



Cowell Clarke  
COMMERCIAL LAWYERS

# Aged Care Act 2024

## Compliance Checklist

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### ADELAIDE

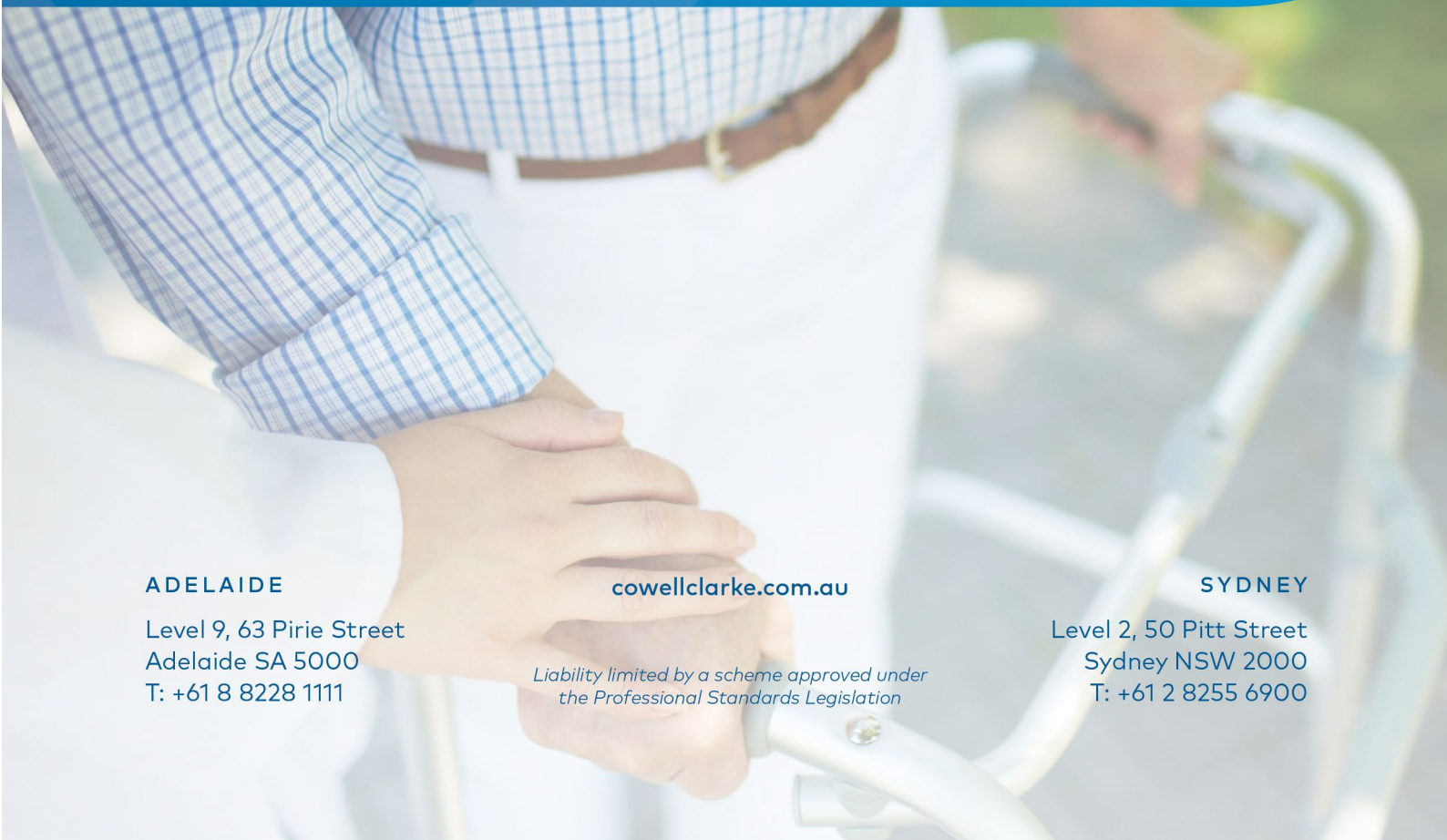
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# Aged Care Act 2024

## Compliance Checklist

### ***Background and Disclaimer***

The *Aged Care Act 2024* (Cth) (**Act**) will officially commence on 1 July 2025, impacting those who deliver and receive aged care services. The Act replaces the current laws governing the provision of aged care in Australia, and introduces a new system in which providers, workers and other entities in the aged care sector must comply with.

This Compliance Checklist is intended to provide an overview of the different action items which are required to be implemented by those operating within the aged care sector from 1 July 2025. This Compliance Checklist can be used to assist providers in developing an action plan for their legal and operational compliance with the Act.

The material contained in this Compliance Checklist is dependent on the information released as at the date of this Compliance Checklist. Many details surrounding the various obligations are yet to be released to the public and will be prescribed further in the Aged Care Rules (**Rules**). Cowell Clarke will continue to update this Compliance Checklist in order to provide the latest information to aged care providers.

This document is for general information only and cannot be relied upon as legal advice. The application of obligations under the Act will depend on the type of provider you are and the services you offer. Do not act on the basis of this document but seek specific advice from your legal adviser.

Cowell Clarke's dedicated Aged Care and Retirement Living team continues to work closely with aged care entities to ensure their best possible outcomes are achieved whilst ensuring compliance.

For further information, please contact our [Aged Care, Retirement Living and Health team](#).

## Compliance Checklist

| Topic                                | No. | Task Description   | Completed<br>✓ | Comments   |
|--------------------------------------|-----|--|----------------|--|
| <b>AGED CARE PROVIDERS – GENERAL</b> |     |  |                |  |
| <b>Registration<br/>Renewal</b>      | 1.  | Nominate and train the relevant personnel who will have responsibility for renewal of registration.  |                | Existing providers will remain registered under the new Act but will be required to comply with the new renewal requirements.<br><br>For example, providers must be invited to renew their registration prior to applying for renewal. Providers cannot apply to renew until this invitation has been received |
|                                      | 2.  | Confirm workflows are in place to ensure relevant personnel are notified once invitation to renew has been issued.   |                |  |
|                                      | 3.  | Have a process in place to diarise relevant key dates for lodgment of application or renewal.  |                |  |
|                                      | 4.  | Consider whether delegation of authority matrix needs to be updated and what notifications / approvals are required before application for renewal is submitted.               |                |  |
|                                      | 5.  | Consider what Board processes or policies need to be updated? Is there sub-committee involvement or training required?   |                |  |
| <b>Governance<br/>Requirements</b>   | 6.  | Ensure provider complies with governing body requirements regarding independent and skilled members. This may require an update to their Constitution and associated policies. |                | Section 157 sets out governing body independent member requirements as well as required skillsets.   |
|                                      | 7.  | If applicable, consider whether an exemption from the Commissioner should be obtained for the requirements set out in section 157 of the Act.                                  |                | Limited providers may seek an exemption from having to comply (see section 159 of the Act).  |

| Topic          | No. | Task Description   | Completed<br>✓ | Comments  |
|----------------|-----|--|----------------|---|
|                | 8.  | If the provider is a wholly-owned subsidiary corporation, review Constitution to ensure it complies with the requirements under section 161 of the Act.        |                | For wholly-owned subsidiary corporations.<br><br>Providers that are incorporated under the <i>Corporations Act 2001</i> (Cth) and are a wholly-owned subsidiary of a company that is not a registered provider must ensure that its Constitution does not contain a provision authorising a director to act in the good faith in the best interests of the holding company.   |
| <b>Funding</b> | 9.  | Review internal policies and practices on charging and retaining fees from recipients.   |                | This will depend on the type of provider you are and the services you offer.<br><br>To ensure it aligns with changes under the Act.<br><br>For example, aged care recipients may now be required to make additional contributions to their care under the new Act. Providers will be required to have processes in place to collect, appropriately document and communicate about these contributions where relevant. |
|                | 10. | Review list of services that you provide as a provider and confirm that you remain eligible to receive the relevant subsidies and other funding under the Act. |                | The price and/or hours (as applicable) that can be charged for certain services and still receive a subsidy is capped under the Act and Rules.<br><br>Further details TBC in the Rules.   |
|                | 11. | Review internal policy and process on claiming subsidies and other funding from the Commonwealth.  |                | To ensure the policy is compliant with the relevant processes under the Act, including submission deadlines.  |

| Topic  | No. | Task Description   | Completed<br>✓ | Comments  |
|--|-----|--|----------------|---|
|  | 12. | Review due diligence policies and procedures on assessments regarding recipients' asset and means position.                            |                | For example, to ensure compliance with section 305 of the Act on the prohibition of accepting RADs if such payment would leave the value of the recipient's assets less than the minimum permissible asset value.   |
| <b>Subcontracts and Associated Providers</b> | 13. | Review and update subcontracting agreements to ensure compliance with the Act.   |                | For providers who subcontract services.<br>For example:   |
|  | 14. | Conduct due diligence on associated providers to determine whether they are capable of meeting the provider obligations under the Act. |                | <ul style="list-style-type: none"> <li>Providers who receive government subsidies must ensure that the price and/or hours that the recipient pays for a service does not exceed the final efficient price under the Rules. This may have a flow-on effect to the fees under subcontracting agreements.</li> <li>Ensuring compliance with the associated provider provisions and confirming that there is no risk of the registered provider being seen as contracting out of their legal responsibility under the Act.</li> </ul> Further details TBC in the Rules. |
| <b>Complaints and Incidents</b>              | 15. | Update complaints and feedback management system.  |                | Further details TBC in the Rules.   |
|  | 16. | Update incident management system.   |                | Further details TBC in the Rules.   |
|  | 17. | Implement a new whistleblower system and policy.   |                | The Act introduces protections for persons who make disclosures relating to non-compliance with the Act.  |

| Topic                      | No. | Task Description   | Completed<br>✓ | Comments  |
|----------------------------|-----|--|----------------|---|
|                            |     |  |                | Registered providers must comply with anonymity, confidentiality, and non-victimisation requirements. Further, registered providers have a positive obligation to ensure compliance where disclosures are made to their aged care workers, Responsible Persons or associated providers.<br><br>Further details TBC in the Rules.            |
| <b>Advisory Bodies</b>     | 18. | Implement or update internal policy and process on advisory body compliance.   |                | Note: Individuals are awarded certain protections for their participation in advisory bodies.   |
| <b>Quality Standards</b>   | 19. | Update operational policies to align with new Aged Care Quality Standards.   |                | Strengthened Aged Care Quality Standards to be introduced 1 July 2025. Further information to be provided once standards are finalised.   |
| <b>Supporters</b>          | 20. | Implement or update internal policy on: <ul style="list-style-type: none"> <li>• supporters; and</li> <li>• designated persons.</li> </ul> Implement training of relevant staff on requirements relating to supporters and designated persons. |                | Under the Act: <ul style="list-style-type: none"> <li>• Care recipients will be able to nominate and register a 'supporter' to support them in receiving or communicating information;</li> <li>• Care recipients have the right to access, at any time they choose, a person designated by them or by an appropriate authority.</li> </ul> |
| <b>Responsible Persons</b> | 21. | Update Responsible Persons policy and processes to reflect new terminology and requirements. Consider whether any Board or other policies need to be updated to reflect the section 180 duty.  |                | Previously called "key personnel".<br><br>Responsible Persons (excluding persons responsible for nursing management or day-to-day operations) now have a positive duty under  |

| Topic  | No. | Task Description   | Completed<br>✓ | Comments  |
|--|-----|--|----------------|---|
|  | 22. | Implement training to ensure Responsible Persons understand their obligations under the Act.   |                | section 180 of the Act to conduct due diligence to ensure providers do not engage in conduct that causes adverse effects to health and safety of recipients (as outlined under section 179 of the Act).   |
|  | 23. | Board and executive team agree and to implement a due diligence framework to ensure that the provider is meeting the section 179 duty. |                |   |
| <b>Restrictive Practices</b>                   | 24. | Review and update policy on restrictive practices.   |                | Further details TBC in the Rules.   |
| <b>Record keeping</b>                          | 25. | Review and update record keeping policy.   |                | Further details TBC in the Rules.   |
| <b>Privacy</b>                                 | 26. | Review and update privacy policy and standard wording in all template contracts.   |                | To ensure compliance with the Act (such as the provision of information to supporters) and the proposed changes to the <i>Privacy Act 1988</i> (Cth).   |
| <b>AGED CARE PROVIDERS - RESIDENTIAL</b>       |     |  |                |   |
| <b>Residential Agreements</b>                  | 27. | Prepare new / update Residential Care Agreements and Accommodation Agreements.   |                | For residents entering residential facilities from 1 July 2025.<br><br>Existing residents will continue their care under their existing agreements.   |
| <b>Refundable Accommodation Deposits (RAD)</b> | 28. | Review and update internal policies and practices on RADs. This will also need to be addressed in updated residential agreements.      |                | To align with new requirements under the Act, such as retention amounts.<br><br>Among other things, the review should cover: <ul style="list-style-type: none"> <li>• RAD collection;</li> <li>• permitted uses;</li> <li>• refunds;</li> </ul> |

| Topic                                  | No. | Task Description   | Completed<br>✓ | Comments   |
|--|-----|--|----------------|--|
|  |     |  |                | <ul style="list-style-type: none"> <li>• retention – limited to 5 years and capped;</li> <li>• deductions; and</li> <li>• interest.</li> </ul>   |
| <b>AGED CARE PROVIDERS – HOME CARE</b> |     |  |                |  |
| <b>Support at Home Agreements</b>      | 29. | Prepare new Support at Home Agreements / update existing Home Care Agreements.                             |                | <p>The new Support at Home program replaces Home Care Packages and Short-Term Restorative Care (Flexible Care) for recipients receiving home care services from 1 July 2025.</p> <p>Existing recipients will be transitioned over to the new Support at Home Program but are protected under “no worse off” provisions.</p> <p>Although the Commonwealth Home Support Program (<b>CHSP</b>) isn’t transitioning to this new program until 2027, CHSP providers are still required to comply with the Act.</p> <p>Further details and transitioning support TBC closer to implementation.</p> |
| <b>Care Plan and Budgets</b>           | 30. | Update internal systems and understanding on creation and management of care plans and individual budgets. |                | <p>The Act will change the way home care services are funded, regulated and delivered.</p> <p>Further details TBC closer to implementation.</p>  |
| <b>Services List</b>                   | 31. | Update list of inclusions and exclusions for Support at Home services.                                     |                | <p>Further details TBC closer to implementation.</p>   |



| Topic   | No. | Task Description  | Completed<br>✓ | Comments   |
|---|-----|---|----------------|--|
| <b>OPERATORS OF AGED CARE DIGITAL PLATFORMS<sup>1</sup></b> |     |   |                |  |
| <b>Review Information</b>                                   | 32. | Review and ensure the prescribed information for each advertised provider is correct and displayed on the platform. |                | Mandatory information such as provider registration status, registration categories, and banning order history must be displayed.<br><br>Further details TBC in the Rules. |
| <b>Notification</b>   | 33. | Notify Commissioner that you operate the platform.  |                | Applies to Australian trading and financial corporations.<br><br>Further details TBC in the Rules.   |
| <b>Complaints Management</b>                                | 34. | Implement a complaints management system.   |                |  |
| <b>Incident Management</b>                                  | 35. | Implement an incident management system.  |                |  |
| <b>Reporting</b>  | 36. | Implement a process for keeping and retaining relevant records.   |                |  |

<sup>1</sup> Broadly, an Aged Care Digital Platform is an online service (such as a website or system) that facilitates the delivery of aged care by connecting people with aged care providers for a fee. For more information on what an “aged care digital platform” is and whether you might be caught, see our Insight [here](#).