



# Nursing Homes Act 1975

## CHAPTER 37

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##### Section

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# Nursing Homes Act 1975

## 1975 CHAPTER 37

An Act to consolidate certain enactments relating to nursing homes.

[3rd July 1975]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Meaning of "nursing home" and "mental nursing home"*

1.—(1) In this Act "nursing home" means, subject to subsection (2) below, any premises used, or intended to be used, for the reception of, and the providing of nursing for, persons suffering from any sickness, injury or infirmity. Meaning of "nursing home".

(2) In this Act "nursing home" includes a maternity home (that is to say, any premises used, or intended to be used, for the reception of pregnant women, or of women immediately after childbirth), but does not include—

(a) any hospital or other premises maintained or controlled by a Government department, a local authority as defined in subsection (3) below, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter; or

(b) any mental nursing home as defined in section 2 below.

(3) In subsection (2)(a) above "local authority" means a county council, the council of a district or London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, and the Under Treasurer of the Middle Temple.

Meaning of  
“mental  
nursing  
home”.

**2.—(1)** In this Act “mental nursing home” means, subject to subsection (2) below, any premises used, or intended to be used, for the reception of, and the provision of nursing or other medical treatment (including care and training under medical supervision) for, one or more mentally disordered patients (meaning persons suffering, or appearing to be suffering, from mental disorder), whether exclusively or in common with other persons.

(2) In this Act “mental nursing home” does not include any hospital as defined in subsection (3) below, or any other premises managed by a Government department or provided by a local authority.

(3) In subsection (2) above “hospital” means—

1946 c. 81.

(a) any hospital vested in the Secretary of State by virtue of the National Health Service Act 1946 ;

(b) any accommodation provided by a local authority, and used as a hospital by or on behalf of the Secretary of State under the National Health Service Acts 1946 to 1973 ; and

1973 c. 32.

(c) any special hospital within the meaning of section 40(1) of the National Health Service Reorganisation Act 1973.

*Registration and conduct of nursing homes and  
mental nursing homes*

Registration  
of nursing  
homes and  
mental  
nursing  
homes.

**3.—(1)** Any person who carries on a nursing home or a mental nursing home without being registered under this Act in respect of that home shall be guilty of an offence.

(2) An application for registration under this Act—

(a) shall be made to the Secretary of State ;

(b) shall be accompanied by a fee of such amount as the Secretary of State may by regulations prescribe ;

(c) in the case of a mental nursing home, shall specify whether or not it is proposed to receive in the home patients who are liable to be detained under the provisions of the Mental Health Act 1959.

1959 c. 72.

(3) Subject to section 4 below, the Secretary of State shall, on receiving an application under subsection (2) above, register the applicant in respect of the home named in the application, and shall issue to the applicant a certificate of registration.

(4) Where a person is registered in pursuance of an application stating that it is proposed to receive in the home such patients as are described in subsection (2)(c) above—

(a) that fact shall be specified in the certificate of registration ; and

(b) the particulars of the registration shall be entered by the Secretary of State in a separate part of the register.

(5) The certificate of registration issued under this Act in respect of any nursing home or mental nursing home shall be kept affixed in a conspicuous place in the home, and if default is made in complying with this subsection the person carrying on the home shall be guilty of an offence.

**4.** The Secretary of State may refuse to register an applicant in respect of a nursing home or a mental nursing home if he is satisfied—<sup>Refusal of registration.</sup>

- (a) that the applicant, or any person employed or proposed to be employed by the applicant at the home, is not a fit person (whether by reason of age or otherwise) to carry on or be employed at a home of such a description as that named in the application ; or
- (b) that, for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home is not, or any premises used in connection therewith are not, fit to be used for such a home ; or
- (c) that the home is, or any premises used in connection therewith are, used, or proposed to be used, for purposes which are in any way improper or undesirable in the case of such a home ; or
- (d) in the case of a home other than a maternity home—
  - (i) that the home is not, or will not be, under the charge of a person who is either a registered medical practitioner or a qualified nurse, and is or will be resident in the home ; or
  - (ii) that there is not, or will not be, a proper proportion of qualified nurses among the persons having the superintendence of, or employed in the nursing of the patients in, the home ; or
- (e) in the case of a maternity home—
  - (i) that the person who has, or will have, the superintendence of the nursing of the patients in the home is not either a qualified nurse or a certified midwife ; or
  - (ii) that any person employed, or proposed to be employed, in attending any woman in the home in childbirth, or in nursing any patient in the home, is not either a registered medical practitioner, a certified midwife, a pupil midwife, or a qualified nurse.

Regulations as to conduct of homes.

**5.—**(1) The Secretary of State may make regulations as to the conduct of nursing homes and mental nursing homes, and such regulations may in particular—

- (a) make provision as to the facilities and services to be provided in such homes ;
- (b) provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence against the regulations.

(2) In the case of nursing homes, regulations made under subsection (1) above may empower the Secretary of State to limit the number of persons, or persons of any description, who may be received into any such home, and enable registration of any such home to be made subject to the condition that persons shall not be received into the home in excess of the number fixed for the home in accordance with the regulations.

Supplementary regulations.

**6.** The Secretary of State may make regulations—

- (a) with respect to the registration of persons under this Act in respect of nursing homes and mental nursing homes, and in particular with respect to—
  - (i) the making of applications for registration ;
  - (ii) the refusal and cancellation of registration ;
 and
  - (iii) appeals to magistrates' courts against refusals and cancellations of registration ;
- (b) with respect to the keeping of records relating to nursing homes and mental nursing homes and with respect to the notification of events occurring in such homes ;
- (c) with respect to entry into and the inspection of premises used or reasonably believed to be used as a nursing home ;
- (d) providing that a contravention of or failure to comply with any specified provision of the regulations shall be an offence against the regulations.

Cancellation of registration.

**7.** The Secretary of State may at any time cancel the registration of a person in respect of a nursing home or a mental nursing home—

- (a) on any ground which would entitle him to refuse an application for the registration of that person in respect of that home ;
- (b) on the ground that that person has been convicted of an offence against the provisions of this Act relating

to nursing homes or mental nursing homes, or on the ground that any other person has been convicted of such an offence in respect of that home ;

- (c) on the ground that any condition imposed by section 8(1) and (2) below has not been complied with ;
- (d) on the ground that that person has been convicted of an offence against regulations made under section 5 or section 6 above.

**8.**—(1) It shall be a condition of the registration of any person in respect of a mental nursing home that the number of persons kept at any one time in the home (excluding persons carrying on, or employed in, the home, together with their families) does not exceed such number as may be specified in the certificate of registration. Additional registration conditions for mental nursing homes.

(2) Without prejudice to subsection (1) above, any such registration may be effected subject to such conditions (to be specified in the certificate of registration) as the Secretary of State may consider appropriate for regulating the age, sex or other category of persons who may be received in the home in question.

(3) If any condition imposed by or under subsection (1) or (2) above is not complied with, the person carrying on the home shall be guilty of an offence.

**9.**—(1) Subject to the provisions of this section, any person authorised in that behalf by the Secretary of State may at any time, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, 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 mental nursing home, and may inspect any records kept in pursuance of section 6(b) above. Inspection of mental nursing homes and visiting of patients.

(2) A person authorised under subsection (1) above to inspect a mental nursing home may visit and interview in private any patient residing in the home who is, or appears to be, suffering from mental disorder—

- (a) for the purpose of investigating any complaint as to his treatment made by or on behalf of the patient ; or
- (b) in any case where the person so authorised has reasonable cause to believe that the patient is not receiving proper care ;

and where the person so authorised is a medical practitioner, he may examine the patient in private, and may require the production of, and inspect, any medical records relating to the patient's treatment in that home.

(3) Regulations made under section 5 above may make provision with respect to the exercise on behalf of the Secretary of State of the powers conferred by this section, and may in particular provide—

(a) for imposing conditions or restrictions with respect to the exercise of those powers in relation to mental nursing homes which, immediately before 1st November 1960, were registered hospitals as defined in subsection (4) below, and

(b) subject as aforesaid, for requiring the inspection of mental nursing homes under subsection (1) above to be carried out on such occasions, or at such intervals, as the regulations may prescribe.

1890 c. 5. (4) In subsection (3)(a) above, “registered hospital” means a hospital registered as mentioned in section 231(9) of the Lunacy Act 1890.

(5) Any person who refuses to allow the inspection of any premises, or without reasonable cause refuses to allow the visiting, interviewing or examination of any person by a person authorised in that behalf under this section or to produce for the inspection of any person so authorised any document or record the production of which is duly required by him, or otherwise obstructs any such person in the exercise of his functions, shall be guilty of an offence.

(6) Without prejudice to the generality of subsection (5) above, any person who insists on being present when requested to withdraw by a person authorised as aforesaid to interview or examine a person in private, shall be guilty of an offence.

Effect of  
cancellation  
or death on  
mental  
nursing home  
registration.

**10.—(1)** This section applies to any mental nursing home the particulars of the registration of which are entered in the separate part of the register referred to in paragraph (b) of section 3(4) above, and in subsections (2) and (3) below “patient” means a person suffering or appearing to be suffering from mental disorder.

1959 c. 72.

(2) If the registration of any such home is cancelled under section 7 above at a time when any patient is liable to be detained in the home under the provisions of the Mental Health Act 1959, the registration shall, notwithstanding the cancellation, continue in force until the expiry of the period of two months beginning with the date of the cancellation, or until every such patient has ceased to be so liable, whichever first occurs.

(3) If the person registered in respect of any such home (not being one of two or more persons so registered) dies at a time when any patient is liable to be so detained, the registration



shall continue in force until the expiry of the period of two months beginning with the death, or until every such patient has ceased to be so liable, or until a person other than the deceased has been registered in respect of the home, whichever first occurs.

(4) A registration continued in force by virtue of subsection (3) above shall continue in force—

- (a) as from the grant of representation to the estate of the deceased, for the benefit of the personal representative of the deceased ; and
- (b) pending the grant of such representation, for the benefit of any person approved for the purpose by the Secretary of State.

(5) For the purposes of this Act, a person for whose benefit the registration continues in force by virtue of subsection (3) above shall be treated as registered in respect of the home.

### *Offences*

**11.**—(1) Proceedings in respect of an offence under section 3(1) Proceedings.  
or (5) above relating to a nursing home shall not, without the written consent of the Attorney General, be taken by any person other than a party aggrieved or the Secretary of State.

(2) A local social services authority may institute proceedings for any offence under section 9(5) or (6) above.

**12.** A person guilty of an offence under section 3(1) above Failure to shall be liable on summary conviction to a fine not exceeding register.  
£50 or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three months, or to a fine not exceeding £50, or to both such imprisonment and fine.

**13.**—(1) A person guilty of an offence under section 3(5) Failure to  
above shall be liable on summary conviction— affix  
certificate of  
registration.

(a) to a fine not exceeding £5 ; and,

(b) subject to subsection (2) below, to a further fine not exceeding £2 for each day on which the offence continues after conviction.

(2) The court by which a person is convicted of an original offence under subsection (1) above may fix a reasonable period from the date of conviction for compliance with any directions given by the court ; and where the court has fixed such a period, the daily penalty prescribed by that subsection shall not

be recoverable in respect of any day before the expiry of that period.

Contravention of regulations. **14.** A person guilty of an offence against regulations made under section 5 or section 6 above shall be liable on summary conviction to a fine not exceeding £20.

Breach of condition as to registration. **15.** A person guilty of the offence referred to in section 8(3) above shall be liable on summary conviction to a fine not exceeding £20.

Obstruction. **16.** A person guilty of an offence under section 9(5) or (6) above shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £100, or to both such imprisonment and fine.

Bodies corporate and their officers. **17.—**(1) Subsection (2) below applies to—  
 (a) an offence under section 3(1) or (5) above ;  
 (b) an offence against regulations made under section 5 above so far as that section relates to nursing homes ;  
 (c) an offence against regulations made under section 6 above.

(2) Where an offence referred to in subsection (1) above 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.

*Miscellaneous and supplemental*

Power to exempt Christian Science homes. **18.—**(1) The Secretary of State may grant exemption from the operation of the provisions of this Act in respect of any nursing home or mental nursing home as respects which he is satisfied that it is being, or will be, carried on in accordance with the practice and principles of the body known as the Church of Christ Scientist.

(2) It shall be a condition of any exemption granted under this section that the home in question shall adopt and use the name of Christian Science house.

(3) An exemption granted under this section may at any time be withdrawn by the Secretary of State if it appears to him that the home in question is no longer being carried on in accordance with the said practice and principles.

**19.**—(1) Any regulations under this Act shall be made by Regulations. statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) The power to make regulations conferred on the Secretary of State by section 6 above shall, if the Treasury so directs, be exercisable by the Treasury and the Secretary of State acting jointly.

(3) Any power conferred by this Act to make regulations under section 5 above so far as the power in that section relates to nursing homes, or under section 6 above, may, unless the contrary intention appears, be exercised—

(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 it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise) ;

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

(iii) 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 persons making them consider appropriate.

**20.**—(1) Except where the contrary intention appears, in this Act— Interpretation and construction.

“ local social services authority ” means a council which is a local authority for the purpose of the Local Authority Social Services Act 1970 ; 1970 c. 42.

“ maternity home ” has the meaning given by section 1(2) above ;

“ mental disorder ” has the meaning given by section 4 of the Mental Health Act 1959 (definition and classification of mental disorder), and “ mentally disordered ” shall be construed accordingly ; 1959 c. 72.

“ mental nursing home ” has the meaning given by section 2 above ;

“ nursing home ” has the meaning given by section 1 above ;

“ pupil midwife ” means a person who is undergoing training with a view to becoming a certified midwife, and for that purpose attending women in childbirth, as part of a course of practical instruction in midwifery recognised by the Central Midwives Board ;

1957 c. 15.

“ qualified nurse ” means, subject to subsection (2) below, a person registered in the general part of the register of nurses required to be kept under the Nurses Act 1957, or a person who had before 1st July 1928 completed a three years course of training in a hospital which was during the period of her training, or subsequently became, a training school approved by the General Nursing Council for England and Wales, or the General Nursing Council for Scotland, or the General Nursing Council for Northern Ireland, for the purpose of admission to the general part of that register.

(2) In relation to any premises used or intended to be used solely for the reception of, and the provision of nursing for, a class of patients in whose case the requisite nursing can be suitably and adequately provided by nurses of a class whose names are contained in some part of the register of nurses required to be kept under the Nurses Act 1957, other than the general part of that register, references in the definition of “ qualified nurse ” in subsection (1) above to the general part of the register shall be construed as including references to that other part of the register.

(3) References in this Act to any enactment shall, except in so far as the context otherwise requires, be construed as references to that enactment as amended or applied by or under any other enactment including this Act.

Ancillary provisions of Mental Health Act 1959.  
1959 c. 72.

**21.** So far as section 125 (forgery, false statements, etc.), section 141 (protection for acts done) or section 143 (inquiries) of the Mental Health Act 1959 applied immediately before the commencement of this Act in relation to any provision re-enacted by this Act, those sections shall apply in relation to the corresponding provision of this Act.

Consequential amendments, transitional provisions, savings and repeals.

**22.—(1)** The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments there specified, being amendments consequential upon the provisions of this Act.

(2) The transitional provisions and savings contained in Schedule 2 to this Act shall have effect.

(3) Subject to the provisions of Schedule 2, the enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(4) Nothing in this Act shall be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which 1889 c. 63. relates to the operation of repeals).

**23.**—(1) This Act does not extend to Scotland or Northern Ireland.

(2) The Secretary of State may by order direct that the provisions of this Act relating to mental nursing homes shall, subject to such exceptions, adaptations and modifications as may be specified in the order, extend to the Isles of Scilly, but except as so applied this Act shall not extend to the said Isles.

(3) Any order made by the Secretary of State under subsection (2) above may be varied or revoked by a subsequent order of the Secretary of State made in like manner and subject to the like conditions as the original order.

**24.**—(1) This Act may be cited as the Nursing Homes Act 1975.

Short title  
and com-  
mencement.

(2) This Act shall come into operation on a day appointed by the Secretary of State by order made by statutory instrument.

## SCHEDULES

Section 22.

## SCHEDULE 1

## CONSEQUENTIAL AMENDMENTS

1959 c. 72.

*Amendments of the Mental Health Act 1959*

1. In paragraph (b) of section 37(2) of the Mental Health Act 1959 for the words "Part III of this Act" substitute the words "the Nursing Homes Act 1975".
2. In section 47(3) of the Mental Health Act 1959, for the words "registration authority within the meaning of Part III of this Act" substitute the words "Secretary of State".
3. In section 59 of the Mental Health Act 1959—
  - (a) in subsection (1), in paragraph (c) of the definition of "the managers", for the words "Part III of this Act," substitute the words "the Nursing Homes Act 1975,";
  - (b) in subsection (2), for the words "subsection (1) of section fifteen of this Act" substitute the words "paragraph (b) of subsection (4) of section three of the Nursing Homes Act 1975,".
4. In section 147(1) of the Mental Health Act 1959 for the words "Part III of this Act" in the definition of "mental nursing home" substitute the words "the Nursing Homes Act 1975 ;".

*Amendments of other enactments*

- 1933 c. 12  
(23 & 24 Geo. 5). 5. In section 92 of the Children and Young Persons Act 1933 after the words "mental nursing home" insert the words "within the meaning of the Nursing Homes Act 1975".
- 1948 c. 29  
(11 & 12 Geo. 6). 6. In paragraph (d) of the proviso to section 37(9) of the National Assistance Act 1948 for the words from "as defined" to the end of that paragraph substitute the words "or mental nursing home within the meaning of the Nursing Homes Act 1975,".
- 1963 c. 33. 7. In section 40(4) of the London Government Act 1963 after paragraph (h) add "(i) the Nursing Homes Act 1975:".
- 1970 c. 42. 8. In Schedule 1 to the Local Authority Social Services Act 1970 in the entry relating to the Mental Health Act 1959 for the word "except" substitute the words "and the Nursing Homes Act 1975 so far as its provisions relate to mental nursing homes.".

Section 22.

## SCHEDULE 2

## TRANSITIONAL PROVISIONS AND SAVINGS

1. A person who immediately before the commencement of this Act was registered or deemed to be registered in respect of a nursing home or a mental nursing home under the corresponding enactments repealed by this Act shall be deemed to have been registered in

respect of that home under this Act, subject to the requirements and conditions subsisting in respect of that registration immediately before the commencement.

SCH. 2

2.—(1) In the case of a nursing home which was in existence on 1st July 1928 the registration of a person in respect of that home shall not be cancelled on the ground that the provisions of paragraph (d) or (e) of section 4 above are not complied with unless, in the case of a nursing home not being a maternity home, the nursing of the patients in the home is not under the superintendence of a qualified nurse who is resident in the home.

(2) For the purpose of sub-paragraph (1) above, a nursing home shall not be deemed to be a home which was in existence on 1st July 1928 if, in the case of a home which was carried on at that date by an individual, it has ceased since that date or ceases to be carried on by that individual solely, or, in the case of a home which was carried on at that date by a body corporate, it has ceased since that date or ceases to be under the charge of the individual under whose charge it was at that date.

3.—(1) Without prejudice to paragraph 1 above, in so far as anything done or having effect as if done under or in pursuance of any of the enactments repealed by this Act (in this Schedule referred to as “the repealed enactments”) could have been done under or in pursuance of a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if done under or in pursuance of that provision; and anything begun under any of the repealed enactments may be continued under the corresponding provision of this Act as if begun under that provision.

(2) Sub-paragraph (1) above applies in particular to any order, regulation, application, determination, decision or agreement made, exemption granted or renewed, or requirement or condition imposed.

4. Without prejudice to any express amendment made by this Act, where any enactment or document refers, either expressly or by implication, to any of the repealed enactments, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

5. Where an offence, for the continuance of which a penalty was provided, has been committed under any of the repealed enactments, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence had been committed under the corresponding provision of this Act.

Section 22.

**SCHEDULE 3****REPEALS**

Chapter	Short title	Extent of repeal
26 Geo. 5 & 1 Edw. 8. c. 49.	The Public Health Act 1936.	Sections 187, 188, 193 and 199.
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	Sections 14 to 18; section 23(2); and the entry relating to the Public Health Act 1936 in Part I of Schedule 7.
1963 c. 13.	The Nursing Homes Act 1963.	The whole Act.
1963 c. 33.	The London Government Act 1963.	Section 40(4)(f) so far as it relates to sections 14 to 18 and 23(2) of the Mental Health Act 1959.
1966 c. 42.	The Local Government Act 1966.	In Schedule 3, Part II, the entry relating to section 187(2) of the Public Health Act 1936 and section 14 of the Mental Health Act 1959.
1967 c. 80.	The Criminal Justice Act 1967.	In Schedule 3, Part I, the entries relating to sections 15(3) and 16(2) of the Mental Health Act 1959 and to the Nursing Homes Act 1963.
1973 c. 32.	The National Health Service Reorganisation Act 1973.	Section 41; in section 56(4) the words "or the Nursing Homes Act 1963"; and paragraphs 5, 84 and 85 of Schedule 4.

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