



**ACSA**

Aged & Community Services Australia

VICTORIAN PARLIAMENTARY SCRUTINY OF ACTS AND  
REGULATIONS COMMITTEE

## PORTABLE LONG SERVICE SCHEME – CONSULTATION ON PERMANENT REGULATIONS

**SUBMISSION**

26 June 2020



## ABOUT ACSA

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Aged & Community Services Australia (ACSA) is the leading national peak body supporting not-for-profit church, charitable and for-purpose providers of retirement living, community, in-home and residential aged care throughout Victoria and around Australia for more than 450,000 older Australians. Not-for-profit organisations provide care and accommodation services to about one million older Australians.<sup>1</sup>

ACSA represents, leads and supports its members to achieve excellence in providing quality affordable housing and community and residential care services for older Australians.

Aged care providers make a significant \$17.6 billion economic contribution to Australia, representing 1.1% of GDP by producing outputs, employing people and through buying goods and services. The direct economic component is akin to the contribution made by the residential building construction and sheep, grains, beef and dairy cattle industries.<sup>2</sup> In many regional and rural areas aged care is the largest employer, which is where the majority, if not all, providers are not-for-profit.

Mission-based and other not-for-profit organisations are responsible for providing services to the most disadvantaged and are a critical part of the social fabric of local communities – not only for the essential care and support they provide – but also as a valuable generator of jobs and growth.

ACSA members are important to the community and the people they serve and are passionate about the quality and value of the services they provide, irrespective of their size, service mix or location.

## ACSA CONTACT

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<sup>1</sup> Australian Government, Department of Health, 2016-17 Report on the Operation of the *Aged Care Act 1997*, November 2017.

<sup>2</sup> Deloitte Access Economics, Australia's aged care sector: economic contribution and future directions, Aged Care Guild, June 2016, page 24.

# PORTABLE LONG SERVICE SCHEME – CONSULTATION ON PERMANENT REGULATIONS

## INTRODUCTION

ACSA is responding to the Victorian Government's invitation to provide feedback on the new permanent Regulations which support the Long Service Benefits Portability Act.

Strongly representing the aged-care sector in Victoria, ACSA is well placed to offer input from our members, aged-care providers who every day are working so hard with our most vulnerable of Victorians.

The Long Service Benefits Portability Act 2018 received Royal Assent on 18 September 2018. The Act establishes a portable long service benefits scheme for the contract cleaning, security and community services sectors. The scheme for contract cleaning, security and community services sectors commenced on 1 July 2019.

The operation of the scheme is supported by the Long Service Benefits Portability Interim Regulations 2019. These Interim Regulations have a sunset date of 6 November 2020. The Victorian Government intends to make permanent Regulations as soon as possible, and no later than 6 November 2020, to support the operation of the scheme.

## BACKGROUND

ACSA actively participated in the consultative stage prior to the introduction of the Long Service Benefits Portability Act.

This continued before and after the release of the Regulatory Impact Statement of what became the Interim Regulations. This included meetings with the Department and a meeting with the Minister of Industrial Relations office in August 2019. ACSA was concerned with the inconsistency of the Interim Regulations and we submitted that along with all aged care workers who are covered by the Aged Care Act 2010, all other aged care workers should also be excluded from the scheme.

This submission is based on extensive consultation with members and industrial relations specialists.

## SUBMISSION

### **1. Removal of the predominance test**

ACSA supports the removal of the predominance test as this previously was confusing and complicated for employers to configure.

### **2. Who are not employees?**

Whilst residential aged care employees covered under the Aged Care Industry Award are not included in the scheme, the new regulations capture the provision of home care support services provided in a private residence, irrespective of the age of the client.

ACSA seeks to have home care support services for aged persons excluded from the scheme. This was proposed in the original Regulatory Impact Statement for the Interim Regulations only to be omitted when the Interim Regulations were enacted.

Under Part 4, Division 1 Regulation 8: What is community service work?

- (1) (b): *home care support services provided in a private residence, irrespective of the age of the client.*

**ACSA proposes that the wording be amended to read:**

- (1) (b): home care support services provided in a private residence but excluding work of a kind performed in the delivery of aged care services to which any of the following Commonwealth funded aged care packages or programs applies:
- (i) Commonwealth Home Support Programme (CHSP)
  - (ii) Home Care Packages Program (HCP)
  - (iii) Transition Care Programme
  - (iv) Short-term Restorative Care Programme
  - (v) Multi-Purpose Services Program (Multi-Purpose Services are allocated flexible aged care places under the Aged Care Act 1998, which are designated as either residential (high care or low care) or home care places.)
  - (vi) National Aboriginal and Torres Strait Islander Flexible Aged Care Program (Flexible aged care services can deliver a mix of residential and home care services in accordance with the needs of the community. Services funded under the Program are located mainly in rural and remote areas.)

**Alternative wording to Regulation 8 (1) (b) could be replaced with:** "home care support services provided in a private residence excluding home care work involving 'aged' persons (65 years and older - or 55 years and older for Aboriginal and Torres Straits Islanders).

ACSA is concerned about the impact on our members and their services and would like to reinforce our view that our sector should be treated in a singular and consistent way. Given that our workforce in residential aged care that is covered under the Aged Care Industry Award, we therefore seek that all "aged care work" in its broadest sense be subject to a clear exemption.

ACSA seeks clarity regarding backdating of the Regulations, as neither the draft Regulations nor the RIS confirm whether implementation of the scheme will be applied retrospectively. ACSA endorses the collective call in other submissions against the backdating of scheme payments.

The Interim regulations caused confusion. ACSA seeks assurance that once the permanent Regulations are enacted that aged-care home care providers would not be considered non-compliant to the scheme during the period of the operation of the Interim Regulations.