

APPENDIX 4

Department of Health and Ageing - Availability of Delegated Legislation

Availability of Delegated Legislation

Introduction

Significant amendments to the *Aged Care Act 1997* (the Act) and consequential amendments to other legislation are required to give effect to the *Living Longer Living Better* aged care reform package.

The changes to the Act can broadly be grouped into four categories:

1. Changes relating to home care, including the transition from community care, EACH and EACHD to home care and the way that Government subsidies and care recipient fees are calculated.
2. Changes relating to residential care, such as changes to the way that Government subsidies and resident fees are calculated, and the options available to care recipients to pay for their accommodation.
3. Changes relating to governance and administration, such as the establishment of the new Aged Care Pricing Commissioner and the new Australian Aged Care Quality Agency.
4. Changes that are minor, administrative or consequential, for example changes that improve the operation of the Act or address anomalies in the legislation.

Consistent with the principles of good regulation, the Government's approach has been to:

1. describe the broad legal and policy framework in the Act;
2. ensure that important safeguards are expressly included in the Act; and
3. enable the Principles and Determinations to deal with matters of detail that are likely to change over time and where flexibility is needed.

Required amendments

Currently there are 22 sets of Principles under the *Aged Care Act 1997* that contribute to the operation of aged care programs. For those Principles where the changes are consequential or machinery in nature, the reflected changes incorporated into the primary legislation and the outcome of consultations undertaken as part of the *Living Longer Living Better* reforms.

The proposed amendments to the relevant Principles are being drafted as consultation processes are completed and in line with the commencement dates in the *Living Longer Living Better* Bills:

- 1 July 2013;
- 1 January 2014; and
- 1 July 2014.

Timetable for release of draft amendments

1 July 2013 start date — public release week of 20 May 2013

Nineteen Principles will be amended for effect from **1 July 2013**. Many of the changes are consequential to the changes in the bills (e.g. replacing the term community care with the term home care) or machinery in nature (e.g. updating out-dated references to documents and repealing redundant provisions).

Drafts of the proposed amending Principles will be released on the *Living Longer Living Better* website in the week of 20 May 2013. This release will be accompanied by an overview of the proposed changes to subordinate legislation.

Substantive changes are being made to enable three new supplements to be paid (workforce, dementia and veterans'), to implement new home care arrangements and to strengthen powers of the Aged Care Commissioner. Consultations have been undertaken with the appropriate working groups under the National Aged Care Alliance (NACA) and with the Aged Care Commissioner on the proposed changes.

There are several papers currently out for public consultation including the Home Care Packages Program Guidelines, Dementia and Veterans' Supplements in Aged Care Discussion Paper and the draft Aged Care Workforce Supplement Guidelines. Comments and feedback from stakeholders on these papers will inform the final guidelines and the relevant Principles.

- Drafting of the Principles cannot be finalised until these processes are completed.
- The consultation period for these elements concludes on 30 May 2013.

1 January 2014 start date — public release by end of October 2013

The changes due to take effect from **1 January 2014** relate to the new Quality Agency and the introduction of the Aged Care Pricing Commissioner. These changes will utilise targeted consultation processes. Drafts of the proposed amended Principles will be released on the *Living Longer Living Better* website by the end of October 2013.

In relation to the Aged Care Pricing Commissioner, amendments are required to establish requirements for self-assessing accommodation payments and advertising accommodation payments. Consultations have already been undertaken regarding the proposed Accommodation Pricing Guidelines and the comments received will inform further amendments to the User Rights Principles.

The existing arrangements and procedures set out in the Accreditation Grant Principles will be the basis of the new Quality Agency Principles and the Quality Agency Reporting Principles. Consultation will be undertaken with the Aged Care Standards and Accreditation Agency Ltd and industry to inform the content of these new Principles.

1 July 2014 start date – staggered public release from March 2014

There will be significant changes required to the Principles as a result of the proposed changes to the Act planned to come into effect from **1 July 2014**.

The Department intends to undertake discussions and consultations with the relevant groups under NACA and provide discussion papers and/or draft guidelines for broader public consultation.

As these Principles are drafted, it is anticipated that they will be progressively released (from March 2014) on the *Living Longer Living Better* website. Those with substantive amendments will be subject to consultation processes.

Specific questions from the Committee

There were no specific questions from the Committee on this issue; however, it is an important area of industry interest.

As outlined above, the Department proposes to release draft legislative instruments for comment where the proposed changes are significant. Where the changes are minor, they will be published for information on the *Living Longer Living Better* website, in line with reform implementation timeframes.