



New South Wales

Youth and Community Services Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to establish the Licensed Residential Centres Advisory Committee, with the functions of:

- (a) advising the Director-General of the Ageing and Disability Department in relation to the health and welfare of people living in licensed residential centres for people with a disability, and
- (b) advising the Director-General in relation to any proposal to suspend or revoke the licence of any such residential centre, including whether there are any deficiencies in the operation of any such residential centre and whether the revocation or suspension of the licence of such a residential centre is in the best interests of people living in it, and
- (c) preparing or approving resident relocation plans in relation to such people, before any such residential centre closes down.

The Director-General will be unable to suspend or revoke the licence of a residential centre for people with a disability unless he or she has considered any advice of the Advisory Committee and taken into account any resident

relocation plan in relation to the people who live in that residential centre, that has been prepared or approved by the Advisory Committee and authorised by the relevant Ministers.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Youth and Community Services Act 1973* set out in Schedule 1.

Clause 4 repeals certain uncommenced or inoperative provisions of the *Guardianship Act 1987* which deal with the licensing of residential centres (matters which at present are dealt with under the *Youth and Community Services Act 1973*).

Clause 5 repeals certain uncommenced or inoperative provisions of a 1987 Act which provided for the repeal of the *Youth and Community Services Act 1973*.

Schedule 1 Amendment of Youth and Community Services Act 1973

Establishment of Licensed Residential Centres Advisory Committee

Schedule 1 [4] inserts a new Part 2 in the *Youth and Community Services Act 1973*. That Part establishes the Licensed Residential Centres Advisory Committee (the *Advisory Committee*) and provides for its membership to include representatives of welfare organisations as well as representatives from the relevant government Departments.

The new Part also sets out the functions of the proposed Advisory Committee, which are:

- (a) to advise the Director-General of the Ageing and Disability Department about the health and welfare of people living in licensed residential centres for people with a disability, about whether the revocation or suspension of the licence of such a residential centre is in the best interests of people living in it and about any deficiencies in the operation of any such residential centre the licence of which is under review, and

- (b) to prepare or approve resident relocation plans in relation to people living in any licensed residential centre before such a centre closes.

Schedule 1 [14] makes further provision relating to the membership and procedure of the Committee.

Role of Advisory Committee when licence being revoked

Schedule 1 [5] and **[12]** impose an obligation on the Director-General to notify the Advisory Committee of any proposal to suspend or revoke a licence, or when he or she becomes aware that a licensee will stop operating licensed premises as a residential centre for people with a disability.

Schedule 1 [12] also requires the Advisory Committee to prepare a resident relocation plan after being notified of such circumstances or otherwise becoming aware of them.

Schedule 1 [6], [7], [8] and **[10]** require the Director-General to have regard to any resident relocation plan prepared or approved by the Advisory Committee, and authorised by the relevant Ministers, in relation to the proposed revocation or suspension of the licence of the relevant residential centre.

Schedule 1 [9] provides further time for the preparation, approval or Ministerial authorisation of a resident relocation plan, if necessary.

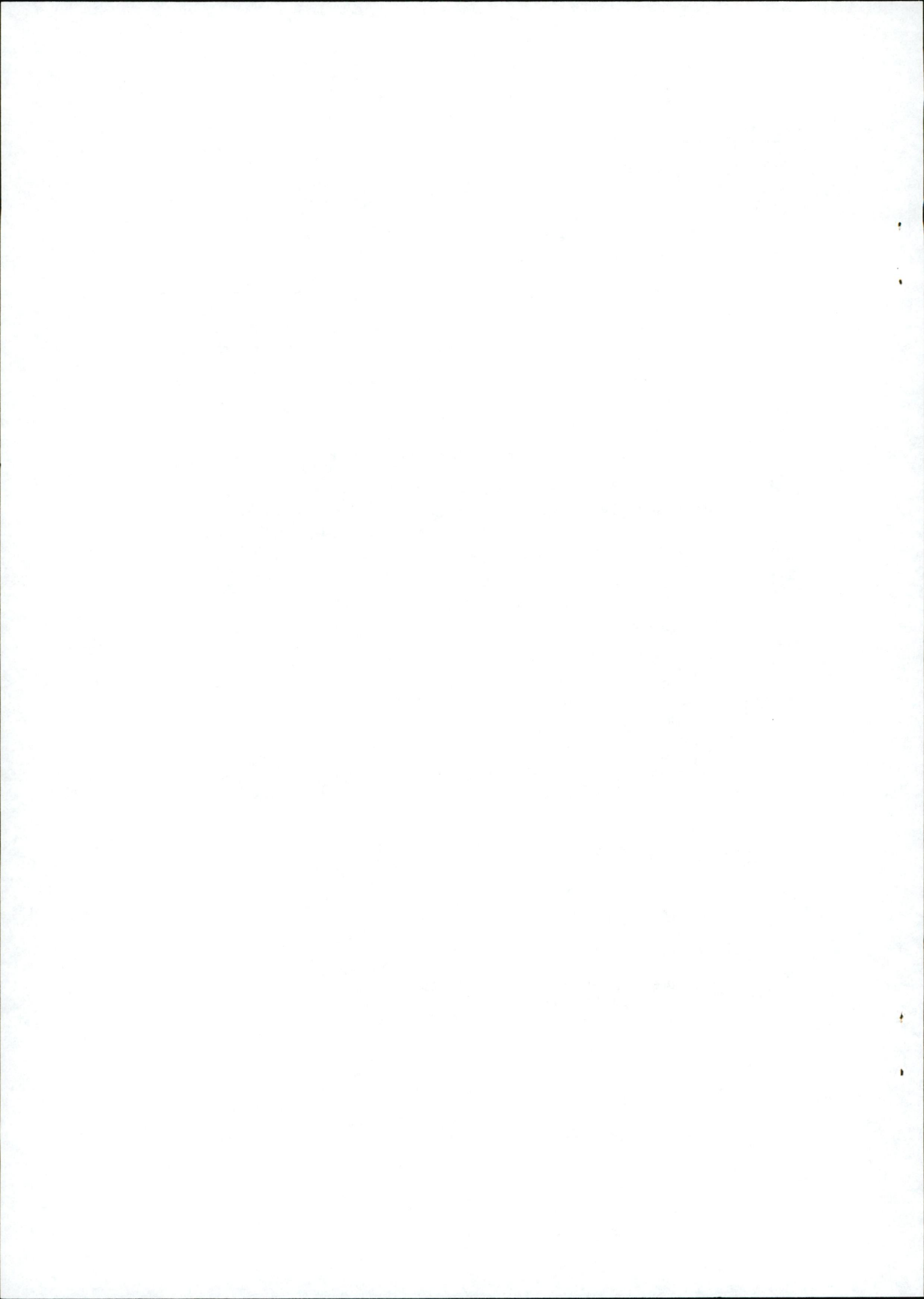
Other amendments

Schedule 1 [1] updates the language of the Act.

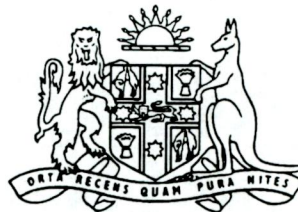
Schedule 1 [2] and **[11]** insert definitions.

Schedule 1 [3] updates a definition.

Schedule 1 [13] omits a spent Schedule of amendments.



First print



New South Wales

Youth and Community Services Amendment Bill 1997

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New South Wales

Youth and Community Services Amendment Bill 1997

No. , 1997

A Bill for

An Act to amend the *Youth and Community Services Act 1973* so as to establish the Licensed Residential Centres Advisory Committee with the functions of providing advice on the health and welfare of those who live in licensed residential centres for people with a disability, and of preparing plans for the relocation of such people before any such residential centre closes, and for other purposes; and to repeal certain uncommenced or inoperative provisions relating to the licensing of residential centres.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Youth and Community Services Amendment Act 1997*.

2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Youth and Community Services Act 1973 No 90

The *Youth and Community Services Act 1973* is amended as set out in Schedule 1.

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4 Amendment of Guardianship Act 1987 No 257

The *Guardianship Act 1987* is amended by omitting:

- (a) the definitions of *exempt premises*, *licence*, *licensed manager*, *licensed occupational centre*, *licensed residential centre*, *occupational centre* and *residential centre* from section 3 (1), and
- (b) section 3 (4), and
- (c) Part 8 (Licensing of residential centres and occupational centres), and
- (d) section 97, and
- (e) section 108 (1) (e) and (g), and
- (f) Schedule 2.

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5 Amendment of Miscellaneous Acts (Disability Services and Guardianship) Repeal and Amendment Act 1987 No 262

The *Miscellaneous Acts (Disability Services and Guardianship) Repeal and Amendment Act 1987* is amended by omitting sections 2 (2) and 3 and clauses 10 and 11 of Schedule 2.

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Schedule 1 Amendment of Youth and Community Services Act 1973

(Section 3)

[1] Whole Act

Omit "handicapped person", "handicapped" and "handicapped persons" wherever occurring. 5
Insert instead "person with a disability", "disabled" or "people with a disability" respectively.

[2] Section 3 Definitions

Insert in alphabetical order: 10

Advisory Committee means the Licensed Residential Centres Advisory Committee established under Part 2.

[3] Section 3, definition of "Department"

Omit the definition. Insert instead:

Department means the Ageing and Disability Department. 15

[4] Part 2

Insert after section 5:

Part 2 Licensed Residential Centres Advisory Committee

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6 Establishment of Licensed Residential Centres Advisory Committee

There is established by this Act a committee called the Licensed Residential Centres Advisory Committee.

7 Membership

The Advisory Committee consists of 6 members as follows:

- (a) the Director-General of the Ageing and Disability Department (who is to be the Chairperson of the Advisory Committee) (or the nominee of that Director-General), 5
- (b) the Director-General of the Department of Community Services (or the nominee of that Director-General), 10
- (c) the Director-General of the Department of Health (or the nominee of that Director-General),
- (d) the Director-General of the Department of Housing (or the nominee of that Director-General), 15
- (e) two representatives of welfare organisations, appointed by the Premier.

8 Functions of Advisory Committee

- (1) The Advisory Committee has the following functions:
 - (a) to provide advice to the Director-General on the health and welfare of people who live in licensed premises, 20
 - (b) to provide advice to the Director-General in relation to the proposed suspension or revocation of a licence and, in particular: 25
 - (i) to provide advice as to whether such suspension or revocation is in the best interests of the people who live in the relevant licensed premises, and
 - (ii) to provide advice as to whether there are any deficiencies in the operation of the relevant licensed premises that need to be remedied, and to provide advice on how such deficiencies should be remedied (if they can be), 30
 - (c) to prepare or approve a resident relocation plan under section 18B. 35

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- (2) Any such advice may be given either at the request of the Minister or Director-General or without any such request.
- (3) The Advisory Committee has such other functions as are conferred or imposed on it by or under this or any other Act. 5

9 Membership and procedure of Advisory Committee

Schedule 1 has effect with respect to the members and procedure of the Advisory Committee.

10 Disclosure of information 10

A member of the Advisory Committee must not disclose any information obtained in connection with the administration or execution of this Act unless the disclosure is made:

- (a) with the consent of the person from whom the information was obtained, or 15
- (b) in connection with the administration or execution of this Act, or
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or 20
- (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or
- (e) with other lawful excuse.

Maximum penalty: 10 penalty units. 25

10A Personal liability

A matter or thing done or omitted to be done by the Advisory Committee or a member of the Advisory Committee or any person acting under the direction of the Advisory Committee does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act, subject the member or a person so acting personally to any action, liability, claim or demand. 30

[5] Section 18 Suspension and revocation of licence

Insert after section 18 (2) (a):

(a1) the Advisory Committee, and

[6] Section 18 (3)

Insert "and the Advisory Committee" after "manager".

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[7] Section 18 (3)

Omit "either or both of those persons".

Insert instead "the licensee or the licensed manager or the Advisory Committee and any resident relocation plan prepared, or agreed to, by the Advisory Committee and authorised by the relevant Ministers".

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[8] Section 18 (3)

Omit "on those persons".

Insert instead "on the licensee and licensed manager".

[9] Section 18 (3A)

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Insert after section 18 (3):

(3A) However, if the Advisory Committee has not provided its advice, or a resident relocation plan has not been agreed to by the Advisory Committee and authorised by the relevant Ministers, when that 28 day period has expired, the Director-General must not take any action in accordance with subsection (3) until such advice has been given and such a plan has been agreed to and authorised, or until a further 28 days have passed, whichever happens first.

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[10] Section 18 (4A)

Insert after section 18 (4):

(4A) However, the Director-General may not serve such a notice unless:

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- (a) the Director-General takes into consideration any advice given by the Advisory Committee, or any resident relocation plan in relation to the relevant residents prepared or approved by the Advisory Committee and authorised by the relevant Ministers, or 5
- (b) 56 days have passed since the giving of any notice to the Advisory Committee under section 18A and the Advisory Committee has not provided its advice, or a resident relocation plan has not been agreed to by the Advisory Committee and authorised by the relevant Ministers. 10

[11] Section 18 (7)

Insert after section 18 (6):

- (7) In this section: 15
- relevant Ministers* means the Minister for Community Services, the Minister for Aged Services, the Minister for Disability Services, the Minister for Health and the Minister for Housing.

[12] Sections 18A and 18B 20

Insert after section 18:

18A Advisory Committee to be notified of other proposed closures

The Director-General must notify the Advisory Committee if: 25

- (a) a licensee has requested that the licensee's licence be suspended or revoked, or
- (b) the Director-General becomes aware that a licensee will stop using licensed premises as a residential centre for people with a disability (otherwise than through the procedure set out in section 18 (2) and (3)). 30

18B Resident relocation plans

- (1) The Advisory Committee is to prepare a resident relocation plan if:
 - (a) the Advisory Committee is advised by the Director-General (under section 18 (2)) that the Director-General is considering revoking or suspending a licence, or 5
 - (b) the Advisory Committee is advised by the Director-General (under section 18A), or otherwise becomes aware, that a licensee will stop operating licensed premises as a residential centre for people with a disability. 10
- (2) Such a plan must make provision for the relocation of people living at the relevant licensed premises.
- (3) The Advisory Committee may, instead of preparing a resident relocation plan, consider and approve a plan prepared by another person. 15
- (4) The Advisory Committee must forward any resident relocation plan prepared or approved by the Advisory Committee to the Director-General as soon as possible after its preparation or approval. 20

[13] Schedule Amendment of Acts

Omit the Schedule.

[14] Schedule 1

Insert after section 34: 25

Schedule 1 Provisions relating to members and procedure of Advisory Committee

(Section 9)

Part 1 Membership

1 Membership is honorary 30

- (1) The members of the Advisory Committee are honorary members and no remuneration is payable to them in respect of the duties they perform as members, except as provided by this clause.

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- (2) The members are however entitled to be reimbursed by the Department for reasonable expenses (such as for travel or accommodation) that they may incur in attending meetings of the Advisory Committee.
- (3) In addition, the members appointed under section 7 (e) are entitled to be paid such allowances as the Minister may from time to time determine in respect of the members. 5

2 Term of office

The members of the Advisory Committee appointed under section 7 (e) each hold office for a period of 2 years. 10

3 Vacation of office

- (1) This clause applies to a member of the Advisory Committee appointed under section 7 (e). 15
- (2) The office of such a member becomes vacant if the member:
- (a) dies, or
 - (b) completes a term of office and is not re-appointed, or 20
 - (c) resigns by instrument in writing addressed to the Minister, or
 - (d) is removed from office under subclause (3).
- (3) The Minister may, on the recommendation of the Advisory Committee, remove a member to which this clause applies from office for incapacity, incompetence or misbehaviour. 25

Part 2 Procedure

4 General procedure

The Advisory Committee must conduct its proceedings in accordance with this Part. 30

5 First meeting

The Minister may call the first meeting of the Advisory Committee in such manner as the Minister thinks fit.

6 Quorum

The quorum for a meeting of the Advisory Committee is a majority in number of the members for the time being. 5

7 Presiding member

- (1) The Chairperson is to preside at a meeting of the Advisory Committee.
- (2) If the Chairperson is not present at the meeting, the members present may elect one of their number to preside at the meeting. 10
- (3) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 15

8 Voting

A decision supported by a majority of the votes cast at a meeting of the Advisory Committee at which a quorum is present is the decision of the Advisory Committee.