AGED CARE AMENDMENT (RESIDENTIAL CARE) BILL 2007

OUTLINE

The purpose of this Bill is to amend the Aged Care Act 1997 to introduce a new arrangement for allocating subsidy in residential aged care.

Schedule 1 to the Bill amends the Aged Care Act to support proposed amendments to the Classification Principles 1997 to replace the Resident Classification Scale (RCS) with the Aged Care Funding Instrument (ACFI) as the means of allocating subsidy to providers of residential aged care.

It is proposed that the ACFI will reduce the number of funding levels in residential aged care and provide subsidies for the care of residents with complex health and nursing needs, including palliative care, and for residents who have mental or behavioural conditions, including dementia. The ACFI has been designed to reduce the amount of documentation and record-keeping which aged care staff generate and maintain in order to justify the funding classification for each resident.

The Bill also changes the current arrangements in which classifications expire after twelve months. This extends the period during which a resident’s classification has effect and removes the requirement for providers to submit unnecessary reappraisals, but gives providers the option to reappraise a resident after twelve months.

The Bill allows the Secretary to define the type and form of records that the approved provider must keep in order to support the classification made for a resident. This reduces the amount of documentation and record-keeping needed to justify the funding received for the care of each resident. The Bill also streamlines the audit process so that single questions or specific groups of questions can be targeted by review officers rather than every aspect of the appraisal.

The amendments allow an approved provider to choose to accept a resident’s current classification, when a resident moves from one aged care home to another, rather than being required to submit a new appraisal.

The Bill removes a provision allowing more than one aged care home to be paid subsidy for the same resident when the person is on High Dependency Care Leave. This provision is no longer necessary since changes were introduced to allow residents to ‘age in place’ – that is, for a resident to move from low care to high care within the same home.

The Aged Care Act allows the Secretary to suspend a provider from appraising residents for funding purposes if the provider repeatedly fails to conduct appraisals or reappraisals in a proper manner. This Bill allows the Secretary to stay the suspension, subject to the provider meeting certain obligations. These obligations may include appointing an adviser at the provider’s cost, or undertaking training. This gives the Secretary greater flexibility to encourage providers to conduct appraisals and reappraisals properly to avoid a suspension coming into effect.
FINANCIAL IMPACT STATEMENT

The amendments in Schedule 1 to the Bill have financial implications for the Department of Health and Ageing to meet costs associated with the policy and legislative changes.

The Schedule 1 amendments have financial implications for the departmental and administered costs of the Department of Veterans’ Affairs.

These costs will:
- ensure that the level of funding for an existing resident will not decrease when they are reassessed under the new Aged Care Funding Instrument;
- provide additional funding for the top levels of the two new supplements; and
- establish a panel of advisers to assist homes manage the transition to the ACFI.

The departmental and administered costs for the current financial year and the next four years for the Department of Health and Ageing and the Department of Veterans’ Affairs are shown below.

**Budget Measure – Investing in Australia’s Aged Care – streamlining administration for better care**

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AGED CARE AMENDMENT (RESIDENTIAL CARE) BILL 2007

NOTES ON CLAUSES

Clause 1: Short title

This is a formal provision specifying the short title of the Act.

Clause 2: Commencement

Clause 2 provides that sections 1 to 3 and anything in this Act not elsewhere covered in the commencement table will commence on the day on which the Act receives Royal Assent.

Clause 2 provides that Schedule 1 commences on a single day to be fixed by Proclamation. However, if any of the provisions in Schedule 1 do not commence within 12 months from the day on which the Act receives Royal Assent they commence 12 months from that day.

Clause 3: Schedule(s)

Clause 3 provides that an Act that is specified in a Schedule is amended or repealed as set out in that Schedule, and any other item in a Schedule operates according to its terms.

SCHEDULE 1 – RESIDENTIAL CARE

PART 1 – Amendments of the Aged Care Act 1997

ITEM 1

Item 1 specifies that subsection 22-2(3) is repealed and replaced by a new subsection 22-2(3).

Subsection 22-2(3) currently provides for the Secretary to limit an approval of a person as a residential care recipient made under section 22-1 to one or more levels of care corresponding to the Resident Classification Scale (RCS) classification levels set out in Schedule 2 to the Classification Principles. The RCS classification levels will be replaced by the Aged Care Funding Instrument (ACFI) classification levels. It is therefore necessary to insert a new subsection 22-2(3) that allows the Secretary to limit the approval of a person as a residential care recipient under section 22-1 to a low level of residential care as calculated under the ACFI. The decision to limit the approval of a care recipient to a low level of residential care remains a reviewable decision under the Act.

ITEM 2

Item 2 specifies that paragraph 22-6(2)(c) is amended to omit “specified level of care” and substitute “low level of residential care”. This change is required to reflect the amendment to subsection 22-2(3) to allow the Secretary to limit the approval of a person as a residential care recipient to a low level of residential care.
ITEM 3

This item proposes to add additional words to the end of subsection 25-1(2) to give authority for the Classification Principles to specify methods or procedures that the Secretary must follow in determining the appropriate classification level for a care recipient.

ITEM 4

This item repeals paragraph 25-1(3)(b). This paragraph currently provides that in classifying a care recipient, the Secretary must not exceed the level (if any) specified by the Secretary under subsection 22-2(3). As described above, this limits the amount of basic subsidy that can be paid for a care recipient whose approval is limited to one or more levels of care.

ITEM 5

This item amends paragraph 25-3(1)(b) to refer only to persons authorised under section 25-5 of the Act to appraise care recipients. This amendment removes the reference to an approved provider who has been suspended under section 25-4 of the Act from appraising care recipients since it is proposed that the Secretary may stay a suspension under section 25-4 of the Act (see item 14).

ITEM 6

This item repeals subsection 25-3(2) and substitutes new subsections 25-3(2) and 25-3(2A). These new subsections specify new time frames within which ACFI appraisals must be made.

New subsection 25-3(2) specifies that an ACFI appraisal must not be made during the 7 day period commencing when the provision of care to the care recipient commences and that the ACFI appraisal must not be given to the Secretary during the period of 28 days commencing when the provision of care to the care recipient commences.

New subsection 25-3(2A) allows the Classification Principles to specify an alternative period of appraisal in circumstances where subsection 25-3(2) does not apply. Any such circumstances will be specified in the Classification Principles.

It is intended that section 9.17 of the Classification Principles will be amended to reflect the new ACFI appraisal process and that section 9.23 of the Classification Principles will be amended to allow for circumstances in which an ACFI appraisal must be completed over a shorter period.

ITEM 7

This item inserts a new subsection 25-3(3A) to allow the Secretary to specify the approved forms which must be used by approved providers when making appraisals.

ITEMS 8, 9, 10, 11 and 12

Section 25-4 currently allows the Secretary to suspend an approved provider from making appraisals if the Secretary is satisfied that they gave false, misleading or inaccurate information in a substantial number of appraisals reviewed under subsection 29-1(3) and that
after the classifications to which the appraisals related were changed, the approved provider continued to give false, misleading or inaccurate information in other appraisals.

Before deciding to suspend an approved provider the Secretary must notify the approved provider that the suspension is being considered and invite the approved provider to make written submissions within 28 days of receiving the notice.

The amendments in items 7 to 11 of Schedule 1 clarify that the Secretary’s suspension powers in section 25-4 of the Act apply in relation to reappraisals as well as appraisals conducted by approved providers.

ITEM 13

This item repeals subsection 25-4(5) and substitutes new subsection 25-4(5) to require the Secretary to notify an approved provider of the decision not to suspend or to suspend the approved provider from making appraisals and reappraisals for the period specified in the notice.

ITEM 14

This item inserts a new subsection 25-4(6A) to allow the Secretary to specify in a notice of suspension to an approved provider that the suspension will not take effect if the approved provider enters into an agreement with the Secretary as provided for in proposed new section 25-4A (see Item 16).

This item also inserts a new subsection 25-4(6B) to allow the Secretary to stay the suspension of an approved provider if the approved provider enters into an agreement with the Secretary within the timeframe specified in the notice of suspension. A suspension is stayed until any later date when the Secretary decides that the suspension is to take effect (see new section 25-4B in item 15 below). If no agreement is entered into, the suspension takes effect on the day after the last day specified in the notice.

ITEM 15

This item amends subsection 25-4(7) to omit the words “A suspension” and substitute the words “If the Secretary does not do so, the suspension”. This subsection specifies the time frames when the suspension will take effect if the Secretary has not specified in the notice that the suspension will not take effect if, within the period specified in the notice, the approved provider enters into an agreement with the Secretary as provided for in proposed new section 25-4A (see Item 16).

ITEM 16

This item inserts new sections 25-4A, 25-4B, 25-4C, 25-4D and 25-4E.

Section 25-4A Stay of suspension agreements

New subsection 25-4A(1) provides that an approved provider may enter into an agreement requiring the approved provider to do either or both of the following:
a) to provide, at its expense, training as specified in the agreement for its officers, employees and agents within the period specified in the agreement;

b) appoint an adviser approved by the Secretary to assist the approved provider to conduct in a proper manner appraisals and reappraisals of the care needs of care recipients.

New subsection 25-4A(2) provides that if the agreement requires the approved provider to appoint an adviser, the approved provider must, within the period specified in the agreement, nominate a proposed adviser and give the Secretary written information about the proposed adviser to allow the Secretary to decide whether the proposed adviser is suitable.

New subsection 25-4A(3) provides that the approved provider must appoint the adviser within 3 days after the approved provider is informed of the Secretary’s approval.

**Section 25-4B Stayed suspension may take effect**

New subsection 25-4B(1) provides that the Secretary may decide that the suspension is to take effect if the Secretary is satisfied that: if the agreement requires an approved provider to appoint an adviser — the approved provider has not complied with subsections 25-4A(2) or (3); or the approved provider has not complied with the agreement; or despite having complied with the agreement, the approved provider has continued not to conduct appraisals and reappraisals of the care needs of its care recipients in a proper manner.

New subsection 25-4B(2) provides that if the Secretary decides the suspension is to take effect, the Secretary must notify the approved provider, in writing, of that decision. New subsection 25-4B(3) provides that the suspension takes effect 7 days after the day on which that notice is given and has effect from that day for the whole of the suspension period specified in the notice given under subsection 25-4(5).

New subsection 25-4B(4) provides that the Secretary must not give an approved provider a notice that the suspension is to take effect after the last day on which the suspension would have had effect had the approved provider not entered into the agreement.

**25-4C Applications for lifting of suspension**

New subsections 25-4C(1) and 25-4C(3) provide that the Secretary may lift a suspension of an approved provider from making appraisals and reappraisals if the approved provider applies, in writing to the Secretary in the form approved by the Secretary, for the Secretary to do so. The application must also meet any other requirements that are specified in the Classification Principles.

New subsection 25-4C(2) provides that the Secretary may lift the suspension of an approved provider regardless of whether or not the suspension has taken effect.

New subsection 25-4C(4) provides that the Secretary must have regard to any matters specified in the Classification Principles in deciding whether it is appropriate to lift an approved provider’s suspension from making appraisals or reappraisals.
25-4D Requests for further information

New subsection 25-4D(1) provides that if the Secretary needs further information to decide whether to lift an approved provider’s suspension from making appraisals and reappraisals, the Secretary may give the applicant a written notice requiring the applicant to give the further information within 14 days after receiving the notice, or within a shorter period as specified in the notice.

New subsection 25-4D(2) provides that an approved provider’s application to have its suspension lifted is taken to be withdrawn if the approved provider does not provide the further information requested by the Secretary within the applicable time period. If this occurs, the approved provider may reapply for its suspension to be lifted. The effect of subsection 25-4D(2) must be stated in the notice given to the approved provider by the Secretary under subsection 25-4D(1): see new subsection 25-4D(3).

25-4E Notification of Secretary’s decision

New subsection 25-4E(1) requires the Secretary to notify the approved provider, in writing, of the Secretary’s decision whether to lift the suspension. This notice must be given within 28 days of the Secretary receiving the application or any further information requested by the Secretary.

New subsection 25-4E(2) provides that, if the Secretary decides to lift the approved provider’s suspension, the notice given by the Secretary under subsection 25-4E(1) must inform the approved provider when the suspension will be lifted and set out any other matters specified in the Classification Principles.

ITEM 17

This item amends subsection 25-5(1), which deals with authorising another person to conduct appraisals if an approved provider is suspended to clarify that the subsection applies to reappraisals as well as appraisals.

ITEM 18

This item amends subsection 25-5(1) to clarify that if the Secretary has suspended an approved provider from making appraisals or reappraisals under section 25-4, this subsection allows, but does not require, the Secretary to authorise another person to make appraisals and reappraisals.

ITEMS 19 and 20

This item amends subsections 25-5(1) and 25-5(2) to clarify that these subsections apply to both appraisals and reappraisals. This amendment is required because section 25-4 has been amended to allow the Secretary to suspend an approved provider from making reappraisals as well as appraisals.
ITEM 21

This item amends section 26-1 to clarify that a classification is taken to have had effect from the day an approved provider began providing care to a care recipient if the Secretary receives an appraisal from the approved provider who has been providing care to the care recipient from that day.

ITEM 22

This item repeals Divisions 27 and 28 and substitutes a new Division 27.

Division 27 currently provides that a classification expires 12 months from the day it took effect, or when a care recipient departs from a residential care service, or on the last day of leave when a care recipient takes *extended hospital leave.

Division 27 – Expiry and renewal of classifications

Section 27-1 When do classifications cease to have effect?

The changes to Division 27 have been made to remove the 12 month expiry date for a classification and specify circumstances where classifications will expire and may be renewed.

Section 27-2 Expiry dates and reappraisal periods

New subsection 27-2 (1) specifies the circumstances in a table where a particular classification will expire and when the expiry date occurs. The circumstances where a classification will expire include: the day on which the care recipient departs a residential care service where the care recipient does not enter an aged care service again within 28 days; the last day of leave where a care recipient takes *extended hospital leave; 6 months after the day a care recipient began receiving residential care after an in-patient hospital episode; 6 months after the first day an approved provider began providing residential care to a care recipient after taking *extended hospital leave; 6 months after a care recipient’s classification was renewed due to a significant change in their care needs; on a day specified in a notice or the date of receipt of the reappraisal where the Secretary gives notice that the approved provider must reappraise one or more of their care recipients; and the last day of care where a care recipient is being provided with *respite care.

In cases where the classification has a 6 month expiry date and the care recipient ceases being provided with residential care and does not enter another aged care service within 28 days, the classification will expire on the day they ceased being provided with care.

New subsection 27-2(2) provides that a reappraisal period of two months will apply if the classification expires while the care recipient is on *leave or within one month after the residential care service began providing residential care after that leave ended.

New subsection 27-2(3) provides for the circumstances where an expiry date for classifications specified in 27-2(1) will cease to apply due to another expiry date specified in 27-2(1) applied in relation to the classification.
New subsection 27-2(4) provides that for item 6 in 27-2(1) the first expiry date will apply if the Secretary gives a notice under section 27-3 after the start of the reappraisal period for the first expiry date.

New subsection 27-2(5) provides that if a reappraisal of a classification with an expiry date specified in 27-2(1) is made at the initiative of the provider under section 27-4 and is received by the Secretary before the start of the reappraisal period for that expiry date. The first expiry date will cease to apply for that classification.

New subsection 27-2(6) provides that the Classification Principles may specify different expiry dates and reappraisal dates for items specified under subsection 27-2(1).

New subsection 27-2(7) provides the meaning of in-patient hospital episode as being a continuous period during which the care recipient is an in-patient of a hospital and is provided with medical or related care or services.

Section 27-3 Reappraisal required by the Secretary

A new section 27-3 is inserted to allow the Secretary to give an approved provider a notice requiring a reappraisal to be made of one or more care recipients that they care for. The Secretary may also vary or revoke such a notice at his or her own initiative. This provision may be used if the Secretary is satisfied that the approved provider has continued to give false, misleading or inaccurate information in appraisals or reappraisals following a review under 29-1(3).

Section 27-4 Reappraisal at initiative of approved provider

A new section 27-4 is inserted to specify circumstances where a reappraisal may be submitted at the approved provider’s own initiative. These circumstances include: if the classification of the care recipient has been in effect for more than 12 months; at any time if the care needs of a care recipient have changed significantly; if a care recipient enters another aged care service within 28 days; and where the care recipient is classified at the *lowest applicable classification level.

Reappraisal after first year of effect of classification or renewal

New subsection 27-4(2) provides that if a classification or a renewal of a classification has been in effect for more than 12 months, an approved provider may reappraise the level of care needed by a care recipient.

Reappraisal if needs of care recipient have changed significantly

New subsection 27-4(3) provides that if the care needs of a care recipient have changed significantly, a reappraisal of the level of care needed by the care recipient may be made. New subsection 27-4(4) provides that the Classification Principles may specify the circumstances in which the care needs of a care recipient are taken to have changed significantly.
It is intended that the Classification Principles will be amended to define the circumstances under which the care needs of a care recipient classified under the ACFI are taken to have changed significantly.

**Reappraisal if care recipient enters another aged care service**

New subsection 27-4(5) provides that if a care recipient enters another residential or flexible care service within 28 days of leaving a previous residential or flexible care service, the care recipient’s care needs may be reappraised by the new care service during the period that starts 7 days after the day the care recipient entered the later service and ends 2 months after the day the care recipient entered the later service.

**Reappraisal if care recipient is classified at the lowest applicable classification level**

New subsection 27-4(6) provides that if a care recipient is classified at the lowest applicable classification level, the level of care need by the care recipient may be reappraised.

New subsection 27-4(7) provides that subsections 27-4(2), (3) and (6) do not apply if a care recipient is classified at the lowest applicable classification level because of the operation of subsection 25-1(4). Subsection 25-1(4) provides that if there is no classification of a care recipient, he or she is taken to be classified at the lowest applicable classification level.

**Section 27-5 Requirements for reappraisals**

New subsection 27-5(1) provides that a reappraisal must be made in accordance with the Classification Principles. New subsection 27-5(2) provides that the reappraisal must be made by the approved provider or a person acting on their behalf; or if a person has been authorised under 25-5(1) or 27-3(4) to make reappraisals. New subsections 27-5(3) and (4) provide that the Secretary may approve forms used to make appraisals and that a reappraisal must be in an approved form.

**Section 27-6 Renewal of classifications**

New subsection 27-6(1) provides the circumstances where the Secretary may renew a classification other than a classification listed in the table in subsection 27-2(1). The circumstances are that the reappraisal is made under section 27-4 at the approved provider’s initiative or in respect of an expiry date for the classification.

New subsection 27-6(2) provides that the renewal of the classification must specify the appropriate *classification level for the care recipient and that the Classification Principles may specify methods or procedures that the Secretary must follow in determining the appropriate classification level.

New subsection 27-6(3) provides that in renewing the classification the Secretary must take into account the reappraisal and any other matters specified in the Classification Principles.
Section 27-7 Date of effect of renewal of classification that has an expiry date – reappraisal received during reappraisal period

New section 27-7 provides for when a classification will take effect if the reappraisal is received during the reappraisal period. New subsections 27-7(1) and (2) provide that if the reappraisal is received by the Secretary during the reappraisal period, the classification takes effect from the expiry date. New subsection 27-7(3) provides that the classification will take effect from the day on which the care recipient next began receiving residential care if the classification expires while the care recipient is on leave or if the classification expires within one month after the care recipient began receiving care after that leave ended. New subsection 27-7(4) provides that if the Secretary has given notice under section 27-3 the renewal of the classification takes effect from the day that the reappraisal is received by the Secretary.

Section 27-8 Date of effect of renewal of classification that has an expiry date – reappraisal received after reappraisal period

New section 27-8 replaces section 28-5 and provides for when a classification will take effect if the reappraisal is received after the reappraisal period. If the reappraisal is received by the Secretary after the end of the reappraisal period the classification takes effect from the date of receipt by the Secretary. Subsections (2), (3) and (4) do not apply if the Secretary has given a notice under section 27-3 requiring the reappraisal to be made.

Section 27-9 Date of effect of renewal – reappraisals at initiative of approved provider

New section 27-9 provides for when a classification will take effect if the reappraisal is made at the initiative of the approved provider. If the reappraisal is made under subsections 27-4(2), (3) or (6), the reappraisal will take effect from the day it is received by the Secretary. If the reappraisal is made under subsection 27-4(5) the reappraisal will take effect from the day the care recipient entered the aged care service.

ITEM 23

Paragraph 29-1(1)(b) is amended to remove any possible interpretation that the Secretary may only consider issues pertaining to the making of the classification and clarifies that the Secretary may change a classification if the Secretary is satisfied that the classification was incorrect for any reason, including an incorrect or inaccurate appraisal or reappraisal.

ITEM 24

Subsection 29-1(2) is amended to remove reference to Division 28, which is repealed and replaced by section 27-6.

ITEM 25

Subsection 29-1(3) is repealed and substituted to allow the Secretary, when deciding whether to change a classification, to consider any material on which the classification was based that the Secretary considers relevant. The Secretary may change the classification of a care recipient based on a review of a single funding instrument question, or a group of questions, without reviewing all the questions relating to the care recipient. The Secretary may also take
into account any material that is relevant to the classification, irrespective of when it became available, if the material relates to the care recipient’s care needs at the time of the appraisal or reappraisal.

ITEM 26

Paragraph 42-1(2)(c) is amended to remove a reference to subsection 42-1(4), which is repealed by item 27.

ITEM 27

Subsection 42-1(4) is repealed. Subsection 42-1(4) allowed more than one residential care service to be paid subsidy for the same resident. If a care recipient who was a permanent resident of a low care service temporarily required a high level of residential care, the low care service could continue to receive subsidy in respect of the care recipient while the care recipient was receiving care in a high care service. This provision is no longer necessary since changes were introduced to allow residents to ‘age in place’ – that is, to allow a resident to move from low care to high care within the same low care service.

ITEM 28

Subsection 42-2(2) of the Act allows for a care recipient to take leave from a residential care service to attend hospital to receive hospital treatment. This item amends the note to subsection 42-2(2). The new note reflects amendments to subsection 44-3(3) and is required to refer to amendments made to section 44-3 of the Act. Those amendments allow the Minister to determine a lower basic subsidy amount for a care recipient for days occurring while the care recipient takes *extended hospital leave.

ITEM 29

This item amends the note to subsection 42-2(3A). The new note reflects amendments to subsection 44-3(3) and provides that if a care recipient is on leave for a continuous period of at least 30 days from a residential care service to attend hospital to receive hospital treatment, flexible care subsidy is payable in respect of the care recipient for a day during that leave period and the additional requirements specified in the Residential Care Subsidy Principles 1997 for subsection 42-2(3A) are met, then the Minister may determine a lower basic subsidy amount for a care recipient for days occurring while the care recipient takes *extended hospital leave.

ITEM 30

Subsection 44-3(3) allows the Minister to determine different amounts of basic subsidy. New paragraph 44-3(3)(aa) is inserted to allow the Minister to determine the basic subsidy amount for the residential care subsidy in respect of a care recipient whose approval is limited under subsection 22-2(3) of the Act to a low level of residential care.

ITEM 31

A new paragraph 44-3(3)(ca) is inserted to allow the Minister to determine a different basic subsidy amount to be paid in respect of a care recipient who is on *extended hospital leave.
A new paragraph 44-3(3)(cb) is inserted to allow the Minister to determine a different basic subsidy amount to be paid in respect of a care recipient where the care recipient’s appraisal is received by the Secretary after the time period specified in paragraphs 26-1(a) or (b), whichever is applicable.

A new paragraph 44-3(3)(cc) is inserted to allow the Minister to determine a different basic subsidy amount to be paid in respect of a care recipient where the care recipient’s reappraisal is received after the reappraisal period mentioned in section 27-2.

ITEM 32

Section 44-4 is repealed. This section specified the effect that a long period spent by a care recipient in hospital could have on the care recipient’s RCS classification level and the basic subsidy amount for residential care subsidy. Section 44-4 is no longer required because the RCS classification levels are being replaced with the ACFI classification levels. In addition, new paragraph 44-3(3)(ca) specifies that the Minister may determine a different amount of basic subsidy that can be paid when a care recipient is on extended hospital leave (see item 31 above).

ITEM 33

Paragraph 44-6(2)(a) is amended to remove a reference to subsection 44-6(3), which is repealed (see item 34 below).

ITEM 34

Subsection 44-6(3) is repealed because extended hospital leave no longer affects the care recipient’s classification level, although it may affect the amount of residential care subsidy that is payable in respect of the care recipient (see items 32 and 33 above).

ITEM 35

Paragraph 44-12(2)(b) is amended to correct an error. This paragraph should refer to approval of a care recipient under Part 2.3, not Part 2.2, of the Act.

ITEMS 36 and 37

Items 36 and 37 amend subparagraph 62-1(b)(ii). Section 62-1 specifies an approved provider’s responsibilities relating to the protection of care recipients’ personal information. The words “but only” in subparagraph 62-1(b)(ii) are omitted as these words are superfluous.

A new subparagraph 62-1(b)(iiiia) is inserted to allow an approved provider who conducted an appraisal or reappraisal that is connected to the classification of a care recipient to disclose information related to that appraisal or reappraisal to another approved provider where the care recipient enters a care service of that second approved provider within 28 days. This information may be disclosed without the written consent of the care recipient.

ITEMS 38, 39, 40, 41 and 42

Section 85-1 sets out the decisions under the Act which are reviewable.
Item 21 in the table in section 85-1 is amended to omit the words “one or more levels of care” and substitute the words “a low level of residential care” to reflect the levels of care under the new ACFI classification system.

Item 27 in the table in section 85-1 is repealed and substituted to include, as a reviewable decision, the decision to suspend an approved provider from making reappraisals under section 27-5.

A new item 27A is inserted in the table in section 85-1 to make the decision under subsection 25-4C(1) not to lift an approved provider’s suspension from making appraisals and reappraisals a reviewable decision under the Act.

Item 29 in the table in section 85-1 is amended to omit 28-1(1) and substitute 27-6(1).

Item 30 in the table in section 85-1 is amended to omit 28-5(2) and substitute 27-8(2).

ITEM 43

Subsection 88-2(1) is amended to include a requirement for approved providers to keep records in the form specified in the *Records Principles 1997*. This requirement is necessary as the ACFI classification is based primarily on assessment records that are created through the use of standard assessment tools, rather than ongoing care records.

ITEM 44

A new paragraph 88-2(2)(aa) is inserted to include appraisal and reappraisal records in the list of records that may be specified in the *Records Principles 1997*.

ITEM 45

The definition of *expiry date* in the Dictionary in Schedule 1 to the Act is repealed and substituted. The new definition provides that for a classification under Part 2.4, expiry date means the expiry date determined under section 27-2.

ITEM 46

The definition of *extended hospital leave* in the Dictionary in Schedule 1 to the Act is repealed and substituted. The new definition provides that *extended hospital leave* means leave taken by the care recipient under subsection 42-2(2) for a continuous period of 30 days or more and leave taken by the care recipient for a continuous period of 30 days or more, first under subsection 42-2(2) and later under subsection 42-2(3A).

ITEM 47

The definition of *high level of residential care* in the Dictionary in Schedule 1 to the Act is repealed and substituted. The new definition provides that the meaning of *high level of residential care* is specified in the *Classification Principles 1997*. 
ITEM 48

The definition of low level of residential care in the Dictionary in Schedule 1 to the Act is repealed and substituted. The new definition provides that the meaning of low level of residential care is specified in the Classification Principles 1997.

It is intended that definitions of high and low level of care will be based on ACFI classifications, which will be set out in a Schedule to the Classification Principles. This requires that the definitions also be included in the Classification Principles.

PART 2 – APPLICATION AND TRANSITIONAL PROVISIONS

ITEM 49 - Interpretation

Item 49 provides that expressions which are used in Part 2 of Schedule 1 and that are defined in the Aged Care Act 1997 have the same meaning in Part 2 of Schedule 1 as they have in the Act.

ITEM 50 - Approval of persons as care recipients

Application

Item 50 provides that subsection 22-2(3) of the Act (which is amended by this Bill to allow the Secretary to limit a care recipient’s approval to a low level of residential care) will apply to approvals made on or after the commencement of Schedule 1 to this Bill.

Item 50 also provides that paragraph 22-6(2)(c) of the Act (which is amended by this Bill to require the notice of a person’s approval as a recipient of residential care to state whether the person’s approval is limited to a low level of residential care) will apply to approvals made on or after the commencement of Schedule 1 to this Bill.

Saving

Item 50 also provides that if, immediately before the commencement of Schedule 1 to this Bill, a person’s approval was limited under subsection 22-2(3) to one or more levels of care corresponding to the classification levels, then on and after commencement of Schedule 1 to this Bill the person’s approval is taken to be limited under that subsection to a low level of residential care.

ITEM 51 - Classification of care recipients

Item 51 applies to a care recipient to whom the approved provider commences providing care before the commencement of Schedule 1 to this Bill, whose approval is limited under subsection 22-2(3) of the Act to a low level of residential care and who was not classified under subsection 25-1(1) of the Act before the commencement of Schedule 1 to this Bill. If item 51 applies, the Secretary must not classify the care recipient to a level of care exceeding a low level of residential care.
ITEM 52 - Appraisals of level of care needed by care recipients

Application
Item 52 provides that subsections 25-3(2), (2A) and (3A) of the Act as substituted and inserted by this Bill apply in relation to an appraisal of a care recipient to whom an approved provider begins providing care after the commencement of Schedule 1 to this Bill. New subsection 25-3(2) specifies that an ACFI appraisal must not be made during the period of 7 days from the date the provision of care to the care recipient began and that the ACFI appraisal must not be given to the Secretary during the period of 28 days commencing from the date the provision of care to the care recipient began.

Saving
Item 52 provides that if a care recipient is provided with care and has not been appraised before the commencement of this Schedule that the Classification Principles in force at that time will continue to have effect in relation to the care recipient’s appraisal.

Transitional
Paragraph 26-1(b) of the Act allows 2 months for an approved provider to submit an application for appraisal to the Secretary. Where an approved provider begins providing care to a care recipient within the period of 1 month after the commencement of Schedule 1 to this Bill, the period of 2 months is extended by 1 month.

ITEM 53 - Suspensions of approved providers from making appraisals and reappraisals

Item 53 provides that subsections 25-4(1) to (3) as amended by this Bill apply to an approved provider, if the Secretary gives the approved provider a notice of suspension under subsection 25-4(3) after the commencement of Schedule 1 to this Bill.

ITEM 54 - Reappraisals of level of care needed by care recipients

Application
Item 54 applies in relation to a care recipient for whom an appraisal made under section 25-3 or a reappraisal made under section 28-2 of the Aged Care Act 1997 as in force immediately before the commencement of this schedule.

Subject to the following modifications Divisions 27 and 28 of the Aged Care Act 1997 as in force immediately before the commencement of this Schedule will continue to apply until the care recipient’s classification is renewed under Division 28 of that Act as it applied.

The following provisions of the Aged Care Act 1997 as in force after the commencement of this schedule will apply:
(a) section 27-3 (reappraisal required by the Secretary);
(b) Division 27 as it applies to notices given under section 27-3;
(c) section 27-5 instead of repealed subsections 28-2(1) to (3) and Classification Principles made for the purpose of those repealed subsections;
(d) subsections 27-6(2) and (3) (renewal of Classifications) instead of repealed subsections 28-1(2) and (3) and Classification Principles made for the purpose of those repealed subsections.
Extended reappraisal period for classifications

Item 54 also provides that paragraph 28-3(1)(a) of the Act applies in relation to a classification that expires during the period of one month beginning on the commencement date of Schedule 1 to this Bill as if the period mentioned in that paragraph ended 2 months after the expiry date of the classification.

Item 54 also provides that paragraph 28-3(2) of the Aged Care Act 1997 applies in relation to a classification of a care recipient to whom the provision of residential care recommences during the period of one month beginning on the commencement of Schedule 1 to this Bill. This provision allows for the extension of a reappraisal period if the classification expires while a care recipient is on leave. Where the provision of residential care to the care recipient recommences within the period of 1 month after the commencement of Schedule 1, the reappraisal period of one month is extended by one month.

ITEM 55 - Eligibility for residential care subsidy

Item 55 provides that sections 42-1 and 42-2 of the Act as in force immediately before the commencement of Schedule 1 to this Bill continue to have effect after the commencement of Schedule 1 in relation to a care recipient who was on leave to which the exception specified in subsection 42-1(4) of the Act applied immediately before the commencement of Schedule 1 until the end of the care recipient’s period of leave to which that exception applies.

ITEM 56 - Effect of long periods in hospital on basic subsidy amount

Item 56 provides that sections 44-4 and 44-6 of the Act as in force immediately before the commencement of Schedule 1 to this Bill continue to have effect after the commencement of Schedule 1 in relation to a care recipient who was covered by paragraph 44-4(1)(a) (*extended hospital leave) immediately before the commencement of Schedule 1 until the end of the care recipient’s period of extended hospital leave.