



Australian Government

Department of Health and Aged Care

# **Aged Care Rules - Release 4a relating to place allocation, obligations and funding for providers**

Public Release Supporting Document

## Purpose

The purpose of this document is to further explain the release of topics in the new Aged Care Rules (the Rules) of the Aged Care Act 2024 (the new Act). This release (Stage 4a) includes draft Rules that relate to the following:

- Chapter 2 – system entry (place allocation for providers)
- Chapter 3 - some obligations and conditions on registered providers (including some reporting and record keeping topics and 24/7 registered nurses)
- Chapter 4 – funding (accommodation payments for multi-purpose services and mainstream residential care)
- Chapter 7 – information management (including retention of records by former registered providers)

Please refer to Appendix A for the full list of Release 4a topics and a brief explanation.

The supporting document aims to assist stakeholders to provide feedback to the Department of Health and Aged Care (the department) on the Rules. It is not a comprehensive guide to the Rules or a standalone document. Please read it alongside:

- the new Act and its [Explanatory Memorandum](#)
- the draft [Rules released under Stage 4a](#).

## Why the new Act is important

The new Act starts from 1 July 2025. It will respond to the issues facing older people, aged care providers, workers, and the broader sector. It will put the rights and needs of older people at the centre of the aged care system.

The Royal Commission found the Aged Care Act 1997 (current Act) and its related legislation is no longer fit for purpose. This is because the laws are structured around providers and how to fund them, rather than around the people accessing services and what they need.

The new rights-based Act will put older people who need aged care at the centre of the system. Read more about [what a rights-based Act means to you](#).

The new Act will underpin responses to around 60 Royal Commission recommendations, including to legislate:

- the government's response to the Aged Care Taskforce recommendations
- the new Support at Home program
- strengthened Aged Care Quality Standards
- stronger powers for the Aged Care Quality and Safety Commission
- a Statement of Rights for older people.

The new Act will also build on priority [aged care reforms already delivered by government](#).

## Rules already published

The department is publishing the exposure draft of the Rules in stages, ahead of the new Act starting from 1 July 2025. The department is prioritising the release of Rules that are new or cover areas of strong public interest. This is to provide the community and sector with more time to consider them and make sure we have them right. A [timeline](#) sets out each topic and its indicative release date for public feedback.

Stage	Submissions open	Submissions closed	Topic/s
Stage 1	26 Sept 2024	31 Oct 2024	Aged Care Service List
Stage 2a	6 Nov 2024	6 Dec 2024	Funding – Support at Home
Stage 2b	31 Jan 2025	28 Feb 2025	Funding – other funding (not including Accommodation payments or Grantee Code of Conduct)
Stage 2c	27 February 2025	27 March 2025	Grantee Code of Conduct, register of banning orders, non-recovery or recoverable amounts
Stage 3	13 Feb 2025	13 Mar 2025	Some Provider Obligations

**Note\*** The Stage 3 release primarily focused on rules relating to aged care provider obligations. In considering the Rules released under Stage 4a, you may find it helpful to also review the [supporting document for the Stage 3 release](#).

The Stage 3 release covered the Rules for Chapter 3 of the new Act which:

- stipulates the conditions of registration and key obligations that registered providers must meet, even where registered providers subcontract delivery of services
- outlines the separate obligations that apply to aged care workers and responsible persons of register providers.

All updates on the Rules releases are being communicated through the [consultation page](#) on the department's website.

## What's in Stage 4a Rules Release?

### Place allocation – providers

These Rules are made under Division 2, Part 5, Chapter 2 of the new Act. They already mostly exist now in aged care. These Rules establish when a provider can be allocated a place for the delivery of services under the [Multi-purpose service program](#) (MPSP) or the [Transition Care Program](#) (TCP).

These Rules provide for the process to allocate places to registered providers (providers) who are delivering funded aged care services under specialist aged care programs (i.e. MPSP and TCP).

Different arrangements are in place to facilitate alternative funding arrangements for some specialist programs. Funding arrangements and the ability to enter into agreements for those programs were published in [Stage 2b](#).

The Rules outline:

- further details about applications for places to deliver funded aged care services under the TCP
- when a place allocation is to come into effect – replacing provisional allocation of places
- when a place allocation is to cease to have effect, either temporarily or permanently
- when a place can be re-allocated for TCP
- when a place can be transferred
- conditions on places, including when they may be varied.

## Cooperation with other persons

These Rules relate to Chapter 3, Part 4 of the new Act. This already mostly exists now in aged care. Section 177 of the new Act introduces an obligation on registered providers to cooperate with any person who is performing functions, or exercising powers, under the Act.

This includes authorised commission officers from the Aged Care Quality and Safety Commission and authorised system governor officers from the Department of Health and Aged Care, as well as persons performing functions on behalf of the Pricing Authority.

This provision imposes an obligation on providers to cooperate with any person who is undertaking activities prescribed by the Rules.

The new law allows the specified authorities to collect and review data, costing and other studies of the provider. This includes consultation with the provider to perform a function under the new laws. The Rules also describes the requirements to cooperate with a person authorised to request access to any approved residential care home of the provider. There are penalties for providers that fail to comply with the new laws.

## Registered nurses

These Rules relates to Chapter 3, Part 4 of the new Act. Section 175 of the new Act is intended to replicate the registered nurse requirements for mainstream registered residential care providers. This currently exists through section 54-1A of the current Act and Part 4C of the Accountability Principles 2014 with necessary changes in terminology only.

Under section 175, mainstream registered providers of residential care will continue to have an obligation to have at least one registered nurse (within the meaning of the Health Insurance Act 1973) onsite and on duty at each approved residential care home they operate at all times (24 hours a day, 7 days a week). Together with other workforce-related obligations, these requirements ensure the clinical care needs of residents will be met at all times. Better support to respond to changes in a resident's clinical care needs will result and help prevent unnecessary trips to hospital emergency departments, ensuring continuity in the management of chronic health conditions of residents. In certain circumstances, the System Governor will continue to be able to grant exemptions to the registered nurse obligation at specific approved residential care homes. Rules providing for exemptions ensure that the intention of the legislation, being that aged care residents receive the clinical care they need, is at the centre of any decision.

Continuing to provide for a power to grant an exemption from the registered nurse responsibility is consistent with Recommendation 86 of the Royal Commission, the original source of the registered nurse obligation. The Royal Commission recommended that registered providers should be able to apply for an exemption in certain circumstances, including for small residential care homes in regional, rural and remote areas, where the provider has been unable to recruit sufficient numbers of staff with the requisite skills.

For example, a registered provider operating an approved residential care home located in a rural, remote or very remote area that has 30 or fewer operational beds may apply to the System Governor for an exemption from the obligation based on their alternative clinical care arrangements.

However, the alternative clinical care arrangements must address the clinical needs of the aged care residents at all times, taking into account the capabilities and distinct responsibilities of the non-registered nurse staff working each shift.

## Reporting and record keeping requirements

These Rules relate to reporting and record keeping requirements made under Part 4 of Chapter 3 of the new Act. These partially exist now in aged care.

Section 154 of the new Act creates a condition of provider registration relating to how records and personal information are stored and retained. Broadly, all registered providers must keep, and retain records as prescribed by the Rules.

Section 166 of the new Act creates an obligation for registered providers – to provide reports to various authorities in the aged care framework, such as the System Governor, the Commissioner or the Complaints Commissioner.

### **Reporting and record keeping requirements - quality indicators**

This part of the Rules sets out certain reporting and record keeping requirements as they relate to the National Mandatory Aged Care Quality Indicator Program and relevant reporting (i.e. reports on pressure injuries, restrictive practices). This Program currently exists, and the key change has been to elevate some of the detail described in the Program Manual into the Rules.

### **Reporting and record keeping requirements - status of service delivery branches**

This part of the Rules creates reporting requirements in relation to changes in the status of a registered provider's service delivery branches. A service delivery branch is the place of business of the registered provider through which funded aged care services are delivered to an individual.

These Rules require registered providers to report changes such as the opening, closing or merging of their service delivery branches to the System Governor.

## Starting and ceasing the provision of funded aged care services and continuity of those services

These Rules relate to Chapter 3 Part 4 of the new Act which mostly exist now in aged care. Section 149 of the new Act provides that it is a condition of registration for all registered providers to comply with any requirements prescribed by the Rules relating to starting and ceasing the delivery of funded aged care services.

It is intended this condition apply to all registered providers to ensure individuals accessing their services can maintain continuity of services. The Rules may apply differently to different kinds of registered providers to reflect the services they deliver, whether by different provider registration categories or registered providers delivering funded aged care services under different specialist aged care programs.

A registered provider must comply with requirements prescribed in the Rules, which relate to:

- starting the delivery of funded aged care services to an individual
- providing a notification to the System Governor and the Commissioner about starting the delivery of ongoing or short-term funded aged care services to an individual (a start notification)
- ceasing the delivery of funded aged care services to an individual
- providing a notification to the System Governor and the Commissioner about ceasing the delivery of funded aged care services to an individual (a cessation notification)
- ceasing to deliver any funded aged care services
- if the provider delivers funded aged care services in an approved residential care home—security of tenure for individuals accessing those services
- continuity of funded aged care services for individuals.

Notifications to the System Governor about starting and ceasing the delivery of services will also be used for the purpose of determining eligibility for subsidy.

The Rules prescribe for the security of tenure that a registered provider of an approved residential care home must provide to an individual accessing those services. The specific and limited circumstances in which a registered

provider may cease the delivery of funded aged care services in an approved residential care home will be prescribed by the Rules. This is intended to replicate current security of tenure provisions provided in the *User Rights Principles 2014* for the purposes of residential care.

Requirements in relation to continuity of funded aged care services serves a similar purpose in ensuring there is no break in the delivery of funded aged care services except in specific, limited circumstances prescribed by the Rules.

If a registered provider breaches a condition of registration, a civil penalty may apply.

## Responsible persons of a registered provider must notify of change of circumstances relating to suitability

These Rules relate to Chapter 3 part 4 of the new Act which partially exist now in aged care. Section 169 of the new Act describes the requirement for responsible persons (individual employed by the registered provider) of most registered providers to notify their employer, in writing, if the individual becomes aware of a change in their circumstances relating to an employment suitability matter. This is a requirement for key personnel of approved providers under the current Act.

The Rules say that this requirement applies to every kind of registered provider except a provider that is a sole trader. This will mean that all responsible persons, other than those who are a sole trader, will be required to notify their employer (the registered provider) of a change in their circumstances relating to an employment suitability matter. Sole traders have been excluded as in those instances the responsible person and provider are the same individual.

## Accommodation payments and bonds

These Rules relate to Chapter 4, Part 4 of the new Act and already mostly exist now in aged care. An overview of this Part was published in October 2024: [Overview of the New Aged Care Act Rules consultation – Release 2 – Funding of aged care services \(Chapter 4\)](#) (the overview).

Since the publication of the overview, the Australian Government made amendments to the new Act while it was in parliament that allow for the Rules to prescribe alternative arrangements for individuals who are already in aged care at the commencement of the new Act.

The Rules replicate the requirements regarding accommodation bonds, which exist currently in the *Aged Care (Transitional Provisions) Act 1997* and its associated *Aged Care (Transitional Provisions) Principles 2014*.

### **Charging Accommodation Payments and Bonds – Multi-Purpose Service Program (MPSP)**

This part of the Rules outlines arrangements for accommodation payments and bonds for individuals accessing funded aged care services under the MPSP. These arrangements are similar to those under the current Act, with changes to how a provider's financial hardship policy is to apply to accommodation payments.

In practice this means when an individual starts accessing funded aged care services under the MPSP in an approved residential care home, they may need to pay an accommodation payment to cover the costs of their accommodation. This happens where the provider has published an accommodation price and the individual's means assessment indicates they must pay an accommodation payment.

The individual's means are determined via a pre-entry means assessment from Services Australia.

- If an individual is determined not to be eligible for Commonwealth Government assistance for their accommodation costs, or insufficient information is provided for a means assessment to be determined, the person must pay the room price agreed with their provider as an accommodation payment.
- As under the current Act, if an individual is eligible for Commonwealth Government assistance with their accommodation costs, their provider cannot charge the individual any amount for accommodation.

## Retention of records

This part of the Rules is made under Chapter 7 Part 3 (section 543) of the new Act, which mostly exists now in aged care.

All former registered providers must keep records relating to funded aged care services they delivered for 7 years after they ceased being a registered provider. If they fail to do so, it will be an offence under the new Act, and penalties can be imposed upon the former registered [provider](#).

The Aged Care Quality and Safety Commission has released the [Financial and Prudential Standards – consultation draft](#), which will be introduced with the commencement of the new Act.

The new Financial and Prudential Standards will be introduced with the commencement of the new Act. The new Standards set out the minimum requirements for good financial and prudential management of registered aged care providers. Registered providers must comply with the Financial and Prudential Standards that apply to them as a condition of their registration.

## How to provide feedback on Stage 4a Rules

On the release of Stage 4a Rules, feedback submissions will be invited via the Rules Consultation page of the department's website.

You can submit feedback via an online form. The form includes a free text box and the ability to upload files for lengthier responses.

Submissions will close 4 weeks from the release of Stage 4a Rules.

A summary of the feedback we receive will be available on the Ageing and Aged Care Engagement [Hub](#). Individual submissions we received will also be uploaded at a later date.

We will use this feedback to refine the Rules for the new laws.

## Appendix A: Stage 4a Topics

### Rules that exist now in aged care

<b>Rules that exist now in aged care</b>
<b>Accommodation – multi-purpose services (section 288)</b> Requirements for MPS service providers when charging accommodation payments.
<b>Registered Nurses (section 175)</b> The rules will make provision for, or in relation to, certain exemptions to the requirement for a registered provider to have a registered nurse on site and on duty at all times.

### Rules that mostly exist now in aged care

<b>Rules that mostly exist now in aged care</b>
<b>Accommodation – mainstream residential care</b> Requirements for providers when charging accommodation payments or accommodation bonds. Includes new Daily Accommodation Payment (DAP) indexation and refundable accommodation deposit (RAD) retention.
<b>Cooperation with other persons (section 177)</b> The Rules will set out the obligation for all registered providers to comply with in relation to cooperating with persons including cooperating with the Independent Health and Aged Care Pricing Authority.
<b>Place allocation – providers (Div 2, Part 5, Ch 2)</b> Rules establish when a provider can be allocated a place for the delivery of multi-purpose services program or the transition care program.
<b>Starting and ceasing the provision of funded aged care services and continuity of those services (section 149)</b> Sets out as a condition of registration the requirements for all registered providers to comply with in relation to starting and ceasing the delivery of funded aged care services. This will include when an individual starts accessing funded aged care services (start notification) and when ceasing services (cessation notification). The Rules will also provide for requirements relating to security of tenure for individuals accessing residential care and continuity of care for all other individuals. The Rules will also set out requirements for registered providers to have in place a continuity of care plan prior to an individual ceasing to access their services.
<b>Retention of records by former registered provider (section 543, Part 3, Ch 7)</b> The Rules will prescribe that all former registered providers will be required to keep records for 7 years after they cease to be a registered provider.



## Rules that partially exist now in aged care

<b>Rules that partially exist now in aged care</b>
<p><b>Responsible persons of a registered provider must notify of change of circumstances relating to suitability (section 169)</b></p> <p>The Rules will set out that the obligation to notify providers of changes in circumstances relating to suitability will apply to a person who is one of the responsible persons of a registered provider in categories 1-6.</p>
<p><b>Reporting and record keeping requirements – Quality Indicators (section 154 and 166)</b></p> <p>Sets out reporting and record keeping requirements for registered providers who deliver funded residential aged care services in relation to the National Aged Care Quality Indicator Program i.e. reports on pressure injuries, restrictive practices</p>

## Rules that will be new to aged care

<b>Rules that will be new to aged care</b>
<p><b>Reporting requirements – status of Service Delivery Branches</b></p> <p>Sets out requirements for registered providers to report changes, such as the opening, closing, or merging of their Service Delivery Branches.</p>