....	1
<b>Schedule 1—Amendments</b>		<b>2</b>
	<i>Accountability Principles 2014</i>	2



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## 1 Name

This instrument is the *Accountability Amendment (Financial Information) Principles 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. The whole of this instrument	The later of: (a) 1 July 2021; and (b) the day after this instrument is registered.	1 July 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Note: This table relates only to the provisions of this instrument as originally made.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 *Aged Care Act 1997*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

### *Accountability Principles 2014*

#### 1 Section 4

Insert:

*financial support statement*, for an approved provider, has the meaning given by section 40.

*subsidiary* has the same meaning as in the *Corporations Act 2001*.

*ultimate holding company* has the same meaning as in the *Corporations Act 2001*.

#### 2 Subsection 35(2)

Repeal the subsection, substitute:

*Who must sign the aged care financial report?*

- (2) If the approved provider is not a State, a Territory, an authority of a State or Territory or a local government authority, the aged care financial report must be signed by:
- (a) if the provider is a body corporate that is incorporated, or taken to be incorporated, under the *Corporations Act 2001*—a director of the body corporate for the purposes of that Act; and
  - (b) otherwise—a member of the provider’s governing body.
- (2A) If the approved provider is a State, a Territory, an authority of a State or Territory or a local government authority, the aged care financial report must be signed by one of the approved provider’s key personnel who is authorised by the provider to sign the report.

#### 3 At the end of subsection 35(4)

Add:

Note: If a non-government approved provider of a residential care service is a subsidiary of another body corporate, the aged care financial report must also be accompanied by a financial support statement for the provider: see subsection 39(2).

#### 4 Section 38 (heading)

Repeal the heading, substitute:

### **38 Service provided during part only of financial year**

#### 5 Section 38

Omit “complied with this Division”, substitute “complied with sections 35 to 37A”.

#### 6 At the end of Division 2 of Part 4

Add:

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### **39 Provision of financial support statements**

#### *Scope of this section*

- (1) This section applies in relation to an approved provider if:
  - (a) the provider provides a residential care service; and
  - (b) the provider is not a State, a Territory, an authority of a State or Territory or a local government authority; and
  - (c) the provider is a subsidiary of another body corporate.

#### *Financial support statement to be given with aged care financial report*

- (2) If an approved provider is required under section 37 to give the Secretary an aged care financial report for the provider for a financial year, then the provider must, when giving the report to the Secretary, also give the Secretary a financial support statement for the provider signed within the period of 4 months starting on the day after the end of the financial year.

Note: For who must sign a financial support statement, see subsection 40(4).

- (3) However, subsection (2) does not apply to an approved provider in relation to a financial year if:
  - (a) the aged care financial report for the provider for the year includes an explanation of why the provider has not complied with subsection (2) in relation to that year; and
  - (b) the provider has a reasonable excuse for not complying with subsection (2) in relation to that year.

#### *Financial support statement to be given on request*

- (4) The Secretary may at any time, by notice in writing, require an approved provider to give the Secretary a financial support statement for the provider signed within the period for signing specified in the notice.

Note: For who must sign a financial support statement, see subsection 40(4).

- (5) An approved provider must comply with a notice under subsection (4) within the period for complying specified in the notice or, if no such period is specified in the notice, within 28 days after the day when the notice is given.
- (6) However, subsection (5) does not apply to an approved provider in relation to a notice under subsection (4) if:
  - (a) at or before the end of the period within which the provider would (but for this subsection) be required to comply with the notice, the provider gives the Secretary a written explanation of why the provider is not able to comply with the notice; and
  - (b) the provider has a reasonable excuse for not complying with the notice.

#### *Secretary may request further information and documents*

- (7) The Secretary may at any time, by notice in writing, require an approved provider to give the Secretary specified information or documents that the Secretary considers are, or may be, relevant to assessing whether a provider has a reasonable excuse for the purposes of paragraph (3)(b) or (6)(b).

- (8) An approved provider must comply with a notice under subsection (7) within the period for complying specified in the notice or, if no such period is specified in the notice, within 28 days after the day when the notice is given.

#### **40 What is a financial support statement?**

- (1) A **financial support statement**, for an approved provider, is a written statement by the ultimate holding company in relation to the provider that satisfies the requirements in subsections (2), (4) and (5).
- (2) The statement must either:
- (a) state that the ultimate holding company is willing and able, while the provider remains an approved provider, to provide any financial support to the provider that is needed in order to enable the provider to pay the debts of the provider specified under subsection (3) in relation to the statement; or
  - (b) state that the ultimate holding company is not willing and able, while the provider remains an approved provider, to provide such financial support to the provider.
- (3) For the purposes of paragraph (2)(a), the following debts of the provider are specified in relation to the statement (whether or not the debts relate to the provision of aged care services by the provider):
- (a) any debts of the provider that are outstanding immediately before the start of the day (the **giving day**) when the statement is given to the Secretary;
  - (b) any debts of the provider that:
    - (i) are debts that become due during the period that starts on the giving day and ends immediately before the start of the first day after the giving day when the provider gives the Secretary another financial support statement for the provider; or
    - (ii) if the provider never gives the Secretary another financial support statement for the provider after the giving day—are debts that become due on or after the giving day.
- (4) The statement must be signed by:
- (a) if the ultimate holding company is a body corporate that is incorporated, or taken to be incorporated, under the *Corporations Act 2001*—a director of the body corporate for the purposes of that Act; and
  - (b) otherwise—a member of the ultimate holding company’s governing body.
- (5) The statement must be in a form (if any) approved by the Secretary for the purposes of this subsection.

#### **41 Provision of further information and documents to Secretary**

*Approved provider must comply with notices under this section*

- (1) An approved provider must comply with a notice under subsection (3) or (5) within the period specified in the notice or, if no period is specified in the notice, within 28 days after the day when the notice is given.
- (2) An approved provider complies with a notice under subsection (3) or (5) requiring the provider to give information or documents only if the provider



gives the information or documents in a form (if any) approved by the Secretary for the purposes of that subsection.

*Notice to provide updated information*

- (3) The Secretary may at any time, by notice in writing, require an approved provider to give the Secretary updated information about a matter, as specified in the notice, if information about the matter is included in, or is required by or under the Act to be included in:
- (a) an aged care financial report for the provider given to the Secretary in accordance with section 37 of this instrument; or
  - (b) a general purpose financial report for the provider that is required under paragraph 35(4)(b) of this instrument to accompany such an aged care financial report.

Note: Since an aged care financial report for an approved provider must include an annual prudential compliance statement for the provider (see paragraph 51(2)(d) of the *Fees and Payments Principles 2014 (No. 2)*), the Secretary may, under this subsection, require updated information about a matter if information about the matter is included or required to be included in such an annual prudential compliance statement.

- (4) A notice under subsection (3) may require an approved provider to give updated information about a matter in relation to a period that is:
- (a) the same as the period to which a report for the provider (as mentioned in paragraph (3)(a) or (b)) relates; or
  - (b) different from the period to which such a report relates.

*Notice to provide supporting information or documents*

- (5) The Secretary may at any time, by notice in writing, require an approved provider to give the Secretary specified information or documents that the Secretary considers are, or may be, relevant to assessing the accuracy of:
- (a) information included in a report for the provider mentioned in paragraph (3)(a) or (b); or
  - (b) updated information given to the Secretary by the provider in accordance with a notice under subsection (3).
- (6) To avoid doubt, a notice under subsection (5) may require an approved provider to give the Secretary information or documents whether or not the information or documents are required by or under the Act to be included in a report for the provider mentioned in paragraph (3)(a) or (b) of this section.

## **7 In the appropriate position in Part 8**

Insert:

### **57 Application—amendments made by the *Accountability Amendment (Financial Information) Principles 2021***

- (1) The amendments of section 35, and the addition of subsection 39(2), by the *Accountability Amendment (Financial Information) Principles 2021* apply in relation to an aged care financial report that is given to the Secretary on or after the commencement of that instrument, whether the financial year to which the report relates begins before, on or after that commencement.

- (2) Subsections 41(3) to (6), as added by the *Accountability Amendment (Financial Information) Principles 2021*, apply in relation to a report mentioned in paragraph 41(3)(a) or (b) of this instrument that is given to the Secretary on or after 1 July 2021, whether the financial year to which the report relates begins before, on or after that date.