



New South Wales

Ageing and Disability Commissioner Regulation 2019

under the

Ageing and Disability Commissioner Act 2019

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Ageing and Disability Commissioner Act 2019*.

GARETH WARD, MP
Minister for Families, Communities and Disability Services

Explanatory note

The objects of this Regulation are as follows:

- (a) to enable the Ageing and Disability Commissioner to delegate the Commissioner's functions to persons employed by Catholic Healthcare Limited,
- (b) to enable the Commissioner to enter into information sharing arrangements with certain Commonwealth bodies such as the NDIS Quality and Safeguards Commission,
- (c) to enable Official Community Visitors to monitor providers of accommodation services for adults with disability under the National Disability Insurance Scheme.

This Regulation is made under the *Ageing and Disability Commissioner Act 2019*, including sections 11, 14 (8) (paragraph (f) of the definition of **relevant agency**), 20 (paragraph (e) of the definition of **service provider**), 22 (1) (j) and 35 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters of a savings or transitional nature.

Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definition	3
4 Delegation of Commissioner's functions	3
5 Exchange of information	3
6 NDIS service providers	3
7 Transitional provision—existing Official Community Visitors	4
8 Transitional provision—existing matters under Community Services (Complaints, Reviews and Monitoring) Act 1993	4

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1 Name of Regulation

This Regulation is the *Ageing and Disability Commissioner Regulation 2019*.

2 Commencement

This Regulation commences on 1 July 2019 and is required to be published on the NSW legislation website.

3 Definition

(1) In this Regulation:

the Act means the *Ageing and Disability Commissioner Act 2019*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Delegation of Commissioner's functions

For the purposes of section 11 of the Act, persons employed by Catholic Healthcare Limited are prescribed.

5 Exchange of information

For the purposes of paragraph (f) of the definition of *relevant agency* in section 14 (8) of the Act, the following are prescribed:

- (a) the Aged Care Quality and Safety Commission established by the *Aged Care Quality and Safety Commission Act 2018* of the Commonwealth,
- (b) the National Disability Insurance Scheme Launch Transition Agency established by the *National Disability Insurance Scheme Act 2013* of the Commonwealth,
- (c) the NDIS Quality and Safeguards Commission established by the *National Disability Insurance Scheme Act 2013* of the Commonwealth.

6 NDIS service providers

For the purposes of paragraph (e) of the definition of *service provider* in section 20 of the Act, a person or organisation that provides supports to a participant under the participant's plan under the *National Disability Insurance Scheme Act 2013* of the Commonwealth, other than a person or organisation that provides residential care within the meaning of the *Aged Care Act 1997* of the Commonwealth, is prescribed.

7 Transitional provision—existing Official Community Visitors

- (1) A person is taken to have been appointed as an Official Community Visitor under section 21 of the Act for the balance of the term for which the person was appointed under section 7 of the CS (CRM) Act if, immediately before 1 July 2019, the person:
 - (a) was an Official Community Visitor under the CS (CRM) Act, and
 - (b) exercised functions under section 8 of the CS (CRM) Act with respect to visitable services within the meaning of Part 4 of the *Ageing and Disability Commissioner Act 2019*.
- (2) An Official Community Visitor taken to have been appointed under section 21 of the Act may provide advice or information to the Commissioner under section 22 (1) (d) or (e) of the Act about existing matters.
- (3) Nothing in this clause limits any function an Official Community Visitor may have under any other Act.
- (4) In this clause:

CS (CRM) Act means the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

existing matter means:

 - (a) conduct of premises at which a visitable service is provided that occurred before 1 July 2019, or
 - (b) matters affecting the welfare, interests and conditions of persons using visitable services that arose before 1 July 2019.

8 Transitional provision—existing matters under Community Services (Complaints, Reviews and Monitoring) Act 1993

- (1) An existing matter, in so far as it relates to an allegation of abuse, neglect or exploitation of an older adult or adult with disability, is taken to be a report made to the Commissioner under section 13 of the Act.
- (2) The Ombudsman is not required to continue to deal with an existing matter taken to be a report under this clause.
- (3) In this clause:

existing matter means an inquiry by the Ombudsman under section 11 (1) (e) of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* that is not finally dealt with by 1 July 2019.