

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AGED OR DISABLED PERSONS HOMES AMENDMENT BILL, 1988

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Community Services and Health, the Hon. Neal Blewett, M.P.)

AGED OR DISABLED PERSONS HOMES AMENDMENT BILL 1988OUTLINE

This Bill proposes amendments to the Aged or Disabled Persons Homes Act 1954

- . to introduce new hostel planning arrangements which will allow the Minister to determine the maximum number of hostel places to be funded on a recurrent basis for each State and Territory at any time in a particular financial year, and to enable the Minister to specify the distribution of these hostel places among planning regions;
- . to introduce an approval-in-principle arrangement for the provision of capital and recurrent funding or recurrent funding alone in respect of the acquisition or erection, the demolition and reconstruction, the alteration or extension, or the transfer of a hostel;
- . to enable all Commonwealth funded hostels, existing and future ones, to be approved for a fixed number of hostel places (including respite care places) for recurrent funding purposes thereby enabling improved financial management and planning in the hostel sector;
- . to ensure that the approved number of hostel places are used to accommodate only eligible persons;
- . to enable the payment of recurrent subsidy in respect of an eligible person occupying an approved respite care place for a maximum of 63 days in a benefit period in the same hostel;
- . to enable moneys borrowed or received from Commonwealth or State Governments, or moneys borrowed from sources other than Commonwealth or State Governments, to be taken into account when calculating the amount of capital grant in relation to a nursing home; and

3.

to make other minor amendments including consequential amendments.

2. A number of other administrative changes, including transitional arrangements, are set out in the Bill.

3. The Bill also seeks to repeal the Aged or Disabled Persons Hostels Act 1972, while preserving any outstanding entitlements under that Act through the grant of an approval-in-principle under the new provisions in the Aged or Disabled Persons Homes Act 1954.

FINANCIAL IMPACT STATEMENT

4. No financial impact is anticipated from the proposed amendments to the Aged or Disabled Persons Homes Act 1954, or from the proposed repeal of the Aged or Disabled Persons Hostels Act 1972.

AGED OR DISABLED PERSONS HOMES AMENDMENT BILL 1988

Clause 1 : Short Title

5. Subclause 1(1) will enable this Bill, when enacted, to be cited as the Aged or Disabled Persons Homes Amendment Act 1988.

6. Subclause 1(2) cites the Aged or Disabled Persons Homes Act 1954 as the Principal Act for the purposes of this Bill.

Clause 2 : Commencement

7. This clause provides for the dates on which various provisions of the amending Act will come into operation.

8. Subclause 2(1) provides that sections 1 and 2 will come into operation on the day on which the amending Act receives Royal Assent.

9. Subclause 2(2) provides that paragraph 11(e) will commence, or will be taken to have commenced, on the day on which section 14 of the Community Services and Health Legislation Amendment Act 1987 comes into operation.

10. Subclause 2(3) provides that paragraph 17(g) and subclause 21(1) will commence, or will be taken to have commenced, on the day on which section 5 of the Community Services and Health Legislation Amendment Act 1988 comes into operation.

11. Subclause 2(4) provides that the remaining provisions of the amending Act will come into operation on a day or days to be fixed by Proclamation.

Clause 3 : Interpretation

12. This clause amends section 2 of the Principal Act to insert new definitions in the Act and to make consequential amendments to existing definitions.
13. Paragraph 3(a) amends the definition of "aged person" by excluding reference to the wife or husband of an aged person. This amendment is consequent upon the new definition of "eligible person" in subclause 3(e).
14. Paragraphs 3(b) and (c) are necessary because of the reordering of provisions.
15. Paragraph 3(d) amends the definition of "respite care services", as a consequence of amendments to paragraphs 10D(1) (a) and (b) which cause payment to be made for an approved hostel place occupied by an eligible person, instead of just for an eligible person.
16. Paragraph 3(e) changes the definition of "eligible person" to mean
- . an aged or disabled person who is assessed as requiring hostel care services or hostel care services and personal care services,
 - . a person who was residing with such a person prior to their entry to a hostel and who intends to continue to reside with that person after that entry to a hostel, and
 - . an aged or disabled person who wishes to receive hostel care services on a temporary basis, or who wishes to receive, and is assessed as requiring, hostel care services and personal care services on a temporary basis.
17. Paragraph 3(f) omits the definitions of "approved home", "approved hostel" "'capital cost', in relation to an approved home other than an approved hostel" and "'capital cost', in relation to an approved hostel".

18. Paragraph 3(g) inserts definitions of "approved", "'capital works costs' in relation to a hostel", "'capital works costs' in relation to a nursing home", "hostel", "hostel place" "relevant period" "relevant care services" and "respite care place". The new definitions of "capital works costs" reflect the revision of the Act to make separate arrangements for the provision of financial assistance to hostels and nursing homes and are similar in effect to the definitions they replace. The new definition of "respite care place" is consequent upon the amendments made by clause 15.

19. Paragraph 3(g) also inserts a definition of 'General Conditions' in exactly the same terms as those set out in section 10A of the Principal Act which will be repealed by clause 15.

20. Paragraph 3(h) adds a new subsection 2(1A) which provides that a reference to an approved hostel place or an approved respite care place in the Act shall be taken to be a reference to a hostel place or a respite care place, as the case requires, that is included within the number of hostel places or respite care places that are specified from time to time in an agreement under the new section 10FA as places in respect of which financial assistance by way of recurrent subsidy may, in accordance with the new Division 4 and that agreement, be payable.

21. Paragraph 3(h) also adds a new subsection 2(1B) which provides that a reference to capital works costs associated with the acquisition or erection, the demolition and reconstruction, or the alteration or extension of a hostel shall not be taken to exclude any capital works costs referred to in the definition of capital works costs in relation to a hostel.

Clause 4 : New Part heading

22. This clause repeals the current heading to Part II of the Principal Act and substitutes a new heading which reflects the intention that Part II apply solely to the provision of capital grants to nursing homes.

Clause 5 : Repeal of Division 1 of Part II etc

23. This clause repeals Division 1 of Part II of the Principal Act and the heading to Division 2 of that Part and substitutes a new section 6.

24. New section 6 provides that where an eligible organisation makes, or proposes to make, application to the Minister under section 39A of the National Health Act 1953 for a certificate of a kind referred to in subsection 39A(2), (2A), (3) or (3A), or under section 39B of that Act for a certificate of a kind referred to in subsection 39B(5) in respect of a nursing home, that organisation may also at the same time, apply for financial assistance by way of a grant towards the capital works costs in respect of that nursing home.

Clause 6 : Grants to eligible organisations

25. Paragraph 6(a) amends section 7 of the Principal Act by omitting subsections (1A) and (1) and substituting a new subsection 7(1) which empowers the Minister, where the Minister grants a certificate under section 39A or 39B of the National Health Act 1953 to an eligible organisation that has also made an application under the new section 6 of the Principal Act, to make a payment of financial assistance to that eligible organisation towards the capital works costs in respect of the nursing home that is the subject of the certificate under section 39A or 39B of the National Health Act 1953.

26. Paragraph 6(b) omits subsection 7(3) of the Principal Act and substitutes a new subsection 7(3) which is similar to the current subsection 7(3) but under paragraph (c), picks up other organisations declared by the Minister under subsection 2(5) of the Principal Act to be eligible. The substitution of this subsection is consequential upon the amendments made by paragraph 4(g) of the Community Services and Health Legislation Amendment Act 1987.

Clause 7 : Terms and conditions of grant

27. Paragraph 7(1)(a) amends section 8 of the Principal Act by omitting subsection 8(2) of the Principal Act and substituting new subsections 8(2) and 8(2A).

28. New subsection 8(2) provides that where the Minister approves a payment of financial assistance to an organisation under the new subsection 7(1), the financial assistance is not payable unless the organisation enters into an agreement with the Minister that specifies the conditions on which the financial assistance is granted and under which the organisation agrees to comply with those conditions. The new subsection 8(2) replaces a provision which made such an agreement optional. Hostels are already subject to this requirement by virtue of the current subsection 9C(1) of the Principal Act.

29. New subsection 8(2A) provides that where an organisation has entered into an agreement specifying the conditions on which financial assistance under subsection 7(1) was granted and the Minister, with the consent of the organisation varies those conditions, the agreement shall be taken to be varied accordingly.

30. Previously subsection 8(4) of the Principal Act dealt with such variations to an agreement and its omission, under paragraph 7(1)(b) of this Bill, is a consequence of the new subsection 8(2A).

31. Subclause 7(2) is a transitional provision which provides that agreements entered into under the current subsection 8(2) of the Principal Act will continue to be in force as if they had been entered into under the new subsection 8(2).

Clause 8 : Amount of grant

32. This clause makes a number of amendments to section 9 of the Principal Act. With the exception of paragraphs 8(d) and (f), these amendments are consequent upon the new arrangements and terminology contained in the Bill.

33. Paragraph 8(d) amends the current subsection 9(1A) of the Principal Act in relation to the notional amount to be taken into account under subsection 9(1B) when calculating the funds of an eligible organisation available for expenditure in relation to the capital works costs in respect of the nursing home. The notional amount to be taken into account for this purpose shall be deemed to be such part (if any) of the market value of the eligible organisation's estate or interest in the land to be used in connection with an application under the new section 6 or the market value of the organisation's estate or interest in the land immediately after acquisition (whichever is the greater) as the Minister in his or her discretion, determines.

34. Paragraph 8(f) omits the current paragraphs 9(1A)(a), (b) and (c) with the result that moneys borrowed or received from Commonwealth or State Governments, or moneys borrowed from sources other than Commonwealth or State Governments, are able to be taken into account when calculating the amount of capital grant in relation to a nursing home.

Clause 9 : Insertion of new Part, Divisions and sections

35. This clause inserts a new Part III in the Principal Act (with the existing Part III omitted by virtue of clause 14), and inserts new sections 9AA, 9AB and 9AC. The proposed new sections introduce:-

- . a mechanism for control on the maximum number of hostel places committed for recurrent subsidy purposes for a State of Territory or region for a financial year;

- . an approval in principle mechanism for the provision of capital and recurrent funding or recurrent funding alone in respect of the acquisition or erection, the demolition and reconstruction, or the alteration or extension of a hostel; and

- . a mechanism to facilitate the transfer of approvals or approvals in principle in respect of a number of hostel places from one hostel to another hostel or proposed hostel in the same State or Territory.

36. New subsection 9AA(1) enables the Minister to specify a maximum number of hostel places for a State or Territory (the State maximum), by notice in writing published in the Gazette.

37. New subsection 9AA(2) enables the Minister to specify a maximum number of hostel places for a particular region within a State or Territory (the regional maximum), by notice in writing published in the Gazette.

38. Under each of these subsections, the maximum number is required to be specified in relation to a relevant period. A definition of the term "relevant period" is inserted in section 2 of the Principal Act by paragraph 3(g) and means the period of 12 months commencing on 1 July 1989, or on 1 July of any succeeding year.

39. New subsection 9AA(3) prevents the sum of the regional maxima within a State or Territory specified under subsection 9AA(2) exceeding the relevant State or Territory maximum specified under subsection 9AA(1).

40. New subsection 9AA(4) introduces new growth management measures. This subsection prevents the Minister from taking the actions described in paragraphs 9AA(4)(a) or (b) if the effect of doing so would be that the number of committed hostel places in a State, Territory or region would exceed the maximum specified for that State, Territory or region.

41. New subsection 9AA(5) provides the method of calculating the number of committed hostel places in a State or Territory or a region of a State or Territory for the purpose of subsection 9AA(4). The number of committed hostel places in a State, Territory or region at a particular time is the number equal to the sum of -

- . the number of places approved in principle for recurrent subsidy purposes under new subsections 9AB(3), (6), (8) and (10), and
- . the number of hostel places specified for recurrent subsidy purposes in agreements in force at that time under new section 10FA.

42. New subsections 9AA(6), (7), (8), (9), (10) and (11) contain rules to prevent the double counting of hostel places when calculating the number of places under subsection 9AA(5) and for the interpretation of the new section 9AA.

43. New subsection 9AA(6) provides that where a number of hostel places for recurrent subsidy purposes are specified in a certificate of approval in principle issued under the new subsection 9AB(3) or (6), and those hostel places are subsequently specified in an agreement in force under the new section 10FA, the certificate of approval in principle, and any determination in relation to the certificate under the new subsection 9AB(11) are disregarded from the time of entry into the agreement.

44. New subsection 9AA(7) provides that where an agreement specifying a number of hostel places has been entered into under the new section 10FA in relation to a hostel, and while that agreement is in force a certificate is granted under the new subsection 9AB(3) or (6) approving in principle the demolition and reconstruction of the hostel, the number of hostel places specified in the agreement under section 10FA shall be disregarded for the purpose of this section while the certificate under subsection 9AB(3) or (6) is in force.

45. New subsection 9AA(8) provides that where a number of additional hostel places for recurrent subsidy purposes are specified in a certificate of approval in principle under the new subsection 9AB(8) or (10), and the agreement entered into under new section 10FA is varied to give effect to the certificate, the certificate of approval in principal, and any determination made under the new subsection 9AB(11) in relation to the certificate, are disregarded from the date of variation of the agreement under the new section 10FA.

46. New subsection 9AA(9) provides that a certificate in force under new subsection 9AB(3) or (6) shall be taken for the purposes of the section, to continue in force until either an agreement is entered into under the new section 10FA or the period for entry by the organisation into such an agreement in respect of the hostel (being the period referred to in the new subsection 10B(10)) expires, whichever occurs first. This ensures that during the period between being approved as a hostel under the new subsection 10B(2) and entering into an agreement under the new section 10FA, the number of hostel places continue to be counted.

47. New subsection 9AA(10) provides that where the Minister gives effect to a request for the transfer of an approval in respect of a number of existing approved hostel places then that number of existing places will not be taken into account as committed places for the purposes of subsection 9AA(5) between the time when the transfer is approved and the time when the approval of the existing places is revoked in accordance with paragraph 9AC(2)(d). This ensures that places would be counted at their intended location rather than their existing location. Subsection 9AC(2), however, allows approval in principle for the transfer to be given notwithstanding that this action would have the effect that the number of committed hostel places for a region would exceed the gazetted maximum number for that region and that State or Territory.

48. New subsection 9AA(11) clarifies that a reference in section 9AA to hostel places specified for recurrent subsidy purposes in an instrument, is a reference to places identified in that instrument as places in respect of which financial assistance by way of recurrent subsidy will be payable.

49. New section 9AB (Approvals in principle) empowers the Minister to issue to an eligible organisation that conducts, or that proposes to conduct, a hostel, a certificate of approval in principle in respect of the acquisition or erection, the demolition and reconstruction or the extension or alteration of a hostel. The approval in principle may be, in each of these cases, for the provision of capital and recurrent funding or recurrent funding alone.

50. New subsection 9AB(1) provides that where an eligible organisation that has acquired or erected, or proposes to acquire or erect premises to operate as a hostel, makes application in writing, the Minister may in his or her discretion, grant or refuse to grant approval in principle for the provision of both capital and recurrent financial assistance in respect of that hostel.

51. New subsection 9AB(2) provides that where an eligible organisation that operates an approved hostel proposes to demolish and reconstruct the premises at which the hostel is operated, makes application in writing, the Minister may in his or her discretion, grant or refuse to grant approval in principle for the provision of both capital and recurrent financial assistance in respect of that hostel.

52. New subsection 9AB(3) provides that where the Minister decides to grant an approval in principle under subsection 9AB(1) or (2), the Minister shall issue to the eligible organisation a certificate stating:

- a) that if within 12 months after the issue of the certificate the organisation applies for financial assistance towards the capital works costs in respect of the hostel and has met such conditions and provided such information as is specified by the Minister in the certificate, the application for financial assistance in respect of the capital works costs will not be refused;

- b) that if financial assistance under section 9A is approved, then the computation of the amount of that financial assistance in accordance with the guidelines under section 9B of the Principal Act shall, without limiting the generality of other matters properly relevant in accordance with those guidelines, take into account such matters as are specified in the certificate, and that the financial assistance will be payable on such conditions as are determined in accordance with an agreement entered into under section 9C of the Principal Act;
- c) that it is a condition of validity of the certificate that the organisation will, within 12 months after the Minister notifies the organisation that financial assistance towards the capital works costs will be paid, apply under the new section 10B for approval for recurrent subsidy in respect of the number of hostel places (including, where appropriate, a number of respite places) specified in the certificate;
- d) that if the organisation applies for approval of the hostel under the new section 10B for recurrent subsidy in respect of the number of hostel places, including respite care places, specified in the certificate, and the organisation complies with such conditions as are specified in the certificate, that application for approval under section 10B will not be refused; and
- e) that if approval for recurrent subsidy is granted it will be subject to the conditions of an agreement entered into under the new section 10FA including a condition that the organisation will, at all times, make the approved number of hostel places (including respite care places) available for the accommodation of eligible persons generally or such classes of eligible persons as are specified in the certificate in such proportions or numbers as are specified in the certificate in relation to each class.

53. New subsections 9AB(4) and (5) are similar to subsections 9AB(1) and (2) respectively, but enable the Minister in his or her discretion to grant or refuse to grant approval in principle for the provision of financial assistance by way of recurrent subsidy only.

54. New subsection 9AB(6) provides that where the Minister decides to grant an approval in principle under subsection 9AB(4) or (5), the Minister shall issue to the eligible organisation a certificate stating:

- a) that if, within 12 months after the issue of the certificate, the organisation applies for approval of the hostel under the new section 10B for recurrent subsidy in respect of the number of hostel places, including respite care places, specified in the certificate, and the organisation complies with such conditions as are specified in the certificate, that application for approval under section 10B will not be refused; and
- b) that if approval for recurrent subsidy is granted, it will be subject to the conditions of an agreement entered into under the new section 10FA including a condition that the organisation will at all times, make the approved number of hostel places (including respite care places) available for the accommodation of eligible persons generally or such classes of eligible persons as are specified in the certificate in such proportions or numbers as are specified in the certificate in relation to each class.

55. New subsection 9AB(7) provides that where an eligible organisation that operates an approved hostel and that proposes that further hostel places, whether already existing or to be created by virtue of the alteration or extension of the hostel, become approved hostel places, makes application in writing, the Minister may in his or her discretion grant or refuse to grant approval in principle for the provision of both capital and recurrent financial assistance in respect of the hostel.

Paragraph 9AB(7)(c) provides that in the case of hostel places that already exist, the first-mentioned financial assistance may be provided by way of an additional grant towards the capital works costs associated with the acquisition or erection of the hostel. This paragraph also provides that in the case of hostel places to be created by virtue of the alteration or extension of the hostel, the first-mentioned financial assistance may be provided by way of a grant towards the capital works costs associated with that alteration or extension. The new subsection 2(1B) of the Principal Act, inter alia, clarifies what is meant by "capital works costs associated with" acquisition or erection or alteration or extension.

56. New subsection 9AB(8) provides that where the Minister decides to grant an approval in principle under the subsection 9AB(7), the Minister shall issue to the eligible organisation a certificate stating:-

- a) that if, within 12 months after the issue of the certificate, the organisation applies for financial assistance by way of a grant of a kind referred to in paragraph 9AB(7)(c), and has met such conditions and provided such information as is specified by the Minister in the certificate, the application under section 9A for financial assistance will not be refused;
- b) that if financial assistance under section 9A is approved, then the computation of the amount of that financial assistance in accordance with the guidelines under section 9B of the Principal Act shall, without limiting the generality of other matters properly relevant in accordance with those guidelines, take into account such matters as are specified in the certificate, and that the financial assistance will be payable on such conditions as are determined in accordance with an agreement entered into under section 9C of the Principal Act;

- c) that it is a condition of validity of the certificate that the organisation will, within 12 months after the Minister notifies the organisation that financial assistance towards the capital works costs will be paid, apply under the new section 10FA to vary the agreement so as to include the number of additional hostel places specified in the certificate, to include the number of additional respite care places if appropriate, or to insert, where there was none previously, the number of respite care places specified in the certificate, and, where the Minister considers it appropriate, to alter or insert a term or terms relating to the accommodation of the proportions or numbers of such classes of eligible persons as are specified in the certificate; and
- d) that if, at the time of making the application under section 10FA the Minister is satisfied that the organisation complies with such conditions as are specified in the certificate, the application for variation of the agreement under section 10FA will not be refused.

57. New subsection 9AB(9) is similar to subsection 9AB(7), but enables the Minister in his or her discretion to grant or refuse to grant approval in principle for the provision of financial assistance by way of recurrent subsidy only.

58. New subsection 9AB(10) provides that where the Minister decides to grant an approval in principle under subsection 9AB(9), the Minister shall issue to the eligible organisation a certificate stating:-

- a) that if, within 12 months after the issue of the certificate, the organisation applies under the new section 10FA to vary the agreement under that section so as to include the number of additional hostel places specified in the certificate, to include the number of additional respite care places, if appropriate, or to insert, where there was none previously, the number of respite care places specified in the certificate, and, where the Minister considers it appropriate, to alter or insert a term or terms relating to the accommodation of the proportions or numbers of such classes of eligible persons as are specified in the certificate; and
- b) that if, at the time of making the application for variation of the agreement the Minister is satisfied that the organisation complies with such conditions as are specified in the certificate, the application for variation of the agreement under section 10FA will not be refused.

59. New subsection 9AB(11) empowers the Minister,

- a) upon application by the holder of a certificate in force under subsection 9AB(3), (6), (8) or (10), or
- b) where the Minister considers it necessary to do so by reason of circumstances unforeseen at the time of issue of such certificate - on his or her own motion,

to vary the certificate by determination in writing;

- c) by deleting a date or period specified in the certificate (including a period substituted by virtue of a previous application of this subsection) and substituting such other date or period as the Minister specifies in the determination;

- d) by deleting the number of hostel places or respite care places specified in the certificate (including a number substituted by virtue of a previous application of this subsection) and substituting such other number as the Minister specifies in the determination;
- e) by inserting a term in the certificate; or
- f) by deleting a term of the certificate (including a term inserted or substituted by virtue of a previous application of this subsection and substituting such other term (if any) as the Minister specified in the determination.

60. New subsection 9AB(12) requires the Minister, when exercising his or her powers under subsections 9AB(1) to (11) (inclusive), to comply with any principles in force under subsection 9AB(13).

61. New subsection 9AB(13) empowers the Minister to formulate principles to be complied with by him or her with respect to his or her powers under subsections 9AB(1) to (11) (inclusive).

62. New subsection 9AB(14) requires the Minister, in formulating principles under subsection 9AB(13), to have regard to all matters he or she considers relevant including the following:

- a) the suitability of an organisation applying for a certificate under subsection 9AB(3) or (6) to operate a hostel;
- b) the need to control unnecessary growth in the number of hostels approved under new section 10B; and
- c) the availability of forms of accommodation, or care, or accommodation and care, including:

(i) domiciliary and day care; and

(ii) care provided by nursing homes, hospitals and other institutions and by community services;

other than accommodation, or care, or accommodation and care available, or likely, by reason of certificates issued under section 9AB, to become available, in approved hostels.

63. New subsection 9AB(15) provides that a certificate under this section comes into force on the day on which it is granted and ceases to be in force if the holder of the certificate fails to comply with a condition of validity of the certificate, or the Minister revokes the certificate.

64. New subsection 9AB(16) provides that the Minister shall revoke a certificate upon application by its holder.

65. New subsection 9AB(17) empowers the Minister to revoke a certificate under section 9AB, at any time, if he or she is satisfied that an organisation has failed to comply with a condition of that certificate, and to inform the eligible organisation concerned, by notice in writing, of the revocation.

66. New subsection 9AB(18) requires the Minister, when he or she makes a decision under subsection 9AB(1), (2), (4), (5), (7) or (9) to refuse to grant an approval in principle, or a decision under subsection 9AB(11) to vary a certificate in force under this section, to give the eligible organisation concerned notice in writing of the decision.

67. New section 9AC (Transfers) is intended to facilitate approval in principle and approval processes under the Principal Act where it is proposed to transfer some or all of the hostel places specified for recurrent funding purposes in a certificate under the new subsections 9AB(3), (6), (8) or (10) or in an agreement in force under the new section 10FA to another existing hostel or proposed hostel.

68. New subsection 9AC(1) provides that where

- (a) an eligible organisation has been granted approval in principle under subsection 9AB(3), (6), (8) or (10) for recurrent subsidy in respect of a specified number of hostel places; and
- (b) the organisations informs the Minister in writing that it wishes that approval in principle so far as it relates to some or all of those hostel places to be transferred to another hostel or proposed hostel in the same State or Territory,

the Minister may in his or her discretion, upon application by the organisation in accordance with the other provisions of the Principal Act, give effect to that request:

- (c) by issuing a new approval in principle or varying an existing approval in principle under section 9AB in respect of that other hostel or proposed hostel;
- (d) by, at the same time revoking or varying to any necessary extent the approval in principle referred to in paragraph (a); and
- (e) by entering, at the appropriate time, into an agreement under the new section 10FA for the purpose of giving effect to the approval in principle or the variation of an approval in principle referred to in paragraph (c).

69. New subsection 9AC(2) is similar to subsection 9AC(1) except that it deals with the transfer of existing hostel places which are approved for recurrent funding purposes under the terms of an agreement under the new section 10FA. In addition, paragraph 9AC(2)(d) differs from paragraph 9AC(1)(d) in that it allows the revocation or variation to any necessary extent of the approved number of hostel places in the hostel referred to in paragraph 9AC(2)(a) to take place at an appropriate time, rather than simultaneously with the issue of an approval in principle under section 9AB. This provision is

intended to allow existing hostel places, where appropriate, to continue to operate at their original location until the transfer is completed and the places are ready to operate at their intended new location.

70. New subsections 9AC(1) and (2) both allow the issue or variation of an approval in principle under section 9AB, or the entering into or variation of an agreement under section 10FA, notwithstanding that either such action would have the effect that the number of committed hostel places for a region or a State or Territory would exceed the gazetted maximum number for that region or State or Territory under section 9AA.

71. It is intended in all cases that upon completion of the transfer of places, the nett effect on the maximum number of hostel places gazetted pursuant to the new subsection 9AA(1) for a State or Territory will be nil, as a transfer will involve only hostel places which either already exist or which are the subject of an approval in principle and which have therefore already been counted in the State or Territory maximum by virtue of the new subsection 9AA(5). In addition, the provisions of paragraphs 9AC(1)(d) and 9AC(2)(d) will ensure that places cannot operate for recurrent funding purposes at both their original and intended locations.

72. Nothing in subsections 9AC(1) and (2) prevents the simultaneous transfer of both places approved in principle and existing approved places, or the simultaneous transfer of places approved in principle or approved at more than one original location to a single hostel or proposed hostel at another location in same State or Territory.

Clause 10 : Heading to Division 3

73. This clause makes a change to the heading of Division 3 of Part II of the Principal Act to reflect the changes in terminology made by this Bill.

Clause 11 : Capital Grants to eligible organisations

74. Paragraph 11(a) amends section 9A of the Principal Act by substituting a new subsection 9A(1). The new subsection 9A(1) is similar to the current subsection, but enables the Minister to approve the payment of financial assistance on application in writing by an eligible organisation, and reflects the new terminology contained in the Bill.

75. The amendments to section 9A of the Principal Act made by paragraphs 11(b), (c) and (d) are consequent upon the new arrangements and terminology contained in the Bill.

76. Paragraph 11(e) inserts a new subsection 9A(5) which ensures that payment of a capital grant may only be made to a corporation in which, trustees in whom, or any other organisation declared by the Minister under subsection 2(5) in which, the hostel is, or is to be vested. This arrangement has previously applied to both nursing homes and hostels, and this amendment to section 9A is consequent upon amendments made by the Community Services and Health Legislation Amendment Act 1987 and this Bill, establishing separate arrangements for the provision of financial assistance to hostels and nursing homes.

Clause 12 : Guidelines for capital grants

77. The amendments to section 9B of the Principal Act made by paragraphs 12(a), (b), (c), (d), (e) and (f) are consequent upon the new arrangements and terminology contained in the Bill.

78. Paragraph 12(g) inserts a new subsection 9B(3) which provides that the Minister shall not, under section 9A, approve the payment of financial assistance by way of a capital grant to an eligible organisation in respect of a hostel unless the Minister is satisfied that the sum of the money (if any) expended and available for expenditure by the organisation towards the capital works costs of the hostel, together with the amount of the capital grant, will not be less than the

capital works costs in respect of the hostel. The provision has previously applied in respect of both nursing homes and hostels, and this amendment to section 9B is consequent upon amendments made by the Community Services and Health Legislation Amendment Act 1987 and this Bill establishing separate arrangements for the provision of financial assistance to hostels and nursing homes.

Clause 13 : Repeal of Division 4

79. This clause repeals Division 4 of Part II of the Principal Act. The current sections 9D and 9E are re-enacted by clause 23 of this Bill as new sections 10J and 10K respectively. The current section 10 is no longer necessary in the Principal Act and will not be re-enacted.

Clause 14 : Heading to Part III

80. The clause repeals the existing heading to Part III of the Principal Act and inserts a new Division heading in relation to recurrent subsidies for eligible organisations in respect of hostels.

Clause 15 : Repeal of sections 10A and 10B and substitution of new sections

81. This clause repeals sections 10A and 10B of the Principal Act and substitutes two replacement sections. Where relevant the definitions in the current section 10A have been re-enacted in section 2 of the Principal Act. The current subsection 10B(1) deals with an administrative procedure which will not be continued under the proposed arrangements, and it is not intended to re-enact that subsection.

82. New section 10A (Minister may approve accommodation services and personal care services) is a re-enactment, in a substantially similar form, of the existing subsections 10B(2) and 10B(3).

83. New section 10B (Approval of hostels for recurrent funding purposes) empowers the Minister to approve a hostel for the purpose of the provision of financial assistance by way of recurrent subsidies.

84. New subsection 10B(1) provides that an eligible organisation that operates, or proposes to operate, a hostel may apply in writing for approval of the hostel for financial assistance by way of recurrent subsidy in respect of a number of hostel places, including respite care places (if any), specified in the application.

85. New subsection 10B(2) provides that the Minister may, by notice in writing, approve the hostel which is the subject of an application in writing under subsection 10B(1), and where the Minister does so he or she shall determine in the notice of approval:

(a) the number of hostel places; and

(b) the number of respite care places (if any) within the number referred to in paragraph (a);

in relation to which recurrent subsidy will be payable upon entry by the organisation into an agreement under the new section 10FA.

86. New subsection 10B(3) provides that nothing in subsection 10B(2) shall be taken to imply that the Minister may not determine in the notice of approval under that subsection, a number of hostel places or respite care places that is greater or fewer than the number of places specified in the application. This discretion is necessary to ensure that the Minister is able to grant approval in line with the Government's objectives for the provision of new hostel services in cases where an applicant under subsection 10B(1) does not hold an approval in principle under section 9AB.

87. New subsection 10B(4) would ensure that where an eligible organisation that makes application under subsection 10B(1) is the holder of a certificate in force under subsection 9AB(3) or (6) the Minister shall not, in determining the number of approved hostel places and approved respite care places, act in a manner inconsistent with the certificate of approval in principle.

88. New subsection 10B(5) provides that where an application for approval of a hostel for recurrent funding purposes is made under subsection 10B(1), the Minister may refuse the application unless the applicant is the holder of a certificate of approval in principle in force under the new subsection 9AB(3) or (6), and the Minister is satisfied that the hostel complies or will comply with any conditions set out in the certificate.

89. New subsection 10B(6) requires the Minister, in exercising his or her powers under subsection 10B(5) to refuse an application for approval of a hostel, to comply with any principles in force under subsection 10B(7).

90. New subsection 10B(7) empowers the Minister to formulate principles to be complied with by him or her with respect to the exercise of his or her powers under subsection 10B(5).

91. New subsection 10B(8) requires the Minister, in formulating principles under subsection (7), to have regard to all matters he or she considers relevant including the following:

- (a) the suitability of an applicant under subsection (1) to operate a hostel;
- (b) the need to control unnecessary growth in the number of approved hostels; and
- (c) the availability of forms of accommodation, or care, or accommodation and care, including:

(i) domiciliary and day care; and

(ii) care provided by nursing homes, hospitals and other institutions and by community services;

other than accommodation, or care, or accommodation and care available, or likely, by reason of certificates issued under section 9AB, to become available, in approved hostels.

This provision ensures that applications for approval for recurrent funding purposes are considered on the same or similar grounds as applications for approval in principle are considered.

92. New subsection 10B(9) provides that where the Minister does not grant an approval in accordance with an application under section 10B, the Minister shall refuse the application and notify the applicant in writing accordingly.

93. New subsection 10B(10) provides that where the Minister has approved a hostel under subsection 10B(2), and the organisation refuses or fails to enter into an agreement under the new section 10FA in terms satisfactory to Minister, within 30 days or such longer period as the Minister allows in special circumstances, then the approval of the hostel shall be taken to have been revoked with effect from the end of the period for entry into an agreement.

94. This provision is consistent with the provisions of the new section 10FA which provides that recurrent subsidy shall not be payable unless the organisation has entered into an agreement under that section. New subsection 9AA(9) deals with the arrangements for counting places during the period between approval under subsection 10B(2) and the entry into an agreement under the new section 10FA.

95. Subclauses 15(2) and (3) are transitional provisions which provide that Gazette Notices in force under the current subsections 10B(2) and (3) at the time of repeal of those provisions, shall be treated on and after the repeal as notices duly published under the new subsections 10A(1) and (2) of the Principal Act respectively.

Clause 16 : Authority to provide financial assistance by way of recurrent subsidies

96. Paragraph 16(a) omits subsections 10C(1) and 10C(2) of the Principal Act and substitutes a new subsection 10C(1).

97. New subsection 10C(1) provides that the approval of a hostel under section 10B shall be taken to constitute authority to pay recurrent subsidy at rates determined in accordance with section 10D in respect of the provision of hostel care services, hostel care services and personal care services or respite care services in the hostel places and, where appropriate, the respite care places referred to in an agreement under section 10FA. The authority to pay recurrent subsidies is subject to -

- (a) the requirements of Division 4 of Part III of the Principal Act;
- (b) the General Conditions in force from time to time under the current section 10F; and
- (c) the terms of an agreement entered into pursuant to the new section 10FA.

98. Paragraph 16(b) makes an amendment consequent upon the new Division heading inserted by clause 14.

Clause 17 : Payments of financial assistance

99. This clause makes a number of amendments to section 10D of the Principal Act. With the exception of paragraph 17(g), these amendments are consequent upon the new arrangements and terminology contained in the Bill.

100. Paragraph 17(g) amends subsection 10D(4) to enable the payment of recurrent subsidy in respect of an eligible person occupying an approved respite care place for a maximum of 63 days in a benefit period in the same hostel. Subsection 10D(4) previously limited payment to a maximum of 63 days in a benefit period across all hostels.

Clause 18 : Repeal of section 10E

101. This clause repeals section 10E of the Principal Act. The effect of section 10E has been incorporated in the new section 10C introduced by clause 16.

Clause 19 : General conditions of recurrent subsidies

102. This clause makes a number of amendments to section 10F of the Principal Act. With the exception of paragraph 19(b) these amendments are consequent upon the new arrangements and terminology contained in the Bill.

103. Paragraph 19(b) omits paragraph 10F(2)(a) and substitutes new paragraphs 10F(2)(a), (aa) and (ab). Paragraph 10F(2)(aa) is similar to the current paragraph 10F(2)(a).

104. New paragraphs 10F(2)(a) and (ab) introduce two new matters about which General Conditions of recurrent funding may be formulated. These paragraphs respectively reflect the intention that approved hostel places or approved respite care places are used to accommodate only eligible persons, and the intention that an eligible organisation should not undertake an alteration or extension of an existing approved hostel with a view to seeking additional recurrent subsidy in respect of the hostel, without first obtaining a certificate of approval in principle under the new subsection 9AB(8) or (10).

Clause 20 : Repeal of section 10FA and substitution of new sections

105. This clause repeals the current section 10FA of the Principal Act and substitutes new sections 10FA and 10FAA.

106. New section 10FA (Eligible organisation to enter into agreement) is similar in effect to the current section 10FA but new subsection 10FA(1) makes specific provision for the agreement between the Minister and the organisation to:

- (a) enable the date of effect from which the financial assistance is to be paid (being a day on or after the day of entry into the agreement) to be determined;
- (b) specify the number of hostel places (including, where appropriate, respite care places) in respect of which the financial assistance will be payable; and
- (c) impose an obligation on the eligible organisation to make its hostel places and respite care places available for the accommodation of eligible persons generally or specified classes of eligible persons,

as well as authorising the inclusion of other conditions which are not inconsistent with the General Conditions to which payment of recurrent funding is subject.

107. New subsection 10FA(2) is similar in effect to the current subsection 10FA(2), but provides that upon application in accordance with the new subsection 9AB(8) or (10) an agreement under section 10FA shall be varied. This is consistent with paragraphs 9AB(8)(d) and 9AB(10)(b) which provide that if at the time of making an application for variation of an agreement under section 10FA the organisation complies with such conditions as are specified in the certificate of approval in principle, the application for variation of the agreement will not be refused.

108. New section 10FAA (Revocation of approval or variation of agreement) introduces a new arrangement empowering the Minister to review the provision of financial assistance by way of recurrent subsidies to an eligible organisation in respect of a hostel.

109. New subsection 10FAA(2) provides that if the Minister is satisfied that a condition of approval of the hostel for recurrent subsidy purposes has not been complied with, the Minister may make a written determination -

- (a) revoking the approval of the hostel under the new section 10B; or
- (b) varying the agreement entered into by the eligible organisation pursuant to section 10FA, by reducing the number of hostel places being funded; by reducing the number of respite care places being funded; by varying the classes or the proportion or number of places specified in relation to classes of eligible persons able to be accommodated in the hostel; or by using a combination of two or more of these powers.

Decisions under subsection 10FAA(2) are subject to review by the Administrative Appeals Tribunal by virtue of the new section 10H inserted by clause 23.

110. New subsection 10FAA (3) provides that the Minister may, by determination in writing, revoke the approval of a hostel upon application in writing by the eligible organisation operating the hostel.

111. New subsection 10FAA(4) provides that where the Minister revokes an approval in accordance with subsection 10FAA(2) or (3) or varies an agreement in accordance with subsection 10FAA(2), the revocation or variation shall have effect from the day specified in the determination, not being a day earlier than the day of the making of the determination.

112. New subsection 10FAA(5) provides that where a determination under subsection 10FAA(2) or (3) is made, the Minister shall give a copy of that determination to the eligible organisation operating the hostel as soon as practicable.

113. New subsection 10FAA(6) provides that where a copy of a determination under subsection 10FAA(2) is given to an organisation in accordance with subsection 10FAA(5), the copy of the determination shall be accompanied by a statement in writing indicating the organisation's right to make application to the Administrative Appeals Tribunal if dissatisfied with the decision, and where relevant, shall also include a statement that the person may request a statement of reasons for the decision under section 28 of the Administrative Appeals Tribunal Act 1975.

114. New subsection 10FAA(7) provides that a failure to comply with subsection 10FAA(6) does not affect the validity of a determination under subsection 10FAA(2).

Clause 21 : Certain instruments to be subject to disallowance

115. Subclause 21(1) amends section 10FB of the Principal Act to add instruments made under subsections 10D(5) and (6) of the Principal Act, to the list of instruments which are subject to the gazettal, Parliamentary tabling and Parliamentary disallowance provisions of the Acts Interpretation Act 1901. By virtue of subclause 2(3) of the Bill, this provision shall commence, or be taken to have commenced, on the day of commencement of section 5 of the Community Services and Health Legislation Amendment Act (No 1) 1988.

116. This amendment is a temporary arrangement pending the commencement of the new section 10K, which is inserted by clause 23 and which also provides for the gazettal, tabling and disallowance of instruments. When the new section 10K commences, subclause 21(2) will be used to repeal section 10FB as it is amended by this clause.

Clause 22 : Appropriation

117. This clause makes a minor change of terminology to section 10G of the Principal Act.

Clause 23 : Insertion of new sections

118. This clause inserts new sections 10H, 10J and 10K in the Principal Act.

119. New section 10H (Applications for review by Tribunal) authorises the Administrative Appeals Tribunal to review a decision of the Minister pursuant to the proposed subsection 10FAA(2) to revoke the approval of a hostel under section 10B or to vary a written agreement entered into by an eligible organisation under section 10FA.

120. New section 10J (Agreements may be entered into with transferees of building etc) re-enacts the current section 9D in an appropriate place, following the repeal of that section by clause 13.

121. New section 10K (Certain instruments to be subject to disallowance) largely re-enacts the current section 9E in an appropriate place following the repeal of that section by clause 13, and incorporates the provisions of the existing section 10FB which is to be repealed by subclause 21(2). The new section 10K also includes two new instruments to which the gazettal, Parliamentary tabling and Parliamentary disallowance provisions of the Acts Interpretation Act 1901 are to apply:

- (a) principles formulated under the new subsection 9AB(13) in relation to the exercise of any of the powers under the new subsections 9AB(1) to (11) (inclusive) in relation to the approval in principle of hostels; and

- (b) principles formulated under the new subsection 10B(7) in relation to the exercise of the power under subsection 10B(5) to refuse an application for approval of a hostel for the payment of recurrent subsidy.

Under the current section 9E, an instrument under subsection 9(1) of the Principal Act is subject to disallowance. This instrument has been omitted from the new section 10K as it is not of general or ongoing application, and hence is inappropriate for inclusion.

Clause 24 : Transitional - Hostels in respect of which financial assistance by way of recurrent subsidy is payable

122. This clause makes transitional arrangements in respect of hostels and eligible organisations which have been provided with financial assistance by way of recurrent subsidy under the Principal Act as it currently stands.

123. Subclause 24(1) provides that where an eligible organisation was entitled to receive recurrent subsidy in relation to a hostel in respect of the period immediately preceding the day fixed under subclause 2(4) of the Bill for the commencement of this clause, then with effect from the day of commencement of clause 24 the hostel is to be taken to have been approved under the new section 10B, and any agreement entered into under section 10FA of the Principal Act is to be taken, subject to subclause 24(2), to have been entered into under the new section 10FA substituted by clause 20.

124. Subclause 24(2) requires that the Minister, on or as soon as practicable after the day of commencement of clause 24, by determination in writing:

- (a) specify in respect of each hostel that is to be taken, by virtue of subclause 24(1) to have been approved under the new section 10B, the number of hostel places (including, where appropriate, the number of respite care places) that is to be taken to have been determined under the new subsection 10B(2) as places in respect of which recurrent subsidy is payable; and

(b) vary the agreement that is to be taken, by virtue of subclause 24(1) to have been entered into under the new section 10FA, so as to

- (i) provide for payment of recurrent subsidy in respect of the specified number of places; and
- (ii) provide, where appropriate, for the accommodation of such classes of eligible persons in such number or proportions as are specified in the determination under this subclause.

A determination under subclause 24(2) has effect from the day on which it is made.

125. Subclause 24(3) provides that where the Minister makes a determination under subclause 24(2) the Minister shall, as soon as possible but not later than 30 days after making that determination, give a copy of that determination to the eligible organisation operating the hostel.

126. Subclause 24(4) requires the Minister to formulate principles for determining :

- (a) the number of hostel places (including, where appropriate, respite care places) to be specified in accordance with subclause 24(2); and
- (b) the nature of any variation of an agreement required to be made for the purposes of subclause 24(2).

127. Subclause 24(5) requires the Minister, when making a determination under subclause 24(2) to have regard to principles in force under subclause 24(4).

128. Subclause 24(6) makes principles under subclause 24(4) subject to the gazettal, Parliamentary tabling and Parliamentary disallowance provisions of the Acts Interpretation Act 1901.

129. Subclause 24(7) provides a definition of the term "commencing day" used in this clause.

Clause 25 : Transitional - Hostels that have been approved under section 6 of the Principal Act

130. This clause makes transitional arrangements in relation to buildings, intended for use as hostels, which have been approved under section 6 of the Principal Act as it currently stands but in respect of which a capital grant has not been made, and in relation to buildings in respect of which a capital grant under Part II of the Principal Act as it currently stands has been made (in whole or in part) but which are not in receipt of recurrent subsidy under Part III of the Principal Act as it currently stands. This clause also deals with alterations or extensions to buildings in the same circumstances.

131. Subclause 25(1) provides that where before the day fixed under subclause 2(4) of the Bill for commencement of clause 25 (the commencing day) a building proposed to be erected or purchased for use as a hostel had been approved by the Minister under the current section 6 of the Principal Act, and that approval under section 6 was still in force but a capital grant had not been made under the current Part II of the Principal Act, then with effect from the commencing day the approval under section 6 shall be taken to be revoked and the Minister shall on, or as soon as practicable after that day, issue a certificate of approval in principle under the new subsection 9AB(3) for both capital and recurrent funding in respect of the hostel.

132. Subclause 25(2) provides that where before the commencing day the Minister had made a capital grant under the current Part II of the Principal Act, then

- (a) if the organisation has not yet received the total amount of that capital grant, its entitlement to that grant will not be altered; and

- (b) the Minister shall on, or as soon as practicable after the commencing day, issue a certificate of approval in principle under the new subsection 9AB(6) for recurrent subsidy only.

133. Subclause 25(3) is similar to subclause 25(1), but deals with organisations which are already entitled to receive recurrent subsidy under the current Part III in respect of existing places, and which hold an approval under the current section 6 of the Principal Act in relation to an alteration or extension of a hostel building. As in subclause 25(1) the section 6 approval is to be taken to be revoked with effect from the commencing day, and in this case a certificate of approval in principle is to be issued under the new subsection 9AB(8) for both capital and recurrent funding in respect of the alteration or extension.

134. Subclause 25(4) is similar to subclause 25(2) but deals with organisations which are already entitled to receive recurrent subsidy under the current Part III in respect of existing places, and which had received a capital grant under the current Part II of the Principal Act before the commencing day in respect of an alteration or extension of a hostel building. As in subclause 25(2) the organisation's grant entitlements remain unaltered, and in this case a certificate of approval in principle is to be issued under the new subsection 9AB(10) for recurrent subsidy in respect of the additional places in alteration or extension.

135. Subclause 25(5) requires the Minister to formulate principles:

- (a) for determining the number of places (including, where appropriate, respite care places) for inclusion in a certificate under new subsection 9AB(3) or (8) as places to be taken into account in the application of guidelines under section 9B of the Principal Act as amended, for the purpose computing the amount of a capital grant;

- (b) for determining the number of hostel places (including, where appropriate, respite care places) to be specified in a certificate of approval in principle under subsection 9AB(3), (6), (8) or (10) issued in accordance with clause 25, as places in respect of which recurrent subsidy will be payable; and
- (c) for determining any other matters required to be included in a certificate issued in compliance with subclause 25(1), (2), (3) or (4).

136. Subclause 25(6) requires the Minister when issuing a certificate under section 9AB in accordance with subclause 25(1), (2), (3) or (4) to have regard to principles in force under subclause 25(5).

137. Subclause 25(7) makes principles under subclause 25(5) subject to the gazettal, Parliamentary tabling and Parliamentary disallowance provisions of the Acts Interpretation Act 1901.

138. Subclause 25(8) provides that where a certificate of approval in principle is issued under subsection 9AB(3) or (8) in relation to a hostel, or an alteration or extension to a hostel, in respect of which approval under the current section 6 had been given before the commencement of section 14 of the Community Services and Health Legislation Amendment Act 1987, then subparagraphs 9AB(3)(b)(i) and 9AB(8)(b)(i) will provide that the amount of the capital grant shall be the amount that the eligible organisation would have been entitled to receive under section 9 of the Principal Act. This provision is consistent with subsection 21(11) of the Community Services and Health Legislation Amendment Act 1987.

139. Subclause 25(9) provides a definition of the term "commencing day" used in this clause.

Clause 26 : Application of General Conditions to certain hostels referred to in sections 24 and 25

140. This clause makes special arrangements in respect of each hostel to which clause 24 applies, and each hostel to which clause 25 applies and in respect of which any capital grant made under the current Part II of the Principal Act had been fully paid.

141. These special arrangements provide that until 31 March 1994, or such later date as the Minister in special circumstances relating to a particular hostel allows, the condition in paragraph 10F(2)(a) will be substituted with a condition that the eligible organisation will not allow any person, other than an eligible person to enter the hostel and occupy an approved hostel place.

142. These arrangements are intended to allow organisations a transition period of approximately 5 years during which to adjust their existing resident population so as to comply with the requirement that approved hostel places be occupied solely by eligible persons. It is intended that after 31 March 1994 the condition in paragraph 10F(2)(a) of the Act (as inserted by paragraph 19(b)) will apply to all hostels and that all approved hostel places will be used only for the accommodation of eligible persons.

Clause 27 : Repeal of Aged or Disabled Persons Hostels Act 1972

143. This clause repeals three Acts -

- (a) the Aged Persons Hostels Act 1972;
- (b) the Aged Persons Hostels Act 1974; and
- (c) the Aged Persons Hostels Amendment Act 1976,

which are read together to form the Aged or Disabled Persons Hostels Act 1972 (the Hostels Act). This Act was introduced to provide capital grants in respect of hostels which were approved for funding within a three year period commencing in September 1972.

144. Subclause 27(2) provides that where immediately before the repeal, an approval under section 5 of the Hostels Act was still in force and a grant had not been made under section 6 of the Hostels Act, the Minister shall issue an appropriate certificate of approval in principle under the new section 9AB of the Principal Act in relation to both capital and recurrent funding for the hostel.

145. As all outstanding approvals under section 5 of the Hostels Act are some 13 years old, subclause 27(3) provides that the new subsection 9AB(11) does not apply in relation to a certificate issued in accordance with subclause 27(2). This means that the periods specified in section 9AB as the periods within which applications for capital and recurrent funding are to be made, cannot be extended.

146. As the Hostels Act was originally more generous in its capital provision than the Principal Act, subclause 27(4) provides that the amount of a capital grant that may be paid to the holder of a certificate granted in accordance with subclause 27(2) is:

- (a) an amount calculated under section 7 of the Hostels Act; or
- (b) an amount determined in accordance with guidelines under section 9B of the Principal Act,

whichever is the greater.

147. Subclause 27(5) provides that the number of places in respect of which a capital grant may be payable is the number in respect of which approval was granted under the Hostels Act.

148. Subclause 27(6) provides definitions for the interpretation of clause 27.