Changes to legislation: *Health And Social Services And Social Security Adjudications Act 1983, SCHEDULE 4 is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 4

Section 11.

REGISTERED HOMES

[F1 PART I

RESIDENTIAL CARE HOMES

Textual Amendments

F1 Sch. 4 Pt. I (paras. 1–23), Pt. II paras. 24–37, 44, Pt. III (paras. 49–56), Sch. 9 paras. 4, 6, 9, 12–14 and 26 repealed (E.W.) by Registered Homes Act 1984 (c. 23, SIF 113:3), s. 57, **Sch. 3**

Requirement of registration

1 (1) Subject to the following provisions of this paragraph, registration under this Part of this Schedule is required in respect of any establishment which provides or is intended to provide, whether for reward or not, residential accommodation with both board and personal care for persons in need of personel care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder.

(2) Such an establishment is referred to in this Part of this Schedule as a "residential care home".

(3) Registration under this Part of this Schedule does not affect any requirement to register under the [M1]Nursing Homes Act 1975.

(4) Registration under this Part of this Schedule is not required in respect of an establishment which provides or is intended to provide residential accommodation with both board and personal care for fewer than 4 persons, excluding persons carrying on or intending to carry on the home or employed or intended to be employed there and their relatives.

(5) Registration under this Part of this Schedule is not required in respect of any of the following—

(a) any establishment which is used, or is intended to be used, solely as a nursing home or mental nursing home as defined in sections 1 and 2 of the [M2]Nursing Homes Act 1975;

(b) any hospital as defined in section 128 of the [M3]National Health Service Act 1977 which is maintained in pursuance of an Act of Parliament;

(c) any hospital as defined in section 145(1) of the [M4]Mental Health Act 1983;

(d) any voluntary home or community home within the meaning of the [M5]Child Care Act 1980;

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(e) any children's home to which the [M6]Children's Homes Act 1982 applies;

(f) subject to subparagraph (6) below, any school, as defined in section 114 of the [M7]Education Act 1944;

(g) subject to subparagraph (7) below, any establishment to which the Secretary of State has made a payment of maintenance grant under regulations made by virtue of section 100(1)(b) of the Education Act 1944;

(h) any university or university college or college, school or hall of a university;

(i) any establishment managed or provided by a government department or local authority or by any authority or body constituted by an Act of Parliament or incorporated by Royal Charter.

(6) An independent school within the meaning of the Education Act 1944 is not excluded by subparagraph (5) above if the school provides accommodation for 50 or less children under the age of 18 years and is not for the time being approved by the Secretary of State under section 11(3)(a) of the [M8]Education Act 1981.

(7) An establishment to which the Secretary of State has made a payment of maintenance grant under regulations made by virtue of section 100(1)(b) of the Education Act 1944 is only excluded by subparagraph (5) above until the end of the period of 12 months from the date on which the Secretary of State made the payment.

Marginal Citations

M1 1975 c. 37.
M2 1975 c. 37.
M3 1977 c. 49.
M4 1983 c. 20.
M5 1980 c. 5.
M6 1982 c. 20.
M7 1944 c. 31.
M8 1981 c. 60.

General interpretation

2 (1) In this Part of this Schedule—

"disablement", in relation to persons, means that they are blind, deaf or dumb or substantially and permanently handicapped by illness, injury or congenital deformity or any other disability prescribed by the Secretary of State;

"mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder, and any other disorder or disability of mind;

"personal care" means care which includes assistance with bodily functions where such assistance is required;

"prescribed" means prescribed by regulations under this Part of this Schedule;

"psychopathic disorder" means a persistent disorder or disability of mind (whether or not including significant impairment of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the person concerned;

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"registered", except where the context otherwise requires, means registered under this Part of this Schedule and cognate expressions have a corresponding meaning;

"registration authority", in relation to a residential care home, means, subject to subparagraph (2) below, any council which for the purposes of the [M9]Local Authority Social Services Act 1970 is the local authority for the area in which the home is situated; and

"standard scale" means the standard scale as defined in section 75 of the [M10]Criminal Justice Act 1982.

(2) The Council of the Isles of Scilly is the registration authority in relation to a residential care home in the Isles.

Marginal Citations

M9 1970 c. 42.

M10 1982 c. 48.

Meaning of "relative"

3 (1) In this Part of this Schedule

"relative" means any of the following—

(a) husband or wife;
(b) son or daughter;
(c) father or mother;
(d) brother or sister;
(e) grandparent or other ascendant;
(f) grandchild or other descendant;
(g) uncle or aunt;
(h) nephew or niece.

(2) In deducing any relationship for the purposes of subparagraph (1) above—

(a) any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the halfblood as a relationship of the whole blood, and the stepchild of any person as his child, and
(b) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.

(3) In this paragraph "husband" and "wife" include a person who is living with a person carrying on or intending to carry on a residential care home as that person's husband or wife, as the case may be, and who has been so living for a period of not less than 6 months.

(4) A person, other than a relative, with whom a person carrying on or intending to carry on a residential care home ordinarily resides, and with whom that person has been ordinarily residing for a period of not less than 5 years, shall be treated for the purposes of this Part of this Schedule as if he were a relative.

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Penalty for carrying on home without registration

4 If any person carries on a residential care home without being registered in respect of it, he shall be liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

Registration of managers etc. and persons in control

5 Where the manager or intended manager of a residential care home is not in control of it (whether as owner or otherwise) both the manager or intended manager and the person in control are to be treated as carrying on or intending to carry on the home and accordingly as requiring to be registered.

Optional registration

6 (1) A person who—

(a) is registered under the [M11]Nursing Homes Act 1975 in respect of any premises; and

(b) would be required to be registered in respect of them under this Part of this Schedule but for paragraph 1(4) above,

may apply to be registered under this Part of this Schedule in respect of those premises.

(2) If he does so apply, this Part of this Schedule shall have effect in relation to him as if he required to be registered under this Part of this Schedule in respect of those premises.

Marginal Citations

M11 1975 c. 37.

Registration

7 (1) An application for registration shall be made to the registration authority and shall be accompanied by a registration fee of such amount as the Secretary of State may by regulations prescribe.

(2) Subject to paragraphs 11, 14 and 15 below, on receipt of an application for registration and of the registration fee the registration authority shall register the applicant in respect of the home named in the application and issue to him a certificate of registration.

(3) It shall be a condition of the registration of any person in respect of a residential care home that the number of persons for whom residential accommodation with both board and personal care is provided in the home at any one time (excluding persons carrying on or employed at the home and their relatives) does not exceed such number as may be specified in the certificate of registration; and the registration may also be subject to such other conditions (to be specified in the certificate) as the registration authority consider appropriate for regulating the age, sex or category of persons who may be received in the home.

(4) The registration authority may from time to time—

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(a) vary any condition for the time being in force in respect of a home by virtue of this Part of this Schedule; or

(b) impose an additional condition,

either on the application of a person registered in respect of it or without such an application.

(5) If any condition for the time being in force in respect of a home by virtue of this part of this Schedule is not complied with, any person registered in respect of the home shall be liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale.

(6) The certificate of registration issued in respect of any home shall be kept affixed in a conspicuous place in the home; and if default is made in complying with this subparagraph, any person registered in respect of the home shall be liable on summary conviction to a fine of an amount notexceeding level 2 on the standard scale and to a further fine not exceeding£5 for each day on which the offence continues after conviction.

Death of only person registered in respect of home

8 Where—

(a) one person only is registered in respect of a residential care home; and

(b) that person dies,

his personal representatives or his widow or any other relative of his mayfor a period not exceeding 4 weeks from his death, or such longer period as the registration authority may sanction, carry on the home without being registered in respect of it.

Inspection of registers

9 The registers kept by a registration authority for the purpose of this Part of this Schedule shall be available for inspection at all reasonable times, and any person inspecting any such register shall be entitled to make copies of entries in the register on payment of such reasonable fee as the registration authority may determine.

Annual fee for registration

10 The Secretary of State may by regulations—

(a) require persons registered in respect of residential care homes to payan annual fee of such amount as the regulations may specify; and

(b) Specify when the fee is to be paid.

Refusal of registration

11 The registration authority may refuse to register an applicant for registration in respect of a residential care home if they are satisfied—

(a) that he or any other person concerned or intended to be concerned in carrying on the home is not a fit person to be concerned in carrying on a residential care home;

(b) that for reasons, connected with their situation, construction, state of repair, accommodation, staffing or equipment, the premises used orintended to be used for the purposes of the home, or any other premises used or intended to be used in connection with it, are not fit to be so used; or

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(c) that the way in which it is intended to carry on the home is such as not to provide services or facilities reasonably required.

Cancellation of registration

12 The registration authority may cancel the registration of a person in respect of a residential care home—

(a) on any ground which would entitle them to refuse an application for his registration in respect of it;

(b) on the ground that the annual fee in respect of the home has not been paid on or before the due date; or

(c) on the ground—

(i) that he has been convicted of an offence under this Part of this Schedule or any regulations made under it in respect of that or any other residential care home;

(ii) that any other person has been convicted of such an offence in respect of that home; or

(iii) that any condition for the time being in force in respect of the home by virtue of this Part of this Schedule has not been complied with.

Urgent procedure for cancellation of registration etc.

13 (1) If—

(a) the registration authority apply to a justice of the peace for an order—

(i) cancelling the registration of a person in respect of a residential care home;

(ii) varying any condition for the time being in force in respect of a home by virtue of this Part of this Schedule; or

(iii) imposing an additional condition; and

(b) it appears to the justice of the peace that there will be a serious risk to the life, health or wellbeing of the residents in the home unless the order is made,

he may make the order, and the cancellation, variation or imposition shall have effect from the date on which the order is made.

(2) An application under subparagraph (1) above may be made ex parte and shall be supported by a written statement of the registration authority's reasons for making the application.

(3) An order under subparagraph (1) above shall be in writing.

(4) Where such an order is made, the registration authority shall serve on any person registered in respect of the home, as soon as is practicable after the making of the order,—

(a) notice of the making of the order and of its terms; and

(b) a copy of the statement of the authority's reasons which supportedtheir application for the order.

Procedure—general

14 (1) Subject to subparagraph (2) below, where—

(a) a person applies for registration; and

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(b) the registration authority propose to grant his application

the authority shall give him written notice of their proposal and of the conditions subject to which they propose to grant his application.

(2) The registration authority need not give notice of such a proposal if they propose to grant the application subject only to conditions which—

(a) the applicant specified in the application; or

(b) the authority and the applicant have subsequently agreed.

(3) The registration authority shall give an applicant notice of a proposal to refuse his application.

(4) Except where they make an application under paragraph 13 above, the registration authority shall give any person registered in respect of a residential care home notice of a proposal—

(a) to cancel the registration;

(b) to vary any condition for the time being in force in respect of the home by virtue of this Part of this Schedule; or

(c) to impose any additional condition.

(5) A notice under this paragraph shall give the registration authority's reasons for their proposal.

Right to make representations

15 (1) A notice under paragraph 14 above shall state that within 14 days of service of the notice any person on whom it is served may in writing require the registration authority to give him an opportunity to make representations to them concerning the matter.

(2) Where a notice has been served under paragraph 14 above, the registration authority shall not determine the matter until either—

(a) any person on whom the notice was served has made representations concerning the matter; or

(b) the period during which any such person could have required them to give him an opportunity to make representations has elapsed without their being required to give such an opportunity; or

(c) the conditions specified in subparagraph (3) below are satisfied.

(3) The conditions mentioned in subparagraph (2) above are—

(a) that a person on whom the notice was served has required the registration authority to give him an opportunity to make representations to them concerning the matter;

(b) that the registration authority have allowed him a reasonable period to make his representations; and

(c) that he has failed to make them within that period.

(4) Representations may be made, at the option of the person making them, either in writing or orally.

(5) If he informs the registration authority that he desires to make oral representations, they shall give him an opportunity of appearing before and of being heard by a committee or subcommittee of the registration authority.

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16 (1) If the registration authority decide to adopt the proposal, they shall serve notice in writing of their decision on any person on whom they were required to serve notice of their proposal.

(2) A notice under this paragraph shall be accompanied by a note explaining the right of appeal conferred by paragraph 17 below.

(3) A decision of a registration authority, other than a decision to grant an application for registration subject only to such conditions as are mentioned in paragraph 14(2) above or to refuse an application for registration, shall not take effect—

(a) if no appeal is brought, until the expiration of the period of 28 days referred to in paragraph 17(3) below; and

(b) if an appeal is brought, until it is determined or abandoned.

Appeals

17 (1) An appeal against—

(a) a decision of a registration authority; or

(b) an order made by a justice of the peace under paragraph 13 above.

shall lie to a Registered Homes Tribunal.

(2) An appeal shall be brought by notice in writing given to the registration authority.

(3) No appeal against a decision or order may be brought by a person more than 28 days after service on him of notice of the decision or order.

(4) On an appeal against a decision of a registration authority the Tribunal may confirm the decision or direct that it shall not have effect.

(5) On an appeal against an order made by a justice of the peace the Tribunal may confirm the order or direct that it shall cease to have effect.

(6) A Tribunal shall also have power on an appeal against a decision or order—

(a) to vary any condition for the time being in force in respect of the home to which the appeal relates by virtue of this Part of this Schedule;

(b) to direct that any such condition shall cease to have effect; or

(c) to direct that any such condition as it thinks fit shall have effect in respect of the home.

(7) A registration authority shall comply with any direction given by a Tribunal under this paragraph.

Service of documents

18 (1) Any notice or other document required under this Part of this Schedule to be served on a person carrying on, or intending to carry on, a residential care home may be served on him by being delivered personally to him, or being sent by post to him in a registered letter or by the recorded delivery service.

(2) For the purposes of section 7 of the [M12]Interpretation Act 1978 (which defines "service by post") a letter to a person carrying on a residential care home enclosing a notice or other document under this Part of this Schedule shall be deemed to be properly addressed if it is addressed to him at the home.

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(3) Any such notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.

(4) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, without prejudice to subsection (2) above the proper address of a person, in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body, in the case of a partner of a firm shall be that of the principal office of the firm and in any other case shall the the last known address of the person to be served.

Marginal Citations
M12 1978 c. 30.

Conduct of residential care homes

19 (1) The Secretary of State may make regulations as to the conduct of residential care homes, and in particular—

(a) as to the facilities and services to be provided in such homes;

(b) as to the numbers and qualifications of staff to be employed in such homes;

(c) as to the numbers of suitably qualified and competent staff to be on duty in such homes;

(d) as to the records to be kept and notices to be given in respect of persons received into such homes;

(e) as to the notification of events occurring in such homes;

(f) as to the giving of notice by a person of a description specified in the regulations of periods during which any person of a description so specified proposes to be absent from a home;

(g) as to the information to be supplied in such a notice;

(h) making provision for children under the age of 18 years who are resident in such homes to receive a religious upbringing appropriate to the religious persuasion to which they belong;

(j) as to the form of registers to be kept by registration authorities for the purposes of this Part of this Schedule and the particulars to be contained in them; and

(k) as to the information to be supplied on an application for registration.

(2) Regulations under this paragraph may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence against the regulations; and any person guilty of an offence against the regulations shall be liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale.

Inspection of homes

20 (1) Any person authorised in that behalf by the Secretary of State may at all times enter and inspect any premises which are used, or which that person has reasonable cause to believe to be used for the purposes of a residential care home.

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(2) Any person authorised in that behalf by a registration authority may at all times enter and inspect any premises in the area of the authority which are used, or which that person has reasonable cause to believe to be used, for those purposes.

(3) The powers of inspection conferred by subparagraphs (1) and (2) above shall include power to inspect any records required to be kept in accordance with regulations under this Schedule.

(4) The Secretary of State may by regulations require that residential care homes shall be inspected on such occasions or at such intervals as the regulations may prescribe.

(5) A person who proposes to exercise any power of entry or inspection conferred by this paragraph shall if so required produce some duly authenticated document showing his authority to exercise the power.

(6) Any person who obstructs the exercise of any such power shall be liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale.

Prosecutions etc.

21 Where an offence under this Part of this Schedule or any regulations under it committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

22 (1) In any proceedings for an offence under this Part of this Schedule, subject to subparagraph (2) below, it shall be a defence for the person charged to prove—

(a) that the commission of the offence was due to a mistake or to reliance on information supplied to him or to the act or default of another person, an accident or some other cause beyond his control; and

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(8) If in any such case the defence provided by subparagraph (1) above involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Regulations

23 (1) Any power of the Secretary of State to make regulations under this Part of this Schedule shall be exercisable by statutory instrument; and any statutory instrument containing regulations under this Part of this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Any such power may be exercised—

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(a) either in relation to all cases to which the power extends or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and

(b) so as to make, as respects the cases in relation to which the power is exercised—

(i) the same provision for all cases in relation to which it is exercised, or different provision for different cases or different classes of case or different provision as respects the same class or classes of case for different purposes;

(ii) any such provision either unconditionally or subject to any specified condition;

and includes power to make such incidental or supplemental provision in the regulations as the Secretary of State considers appropriate.**]**

PART II

AMENDMENTS OF ACTS RELATING TO REGISTERED HOMES

[F2 Nursing Homes Act 1975

Textual Amendments

F2 Sch. 4 Pt. I (paras. 1–23), Pt. II paras. 24–37, 44, Pt. III (paras. 49–56), Sch. 9 paras. 4, 6, 9, 12–14 and 26 repealed (E.W.) by Registered Homes Act 1984 (c. 23, SIF 113:3), s. 57, **Sch. 3**

24 In section 1 of the [M13]Nursing Homes Act 1975—

(a) the following subparagraph shall be added at the end of paragraph (c) of subsection (1)—

"(v) treatment by specially controlled techniques.";

(b) the following subsection shall be added after that subsection—

"(1A) In subsection (1) above "specially controlled techniques" means techniques specified under subsection (3) below as subject to control for the purposes of this Act.";

(a) at the end of paragraph (e) of subsection (2) there shall be added (but not as part of subparagraph (iii), the words "unless they are used or intended to be used for the provision of treatment by specially controlled techniques and are not excepted by regulations under paragraph (g) below"; and

(b) the following subsections shall be added after that subsection—

"(3) The Secretary of State may by regulations specify as subject to control for the purposes of this Act any technique of medicine or surgery (including cosmetic surgery) as to which he is satisfied that its use may create a hazard for persons treated by means of it or for the staff of any premises where the technique is used.

(4) Without prejudice to the generality of section 19 below regulations under subsection (3) may define a technique by reference to any criteria which the Secretary of State considers appropriate.

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(5) In this section "treatment" includes diagnosis and "treated" shall be construed accordingly.".

Marginal Citations

M13 1975 c. 37.

25 The following subsection shall be inserted after subsection (1) of section 3 of that Act—

"(1A) Registration under this Act does not affect any requirement to register under Part I of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983 (registration of residential care homes).".

26 The following section shall be inserted after that section—

" **Prohibition of holding out premises as nursing home, maternity home or mental nursing home.**

(1) A person who, with intent to deceive any person,—

(a) applies any name to premises in England or Wales; or

(b) in any way so describes such premises or holds such premises out,

as to indicate, or reasonably be understood to indicate, that the premises are a nursing home or maternity home, shall be guilty of an offence, unless registration has been effected under this Act in respect of the premises as such a home.

(2) A person who, with intent to deceive any person,—

(a) applies any name to premises in England or Wales; or

(b) in any way so describes such premises or holds such premises out,

as to indicate, or reasonably be understood to indicate, that the premises are a mental nursing home, shall be guilty of an offence, unless registration has been effected under this Act in respect of the premises as such a home.".

27 The following paragraphs shall be inserted after section 5(1)(a) of that Act—

"(aa) make provision as to the giving of notice by a person registered in respect of such a home of periods during which he or, if he is not in charge of the home, the person who is in charge of it, proposes to be absent from the home;

(ab) specify the information to be supplied in such a notice;

(ac) provide for the making of adequate arrangements for the running of such a home during a period when the person in charge of it is absent from it;".

28 The following paragraphs shall be inserted after section 6(c) of that Act—

"(ca) requiring persons registered under this Act to pay an annual fee of such amount as the regulations may specify;

(cb) specifying when the fee is to be paid;".

29 In paragraph (c) of section 7 of that Act for the words "imposed by section 8(1) and (2) below" there shall be substituted the words "for the time being in force in respect of the home by virtue of this Act".

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30 The following paragraph shall be inserted after paragraph (d) of that section—

"(e) on the ground that the annual fee in respect of the home has not been paid on or before the due date.".

31 (1) The following subsection shall be substituted for subsection (2A) of section 8 of that Act—

"(2A) The Secretary of State may make regulations—

(a) as to the variation of any condition for the time being in force in respect of a nursing home or mental nursing home by virtue of this Act; and

(b) as to the imposition of additional conditions.".

(2) In subsection (3) of that section, for the words "imposed by or under subsection (1) or (2) above" there shall be substituted the words "for the time being in force in respect of a home by virtue of this Act".

32 The following sections shall be inserted after that section—

" **Urgent procedure for cancellation of registration etc.**

(1) If—

(a) the Secretary of State applies to a justice of the peace for an order—

(i) cancelling the registration of a person in respect of a nursing home or mental nursing home;

(ii) varying any condition for the time being in force in respect of a home by virtue of this Act; or

(iii) imposing an additional condition; and

(b) it appears to the justice of the peace that there will be a serious risk to the life, health or wellbeing of the patients in the home unless the order is made.

he may make the order, and the cancellation, variation or imposition shall have effect from the date on which the order is made.

(2) An application under subsection (1) above may be made ex parte and shall be supported by a written statement of the Secretary of State's reasons for making the application.

(3) An order under subsection (1) above shall be in writing.

(4) Where such an order is made, the Secretary of State shall serve on any person registered in respect of the home, as soon as practicable after the making of the order,—

(a) notice of the making of the order and of its terms; and

(b) a copy of the statement of the Secretary of State's reasons which supported his application for the order.

Ordinary procedure.

(1) Where—

(a) a person applies for registration in respect of a nursing home or mental nursing home; and

(b) the Secretary of State proposes to grant his application,

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the Secretary of State shall give him written notice of his proposal and of the conditions subject to which he proposes to grant his application.

(2) The Secretary of State shall give an applicant notice of a proposal to refuse his application.

(3) Except where he makes an application under section 8A above, the Secretary of State shall give any person registered in respect of a nursing home or mental nursing home notice of a proposal—
   (a) to cancel the registration;
   (b) to vary any condition for the time being in force in respect of the home by virtue of this Act; or
   (c) to impose any additional condition.

(4) A notice under this section shall give the Secretary of State's reasons for his proposal.

Right to make representations.

(1) A notice under section 8B above shall state that within 14 days of service of the notice any person on whom it is served may in writing require the Secretary of State to give him an opportunity to make representations to him concerning any matter which that person wishes to dispute.

(2) Where a notice has been served under section 8B above, the Secretary of State shall not determine any matter in dispute until either—
   (a) any person on whom the notice was served has made representations to him concerning the matter; or
   (b) the period during which any such person could have required the Secretary of State to give him an opportunity to make representations has elapsed without the Secretary of State being required to give such an opportunity; or
   (c) the conditions specified in subsection (3) below are satisfied.

(3) The conditions mentioned in subsection (2) above are—
   (a) that a person on whom the notice was served has required the Secretary of State to give him an opportunity to make representations to him concerning the matter;
   (b) that the Secretary of State has allowed him a reasonable period to make his representations; and
   (c) that he has failed to make them within that period.

(4) the representations may be made, at the option of the person making them, either in writing or orally.

(5) If he informs the Secretary of State that he desires to make oral representations, the Secretary of State shall give him an opportunity of appearing before and of being heard by a person appointed by the Secretary of State.

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Decision of Secretary of State.

(1) If the Secretary of State decides to adopt the proposal, he shall serve notice in writing of his decision on any person on whom he was required to serve notice of the proposal.

(2) A notice under this section shall be accompanied by a note explaining the right of appeal conferred by section 8E below.

(3) A decision of the Secretary of State, other than a decision to grant an application for registration subject only to conditions agreed between the applicant and the Secretary of State or to refuse an application for registration, shall not take effect—
   (a) if no appeal is brought, until the expiration of the period of 28 days referred to in section 8E(3) below; and
   (b) if an appeal is brought, until it is determined or abandoned.

Appeals.

(1) An appeal against—
   (a) a decision of the Secretary of State under this Act; or
   (b) an order made by a justice of the peace under section 8A above,

   shall lie to a Registered Homes Tribunal.

(2) An appeal shall be brought by notice in writing given to the Secretary of State.

(3) No appeal against a decision or order may be brought by a person more than 28 days after service on him of notice of the decision or order.

(4) On an appeal against a decision of the Secretary of State the Tribunal may confirm the decision or direct that it shall not have effect.

(5) On an appeal against an order made by a justice of the peace the Tribunal may confirm the order or direct that it shall cease to have effect.

(6) A Tribunal shall also have power on an appeal against a decision or order—
   (a) to vary any condition for the time being in force in respect of the home to which the appeal relates by virtue of this Act;
   (b) to direct that any such condition shall cease to have effect; or
   (c) to direct that any such condition as it thinks fit shall have effect in respect of the home.

(7) The Secretary of State shall comply with any directions of a Tribunal given under this section.”.

33 The following section shall be inserted after section 10 of that Act—

“ **Service of documents.**

(1) Any notice or other document required under this Act to be served on a person carrying on, or intending to carry on, a nursing home or mental nursing home may be served on him by being delivered personally to him,

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or being sent by post to him in a registered letter or by the recorded delivery service.

(2) For the purposes of section 7 of the Interpretation Act 1978 (which defines "service by post") a letter to a person carrying on a nursing home or mental nursing home enclosing a notice or other document under this Act shall be deemed to be properly addressed if it is addressed to him at the home.

(3) Any such notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.

(4) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, without prejudice to subsection (2) above the proper address of a person, in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body, in the case of a partner of a firm shall be that of the principal office of the firm, and in any other case shall be the last known address of the person to be served.".

34 (1) The following paragraph shall be substituted for subsection (1)(a) of section 13 of that Act (fines for failure to affix certificate of registration)—

"(a) to a fine of an amount not exceeding level 2 on the standard scale as defined in section 75 of the Criminal Justice Act 1982; and".

(2) "£5" shall be substituted for "£2" in subsection (1)(b).

35 The following section shall be inserted after that section—

" **Contravention of section 3A.**

A person guilty of an offence under section 3A above shall be liable on summary conviction to a fine of an amount not exceeding level 3 on the standard scale as defined in section 75 of the Criminal Justice Act 1982.".

36 The following section shall be substituted for section 17 of that Act—

" **Bodies corporate and their officers.**

Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.".

37 In section 23(2) of that Act for the words "the provisions of this Act relating to mental nursing homes" there shall be substituted the words "this Act".**]**

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[F3] *Child Care Act 1980*

Textual Amendments

F3 Sch. 2 paras. 34, 37, 46–49, 51–59, Sch. 4 Pt. II paras. 38–43, Sch. 9 paras. 16 and 17 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with s. 108(6), Sch.14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

[F4]38 . . . . . .

Textual Amendments

F4 Sch. 2 paras. 34, 37, 46-49, 51-59 Sch. 4 Pt. II paras. 38-43. Sch. 9 paras. 16 and 17 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

[F5]39 . . . . . .

Textual Amendments

F5 Sch. 2 paras. 34, 37, 46-49, 51-59, Sch. 4 Pt. II paras. 38-43. Sch. 9 paras. 16 and 17 repealed (E.W.) ((14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch.15 (with s. 108(6), Sch. 14 para. 1(1), **27(4)**); S.I. 1991/828, **art. 3(2)**

[F6]40 . . . . . .

Textual Amendments

F6 Sch. 2 paras. 34, 37, 46-49, 51-59, Sch. 4 Pt. II paras. 38-43. Sch. 9 paras. 16 and 17 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 2), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

[F7]41 . . . . . .

Textual Amendments

F7 Sch. 2 paras. 34, 37, 46-49, 51-59 Sch. 4, Pt. II paras. 38-43. Sch. 9 paras. 16 and 17 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 2), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

[F8]42 . . . . . .

Textual Amendments

F8 Sch. 2 paras. 34, 37, 46-49, 51-59, Sch. 4 Pt. II paras. 38-43. Sch. 9 paras. 16 and 17 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 2), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

[F9]43 . . . . . .

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Textual Amendments

F9 Sch. 2 paras. 34, 37, 46-49, 51-59, Sch. 4 Pt. II paras. 38-43, Sch. 9 paras. 16 and 17 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Children's Homes Act 1982

F10 44 . . . . . .

Textual Amendments

F10 Sch. 4 para. 44 repealed (E.W.) by Registered Homes Act 1984 (c. 23, SIF 113:3), s. 57, **Sch. 3** and expressed to be repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F11 45 . . . . . .

Textual Amendments

F11 Sch. 2 paras. 50, 60–62, Sch. 4 Pt. II paras. 45–48 and Sch. 9 para. 5 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F12 46 . . . . . .

Textual Amendments

F12 Sch. 2 paras. 50, 60-62, Sch. 4 Pt. II paras. 45-48 and Sch. 9 para. 5 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **s. 108**)(7), Sch.15 (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F13 47 . . . . . .

Textual Amendments

F13 Sch. 2 paras. 50, 60-62, Sch. 4 Pt. II paras. 45-48 and Sch. 9 para. 5 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

F14 48 . . . . . .

Textual Amendments

F14 Sch. 2 paras. 50, 60-62, Sch. 4 Pt. II paras. 45-48 and Sch. 9 para. 5 repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

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PART III

[F15 REGISTERED HOMES TRIBUNALS

Textual Amendments

F15 Sch. 4 Pt. I (paras. 1–23), Pt. II paras. 24–37, 44, Pt. III (paras. 49–56), Sch. 9 paras. 4, 6, 9, 12–14 and 26 repealed (E.W.) by Registered Homes Act 1984 (c. 23, SIF 113:3), s. 57, **Sch. 3**

Preliminary

49 The following are relevant enactments for the purposes of this Part of this Schedule—

(a) the M14Nursing Homes Act 1975;

(b) the M15Child Care Act 1980;

(c) the M16Children's Homes Act 1982; and

(d) Part I of this Schedule.

Marginal Citations

M14 1975 c. 37.

M15 1980 c. 5.

M16 1982 c. 20.

Constitution of panels for chairmen and members

50 (1) For the purpose of enabling a tribunal to hear an appeal under a relevant enactment to be constituted as occasion may require there shall be—

(a) a panel appointed by the Lord Chancellor (in this Part of this Schedule referred to as "the legal panel") of persons available to act as chairmen of any such tribunals; and

(b) a panel appointed by the Lord President of the Council (in this Part of this Schedule referred to as "the panel of experts") of persons available to act as members.

(2) Tribunals constituted under this Part of this Schedule are to be known as Registered Homes Tribunals.

(3) No person shall be qualified to be appointed to the legal panel unless he possesses such legal qualifications as the Lord Chancellor considers suitable.

(4) No person shall be qualified to be appointed to the panel of experts unless he has had experience in social work, medicine, nursing or midwifery or such other experience as the Lord President of the Council considers suitable.

(5) No officer of a government department may be apointed to either panel.

(6) A person appointed to a panel shall hold office subject to such conditions as to the period of his membership and otherwise as may be determined by the person appointing him.

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Constitution of Tribunals—general

51 (1) A Registered Homes Tribunal shall consist of a chairman and two other members.

(2) The chairman shall be a member of the legal panel appointed to the tribunal by the Lord Chancellor.

(3) The other two members shall be members of the panel of experts appointed to the tribunal by the Lord President of the Council.

Tribunals for appeals relating to nursing homes (includingmaternity homes) and mental nursing homes

52 (1) A Registered Homes Tribunal to hear an appeal relating solely to registration under the [M17]Nursing Homes Act 1975 shall include a registered medical practitioner.

(2) Such a tribunal shall also include—

(a) if the appeal relates to registration of a maternity home, a qualified midwife; and

(b) in any other case, a qualified nurse.

(3) A tribunal which is constituted to hear both an appeal relating to registration under the Nursing Homes Act 1975 and an appeal relating toregistration under Part I of this Schedule shall include a person selected in accordance with supparagraph (2) above.

(4) In this Part of this Schedule—

"nursing home" and "maternity home" have the meanings assigned to them by section 1 of the [M18]Nursing Homes Act 1975;

"mental nursing home" has the meaning assigned to it by section 2 of that Act;

"qualified midwife" means a person who is for the time being certified under the [M19]Midwives Act 1951 or registered under the [M20]Nurses, Midwives and Health Visitors Act 1979; and

"qualified nurse" means—

(a) a person who is for the time being registered under section 2(1) ofthe [M21]Nurses Act 1957; or

(b) a person who—

(i) is for the time being registered under the Nurses, Midwives and Health Visitors Act 1979; and

(ii) would have been qualified to be registered under section 2(1) of the Nurses Act 1957.

Marginal Citations

M17 1975 c. 37.
M18 1975 c. 37.
M19 1951 c. 53.
M20 1979 c. 36.
M21 1957 c. 15.

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Procedure of tribunals

53 (1) The Secretary of State may by statutory instrument make rules as to the practice and procedure to be followed with respect to theconstitution of Registered Homes Tribunals, and as to proceedings before such tribunals and matters incidental to or consequential on such proceedings ; and without prejudice to the generality of this paragraph such rules may make provision—

(a) requiring particulars to be supplied of matters relevant to thedetermination of an appeal;

(b) enabling two or more appeals to be heard together; and

(c) as to representation before a tribunal, by counsel or a solicitor or otherwise.

(2) Rules under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

54 The [M22]Arbitration Act 1950 shall not apply to any proceedings before Registered Homes Tribunals except so far as any provision of that Act may be applied to such tribunals with or without modifications by rules made under paragraph 53 above.

Marginal Citations

M22 1950 c. 27.

Staff for tribunals

55 The Secretary of State shall assign such staff as may from time to time be required for Registered Homes Tribunals.

Fees, allowances and expenses

56 The Secretary of State may—

(a) pay to members of Registered Homes Tribunals such fees and allowances as he may, with the consent of the Treasury, determine; and

(b) defray the expenses of such tribunals up to such amount as he may with the like consent determine.**]**

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Commencement Orders yet to be applied to the Health And Social Services And Social Security Adjudications Act 1983
Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2004/288 art. 2-6 commences (2003 c. 43)
- S.I. 2004/480 art. 2-5 commences (2003 c. 43)
- S.I. 2004/1009 art. 2 commences (2003 c. 43)
- S.I. 2004/1019 art. 2 commences (2003 c. 43)
- S.I. 2005/2897 art. 2 commences (2002 c. 38)
- S.I. 2005/2925 art. 24-11 commences (2003 c. 43)
- S.I. 2006/345 art. 2-7 commences (2003 c. 43)
- S.I. 2009/3074 art. 23 commences (2008 c. 4)
- S.I. 2011/849 art. 2 commences (2010 nawm 2)
- S.S.I. 2009/267 art. 2 commences (2007 asp 4)