



Summary of amendments to the new Aged Care Act

The new Aged Care Act will put the rights and needs of older people at the centre of the aged care system. The Australian Parliament considered a range of issues and recommendations to decide what amendments to make to the new laws.

Summary of amendments

The Australian Parliament (the Parliament) passed the Aged Care Bill 2024 (the Bill) on 25 November 2024. It became the *Aged Care Act 2024* when it received Royal Assent by the Governor-General on 2 December 2024.

The new Act will start from 1 July 2025. During the parliamentary process, members of both the House of Representatives and the Senate made amendments to the Bill.

An amendment is a change made to a bill during its passage through the Parliament. It is a critical part of the law-making process. Any member of parliament can suggest an amendment. Members of parliament then debate and vote for or against the amendment.

The main amendments to the Bill are outlined and explained below. Minor amendments not impacting the operation of the legislation have been omitted.

Removal of decision-making supporters

During the Senate inquiry into the Bill, concerns were raised about the interaction of decision-making supporters with state and territory substitute decision-making arrangements. Concerns were also raised about a lack of procedural safeguards for appointing decision-making

supporters. The Parliament amended the Bill to remove decision-making supporters. The Act now only covers supported decision-making. Authority to make decisions on behalf of an individual remain a matter for state and territory laws. Further amendments were made (Section 27) to clarify what supporters can do on someone else's behalf.

Quarterly reporting of waiting periods for certain funded aged care services

The Parliament amended the Bill to require the System Governor to report quarterly to the Minister on waiting periods for certain services. Sections 338 and 342 of the new Act reflect this amendment.

Timeframes for Complaints Commissioner determinations

The Parliament amended the Bill to ensure that the Aged Care Rules (the Rules) specify timeframes for handling certain complaints made to the Complaints Commissioner. This also includes preparing written statements (complaint determinations and giving complaint determinations to the person who made the complaint). Section 361 of the new Act reflects this amendment

Fee Reduction Supplement applies to financial hardship

Some members of the Community Affairs Legislation Committee recommended that the Bill be clearer about the definition of hardship and what supports are available to someone experiencing hardship. During the public submission process, some members of the public also raised this issue. The Parliament amended the Bill to improve transparency for older people and mandate financial hardship as grounds to claim the fee reduction supplement. Sections 197, 214, 223, and 231 of the new Act reflect these amendments.

Independent review of accommodation pricing

The Parliament amended the Bill to enforce a review of the Accommodation Supplement and the provision of a report to the Parliament. This must be done no later than 26 July 2026. Section 600A of the new Act reflects this amendment.

Senate Committee review of Rules

The Parliament amended the Bill to refer any Rules related to certain provisions in the new Act to a Senate Committee for review. This must be done within three months of the Rules being tabled in the Senate. Subsections 602(12) and 602(13) of the new Act reflect this amendment.

Sunsetting of restrictive practices immunity

From 1 December 2026, the immunity in section 163 of the new Act, related to restrictive practices, will no longer apply.

While the immunity at section 163 of the new Act is only intended to apply where restrictive practices have been used in a way that is consistent with the requirements under the legislation, this amendment signals the current arrangements are a temporary measure, subject to State and Territories implementing compliant legislation.

This amendment ensures that providers must comply with both the requirements of the new Act and any other relevant state and territory laws. This will ensure that restrictive practices are only

used where necessary and proportionate, and only in specific circumstances. Section 163 of the new Act reflects this amendment.

Refundable Accommodation Deposit (RAD) retention amount

The Parliament amended the Bill to cap the deductions that a provider can claim from a RAD each year. Section 308 of the new Act reflects this amendment. The new Act also includes an additional subsection to ensure that providers must not deduct a RAD retention amount greater than 2% in any year.

Statement of Rights

The Parliament amended the Statement of Rights contained in the Bill to allow that an individual has a right to access, at any time, a designated person of their choice or one nominated by an appropriate authority. Subsection 23(13) of the new Act reflects this amendment.

Review of the legislation

The Parliament amended the Bill to bring forward a review of the new Act from five years to three years from commencement. Section 600 of the new Act reflects this amendment.

Worker voice

The Parliament amended the Bill to remove reference to the 'worker voice'. The amendments remove a condition of registration that a provider must offer their workforce the opportunity to establish a quality care worker voice body. Section 158 of the new Act reflects this amendment.

No worse off principle

The Parliament amended Chapter 4 of the Bill to allow for the Rules to advise different methods or requirements for the calculation of:

- subsidies
- individual contributions
- accommodation payments
- means testing.

Older people approved for home care on or before 12 September 2024 or who entered permanent residential care prior to the commencement of the new Act are exempt from some of the new funding arrangements. The amendments also ensure that unspent home care funds paid under the existing Act can be used or returned to the Australian Government under the new Act. These amendments ensure individuals approved under existing arrangements should generally not pay more for their care under the new Act.

Caps on cleaning and gardening

Some changes were announced during the parliamentary process to remove caps on cleaning and gardening under Support at Home. This will help older people to retain their independence at home. This is covered in the Aged Care Service List in the Rules, which outlines the services available under the new Act.

Find out more

You can read more about the parliamentary amendments and final version of the new Act on the Australian Parliament website www.aph.gov.au and on the Federal Register of Legislation www.legislation.gov.au.