



Aged or Disabled Persons Hostels Act 1972

Act No. 76 of 1972 as amended

[Note: This Act is repealed by Act No. 87 of 1989]

This compilation was prepared on 24 March 2003
taking into account amendments up to Act No. 87 of 1989

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act to provide for Assistance by the Commonwealth towards the provision by certain Organizations of Hostels as Homes for Aged or Disabled Persons

1 Short title [see Note 1]

This Act may be cited as the *Aged or Disabled Persons Hostels Act 1972*.

2 Commencement [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

approved hostel means a building or proposed building approved under section 5.

prescribed organization means:

- (a) an eligible organization that, at the commencement of this Act, was conducting a qualifying subsidized home or a qualifying unsubsidized home; or
- (b) any other eligible organization that has become a prescribed organization for the purposes of this Act in accordance with subsection 8A(4).

qualifying subsidized home means a home for aged persons that, having been approved by the Secretary under the Aged or Disabled Persons Homes Act before 22 October 1957, has been the subject of a grant under that Act of an amount not exceeding one-half of the capital cost of the home.

qualifying unsubsidized home means a home for aged persons erected or purchased by an eligible organization before 15 August

1972, being a home that has not been the subject of a grant under the Aged or Disabled Persons Homes Act, but, except where the Secretary, in special circumstances, otherwise determines, does not include a home as to which the Secretary is satisfied that the eligible organization concerned would not have been able to obtain a grant under the Aged or Disabled Persons Homes Act in respect of it if its erection or purchase by the eligible organization had occurred immediately before the date of commencement of this Act.

the Aged or Disabled Persons Homes Act means the *Aged or Disabled Persons Homes Act 1954*.

the capital cost, in relation to an approved hostel, means:

- (a) in the case of an approved hostel erected or to be erected by a prescribed organization, the sum of:
 - (i) such amount in respect of the whole or a part of the land acquired or to be acquired for the purposes of the hostel as the Minister, in his discretion, determines; and
 - (ii) the amount which the Secretary is satisfied is the cost of erecting the hostel, including the cost of necessary fixtures in the hostel; or
- (b) in the case of an approved hostel purchased or to be purchased by a prescribed organization—the amount which the Secretary is satisfied is the cost of purchasing the hostel and of making any necessary alterations or additions to it and installing any necessary fixtures, including the cost of purchasing the land on which the hostel is erected, less the value of any part of that land that is not required for the purposes of the hostel.

the prescribed number of aged persons means:

- (a) in relation to a prescribed organization referred to in paragraph (a) of the definition of ***prescribed organization*** in this subsection—the sum of:
 - (i) twice the number of aged persons for whose accommodation provision was made, at the commencement of this Act, at a qualifying unsubsidized

- home, or at qualifying subsidized homes, of the organization; and
 - (ii) half the number of aged persons for whose accommodation provision was made, at the commencement of this Act, at a qualifying subsidized home, or at qualifying subsidized homes, of the organization; or
 - (b) in relation to a prescribed organization referred to in paragraph (b) of that definition—the number of aged persons that is, by virtue of subsection 8A(4), the prescribed number of aged persons in respect of the organization.
- (2) Expressions used in this Act that are defined by the Aged or Disabled Persons Homes Act have the same respective meanings as they have in that Act.
- (3) For the purposes of this Act:
- (a) a hostel may consist of 2 or more buildings; and
 - (b) references in this Act to a building shall be construed as including references to 2 or more buildings used, or to be used, together as a hostel.

4 Directions of Minister

In the performance of his functions under this Act, the Secretary is subject to any directions of the Minister.

5 Approval of hostels

- (1) Where the Secretary is satisfied that a building erected or to be erected, or purchased or to be purchased, by a prescribed organization is not intended to be used other than by or on behalf of a prescribed organization as a home for the accommodation of eligible persons, being a hostel, he may, in his discretion, approve that building or proposed building as a hostel for the purposes of this Act.
- (2) A building or proposed building shall not be approved under this section unless its erection by the prescribed organization was, or is

to be, commenced after the commencement of this Act, or it was, or is to be, purchased by the prescribed organization after the commencement of this Act.

- (3) In considering whether a building or proposed building is or will be a hostel for the purposes of this Act, the Secretary shall have regard to the nature of the accommodation that is or will be provided in the building and the provision made or to be made for the supply of meals or for other services in connexion with that accommodation.
- (4) A building that has been approved under section 6 of the Aged or Disabled Persons Homes Act shall not be approved under this section.

6 Grants to organizations

- (1) The Secretary may, in his discretion, on behalf of the Commonwealth, make a grant of moneys in accordance with this Act to a prescribed organization in respect of the whole or a part of the capital cost of an approved hostel.
- (2) The amount of a grant under this section shall be paid at such time as is, or by such instalments and at such times as are, determined by an agreement between the Secretary and the prescribed organization or, in the absence of agreement, by the Secretary.

7 Amounts of grants

- (1) Subject to subsection (2), the maximum amount of the grant that may be made to an organization under section 6 in respect of a hostel is an amount equal to so much of the capital cost of the hostel (being the whole or a part of that capital cost) as is attributable to:
 - (a) accommodation and related facilities for eligible persons not exceeding in number the prescribed number of aged persons; and
 - (b) if the number of eligible persons for whose accommodation provision is made is less than the prescribed number of aged persons—accommodation and related facilities for staff of

the hostel not exceeding in number the number necessary in connexion with the accommodation of the eligible persons.

- (2) The amount of the grant shall not exceed an amount ascertained in accordance with a method determined by the Minister by writing under his hand.
- (3) Where the amount of a grant under section 6 to a prescribed organization in respect of a hostel is to be determined after the making of a grant or grants under that section to the organization in respect of another hostel or other hostels, this section applies as if the prescribed number of aged persons were reduced by the number of eligible persons for whose accommodation provision is made at the other hostel or hostels.

8 Grants for furnishings

Where the Secretary makes a grant under section 6 to a prescribed organization in respect of a hostel, he may, in his discretion, on behalf of the Commonwealth, make to the prescribed organization a grant in respect of the provision of furnishings in the hostel, being a grant not exceeding an amount calculated at a rate determined by the Minister by writing under his hand for each eligible person or member of the staff of the hostel taken into account under paragraph 7(1) (a) or (b).

8A Transfer of rights in respect of persons

- (1) Where the prescribed number of aged persons in respect of a prescribed organization exceeds the total of the numbers of eligible persons and staff in respect of whose accommodation at a hostel or hostels the Secretary has made, or has agreed to make, a grant to the organization under this Act, the organization may agree to transfer its rights under this Act in respect of a number of persons not exceeding the excess to another eligible organization.
- (2) An agreement referred to in subsection (1) is of no force or effect unless or until it is approved by the Secretary.

- (3) The Secretary shall not approve an agreement to transfer rights to an eligible organization unless he is satisfied that, if he approves the transfer:
 - (a) the eligible organization proposes to seek approval under this Act as a hostel of a building erected or to be erected or purchased or to be purchased by the organization; and
 - (b) the number of eligible persons and staff in respect of whose accommodation at the hostel a grant could be made to the organization under this Act would be approximately equal to the number of aged persons that would, in the application of section 7 in relation to that hostel, be the prescribed number of aged persons in respect of the organization.
- (4) Where the Secretary approves an agreement by a prescribed organization to transfer rights under this Act in respect of a specified number of persons to an eligible organization that is not a prescribed organization:
 - (a) the eligible organization becomes a prescribed organization for the purposes of this Act; and
 - (b) the prescribed number of aged persons, in relation to the organization, is a number of persons equal to that specified number of persons.
- (5) Without limiting the application of subsection 7(3):
 - (a) where the amount of a grant under section 6 to a prescribed organization in respect of a hostel is to be determined after the Secretary has approved an agreement by the prescribed organization to transfer its rights under this Act in respect of a specified number of persons to another organization, section 7 applies to the prescribed organization as if the prescribed number of aged persons in respect of the organization were reduced by the specified number of persons; and
 - (b) where the Secretary has approved an agreement transferring rights under this Act in respect of a specified number of persons to an organization that was, before the approval, a prescribed organization, section 7 applies, for the purposes of determining the amount of a grant under section 6 to the prescribed organization after the approval, as if the

prescribed number of aged persons in respect of the organization were increased by the specified number of persons.

9 Terms and conditions of grants

- (1) A grant to a prescribed organization under section 6 in respect of a hostel the erection of which has not been commenced at the time of the grant shall be made upon condition that arrangements to the satisfaction of the Secretary for the erection of the hostel will be made, and the erection of the hostel will be commenced, within 12 months from the date of the making of the grant or within such further period as the Secretary fixes having regard to the circumstances of a particular case.
- (2) A grant to a prescribed organization under this Act may be made upon such other terms and conditions, not inconsistent with this Act, as the Secretary thinks fit.
- (3) Before making a grant under this Act to a prescribed organization, the Secretary may require the organization to enter into an agreement with him with respect to the terms and conditions upon which the grant is to be made.
- (4) An agreement under subsection (3) may, if the Secretary considers the circumstances so require, include an undertaking by the prescribed organization with respect to the continued use of the hostel as a home for eligible persons, and provision for the repayment of the grant to the Commonwealth in the event of a breach of the undertaking and for the giving of security for the carrying out of the undertaking.
- (4A) Where a grant to a prescribed organization under this Act has, in accordance with this section, been made on terms and conditions, the Secretary, with the agreement of the organization, may, by writing, vary those terms and conditions and, where there is an agreement under subsection (3) with respect to the terms and conditions so varied, that agreement shall be taken to be varied accordingly.

- (5) A payment under this Act shall not be made except to a corporation in which, or to trustees in whom, the approved hostel is or is to be vested.

9A Agreements may be entered into with transferees of buildings, etc.

- (1) Where:

- (a) a grant to a prescribed organization under this Act has, in accordance with section 9, been made on terms and conditions with respect to a building or buildings; and
- (b) the organization has transferred, or proposes to transfer, its interest in the building or in one or more of the buildings to another prescribed organization;

the Secretary may enter into an agreement with that other organization under which that other organization is required to comply, or will, upon the transfer being effected, be required to comply, with some or all of those terms and conditions in so far as they relate to the building or buildings the subject of the transfer.

- (2) Where:

- (a) a prescribed organization has entered into an agreement under subsection (1) or this subsection under which it is required to comply with certain terms and conditions with respect to a building or buildings; and
- (b) the organization has transferred, or proposes to transfer, its interest in the building, or in one or more of the buildings, to another prescribed organization;

the Secretary may enter into an agreement with that other organization under which that other organization is required to comply, or will, upon the transfer being effected, be required to comply, with some or all of those terms and conditions in so far as they relate to the building or buildings the subject of the transfer.

- (3) Where an agreement under subsection (1) or (2) between the Secretary and a prescribed organization is in force, the Secretary, with the agreement of the organization, may, by writing, vary that agreement.

10 Period of operation

- (1) A grant shall not be made under this Act in respect of a hostel unless the hostel is approved under section 5 within the period of 3 years that commenced on the date of commencement of this Act.
- (2) Where:
 - (a) an approval under section 5 was given, within the period referred to in subsection (1), with respect to a building proposed to be erected on a particular site proposed to be acquired by the organization concerned; and
 - (b) the Secretary is satisfied that, by reason of exceptional circumstances beyond the control of the organization, the organization has been unable to acquire that site;the Secretary may, in his discretion, at the request of the organization, vary the approval by substituting a reference to another site for the reference to the first-mentioned site and, thereupon, that approval has effect as so varied.

11 Moneys to be appropriated

Grants under this Act are payable out of moneys appropriated by the Parliament from time to time for the purposes of this Act.

12 Further grants under Aged or Disabled Persons Homes Act

- (1) Except as provided by this section, a grant under the Aged or Disabled Persons Homes Act shall not be made in respect of a hostel in respect of which a grant has been made under this Act.
- (2) Where a grant under section 6 in respect of a hostel has been calculated by reference to accommodation for persons less in number than the total number of eligible persons for whose accommodation provision is made at the hostel, the Secretary may, in accordance with the Aged or Disabled Persons Homes Act, make a grant under that Act in relation to the hostel, but in such a case the Secretary shall make such reduction of the grant that would otherwise be made under that Act as he considers appropriate having regard to the number of persons in respect of

whose accommodation at the hostel the grant under this Act has been calculated.

13 Delegation

- (1) The Secretary may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer of the Department or to a person performing the duties of an office in the Department any of his powers under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Secretary.
- (3) A delegation under this section does not prevent the exercise of a power by the Secretary.

Table of Acts**Notes to the *Aged or Disabled Persons Hostels Act 1972*****Note 1**

The *Aged or Disabled Persons Hostels Act 1972* as shown in this compilation comprises Act No. 76, 1972 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Aged Persons Hostels Act 1972</i>	76, 1972	27 Sept 1972	27 Sept 1972	
<i>Aged Persons Hostels Act 1974</i>	131, 1974	9 Dec 1974	9 Dec 1974	Ss. 7 and 8
<i>Administrative Changes (Consequential Provisions) Act 1976</i>	91, 1976	20 Sept 1976	S. 3: (a)	S. 4
<i>Aged Persons Hostels Amendment Act 1976</i>	92, 1976	20 Sept 1976	20 Sept 1976	S. 3(2)
<i>Statute Law (Miscellaneous Amendments) Act (No. 1) 1982</i>	26, 1982	7 May 1982	Ss. 42–51: 4 June 1982 (b)	S. 49(2)
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1984</i>	165, 1984	25 Oct 1984	S. 4: 13 Dec 1984 (see <i>Gazette</i> 1984, No. S519) (c)	Ss. 2(32), 6(1) and 9
<i>Social Security and Repatriation Legislation Amendment Act 1985</i>	95, 1985	5 Sept 1985	Ss. 10–12: Royal Assent (d)	—
<i>Community Services and Health Legislation Amendment Act (No. 2) 1988</i>	155, 1988	26 Dec 1988	Schedule (Part I): Royal Assent (e)	—
<i>Aged or Disabled Persons Homes Amendment Act 1989</i>	87, 1989	27 June 1989	S. 27: 1 Nov 1992 (see <i>Gazette</i> 1992, No. GN43)	S. 27(2)

Act Notes

- (a) By virtue of subsection 2(7) of the *Administrative Changes (Consequential Provisions) Act 1976* the amendment made by that Act to the *Aged Persons Hostels Act 1972* is deemed to have come into operation on 22 December 1975.
- (b) The *Aged or Disabled Persons Hostels Act 1972* was amended by sections 42–51 only of the *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982*, subsection 2(12) of which provides as follows:
 - (12) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.
- (c) The *Aged or Disabled Persons Hostels Act 1972* was amended by section 4 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(29) of which provides that section 9 and the amendments made to the *Aged or Disabled Persons Hostels Act 1972* shall come into operation on the day fixed by proclamation for the purposes of subsection 2(20) of that Act.
- (d) The *Aged or Disabled Persons Hostels Act 1972* was amended by sections 10–12 only of the *Social Security and Repatriation Legislation Amendment Act 1985*, subsection 2(1) of which provides as follows:
 - (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (e) The *Aged or Disabled Persons Hostels Act 1972* was amended by the Schedule (Part I) only of the *Community Services and Health Legislation Amendment Act (No. 2) 1988*, subsection 2(1) of which provides as follows:
 - (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
Provision affected	How affected
Title.....	am. No. 26, 1982
S. 1.....	am. No. 26, 1982
S. 3.....	am. No. 131, 1974; No. 92, 1976; No. 26, 1982; No. 165, 1984
S. 4.....	am. No. 165, 1984
S. 5.....	am. No. 26, 1982; No. 165, 1984; No. 95, 1985
S. 6.....	am. Nos. 91 and 92, 1976; No. 165, 1984
S. 7.....	am. No. 131, 1974; No. 26, 1982
S. 8.....	am. No. 131, 1974; No. 92, 1976; No. 26, 1982; No. 165, 1984
S. 8A.....	ad. No. 131, 1974 am. No. 26, 1982; No. 165, 1984
S. 9.....	am. No. 92, 1976; No. 26, 1982; No. 165, 1984; No. 95, 1985
S. 9A.....	ad. No. 95, 1985
S. 10.....	am. No. 92, 1976; No. 26, 1982; No. 165, 1984
S. 12.....	am. No. 92, 1976; No. 26, 1982; No. 165, 1984
S. 13.....	ad. No. 92, 1976 am. No. 165, 1984; No. 155, 1988