



# Health and Social Services and Social Security Adjudications Act 1983

## 1983 CHAPTER 41

An Act to amend the law relating to the financing of certain social services in England and Wales and Scotland and to children and young persons; to make fresh provision for the Central Council for Education and Training in Social Work and further provision for the remuneration and conditions of service of medical and dental practitioners in the National Health Service and health service officers; to amend the law relating to homes regulated by the Nursing Homes Act 1975, the Child Care Act 1980, the Residential Homes Act 1980 and the Children's Homes Act 1982; to repeal enactments about the designation of health authorities as teaching authorities and membership of authorities so designated; to make further provision for social security adjudication; to make further provision for fees for medical practitioners' certificates relating to notifiable diseases and food poisoning; to abolish certain advisory bodies; to make minor alterations in certain enactments relating to health; and for connected purposes. [13th May 1983]

BE 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:—

### PART I

#### COMMUNITY CARE

#### **1 Joint financing of community services in England and Wales**

The following sections shall be substituted for section 28A of the National Health Service Act 1977—

**“28A Power to make payments towards expenditure on community services.**

- (1) This section applies to the following authorities—
  - (a) a District Health Authority ; and
  - (b) a special health authority established for a London Post-Graduate Teaching Hospital.
- (2) An authority to whom this section applies may, if they think fit, make payments—
  - (a) to a local social services authority towards expenditure incurred or to be incurred by them in connection with any function which, by virtue of section 2(1) or (2) of the Local Authority Social Services Act 1970, is to be performed through their social services committee, other than functions under section 3 of the Disabled Persons (Employment) Act 1958 ;
  - (b) to a district council, towards expenditure incurred or to be incurred by them in connection with their functions under section 8 of the Residential Homes Act 1980 or Part II of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983 (meals and recreation for old people);
  - (c) to an authority who are a local education authority for the purposes of the Education Acts 1944 to 1981, towards expenditure incurred or to be incurred by them in connection with their functions under those Acts, in so far as they perform those functions for the benefit of disabled persons ;
  - (d) to an authority who are a local authority for the purposes of the Housing Act 1957, towards expenditure incurred or to be incurred by them in connection with their functions under Part V of that Act (provision of housing accommodation); and
  - (e) to the following bodies, in respect of expenditure incurred or to be incurred by them in connection with the provision of housing accommodation.—
    - (i) a housing association, as defined in section 189(1) of the Housing Act 1957, which is registered by the Housing Corporation under section 13 of the Housing Act 1974;
    - (ii) the Commission for the New Towns;
    - (iii) a new town development corporation ;
    - (iv) an urban development corporation established under the Local Government, Planning and Land Act 1980 ;
    - (v) the Housing Corporation ; and
    - (vi) the Development Board for Rural Wales.
- (3) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- (4) No payment shall be made under this section in respect of any expenditure unless the expenditure has been recommended for a payment under this section by a joint consultative committee on which the authority proposing to make the payment are represented.

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- (5) The Secretary of State may by directions prescribe conditions relating to payments under this section.
- (6) The power to give such directions may be exercised so as to make, as respects the cases in relation to which it is exercised, the same provision for all cases, 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.
- (7) Without prejudice to the generality of subsection (5) above, the power may be exercised—
- (a) so as to make different provision for England and Wales and different provision for different districts in either; and
  - (b) so as to require, in such circumstances as may be specified.—
    - (i) repayment of the whole or any part of a payment under this section ;
    - (ii) payment, in respect of property acquired with money paid under this section, of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.
- (8) No payment shall be made under this section in respect of any expenditure unless the conditions relating to it—
- (a) accord with the advice given by the joint consultative committee in making the recommendation for a payment under this section in respect of the expenditure in question; and
  - (b) conform with the conditions prescribed for payments of that description under subsection (5) above.
- (9) Where expenditure which has been recommended by a joint consultative committee for a payment under this section is expenditure in connection with services to be provided by a voluntary organisation—
- (a) the authority who are to make the payment may make payments to the voluntary organisation towards the expenditure incurred or to be incurred by the organisation in connection with the provision of those services, instead of or in addition to making payments under subsection (2) above ; and
  - (b) an authority of one of the descriptions specified in paragraph (a), (b), (c) or (d) of subsection (2) above and who have received payments under that subsection may make out of the sums paid to them payments to the voluntary organisation towards expenditure incurred or to be incurred by the organisation in connection with the provision of those services,
- but no payment shall be made under this subsection except subject to conditions—
- (i) which conform with the conditions prescribed for payments of that description under subsection (5) above; and
  - (ii) which accord with the advice given by the joint consultative committee in recommending the expenditure for a payment under this section.

**28B Power of Secretary of State to make payments towards expenditure on community services in Wales.**

- (1) The Secretary of State may, if he thinks fit, make payments—
- (a) to authorities in Wales of any of the descriptions mentioned in paragraphs (a), (b), (c) and (d) of section 28A (2) above, for the purposes respectively mentioned in those paragraphs;
  - (b) to the following bodies, in respect of expenditure incurred or to be incurred by them in connection with the provision of housing accommodation in Wales.—
    - (i) a housing association, as defined in section 189(1) of the Housing Act 1957, which is registered by the Housing Corporation under section 13 of the Housing Act 1974;
    - (ii) the Commission for the New Towns;
    - (iii) a new town development corporation ;
    - (iv) an urban development corporation established under the Local Government, Planning and Land Act 1980 ;
    - (v) the Housing Corporation ; and
    - (vi) the Development Board for Rural Wales.
- (2) The Secretary of State may, if he thinks fit, make payments to a voluntary organisation towards expenditure incurred or to be incurred by the organisation in connection with the provision of services for which he could make payments under subsection (1) above.
- (3) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- (4) Conditions may be attached to a payment under this section.
- (5) Without prejudice to the generality of subsection (4) above, the conditions that may be attached include conditions requiring, in such circumstances as may be specified.—
- (a) repayment of the whole or any part of a payment under this section ;
  - (b) payment, in respect of property acquired with money paid under this section, of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.”.

**2 Support to financing of community services in Scotland**

The following section shall be substituted for section 16A of the National Health Service (Scotland) Act 1978—

**“16A Power to make payments towards expenditure on community services.**

- (1) A Health Board may, if they think fit, make payments in accordance with this section to any regional, islands or district council towards expenditure incurred or to be incurred by them in connection with the performance of the following functions—

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- (a) any function relating to a matter which, by virtue of section 2(2) of the Social Work (Scotland) Act 1968 or any other enactment (other than section 3 of the Disabled Persons (Employment) Act 1958), stands referred to the social work committee of a regional or islands council;
  - (b) any of a regional or islands council's functions under section 1 of the Education (Scotland) Act 1980 in making provision for—
    - (i) special educational needs ;
    - (ii) further education,within the meaning of those terms in that section;
  - (c) any of a district or islands council's functions under Part VII of the Housing (Scotland) Act 1966 (provision of housing accommodation); and
  - (d) any of a regional or islands council's functions under the following provisions—
    - (i) Part III of the National Assistance Act 1948;
    - (ii) section 116 of the Mental Health Act 1983 ;
    - (iii) section 1 or 2 of the Chronically Sick and Disabled Persons Act 1970 ;
    - (iv) section 23 or 297 of the Criminal Procedure (Scotland) Act 1975.
- (2) A Health Board may, if they think fit, make payments in accordance with this section to any of the following bodies towards expenditure incurred or to be incurred by them in connection with the provision of housing accommodation—
- (a) any housing association, as defined in section 208(1) of the Housing (Scotland) Act 1966, which is registered by the Housing Corporation under section 13 of the Housing Act 1974;
  - (b) any development corporation established under section 2 of the New Towns (Scotland) Act 1968;
  - (c) the Housing Corporation ; and
  - (d) the Scottish Special Housing Association.
- (3) Where a voluntary organisation provides services similar to the functions referred to in this section, payments may be made in accordance with this section to any such organisation towards expenditure incurred or to be incurred in connection with the provision of those services and such payments may be made by—
- (a) any Health Board either instead of or in addition to making payments under this section to any council, authority or other body in respect of such services ; and
  - (b) any such council, authority or other body which has received payments from a Health Board under this section, out of the sums so received.
- (4) Any payments made under this section, whether in respect of expenditure of a capital or of a revenue nature, or of both, shall be made in accordance with conditions prescribed for payments of that description by the Secretary of State in directions given under this subsection.”

### 3 Financial assistance to voluntary organisations in Scotland

Section 64 of the Health Services and Public Health Act 1968 (financial assistance to voluntary organisations) shall cease to have effect with regard to Scotland and the following section shall be inserted in the National Health Service (Scotland) Act 1978 after section 16A—

**“16B Financial assistance by the Secretary of State to voluntary organisations.**

- (1) The Secretary of State may, upon such terms and subject to such conditions as he may, with the approval of the Treasury, determine, give to a voluntary organisation to which this section applies assistance by way of grant or loan, or partly in the one way and partly in the other.
- (2) This section applies to a voluntary organisation whose activities consist in or include the provision of a service similar to a relevant service, the promotion or publicising of a relevant service or a similar one or the giving of advice with respect to the manner in which a relevant service or a similar one can best be provided.
- (3) In this section, 'relevant service' means a service which must or may, by virtue of the National Health Service (Scotland) Act 1978, be provided or the provision of which must or may, by virtue of that Act, be secured by the Secretary of State, or a service for the provision of which a Health Board is, by virtue of that Act, under a duty to make arrangements.”.

## PART II

### CHILDREN AND YOUNG PERSONS

### 4 Abolition of regional plans for accommodation for children

- (1) The following section shall be substituted for sections 31 to 34 of the Child Care Act 1980—

**“31 Arrangements for provision of homes for children.**

- (1) A local authority shall make such arrangements as they consider appropriate for securing that homes (in this Act referred to as "community homes") are available for the accommodation and maintenance of children in their care and for purposes connected with the welfare of children, whether in their care or not and, without prejudice to section 101(5) of the Local Government Act 1972, may do so jointly with one or more other local authorities.
- (2) In making such arrangements, a local authority shall have regard to the need for ensuring the availability of accommodation of different descriptions and suitable for different purposes and the requirements of different descriptions of children.
- (3) A community home may be—
  - (a) a home provided, managed, equipped and maintained by a local authority ; or

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- (b) a home provided by a voluntary organisation but in respect of which a local authority and the voluntary organisation propose that, in accordance with an instrument of management, the management, equipment and maintenance of the home shall be the responsibility either of the local authority or of the voluntary organisation.
  - (4) Where a local authority are to be responsible for the management of a community home provided by a voluntary organisation, the authority shall designate the home as a controlled community home.
  - (5) Where a voluntary organisation are to be responsible for the management of a community home provided by the organisation, the local authority shall designate the home as an assisted community home.”.
- (2) A voluntary home designated as a controlled or assisted community home in accordance with a regional plan approved by the Secretary of State under the Child Care Act 1980 shall be deemed to have been designated as such a home by the local authority named in the instrument of management made for the home under section 35 of that Act.

## **5 Closure of controlled or assisted community home**

The following section shall be inserted after section 43 of the Child Care Act 1980—

### **“43A Closure by local authority of controlled or assisted community home.**

- (1) The local authority specified in the instrument of management for a controlled or assisted community home may give the Secretary of State and the voluntary organisation by which the home is provided not less than two years' notice in writing of their intention to withdraw their designation of the home as a controlled or assisted community home.
- (2) A notice under subsection (1) above shall specify the date on which the designation is to be withdrawn.
- (3) Where—
  - (a) a notice is given under subsection (1) above in respect of a controlled or assisted community home; and
  - (b) the body of managers for the home give notice in writing to the Secretary of State that they are unable or unwilling to continue as managers until the date specified ; and
  - (c) their notice is not withdrawn,the Secretary of State may by order revoke the instrument of management from such date earlier than that specified under subsection (2) above as may be specified in the order.
- (4) Before making an order under subsection (3) above the Secretary of State shall consult the local authority and the voluntary organisation.
- (5) Where a notice has been given under subsection (1) above and is not withdrawn, the instrument of management for the home shall cease to have effect on the relevant date and accordingly the home shall cease to be a controlled or assisted community home on that date.

- (6) In subsection (5) above " the relevant date" means the date specified in the notice under subsection (1) above or the earlier date specified in the order under subsection (3) above.”.

## 6 Access to children in care-England and Wales

- (1) The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments there specified, being amendments concerning access to children in the care of local authorities and voluntary organisations.

## 7 Access to children in care-Scotland

- (1) In section 16 of the Social Work (Scotland) Act 1968 (assumption of parental rights and powers), in subsection (5)—
- (a) the words from " unless " to " resolution " where it third occurs shall be left out; and
  - (b) for the words " that person's whereabouts " there shall be substituted the words " the whereabouts of the person whose parental rights and powers have under the resolution vested in the local authority or in the voluntary organisation as the case may be ".
- (2) The following sections shall be inserted in the said Act of 1968 after section 17 of that Act—

### **“17A Termination of access to child subject to resolution under section 16.**

- (1) A local authority or voluntary organisation may not terminate arrangements for access to a child who is the subject of a resolution under section 16 of this Act by his parent or guardian or refuse to make such arrangements unless they have first given the parent or guardian notice of termination or refusal in a form prescribed by order made by the Secretary of State.
- (2) A notice under this section shall contain a statement that the parent or guardian has a right to apply to the sheriff for an order under section 17B of this Act.
- (3) A notice terminating access shall state that access will be terminated as from the date of service of the notice.
- (4) A local authority or voluntary organisation are not to be taken to terminate arrangements for access for the purposes of this section in a case where they propose to substitute new arrangements for access for existing arrangements.
- (5) A local authority or voluntary organisation are not to be taken to refuse to make arrangements for access for the purposes of this section in a case where they postpone access for such reasonable period as appears to them to be necessary to enable them to consider what arrangements for access (if any) are to be made.
- (6) A notice under this section may be served on a parent or guardian either by delivering it to him or by leaving it at his proper address or by sending it by post.



- (7) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of a person shall be his last known address.

#### **17B Access Orders.**

- (1) A parent or guardian on whom a notice under section 17A of this Act is served may apply by way of summary application to the sheriff (in the case of a local authority, the sheriff having jurisdiction in their area) for an order under this section (hereinafter referred to as an " access order ").
- (2) An access order shall be an order requiring the authority or organisation to allow the child's parent or guardian access to the child subject to such conditions as the order may specify with regard to commencement, frequency, duration or place of access or to any other matter for which it appears to the sheriff that provision ought to be made in connection with the requirement to allow access.
- (3) Where an access order has been made—
- (a) the parent or guardian named in the order; or
  - (b) the local authority or voluntary organisation
- may apply by way of summary application to the sheriff for the variation or discharge of the order.

#### **17C Emergency order.**

- (1) The sheriff may make an order under this subsection where he is satisfied that continued access to a child by his parent or guardian in accordance with the terms of an access order will put the child's welfare seriously at risk.
- (2) Subject to subsection (3) below, an order under subsection (1) of this section shall be an order suspending the operation of the access order for 7 days beginning with the date of the order under subsection (1) of this section, or for such shorter period beginning with that date as may be specified in that order.
- (3) If during the period for which the operation of the access order is suspended the local authority or voluntary organisation make an application for its variation or discharge to the sheriff, its operation shall be suspended until the date on which the application to vary or discharge it is determined or abandoned.

#### **17D Safeguarding of interest of child.**

—A court to which an application for an access order or any other application under section 17B or 17C of this Act or any appeal relating thereto is made shall regard the welfare of the child as the first and paramount consideration in determining the matter.

**17E Code of practice.**

- (1) The Secretary of State shall prepare, and from time to time revise, a code of practice with regard to access to children who are in care or who are subject to a supervision requirement under section 44 of this Act.
  - (2) Before preparing the code or making any alteration in it the Secretary of State shall consult such bodies as appear to him to be concerned.
  - (3) The Secretary of State shall lay copies of the code and of any alteration in the code before Parliament; and if either House of Parliament passes a resolution requiring the code or any alteration in it to be withdrawn the Secretary of State shall withdraw the code or alteration and, where he withdraws the code, shall prepare a code in substitution for the one which is withdrawn.
  - (4) No resolution shall be passed by either House of Parliament under subsection (3) above in respect of a code or alteration after the expiration of the period of forty days beginning with the day on which a copy of the code or alteration was laid before that House; but for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
  - (5) The Secretary of State shall publish the code as for the time being in force.”.
- (3) In section 18A of the Act (safeguarding of interests of child), in subsection (1), after the words " 16A(3) " there shall be inserted the words " , 17B, 17C ".

**8 Secure accommodation for children in Scotland**

- (1) In section 32 of the Social Work (Scotland) Act 1968 (requisite conditions for compulsory measures of care for children), in subsection (2) there shall be inserted at the end—
  - “(i) he is in the care of a local authority and his behaviour is such that special measures are needed for his adequate care and control.”.
- (2) In section 59A of the said Act of 1968 (grants in respect of secure accommodation for children), subsection (3) shall be left out.
- (3) In section 60 of that Act (control of residential establishments), in subsection (1)—
  - (a) after paragraph (b) there shall be inserted the following paragraph—
    - “(bb) for the granting of approval by the Secretary of State for the provision and use of accommodation in residential establishments as secure accommodation ;”
  - (b) after paragraph (e) there shall be inserted the following paragraph—
    - “(ee) for prescribing the minimum age below which a child's liberty shall not be restricted in secure accommodation except with the Secretary of State's consent;”
  - (c) after paragraph (f), after the words " classes of establishments " there shall be inserted the words " , different classes of accommodation in residential and other establishments ".
- (4) After section 58 of that Act there shall be inserted the following sections—

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**“58A Residence in secure accommodation.**

- (1) A child who is made subject to a supervision requirement under this Act may not be placed or kept in secure accommodation, except under the provisions of this Act.
- (2) In this Act, " secure accommodation " means accommodation provided in a residential establishment in accordance with regulations made under section 60(1) of this Act for the purpose of restricting the liberty of children.
- (3) Where a children's hearing decide, in accordance with section 44 of this Act, that a child is in need of compulsory measures of care, and they are satisfied that either—
  - (a) he has a history of absconding, and—
    - (i) he is likely to abscond unless he is kept in secure accommodation ; and
    - (ii) if he absconds, it is likely that his physical, mental or moral welfare will be at risk; or
  - (b) he is likely to injure himself or other persons unless he is kept in secure accommodation,they may make it a condition of a supervision requirement under subsection (1)(b) of the said section 44 that the child shall be liable to be placed and kept in secure accommodation in the named residential establishment at such times as the person in charge of that establishment, with the agreement of the director of social work of the local authority required to give effect to the supervision requirement, considers it necessary that he do so.
- (4) The Secretary of State shall have power by regulations to make provision with respect to the placing in secure accommodation of any child—
  - (a) who is subject to a supervision requirement imposed under section 44 of this Act but not subject to a condition imposed under subsection (3) of this section; or
  - (b) who is not subject to such a supervision requirement but who is being cared for by a local authority or voluntary organisation in pursuance of such enactments as may be specified in the regulations,and such regulations shall specify the circumstances which require to pertain before a child may be so placed under regulations made under this subsection and may specify different circumstances for different cases or classes of case.

**58B Time limits on keeping without reference to children's hearing.**

- (1) The Secretary of State shall by regulations prescribe—
  - (a) the maximum period during which a child may be kept under this Act in secure accommodation without the authority of a children's hearing or of the sheriff ;
  - (b) the period within which the case of a child placed under this Act in secure accommodation shall be referred to the reporter and different periods may be prescribed in respect of different cases or classes of case.

- (2) The Secretary of State shall by regulations make provision to enable a child who has been placed in secure accommodation under section 58(A)(4) of this Act or his parent to require that the child's case be brought before a children's hearing within a shorter period than would otherwise apply under regulations made under subsection (1)(a) of this section.
- (3) Where, in any case, a child's hearing direct the reporter to make application to the sheriff for a finding under section 42(2)(c) of this Act (finding that grounds for referral are established), they shall have power, if they are satisfied with regard to the criteria specified in paragraph (a) or (b) of section 58A(3) of this Act, to authorise the detention or, as the case may be, further detention of the child in secure accommodation in a named residential establishment, pending the determination of the case in accordance with section 42(5) or (6) of this Act.

#### **58C Review of secure accommodation condition.**

- (1) A condition imposed under section 58A(3) of this Act, requiring a child to reside in secure accommodation, shall be subject to review by a children's hearing at such time as the local authority recommends and otherwise at such times and in accordance with such provisions as the Secretary of State shall by regulations prescribe.
- (2) A condition to which this section applies shall be reviewed when the supervision requirement is being reviewed, and may be reviewed separately from that review.
- (3) A condition to which this section applies shall cease to have effect at the expiry of the period of three months after it was made, unless it has been reviewed and the condition has been ordered to continue.
- (4) A condition which is continued on review shall cease to have effect at the expiry of the period of—
  - (a) nine months after it is first reviewed;
  - (b) twelve months after the second or any subsequent review, unless it has been reviewed and the condition has been ordered to continue.
- (5) Sections 44 and 48(5) of this Act shall apply to the review of conditions made under section 58A(3) of this Act as they apply to the review of supervision requirements.
- (6) The Secretary of State may from time to time make regulations to vary the periods specified in this section.

#### **58D Sheriff's power to direct condition to cease to have effect.**

Where under section 49(5) of this Act (appeal against decision of children's hearing) the sheriff is satisfied in a case in which there is in force a condition under section 58A(3) of this Act that the decision of the children's hearing is not justified in all the circumstances of the case he shall direct that the condition shall cease to have effect.

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### **58E Warrants to detain in secure accommodation.**

- (1) Where the sheriff or a children's hearing issues a warrant under any of sections 37, 40 and 42 of this Act (detention in a place of safety), he or they may, if satisfied with regard to the criteria specified in paragraph (a) or (b) of section 58A(3) of this Act, authorise the detention or, as the case may be, further detention of the child in secure accommodation in a named residential establishment.
- (2) For the purposes of this section, the Secretary of State may make regulations amending, varying or disapplying any of the criteria specified in the said paragraphs (a) and (b) of section 58A(3) of this Act except in relation to a warrant under section 37 of this Act.

### **58F Procedures for placing in secure accommodation.**

- (1) The Secretary of State may by regulations make provision for the procedures to be applied in the placing of children in secure accommodation, and without prejudice to the foregoing generality may make provision for the referral of cases to a children's hearing for review.
- (2) Regulations under this section may specify the duties of the reporter in relation to the placing of children in secure accommodation.
- (3) Regulations under this section may make provision for the parent of a child being informed of the placing of the child in secure accommodation.

### **58G Transitional provisions.**

Regulations made under sections 58A to 58F of this Act may include such transitional provisions as the Secretary of State may consider necessary, including provisions varying the application of any provision in those sections for a transitional period, either generally, or in relation to specified classes of cases.”.

## **9 Miscellaneous amendments of enactments relating to children and young persons**

Schedule 2 to this Act (which contains amendments relating to children and young persons) shall have effect.

## **PART III**

THE CENTRAL COUNCIL FOR EDUCATION AND TRAINING IN SOCIAL WORK

## **10 The Central Council for Education and Training in Social Work**

- (1) The Central Council for Education and Training in Social Work (in this Part of this Act called "the Council") shall continue in being as a corporate body with the functions which are or may be assigned to it by or under this Part of this Act.

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- (2) Schedule 3 to this Act shall have effect with respect to the Council.
- (3) The Council shall promote training in relevant social work by—
  - (a) seeking to secure suitable facilities for training persons in such work;
  - (b) approving courses as suitable to be attended by persons engaged, or intending to engage, in such work; and
  - (c) seeking to attract persons to such courses.
- (4) An approval under subsection (3)(b) above shall be given by the Council in accordance with rules made by the Council and approved by the Privy Council, and those rules—
  - (a) may specify subjects to be comprised in the courses to be approved; and
  - (b) shall specify the conditions for admission to the courses and for the award by the Council of certificates of their successful completion.
- (5) If it appears to the Council that adequate provision is not being made for further training in relevant social work, the Council shall provide, or secure the provision of, courses for this purpose.
- (6) The Council may—
  - (a) conduct, or make arrangements for the conduct of, examinations in connection with such courses as are mentioned in this section ; and
  - (b) carry out, or assist other persons in carrying out, research into matters relevant to training for relevant social work.
- (7) Subject to subsections (8) to (10) below, the Council may, upon such terms and subject to such conditions as they consider appropriate—
  - (a) make grants ; and
  - (b) pay travelling and other allowances,to persons resident in Great Britain, in order to secure their training in relevant social work.
- (8) The Council shall not make grants or pay allowances under subsection (7) above except for such purposes as the Secretary of State may direct.
- (9) The Secretary of State may by directions specify terms upon which and conditions subject to which the Council are to make grants and pay allowances under subsection (7) above.
- (10) Without prejudice to the generality of subsections (8) and (9) above, directions under those subsections may specify—
  - (a) the courses for which and the categories of student to whom grants may be made and allowances may be paid under subsection (7) above ;
  - (b) maximum amounts to be spent on such grants and allowances;
  - (c) maximum amounts to be spent on such grants and allowances to any individual; and
  - (d) the procedures for accounting for expenditure on such grants and allowances.
- (11) The Secretary of State may by regulations make provision—
  - (a) for conferring on the Council such functions in relation to social work other than relevant social work as are conferred on them by this section in relation to relevant social work; and

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- (b) in that connection, for making any such increase in the maximum number of members of the Council as he may deem expedient.
- (12) The powers to make regulations conferred by subsection (11) above shall be exercisable by statutory instrument.
- (13) Regulations under subsection (11) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (14) The powers to give directions conferred by subsections (8) and (9) above include powers to make different provision in relation to England, Scotland and Wales.
- (15) The power to make regulations conferred by subsection (11) above includes power to make different provision in relation to England, Scotland, Wales and Northern Ireland.
- (16) In this section " relevant social work " means such social work as is required in connection—
  - (a) with health, education or social services provided by local authorities, the Department of Health and Social Services for Northern Ireland or education and library boards in Northern Ireland or provided in the United Kingdom by voluntary organisations ; and
  - (b) with the probation service.

## **PART IV**

### RESIDENTIAL HOMES, NURSING HOMES ETC.

#### **11 Registration of homes**

- (1) Part I of Schedule 4 to this Act shall have effect in place of the provisions of the Residential Homes Act 1980 other than those relating to meals and recreation for old people.
- (2) The amendments to the Nursing Homes Act 1975, the Child Care Act 1980 and the Children's Homes Act 1982 specified in Part II of that Schedule shall have effect.
- (3) Part III of that Schedule shall have effect in relation to tribunals to hear appeals concerning the registration of homes.
- (4) The Secretary of State may by regulations made by statutory instrument make such transitional provision as he considers necessary or expedient in connection with this section.
- (5) Regulations under subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament

## **PART V**

### ORGANISATION OF THE NATIONAL HEALTH SERVICE

#### **12 Amendments of National Health Service Act 1977**

Schedule 5 to this Act shall have effect.

**13 Repeal of provisions about designation and membership of teaching authorities**

Section 9 of the National Health Service Act 1977 and paragraph 4 of Schedule 5 to that Act (which respectively provide for the designation of certain health authorities as teaching authorities and for the membership of authorities so designated) are repealed.

**PART VI****MEDICAL PRACTITIONERS ETC.****14 Medical practitioners etc.**

- (1) Schedule 6 to this Act shall have effect with respect—
- (a) to medical practitioners ;
  - (b) to the provision of general medical services in England and Wales; and
  - (c) to health service officers in England and Wales.
- (2) The amendments to the National Health Service (Scotland) Act 1978 specified in Schedule 7 to this Act shall have effect.

**15 Dental practitioners whose registration is suspended— England and Wales**

In the National Health Service Act 1977—

- (a) the following subsections shall be added to the end of section 35 (arrangements for general dental services)—

“(3) Where the registration of a dental practitioner in the dentists register is suspended—

- (a) by an order under Part II of the Dentists Act 1983 (interim suspension); or
- (b) by a direction or order under Part III of that Act (health cases),

the suspension shall not terminate any arrangements made with him for the provision of general dental services, but he shall not provide such services in person during the suspension.

- (4) Regulations may provide for the making of payments in consequence of suspension to a dental practitioner whose registration is so suspended.”; and

- (b) the following sub-paragraph shall be inserted after paragraph 10(2) of Schedule 5—

“(2A) Where the registration of a dental practitioner in the dentists register is suspended—

- (a) by an order under Part II of the Dentists Act 1983 (interim suspension); or
- (b) by a direction or order under Part III of that Act (health cases),

the suspension shall not terminate any contract of employment made between him and an authority but a person whose registration is suspended under that Part of that Act shall not perform any duties under a contract made between him and an authority



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which involves the practice of dentistry within the meaning of section 33(1) of the Dentists Act 1957.”

## **16 Dental practitioners whose registration is suspended- Scotland**

In the National Health Service (Scotland) Act 1978—

- (a) the following subsections shall be added at the end of section 25 (arrangements for general dental services)—

“(4) Where the registration of a dental practitioner in the dentists register is suspended—

(a) by an order under Part II of the Dentists Act 1983 (interim suspension); or

(b) by a direction or order under Part III of that Act (health cases), the suspension shall not terminate any arrangements made with him for the provision of general dental services, but he shall not provide such services in person during the suspension.

(5) Regulations may provide for the making of payments in consequence of suspension to a dental practitioner whose registration is so suspended.”; and

- (b) the following paragraph shall be inserted after paragraph 6 of Schedule 1—

“(6A) Notwithstanding paragraph 7 of this Schedule, where the registration of a dental practitioner in the dentists register is suspended—

(a) by an order under Part II of the Dentists Act 1983 (interim suspension); or

(b) by a direction under Part III of that Act (health cases), the suspension shall not terminate any contract of employment made between him and a Health Board but a person whose registration is suspended under that Part of that Act shall not perform any duties under a contract made between him and a Health Board which involve the practice of dentistry within the meaning of section 33(1) of the Dentists Act 1957.”.

## **PART VII**

### **CHARGES FOR LOCAL AUTHORITY SERVICES**

## **17 Charges for local authority services in England and Wales**

- (1) Subject to subsection (3) below, an authority providing a service to which this section applies may recover such charge (if any) for it as they consider reasonable.
- (2) This section applies to services provided under the following enactments—
- (a) section 29 of the National Assistance Act 1948 (welfare arrangements for blind, deaf, dumb and crippled persons etc.);
- (b) section 45(1) of the Health Services and Public Health Act 1968 (welfare of old people);

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- (c) Schedule 8 to the National Health Service Act 1977 (care of mothers and young children, prevention of illness and care and after-care and home help and laundry facilities);
  - (d) section 8 of the Residential Homes Act 1980 (meals and recreation for old people); and
  - (e) paragraph 1 of Part II of Schedule 9 to this Act.
- (3) If a person—
- (a) avails himself of a service to which this section applies, and
  - (b) satisfies the authority providing the service that his means are insufficient for it to be reasonably practicable for him to pay for the service the amount which he would otherwise be obliged to pay for it,
- the authority shall not require him to pay more for it than it appears to them that it is reasonably practicable for him to pay.
- (4) Any charge under this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

## **18 Charges for local authority services in Scotland**

In section 87 of the Social Work (Scotland) Act 1968 (charges for services and accommodation) there shall be substituted for subsection (1) the following subsections—

“(1) Subject to sections 78 and 78A of this Act (contributions in respect of maintainable children) and to the following provisions of this section, a local authority providing a service under this Act may recover such charge (if any) for it as they consider reasonable.

(1A) If a person—

- (a) avails himself of a service provided under this Act; and
  - (b) satisfies the authority providing the service that his means are insufficient for it to be reasonably practicable for him to pay for the service the amount which he would otherwise be obliged to pay for it,
- the authority shall not require him to pay more for it than it appears to them that it is reasonably practicable for him to pay.”.

## **19 Contributions in respect of children in care**

- (1) In section 45(1)(ii) of the Child Care Act 1980 (liability for contributions in respect of children in care) the words from " and " to " work " shall cease to have effect.
- (2) The following subsection shall be inserted after section 45(1) of that Act—
- “(1A) A person shall not be liable under subsection (1)(i) above to make any contribution during any period when he is—
- (a) in receipt of benefits under the Supplementary Benefits Act 1976 ; or
  - (b) in receipt of a family income supplement under the Family Income Supplements Act 1970.”.

(3) The following section shall be substituted for section 46 of that Act—

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**“46 Amount of contributions.**

- (1) Subject to the provisions of this section, where a person (a " contributor") is liable under section 45 of this Act to make a contribution in respect of a child in the care of a local authority, the amount of his contribution shall be such amount as may be specified in a notice in writing (a " contribution notice") served on him by the local authority and agreed by him or, in default of agreement, such amount as may be determined by a court under section 47 or 48 of this Act in proceedings for, or for the variation of, a contribution order.
  - (2) The amount specified in a contribution notice shall not be greater than the weekly amount which, in the opinion of the local authority, they would normally be prepared to pay if a child of the same age were boarded out by them (whether or not the child in respect of whom the contribution is proposed is in fact so boarded out and, if he is, whether or not the local authority are in fact paying that amount), but, subject to that, may be either—
    - (a) a standard contribution determined by the local authority for all children in their care ; or
    - (b) such other amount as the local authority consider reasonable in the circumstances.
  - (3) A local authority may at any time withdraw a contribution notice (without prejudice to their power to serve another).
  - (4) A local authority need not serve a contribution notice in any case where in the circumstances they consider it unreasonable to require contributions.”.
- (4) The following paragraphs shall be substituted for paragraphs (a) and (b) of subsection (1) of section 47 of that Act (contribution orders)—
- “(a) the local authority in whose care a child is have served and have not withdrawn a contribution notice in respect of the child ; and
  - (b) the contributor—
    - (i) has not, within the period of one month beginning with the day on which the notice was served, agreed with the local authority on the amount of his contribution, or
    - (ii) has defaulted in making two or more contributions of an amount which has been agreed with the local authority at any time,”.
- (5) In subsection (2) of that section, for the words " proposed in the notice given to the contributor under subsection (1)(a) above" there shall be substituted the words " specified in the contribution notice ".
- (6) In section 78 of the Social Work (Scotland) Act 1968 (duty to make contributions in respect of children in care)—
- (a) in subsection (1) the words " and is engaged in remunerative employment " shall be omitted ; and
  - (b) after subsection (2) there shall be inserted the following subsection—

“(2A) No contributions shall be payable under subsection (1)(a) of this section by a contributor during a period when he is in receipt of—

    - (a) benefits under the Supplementary Benefits Act 1976; or

- (b) a family income supplement under the Family Income Supplements Act 1970.”.

(7) After section 78 of the said Act of 1968 there shall be inserted the following section—

**“78A Recovery of contributions.**

- (1) Section 87 of this Act (charges for services and accommodation) shall not apply to the provision of services (including accommodation) under this Act in respect of maintainable children and the provisions of this section shall apply thereto.'
- (2) A local authority providing such services may recover from a contributor a contribution (if any) of such amount as is reasonable and, subject to that may recover—
  - (a) a standard contribution determined by them in respect of maintainable children who are in their care or under their supervision ; or
  - (b) such other contribution as they consider reasonable in the circumstances.”.

**20 Power of local authority to limit charge for residential accommodation to minimum rate**

- (1) In the National Assistance Act 1948—
  - (a) the following subsection shall be inserted after subsection (5) of section 22 (charges to be made for accommodation)—
    - “(5A) If they think fit, an authority managing premises in which accommodation is provided for a person shall have power on each occasion when they provide accommodation for him, irrespective of his means, to limit to the minimum weekly rate prescribed under subsection (3) above the payments required from him for his accommodation during a period commencing when they begin to provide the accommodation for him and ending not more than eight weeks after that.”; and
  - (b) in section 26(4) (which applies certain provisions of section 22) after the word " Subsections " there shall be inserted the word " (5A), ".
- (2) In section 87(3) of the Social Work (Scotland) Act 1968 there shall be inserted after the word " (4) " the words " (as amended by section 20 of the Health and Social Services and Social Security Adjudications Act 1983) ".

**21 Recovery of sums due to local authority where persons in residential accommodation have disposed of assets**

- (1) Subject to the following provisions of this section, where—
  - (a) a person avails himself of Part III accommodation ; and
  - (b) that person knowingly and with the intention of avoiding charges for the accommodation—
    - (i) has transferred any asset to which this section applies to some other person or persons not more than six months before the date on which he begins to reside in such accommodation ; or

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- (ii) transfers any such asset to some other person or persons while residing in the accommodation ; and
  - (c) either—
    - (i) the consideration for the transfer is less than the value of the asset; or
    - (ii) there is no consideration for the transfer,the person or persons to whom the asset is transferred by the person availing himself of the accommodation shall be liable to pay to the local authority providing the accommodation or arranging for its provision the difference between the amount assessed as due to be paid for the accommodation by the person availing himself of it and the amount which the local authority receive from him for it.
- (2) This section applies to cash and any other asset which falls to be taken into account for the purpose of assessing under section 22 of the National Assistance Act 1948 the ability to pay for the accommodation of the person availing himself of it.
- (3) Subsection (1) above shall have effect in relation to a transfer by a person who leaves Part III accommodation and subsequently resumes residence in such accommodation as if the period of six months mentioned in paragraph (b)(i) were a period of six months before the date on which he resumed residence in such accommodation.
- (4) Where a person has transferred an asset to which this section applies to more than one person, the liability of each of the persons to whom it was transferred shall be in proportion to the benefit accruing to him from the transfer.
- (5) A person's liability under this section shall not exceed the benefit accruing to him from the transfer.
- (6) Subject to subsection (7) below, the value of any asset to which this section applies, other than cash, which has been transferred shall be taken to be the amount of the consideration which would have been realised for it if it had been sold on the open market by a willing seller at the time of the transfer.
- (7) For the purpose of calculating the value of an asset under subsection (6) above there shall be deducted from the amount of the consideration—
  - (a) the amount of any incumbrance on the asset; and
  - (b) a reasonable amount in respect of the expenses of the sale.
- (8) In this Part of this Act " Part III accommodation " means accommodation provided under sections 21 to 26 of the National Assistance Act 1948, and, in the application of this Part of this Act to Scotland, means accommodation provided under the Social Work (Scotland) Act 1968.

## **22 Arrears of contributions charged on interest in land in England and Wales**

- (1) Subject to subsection (2) below, where a person who avails himself of Part III accommodation provided by a local authority in England, Wales or Scotland—
  - (a) fails to pay any sum assessed as due to be paid by him for the accommodation ; and
  - (b) has a beneficial interest in land in England or Wales,the local authority may create a charge in their favour on his interest in the land.

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- (2) In the case of a person who has interests in more than one parcel of land the charge under this section shall be upon his interest in such one of the parcels as the local authority may determine.
- (3) Any interest in the proceeds of sale of land held upon trust for sale is to be treated, subject to subsection (8) below, as an interest in land for the purposes of this section.
- (4) Subject to subsection (5) below, a charge under this section shall be in respect of any amount assessed as due to be paid which is outstanding from time to time.
- (5) The charge on the interest of a joint tenant in the proceeds of sale of land held upon trust for sale shall be in respect of an amount not exceeding the value of the interest that he would enjoy in those proceeds if the joint tenancy were severed but the creation of such a charge shall not sever the joint tenancy.
- (6) On the death of a joint tenant in the proceeds of sale of land held upon trust for sale whose interest in the proceeds is subject to a charge under this section—
  - (a) if there are surviving joint tenants, their interests in the proceeds; and
  - (b) if the land vests in one person, or one person is entitled to have it vested in him, his interest in it,
 shall become subject to a charge for an amount not exceeding the amount of the charge to which the interest of the deceased joint tenant was subject by virtue of subsection (5) above.
- (7) A charge under this section shall be created by a declaration in writing made by the local authority.
- (8) Any such charge, other than a charge on an interest in the proceeds of sale of land, shall in the case of unregistered land be a land charge of Class B within the meaning of section 2 of the Land Charges Act 1972 and in the case of registered land be a registrable charge taking effect as a charge by way of legal mortgage.

### **23 Arrears of contributions secured over interest in land in Scotland**

- (1) Subject to subsection (2) below, where a person (hereinafter referred to as the debtor) who avails himself of Part III accommodation provided by a local authority in Scotland, England or Wales—
  - (a) fails to pay any sum (hereinafter referred to as the debt) assessed as due to be paid by him for the accommodation : and
  - (b) has an interest in land in Scotland (as defined in section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970),
 the local authority may make in their favour and record in the General Register of Sasines or, as appropriate, register in accordance with the Land Registration (Scotland) Act 1979 an order (hereinafter referred to as a charging order) over that interest in land in respect of the amount of that debt.
- (2) In the case of a debtor who has more than one interest in land a charging order shall be over such one of those interests as the local authority may determine.
- (3) On being so recorded or, as the case may be, registered, a charging order over an interest in land shall create a right which shall be deemed to have been granted by the debtor in favour of the local authority over that interest for the purpose of securing any debt due or to become due by him to the local authority in respect of the provision of

the Part III accommodation referred to in subsection (1) above, together with interest thereon as specified in section 24 of this Act, and the local authority shall intimate to the debtor in writing that they have made and recorded or registered the order and inform him of its effect.

- (4) Where the charging order is over an interest in land in which the debtor is uninfert it shall be as valid as if he were infert in that interest.
- (5) Charging orders and the discharge thereof shall be in such form or forms as the Secretary of State may by order prescribe and he may also by order make provision for ascertaining the amount due under the charging order at any time.
- (6) The provisions of Part II of the said Act of 1970 shall apply to a charging order under this section as if it were a standard security in a form prescribed in Schedule 2 to that Act to such extent and with such modifications as the Secretary of State may by order prescribe.
- (7) The power to make an order under subsections (5) and (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### **24 Interest on sums charged on or secured over interest in land**

- (1) Any sum charged on or secured over an interest in land under this Part of this Act shall bear interest from the day after that on which the person for whom the local authority provided the accommodation dies.
- (2) The rate of interest shall be such reasonable rate as the local authority may determine.

### **PART VIII**

#### MISCELLANEOUS

#### **25 Social security adjudications**

- (1) The law relating to social security adjudications shall have effect subject to the amendments specified in Schedule 8 to this Act.
- (2) The supplementary provisions contained in that Schedule shall have effect.

#### **26 Fees for certificates relating to notifiable diseases and food poisoning**

- (1) The following section shall be substituted for section 50 of the Health Services and Public Health Act 1968—

**“50 Fees for certificates under section 48.**

- (1) Subject to any exceptions which he may specify, the Secretary of State may direct that a District Health Authority shall pay to a medical practitioner for each certificate duly sent by him under section 48 of this Act a fee of such amount as the direction may specify.

- (2) The Secretary of State may direct that different fees shall be paid under this section in relation to different circumstances.
- (3) A direction under this section may make provision in relation to fees payable after a date specified in the direction.
- (4) The date may be before or after the date of the direction but may not be before if it would be to the detriment of medical practitioners.
- (5) Before giving a direction as to a fee under this section the Secretary of State shall consult any body accepted by him as a proper body for negotiating fees for medical practitioners.
- (6) For the avoidance of doubt it is hereby declared that the fact that a medical practitioner who gives a certificate under section 48 of this Act holds the office to whose holder the certificate is required to be sent does not disentitle him to payment of the fee (if any) payable for the certificate.”.

(2) The following section shall be inserted after section 71 of that Act—

**“71A Fees for certificates relating to notifiable diseases and food poisoning.**

- (1) Subject to any exceptions which he may specify, the Secretary of State may direct that a Health Board shall pay to a medical practitioner a fee of such amount as the direction may specify for each certificate duly sent by him under—
  - (a) section 3(1) of the Infectious Diseases (Notification) Act 1889 (notifications of infectious diseases);
  - (b) regulations made under section 1 of the Public Health (Scotland) Act 1945 (power to make regulation with a view to preventing the spread of certain diseases);
  - (c) section 22(1) of the Food and Drugs (Scotland) Act 1956 (notification of cases of food poisoning).
- (2) The Secretary of State may direct that different fees shall be paid under this section in relation to different circumstances.
- (3) A direction under this section may make provision in relation to fees payable after a date specified in the direction.
- (4) The date may be before or after the date of the direction but may not be before if it would be to the detriment of medical practitioners.
- (5) Before giving a direction as to a fee under this section the Secretary of State shall consult any body accepted by him as a proper body for negotiating fees for medical practitioners.
- (6) For the avoidance of doubt it is hereby declared that the fact that a medical practitioner who gives any such certificate as is referred to in subsection (1) above holds the office to whose holder the certificate is required to be sent does not disentitle him to payment of the fee (if any) payable for the certificate.
- (7) This section applies to Scotland only.”.



## **27 Abolition of advisory bodies**

The following enactments—

- (a) section 82 of the Food and Drugs Act 1955 (Food Hygiene Advisory Council);
  - (b) section 4 of the Radiological Protection Act 1970 (Advisory Committee on radiation hazards etc.); and
  - (c) section 71 of the Child Care Act 1980 (Advisory Council on Child Care),
- shall cease to have effect and the bodies appointed under them shall cease to exist accordingly.

## **PART IX**

### **SUPPLEMENTARY**

## **28 Financial provisions**

- (1) There shall be defrayed out of money provided by Parliament—
  - (a) any expenses incurred by the Secretary of State for the purposes of the Central Council for Education and Training in Social Work or of Registered Homes Tribunals; and
  - (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.
- (2) Any sums repaid to the Secretary of State in pursuance of this Act shall be paid by him into the Consolidated Fund.

## **29 Minor and consequential amendments**

- (1) The enactments specified in Part I of Schedule 9 to this Act shall have effect subject to the amendments there specified (being minor amendments and amendments consequential on the foregoing provisions of this Act).
- (2) Part II of that Schedule shall have effect in place of the provisions of the Residential Homes Act 1980 relating to meals and recreation for old people.

## **30 Repeals and revocation**

- (1) The enactments specified in Part I of Schedule 10 to this Act (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Part of that Schedule.
- (2) The instrument specified in Part II of that Schedule is revoked to the extent specified in the third column of that Part.
- (3) The following, namely—
  - (a) subsection (3) of section 8 of the Mental Health Act 1959 (which provides that subsection (2) of that section shall not affect the operation of the provisions of Part IV of the National Assistance Act 1948, relating to charities for disabled persons); and
  - (b) Schedule 1 to the Local Authority Social Services Act 1970 (which specifies the enactments conferring functions assigned to the social services committee of a local authority),

shall continue to have effect as amended by paragraphs 2(1) and 4(1) respectively of Schedule 1 to the Residential Homes Act 1980, notwithstanding the repeal of that Act by subsection (1) above.

### **31 Power to repeal or amend local Acts**

- (1) The Secretary of State may by order—
- (a) repeal any provision of a local Act passed before or in the same Session as this Act if it appears to him that the provision is inconsistent with or has become unnecessary in consequence of any enactment contained in this Act or of regulations made under any such enactment;
  - (b) amend any provision of such an Act if it appears to him that the provision requires amendment in consequence of any enactment contained in this Act or of regulations made under any such enactment or of any repeal made by virtue of the preceding paragraph ;
- and an order made in pursuance of this subsection may include such incidental or transitional provisions as the Secretary of State considers are appropriate in connection with the order.
- (2) It shall be the duty of the Secretary of State, before he makes an order in pursuance of subsection (1) above amending or repealing any provision of a local Act, to consult each local authority which he considers would be affected by the amendment or repeal of that provision.
- (3) The power to make orders conferred by subsection (1) above shall be exercisable by statutory instrument; and any statutory instrument made in the exercise of that power shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **32 Commencement**

- (1) This section and sections 33 and 34 below shall come into force on the day this Act is passed.
- (2) Subject to subsection (1) above, the provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed in pursuance of this subsection for different provisions or different purposes of the same provision.

### **33 Extent**

- (1) The following provisions of this Act—
- (a) section 9 and paragraphs 15 and 16 of Schedule 2 ;
  - (b) Part III and Schedule 3 ;
  - (c) section 14(1) (except paragraphs (b) and (c)) and paragraph 1 of Schedule 6 ;
  - (d) section 25(2) and paragraph 31(6) of Schedule 8 ;
  - (e) section 27 (except paragraphs (a) and (c)),
- extend to Northern Ireland.
- (2) Except where the contrary intention appears, subject to subsection (3) below, where any enactment repealed or amended or instrument revoked by this Act extends to

any part of the United Kingdom or to the Channel Islands, the repeal, amendment or revocation extends to that part or those Islands.

- (3) Where this Act makes—
- (a) an amendment of an enactment contained in an Act which makes special provision for extending or applying enactments contained in it to the Isles of Scilly ; or
  - (b) an addition to such an Act,
- the provision for extending or applying enactments shall authorise the extension or application of the amended enactment or addition to the Isles.
- (4) Subsection (3) above applies to an amended enactment whether or not the enactment was extended or applied to the Isles before it was amended.
- (5) Subject to subsections (2) to (4) above, this Act shall, in its application to the Isles, have effect subject to such extensions, adaptations and modifications as the Secretary of State may by order made by statutory instrument prescribe.
- (6) Any statutory instrument made in exercise of the power conferred by subsection (5) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **34 Short title**

This Act may be cited as the Health and Social Services and Social Security Adjudications Act 1983.

## SCHEDULES

### SCHEDULE 1

Section 6.

#### ACCESS TO CHILDREN IN CARE—ENGLAND AND WALES

#### PART I

##### ADDITION OF PART IA TO CHILD CARE ACT 1980

1 The following shall be inserted after section 12 of the Child Care Act 1980—

#### “PART IA

##### ACCESS TO CHILDREN IN CARE

#### **12A Children to whom Part 1A applies.**

- (1) Subject to subsection (2) below, this Part of this Act applies to any child in the care of a local authority in consequence—
  - (a) of a care order (including an interim order);
  - (b) of an order under section 2(1) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960;
  - (c) of committal under section 23(1) of the Children and Young Persons Act 1969 ;
  - (d) of an order under section 2(2)(b) of the Guardianship Act 1973 ;
  - (e) of an order under section 17(1)(b) of the Children Act 1975 or section 26(1)(b) of the Adoption Act 1976 (order on refusal of adoption order);
  - (f) of an order under section 36(2) or (3)(a) of the Children Act 1975 (order on revocation of custodianship order);
  - (g) of an order under section 10(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 ; or
  - (h) of a resolution under section 3 above.
- (2) This Part of this Act does not apply to a child in the care of a local authority in consequence of an order made by the High Court.

#### **12B Termination of access.**

- (1) A local authority may not terminate arrangements for access to a child to whom this Part of this Act applies by its parent, guardian or custodian, or refuse to make such arrangements unless they have first given the parent, guardian or custodian notice of termination or refusal in a form prescribed by order made by the Secretary of State.

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- (2) A notice under this section shall contain a statement that the parent, guardian or custodian has a right to apply to a court for an order under section 12C below.
- (3) A notice terminating access shall state that access will be terminated as from the date of service of the notice.
- (4) A local authority are not to be taken to terminate access for the purpose of this section in a case where they propose to substitute new arrangements for access for existing arrangements.
- (5) A local authority are not to be taken to refuse to make arrangements for access for the purposes of this section in a case where they postpone access for such reasonable period as appears to them to be necessary to enable them to consider what arrangements for access (if any) are to be made.
- (6) A notice under this section may be served on a parent, guardian or custodian either by delivering it to him or by leaving it at his proper address or by sending it by post.
- (7) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of a person shall be his last known address.

#### **12C Access orders—general.**

- (1) A parent, guardian or custodian on whom a notice under section 12B above is served may apply for an order under this section (in this Part of this Act referred to as an "access order").
- (2) An application under subsection (1) above shall be made by way of complaint to an appropriate juvenile court.
- (3) An access order shall be an order requiring the authority to allow the child's parent, guardian or custodian access to the child subject to such conditions as the order may specify with regard to commencement, frequency, duration or place of access or to any other matter for which it appears to the court that provision ought to be made in connection with the requirement to allow access.
- (4) A juvenile court is an appropriate juvenile court for the purposes of this Part of the Act if it has jurisdiction in the area of the authority serving the notice under section 12B above.
- (5) An appeal shall lie to the High Court against any decision of a juvenile court under this Part of this Act.

#### **12D Variation and discharge of access orders.**

- (1) Where an access order has been made—
  - (a) the parent, guardian or custodian named in the order; or
  - (b) the local authority,may apply for the variation or discharge of the order.

- (2) An application under this section shall be made by way of complaint to an appropriate juvenile court.

#### **12E Emergency orders.**

- (1) A qualified justice of the peace may make an order under this subsection where he is satisfied that continued access to a child by its parent, guardian or custodian in accordance with the terms of an access order will put the child's welfare seriously at risk.
- (2) Subject to subsection (3) below, an order under subsection (1) above shall be an order suspending the operation of the access order for 7 days beginning with the date of the order under subsection (1) above, or for such shorter period beginning with that date as may be specified in that order.
- (3) If during the period for which the operation of the access order is suspended the local authority make an application for its variation or discharge to an appropriate juvenile court, its operation shall be suspended until the date on which the application to vary or discharge it is determined or abandoned.
- (4) An application for an order under subsection (1) above may be made ex parte.
- (5) A justice of the peace is a qualified justice of the peace for the purposes of this section if he is a member of a juvenile court panel formed under Schedule 2 to the Children and Young Persons Act 1933.

#### **12F Safeguarding of interests of child.**

- (1) A court—
- (a) to which an application for an access order or any other application under this Part of this Act is made ; or
  - (b) to which an appeal under this Part of this Act is brought,
- shall regard the welfare of the child as the first and paramount consideration in determining the matter.
- (2) In any proceedings before a court under this Part of this Act the court may, where it considers it necessary in order to safeguard the interests of the child, by order make the child a party to the proceedings.
- (3) If the court makes the child a party to the proceedings, it shall in accordance with rules of court appoint a guardian ad litem of the child for the purposes of the proceedings unless it is satisfied that to do so is not necessary for safeguarding the interests of the child.
- (4) A guardian ad litem appointed in pursuance of this section shall be under a duty to safeguard the interests of the child in the manner prescribed by rules of court.

#### **12G Code of practice.**

- (1) The Secretary of State shall prepare, and from time to time revise, a code of practice with regard to access to children in care.

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- (2) Before preparing the code or making any alteration in it the Secretary of State shall consult such bodies as appear to him to be concerned.
- (3) The Secretary of State shall lay copies of the code and of any alteration in the code before Parliament; and if either House of Parliament passes a resolution requiring the code or any alteration in it to be withdrawn the Secretary of State shall withdraw the code or alteration and, where he withdraws the code, shall prepare a code in substitution for the one which is withdrawn.
- (4) No resolution shall be passed by either House of Parliament under subsection (3) above in respect of a code or alteration after the expiration of the period of 40 days beginning with the day on which a copy of the code or alteration was laid before that House ; but for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (5) The Secretary of State shall publish the code as for the time being in force.”.

## PART II

### OTHER AMENDMENTS

- (2) The following subsection shall be added at the end of section 64 of the Child Care Act 1980—
  - “(8) Part IA of this Act applies to a child in respect of whom a resolution under subsection (1) above is in force as it applies to a child such as is mentioned in section 12A above, and accordingly references to a local authority in that Part of this Act include references to a voluntary organisation in which the parental rights and duties with respect to a child have vested under such a resolution.”.
- 3 The following paragraph shall be added at the end of Part I of Schedule 1 to the Legal Aid Act 1974—
  - “9 Proceedings under Part IA of the Child Care Act 1980.”.
- 4 The following sub-paragraph shall be added at the end of section 103(1)(a) of the Children Act 1975—
  - “(iv) section 12F of the Child Care Act 1980 ;”.

## SCHEDULE 2

Section 9.

### MISCELLANEOUS AMENDMENTS RELATING TO CHILDREN AND YOUNG PERSONS

#### *Adoption Act 1958 (c. 5.)*

- 1 The repeals—
  - (a) of section 33 of the Adoption Act 1958 (inspection of books of registered adoption societies) by the Adoption Act 1976 and by the Adoption (Scotland) Act 1978 ; and

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(b) of sections 34(4) and (5) and 34A(6A) and (6B) of that Act by the Adoption (Scotland) Act 1978,  
 are hereby brought into force.

*Children Act 1958 (c. 65)*

2 In section 7 of the Children Act 1958 (removal of foster children kept in unsuitable surroundings) for subsection (4) there shall be substituted the following subsection.

“(4) A local authority may receive into their care under section fifteen of the Social Work (Scotland) Act 1968 (duty of local authority to provide for orphans, deserted children, etc), any child removed under this section, whether or not the circumstances of the child are such that they fall within paragraphs (a) to (c) of subsection (1) of the said section 15 and notwithstanding that he may appear to the local authority to be over the age of seventeen.”.

*Mental Health Act 1959 (c. 72.)*

3 In subsection (1) of section 9 of the Mental Health Act 1959 (functions of children authorities) for the words " section 34 " there shall be substituted the words " section 31 ".

*Social Work (Scotland) Act 1968 (c. 49.)*

4 In subsection (3A) of section 15 of the Social Work (Scotland) Act 1968 (duty of local authority to provide for orphans, deserted children, etc.)—

(a) for the words " notwithstanding that no " there shall be substituted the words " whether or not a "; and

(b) for paragraph (b) there shall be substituted the following paragraph—

“(b) by a parent or guardian of the child in relation to whom no resolution under section 16 of this Act is in effect with respect to the child and who has given the local authority not less than 28 days' notice in writing of his intention to do it.”.

5 In section 20 of that Act (duty of local authority to further the best interests of a child in their care)—

(a) in subsection (1), for the words " , the local authority " there shall be substituted the words " or of a voluntary organisation, they ";

(b) in subsection (2), for the words " a local authority" there shall be substituted the word " they ",

and after the words " the local authority ", there shall be inserted the words " or voluntary organisation "; and

(c) in subsection (3), after the word " authority ", there shall be inserted the words " or voluntary organisation ", and for the words " section 17(3)" there be substituted the words " sections 17(3), 17(3A) ".

6 In subsection (2) of section 23 of that Act (power of Secretary of State to consent to emigration of child in care of local authority in certain circumstances) for the words " or relative " there shall be substituted the words " relative or friend ".



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7 In subsection (1) of section 31 of that Act (restriction on prosecution of children for offences) after the word " child " on each occurrence there shall be inserted the words " under the age of sixteen years " .

8 In section 42 of that Act (application from reporter to sheriff for findings)—

(a) in subsection (6) at the beginning there shall be inserted the words " Subject to subsection (6A) of this section, " ;

(b) after subsection (6) there shall be inserted the following subsection—

“(6A) Notwithstanding the provisions of subsection (2)(c) of this section, where, in the course of the proceedings before the sheriff, the child and his parent accept any of the grounds in respect of which the application has been made, the sheriff may dispense with the hearing of evidence relating to that ground unless he is satisfied that in all the circumstances such evidence should be heard, and deem that ground to have been established for the purposes of this section.”; and

(c) in subsection (7) at the end there shall be added the words—

“except that where any of the grounds for the referral are accepted by the child's parent, whether or not accepted by the child, then, notwithstanding subsection (6A) of this section, the sheriff may dispense with the hearing of evidence relating to that ground if he is satisfied that in all the circumstances it would be reasonable to do so.”.

#### *Family Law Reform Act 1969 (c. 46.)*

9 In section 7(2) of the Family Law Reform Act 1969 (wards of court committed to care of local authority) for the words from " and thereupon" to the end of the subsection there shall be substituted the words “and thereupon—

(a) Part III of the Child Care Act 1980 (which relates to the treatment of children in the care of a local authority); and

(b) for the purposes only of contributions by the child himself at a time when he has attained the age of 16, Part V of that Act (which relates to contributions towards the maintenance of children in the care of a local authority), shall apply, subject to the next following subsection, as if the child had been received by the local authority into their care under section 2 of that Act”.

#### *Children and Young Persons Act 1969 (c. 54.)*

10 The following paragraph shall be substituted for paragraph (bb) of section 1(2) of the Children and Young Persons Act 1969 (conditions for making care orders)—

“(bb) it is probable that the condition set out in paragraph (a) of this subsection will be satisfied in his case, having regard to the fact that a person who has been convicted of an offence mentioned in Schedule 1 to the Act of 1933, including a person convicted of such an offence on whose conviction for the offence an order was made under Part I of the Powers of Criminal Courts Act 1973 placing him on probation or discharging him absolutely or conditionally is, or may become, a member of the same household as the child or young person ;”.

11 The following section shall be inserted after section 14 of that Act—

**“14A Refusal to allow supervisor to visit child or young person.**

Where a supervision order has been made in a case where a condition set out in paragraph (a), (b), (bb) or (c) of section 1(2) above is satisfied, a refusal to comply with a requirement imposed under section 18(2)(b) below—

- (a) that the supervisor of a child or young person shall visit him ; or
- (b) that a child or young person shall be medically examined,

shall be treated for the purposes of section 40 of the Children and Young Persons Act 1933 (under which a warrant authorising the search for and removal of a child or young person may be issued on suspicion of unnecessary suffering caused to, or certain offences committed against, the child or young person) as giving reasonable cause for such suspicion.”.

12 The following subsection shall be inserted after subsection (2) of section 20 of that Act (orders for committal to care of local authorities)—

“(2A) In determining the place of residence of any person for the purposes of this section, any period shall be disregarded during which, while in the care of a local authority (whether by virtue of a care order or not), he resided outside the local authority's area.”.

13 The following section shall be substituted for section 21A of that Act—

**“21A Termination of care order on adoption etc.**

(1) A care order relating to a person under the age of 18 shall cease to have effect—

- (a) on his adoption ;
- (b) if any order under an enactment to which this paragraph applies is made in relation to him ;
- (c) if an order similar to an order under section 25 of the Children Act 1975 is made in relation to him in Northern Ireland, the Isle of Man or any of the Channel Islands.

(2) Subsection (1)(b) above applies to the following enactments—

- (a) sections 14 and 25 of the Children Act 1975 ;
- (b) sections 18 and 55 of the Adoption Act 1976 ; and
- (c) sections 18 and 49 of the Adoption (Scotland) Act 1978.

(3) After the commencement of section 55 of the Adoption Act 1976 subsection (1)(c) above shall have effect with the substitution of " 55 of the Adoption Act 1976 " for " 25 of the Children Act 1975. ".

14 In section 22(2) of that Act (which specifies certain cases where an interim order may provide for the bringing of the person to whom it relates before a specified court only if that court so requires) after the word " five" there shall be inserted the words " or is legally represented ".

15 In section 25 of that Act (transfers of children in care between England or Wales and Northern Ireland)—

- (a) in subsection (1), after the words "training school order" there shall be inserted the words " or by an order under subsection (2) below "; and

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- (b) in subsection (2), after the words " interim order " there shall be inserted the words " or by an order under subsection (1) above ".
- 16 In subsection (3) of section 32 of that Act (which creates an offence of compelling, persuading, inciting or assisting another person to become or continue to be absent as mentioned in subsection (1) of that section) the words "or (1A)" shall be inserted after the word " (1) ".
- 17 Section 46 of that Act (discontinuance of approved schools etc. on establishment of community homes) and Schedule 3 to that Act (which relates to such schools and to other institutions) shall have effect as if—
- (a) any reference to a regional plan approved by the Secretary of State included a reference to a home being designated as a community home under section 31 of the Child Care Act 1980 ; and
- (b) any reference to a planning area included a reference to the area of a local authority.
- 18 In section 65(3) of that Act (grants to voluntary organisations etc.) for the words from "such" to "institution" there shall be substituted the words " part of the premises occupied by the institution forms part of a controlled or assisted community home. ".
- 19 In section 73 of that Act (citation, commencement and extent) in subsection (6) (by virtue of which section 32(1) and (4), among other provisions, extend to the Channel Islands) after the words " 32 (1)" there shall be inserted the word " , (1A) ".

*Matrimonial Causes Act 1973 (c. 18.)*

- 20 In section 43(1) of the Matrimonial Causes Act 1973 (children committed to care of local authority) for the words from "and thereupon " to the end of the subsection there shall be substituted the words " and thereupon—
- (a) Part III of the Child Care Act 1980 (which relates to the treatment of children in the care of a local authority); and
- (b) for the purposes only of contributions by the child himself at a time when he has attained the age of 16, Part V of that Act (which relates to contributions towards the maintenance of children in the care of a local authority),
- shall apply, subject to the provisions of this section, as if the child had been received by the local authority into their care under section 2 of that Act".

*Powers of Criminal Courts Act 1973 (c. 62.)*

- 21 At the end of section 13(1) of the Powers of Criminal Courts Act 1973 (by virtue of which a conviction of an offence for which an order is made placing the offender on probation or discharging him absolutely or conditionally is to be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender) there shall be added the words " and the purposes of section 1(2)(bb) of the Children and Young Persons Act 1969 ".

*Children Act 1975 (c. 72.)*

- 22 In section 4(1) of the Children Act 1975 (approval of adoption societies) for the word " desiring " there shall be substituted—

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- (a) in the first place where it occurs, the words " which is a voluntary organisation and desires " ; and
  - (b) in the second place where it occurs, the word " desires " .
- 23 In subsection (2)(b) of section 37 of that Act (custodianship order on application for adoption or guardianship) for the words " neither of whom falls within paragraph (a)" there shall be substituted the words " neither of whom is a relative of the child or the husband or wife of the mother or father of the child " .
- 24 The following subsections shall be substituted for subsection (1) of section 43A of that Act (restriction on removal of child from England and Wales)—
- “(1) An authorised court, on making an order to which this subsection applies or at any time while such an order is in force, may by order direct, if an application is made under this section, that no person shall take the child to whom the order relates out of England and Wales except with the leave of the court.
- (1A) Subsection (1) applies to the following orders under this Part of this Act—
- (a) a custodianship order ; and
  - (b) an interim order under section 34(5) containing provision regarding legal custody.”.
- 25 In section 51 of that Act (restriction on removal of child where applicant has provided home for three years), for the word " custody "—
- (a) where it secondly occurs in subsection (1); and
  - (b) in subsection (2),
- there shall be substituted the words " care and possession " .
- 26 In section 52 of that Act (return of child taken away in breach of section 51) for the word " custody " , except where it first occurs, there shall be substituted the words " care and possession " .
- 27 In section 101 of that Act (appeals etc.)—
- (a) the words " or the relevant adoption provisions "—
    - (i) shall be substituted, in subsection (1), for the words " or under section 34 or 34A of the Adoption Act 1958 " ; and
    - (ii) shall be inserted, in subsections (2) and (3), after the words " under this Act " ; and
  - (b) the following subsection shall be added after subsection (4)—
 

“(5) In this section " the relevant adoption provisions " means sections 34, 34A and 35(2) of the Adoption Act 1958.”.
- 28 In section 103 of that Act (guardians ad litem etc.)—
- (a) in subsection (1), for the words " a panel" there shall be substituted the words " one or more panels " ; and
  - (b) the following subsection shall be substituted for subsection (2) —
 

“(2) Regulations under subsection (1) may provide—

    - (a) for the defrayment by local authorities of expenses incurred by members of a panel established by virtue of that subsection ; and
    - (b) for the payment by local authorities of fees and allowances for members of such a panel.”.

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*Adoption Act 1976 (c. 36.)*

- 29 In section 3(1) of the Adoption Act 1976 (approval of adoption societies) for the word " desiring " there shall be substituted—
- (a) in the first place where it occurs, the words " which is a voluntary organisation and desires " ; and
  - (b) in the second place where it occurs, the word " desires " .
- 30 Section 10 of that Act (inspection of books of approved adoption societies) is repealed.
- 31 In section 18(6) of that Act (which relates to the freeing of a child for adoption) for the words "who agrees to the adoption of the child " there shall be substituted the words " of the child who can be found " .
- 32 In section 24(2) of that Act (which prevents a court making an adoption order in relation to a child unless it is satisfied that the applicants have not, as respects the child, made any payment or given any reward to a person in contravention of section 57) for the words from " made " to " of " there shall be substituted the word " contravened " .
- 33 Subsections (4) and (5) of section 27 and (8) and (9) of section 28 of that Act (restrictions on removal of child) shall cease to have effect.
- 34 In section 29 of that Act (return of child taken away) after " 28 " , in each place where it occurs in subsections (1) and (2), there shall be inserted " , or section 27 or 28 of the Adoption (Scotland) Act 1978 " .
- 35 The following section shall be inserted after section 58 of that Act—

**“58A Information concerning adoption.**

- (1) Every local authority and every approved adoption society shall transmit to the Secretary of State, at such times and in such form as he may direct, such particulars as he may require with respect—
    - (a) to their performance of all or any of their functions under the enactments mentioned in subsection (2) below; and
    - (b) to the children and other persons in relation to whom they have exercised those functions.
  - (2) The enactments referred to in subsection (1) above are—
    - (a) the Adoption Act 1958 ;
    - (b) Part I of the Children Act 1975 ; and
    - (c) this Act.
  - (3) The clerk of each magistrates' court shall transmit to the Secretary of State, at such times and in such form as he may direct, such particulars as he may require with respect to the proceedings of the court under the enactments mentioned in subsection (2) above.
  - (4) The Secretary of State shall publish from time to time abstracts of the particulars transmitted to him under subsections (1) and (3) above.”.
- 36 In subsection (4) of section 63 of that Act (appeals, etc.) for the words from the beginning to " appeal" there shall be substituted the words " No appeal shall lie to the High Court " .

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- 37 In section 72(1) of that Act—
- (a) in the definition of " adoption order ", after " 21 " there shall be inserted " , 27 and 28 "; and
  - (b) at the end of the definition of " order freeing a child for adoption " there shall be added " and in section 27(2) includes an order under section 18 of the Adoption (Scotland) Act 1978 (order freeing a child for adoption made in Scotland) ".

*Adoption (Scotland) Act 1978 (c. 28.)*

- 38 In section 3(1) of the Adoption (Scotland) Act 1978 (approval of adoption societies) for the word " desiring" there shall be substituted—
- (a) in the first place where it occurs, the words "which is a voluntary organisation and desires " ; and
  - (b) in the second place where it occurs, the word " desires ".
- 39 Section 10 of that Act (inspection of books of approved adoption societies) is repealed.
- 40 In section 18(6) of that Act (freeing of child for adoption) for the words " who agrees to the adoption of the child " there shall be substituted the words " of the child who can be found ".
- 41 In section 24(2) of that Act (no adoption order unless the court is satisfied that the applicants have not, as respects the child, made any payment or given any reward to a person in contravention of section 51) for the words from " made " to " of " there shall be substituted the word " contravened ".
- 42 Subsections (4) and (5) of section 27 and (8) and (9) of section 28. of that Act (restrictions on removal of child) shall cease to have effect.
- 43 In subsections (1) and (2) of sections 27 and 28 and in section 29. of that Act (restrictions on removal of child) for the word " custody " wherever it occurs there shall be substituted the words " care and possession ".
- 44 In section 29 of that Act (return of child taken away) after " 28 " , in each place where it occurs in subsections (1) and (2), there shall be inserted " , or section 27 or 28 of the Adoption Act 1976 ".
- 45 In section 65(1) of that Act—
- (a) in the definition of " adoption order ", after " 20 " there shall be inserted " , 27 and 28 "; and
  - (b) at the end of the definition of "order freeing a child for adoption" there shall be added "and, in section 27(2), includes an order under section 18 of the Adoption Act 1976 (order freeing a child for adoption made in England and Wales)".

*Child Care Act 1980 (c. 5.)*

- 46 The following subsection shall be substituted for subsection (2) of section 3 of the Child Care Act 1980 (under which a local authority who pass a resolution under subsection (1)(b), (c) or (d) are required, if the whereabouts of the person whose parental rights and duties have vested in them are known, to serve notice in writing of the passing of the resolution on him, unless he has consented in writing to its passing)—

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“(2) If the local authority know the whereabouts of the person whose parental rights and duties have vested in them by virtue of a resolution passed under subsection (1)(b), (c) or (d) above, they shall forthwith after it is passed serve notice in writing of its passing on him.”.

47 The following subsection shall be added at the end of section 10 of that Act (powers and duties of local authorities with respect to children committed to their care)—

“(5) This section does not give a local authority—

- (a) the right to consent or refuse to consent to the making of an application under section 18 of the Adoption Act 1976 or section 18 of the Adoption (Scotland) Act 1978 ; or
- (b) the right to agree or refuse to agree to the making of an adoption order or an order under section 55 of the Adoption Act 1976 or section 49 of the Adoption (Scotland) Act 1978.”.

48 In subsection (2) of section 13 of that Act (penalty for assisting children in care to run away etc.)—

(a) for paragraph (b) there shall be substituted the following paragraph—

“(b) by a parent or guardian of the child in relation to whom no resolution under section 3 of this Act is in force with respect to the child and who has given the local authority not less than 28 days' notice in writing of his intention to do it.”; and

(b) for the words " notwithstanding that no " there shall be substituted the words " whether or not a " .

49 At the end of section 21(1) of that Act (provision of accommodation and maintenance for children in care) there shall be added the words " and shall secure, subject to section 18 of this Act, that any accommodation which they provide is, so far as practicable, near the child's home " .

50 The following section shall be substituted for section 21A of that Act—

**“21A Use of accommodation for restricting liberty.**

(1) Subject to the following provisions of this section, a child in the care of a local authority may not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty unless it appears—

(a) that—

- (i) he has a history of absconding and is likely to abscond from any other description of accommodation ; and
- (ii) if he absconds, it is likely that his physical, mental or moral welfare will be at risk; or

(b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.

(2) The Secretary of State may by regulations—

(a) specify—

- (i) a maximum period beyond which a child may not be kept in such accommodation without the authority of a juvenile court; and

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- (ii) a maximum period for which a juvenile court may authorise a child to be kept in such accommodation;
  - (b) empower a juvenile court from time to time to authorise a child to be kept in such accommodation for such further period as the regulations may specify; and
  - (c) provide that applications to a juvenile court under this section shall be made by local authorities.
- (3) It shall be the duty of a juvenile court before which a child is brought by virtue of this section to determine whether any relevant criteria for keeping a child in accommodation provided for the purpose of restricting liberty are satisfied in his case ; and if a court determines that any such criteria are satisfied, it shall make an order authorising the child to be kept in such accommodation and specifying the maximum period for which he may be so kept.
- (4) On any adjournment of a hearing under subsection (3) above a juvenile court may make an interim order permitting the child to be kept during the period of the adjournment in accommodation provided for the purpose of restricting liberty.
- (5) An appeal shall lie to the Crown Court from a decision of a juvenile court under this section.
- (6) A juvenile court shall not exercise the powers conferred by this section in respect of a child who is not legally represented in that court unless either—
- (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance ; or
  - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (7) The Secretary of State may by regulations provide—
- (a) that this section shall or shall not apply to any description of children specified in the regulations ;
  - (b) that this section shall have effect in relation to children of a description specified in the regulations subject to such modifications as may be so specified ;
  - (c) that such other provisions as may be so specified shall have effect for the purpose of determining whether a child of a description specified in the regulations may be placed or kept in accommodation provided for the purpose of restricting liberty.
- (8) The giving of an authorisation under this section shall not prejudice any power of any court in England and Wales or Scotland to give directions relating to the child to whom the authorisation relates.”.

51 In subsection (3) of section 24 of that Act (by virtue of which the Secretary of State may consent to the emigration of a child in the care of a local authority who is too young to form or express a proper opinion on the matter in any case where the child is to emigrate in company with a parent, guardian or relative of his, or is to emigrate for the purpose of joining a parent, guardian relative or friend) for the words " or relative " there shall be substituted the words " relative or friend " .



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- 52 In section 35 of that Act (instruments of management for assisted and controlled community homes)—
- (a) the words " this Part of this Act" shall be substituted—
    - (i) in subsection (1), for the words " a regional plan approved by him"; and
    - (ii) in subsection (2), for the words " a regional plan approved by the Secretary of State"; and
  - (b) the words " in accordance with this Part of this Act" shall be substituted—
    - (i) in subsection (3)(a), for the words " in a regional plan"; and
    - (ii) in subsection (5), for the words " in the regional plan .
- 53 In subsection (1) of section 44 of that Act (financial provisions applicable to cessation of controlled or assisted community home) after the words " section 43 of this Act" there shall be inserted the words " or of subsection (5) of section 43A of this Act ".
- 54 In subsection (1) of section 45 of that Act (by virtue of paragraph (i) of which where a child under 16 is in the care of a local authority under section 2 or by virtue of a care order other than an interim order the father or mother of the child is liable to make contributions in respect of the child)—
- (a) at the beginning of the said paragraph (i) there shall be inserted the words " Subject to subsection (1A) below, "; and
  - (b) for the word " or " in the said paragraph (i) there shall be substituted the word " and ".
- 55 The following section shall be inserted after section 64 of that Act: —

**“64A General duty of voluntary organisation in relation to children in their care.**

- (1) In reaching any decision relating to a child in their care, a voluntary organisation shall give first consideration to the need to safeguard and promote the welfare of the child throughout his childhood ; and shall so far as practicable ascertain the wishes and feelings of the child regarding the decision and give due consideration to them, having regard to his age and understanding.
  - (2) In providing for a child in their care a voluntary organisation shall make such use of facilities and services available for children in their care of the own parents as appears to the organisation reasonable in his case.”.
- 56 In section 79 of that Act (returns of information and presentation of reports etc. to Parliament)—
- (a) the following subsection shall be inserted after subsection (2)—
    - “(2A) The clerk of each magistrates' court shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to the proceedings of the court under Part II of the Children Act 1975.”;
  - (b) in subsection (3), for the words "and (2)" there shall be substituted the words " , (2) and (2A) "; and
  - (c) the following paragraph shall be inserted after subsection (5)(g)
    - “(ga) Part II of the Children Act 1975,”.

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- 57 In section 82 of that Act (grants in respect of voluntary homes which are assisted community homes) for the words " in a regional plan which was then in operation" there shall be substituted the words " either in a regional plan which was then in operation or in accordance with Part IV of this Act ".
- 58 In section 85 of that Act (regulations and orders)—
- (a) in subsection (2), after the words " section 43 " there shall be inserted the words " or 43A(3) "; and
  - (b) in subsection (4), after " 11 " there shall be inserted " , 21A ".
- 59 In paragraph 3 of Schedule 4 to that Act (transitional provisions relating to children in care) after the words " by virtue of ", in the first place where they occur, there shall be inserted the words " a care order or of ".

#### *Interpretation*

- 60 The word "actual" shall be inserted before the word " custody " , wherever it occurs in—
- (a) sections 34(1) and (2) and 34A(1) and (2) of the Adoption Act 1958 ;
  - (b) sections 30(1) and (2), 41(1) and (2) and 42(1) and (2) of the Children Act 1975 ; and
  - (c) sections 27(1) and (2), 28(1) and (2), 29(1) and (2) and 30(1)(a) and (b) of the Adoption Act 1976.
- 61 In section 57(2) of the Adoption Act 1958, for the words " care or possession " , in both places where they occur, there shall be substituted the words " actual custody ".
- 62 The following section shall be inserted after section 57 of the Adoption Act 1958—

**“57A Actual custody.**

- (1) While a person not having legal custody of a child has actual custody of the child, he has the like duties under this Act in relation to the child as if he had legal custody.
- (2) The following, namely—
  - (a) any reference in this Act to the person with whom a child has his home ; and
  - (b) the reference to legal custody in subsection (1) above,
 are to be construed in accordance with Part IV of the Children Act 1975.
- (3) This section does not extend to Scotland.”.

### SCHEDULE 3

Section 10.

#### THE CENTRAL COUNCIL FOR EDUCATION AND TRAINING IN SOCIAL WORK

### PART I

#### MEMBERSHIP

- 1 The Council shall consist of a chairman and not more than 25 other members.

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*Status: This is the original version (as it was originally enacted).*

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- 2 The members of the Council shall be appointed by the Secretary of State.
- 3 Before appointing a member other than the chairman the Secretary of State shall consult any body that appears to him to be appropriate.
- 4 The Chairman shall be appointed for a term not exceeding 5 years but shall be eligible for re-appointment as chairman.
- 5 Each of the other members shall be appointed for a term not exceeding 3 years, except that a member appointed to fill a casual vacancy shall be appointed for the remainder of the term for which his predecessor was appointed.
- 6 A person who is or who has been a member of the Council shall be eligible for re-appointment as a member.
- 7 The persons who are the chairman and members of the Council at the commencement of section 10 above shall cease to hold office on that date but may be re-appointed to the Council.
- 8 A member of the Council may at any time resign his office.
- 9 The Secretary of State may remove a member from office if that member—
- (a) has become bankrupt or made an arrangement with his creditors ;
  - (b) is incapacitated by physical or mental illness ;
  - (c) has been absent from meetings of the Council for a period of 6 months otherwise than for a reason approved by the Secretary of State ; or
  - (d) is in the opinion of the Secretary of State otherwise unable or unfit to discharge the functions of a member.

## PART II

### SUPPLEMENTARY

#### *Committees*

- 10 The Council may appoint one or more committees.
- 11 A committee may be appointed under paragraph 10 above to advise the Council or to perform any of the functions of the Council or for both purposes.
- 12 If the Secretary of State directs the Council to appoint committees to advise the Council on the exercise of the Council's functions so far as they relate to Scotland, Wales or Northern Ireland, it shall be the Council's duty to appoint a committee or committees in accordance with the direction.
- 13 The Council may determine that any committee appointed under paragraph 12 above to advise on the exercise of the Council's functions so far as they relate to Scotland, Wales or Northern Ireland shall also perform any functions of the Council so far as they so relate.
- 14 Where a committee perform any of the Council's functions, the Council may direct that the committee shall cease to perform them.
- 15 No person shall be appointed chairman of a committee unless he is a member of the Council.
- 16 If the Secretary of State so directs, it shall be the duty of the Council to notify to him the name of the person whom they propose to appoint as chairman of any committee

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*Status: This is the original version (as it was originally enacted).*

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appointed to advise the Council on the exercise of the Council's functions so far as they relate to Scotland, Wales or Northern Ireland, whether the committee was established in pursuance of a direction or not.

17 A notification under paragraph 16 above shall be sent to the Secretary of State at least 14 days before the proposed appointment is due to take effect.

18 A person whose proposed appointment has been notified to the Secretary of State shall not be appointed chairman of the committee to the chairmanship of which the Council propose to appoint him if the Secretary of State directs the Council not to appoint him.

#### *Proceedings*

19 The proceedings of the Council or any committee appointed by the Council shall not be invalidated by any vacancy in the membership of the Council or committee, or by any defect in the appointment of any member.

20 The Council and, subject to any directions of the Council, any committee appointed by them, may regulate their own procedure and fix a quorum for their own proceedings.

#### *Staff*

21 The Council may appoint such numbers of staff, of such descriptions and upon such terms as to remuneration and other conditions of service, as the Council may, with the approval of the Secretary of State given with the consent of the Treasury, determine.

22 The Council shall have power, with the approval of the Secretary of State given with the consent of the Treasury—

- (a) to pay pensions, allowances and gratuities to or in respect of the Council's staff ;
- (b) to make payments towards the provision of such pensions, allowances or gratuities ;
- (c) to provide or maintain schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities; and
- (d) to pay compensation to any member of their staff for loss of office.

23 Compensation under paragraph 22(d) above may be in excess of the amount required by the Employment Protection (Consolidation) Act 1978.

#### *Payment of allowances to members*

24 The Council may pay to their members, and to the members of any committee appointed by them, such travelling, subsistence and other allowances as the Council may, with the approval of the Secretary of State given with the consent of the Treasury, determine.

#### *Accounts and audit*

25 The Council shall keep proper accounts and other records in relation to the accounts and prepare in respect of each financial year and transmit to the Secretary of State a statement of account in such form as the Secretary of State may, with the approval of the Treasury, determine.

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- 26 The Secretary of State shall transmit the statement on or before 30th November following the financial year to the Comptroller and Auditor General, who shall examine and certify it and lay copies of it together with his report on it before each House of Parliament.

*Expenses of Council*

- 27 The Secretary of State shall out of money provided by Parliament pay to the Council such sums as may be necessary to defray the Council's approved expenditure so far as that expenditure exceeds any income derived from the exercise of the Council's functions and is not met out of moneys appropriated by Measure of the Northern Ireland Assembly.
- 28 In paragraph 27 above " approved expenditure" means expenditure incurred with the approval of the Secretary of State and the Head of the Department of Health and Social Services for Northern Ireland.

SCHEDULE 4

Section 11.

REGISTERED HOMES

**PART I**

RESIDENTIAL CARE HOMES

*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 personal 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 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 Nursing Homes Act 1975 ;

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- (b) any hospital as defined in section 128 of the 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 Mental Health Act 1983 ;
  - (d) any voluntary home or community home within the meaning of the Child Care Act 1980;
  - (e) any children's home to which the Children's Homes Act 1982 applies ;
  - (f) subject to sub-paragraph (6) below, any school, as defined in section 114 of the Education Act 1944 ;
  - (g) subject to sub-paragraph (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 ;
  - (j) 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 sub-paragraph (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 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 sub-paragraph (5) above until the end of the period of 12 months from the date on which the Secretary of State made the payment.

#### *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 ;

" 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 sub-paragraph (2) below, any council which for the purposes of the Local Authority Social Services Act 1970 is the local authority for the area in which the home is situated ; and

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" standard scale " means the standard scale as defined in section 75 of the 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.

*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 sub-paragraph (1) above—
- (a) any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the half-blood 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.

*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—

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- (a) is registered under the 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.

#### *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—
- (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 not exceeding 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—



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- (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 may for 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 purposes 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 pay an 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 or intended 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
  - (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

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- (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 well-being 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 sub-paragraph (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 sub-paragraph (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 supported their application for the order.

*Procedure—general*

- 14 (1) Subject to sub-paragraph (2) below, where—
- (a) a person applies for registration ; and
  - (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

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(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 sub-paragraph (3) below are satisfied.
- (3) The conditions mentioned in sub-paragraph (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.
- 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

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- (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 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.
- (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.

#### *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 ;

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- (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.
  - (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 sub-paragraphs (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

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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 sub-paragraph (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.
- (2) If in any such case the defence provided by sub-paragraph (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—
- (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

#### *Nursing Homes Act 1975*

- 24 In section 1 of the Nursing Homes Act 1975—
- (a) the following sub-paragraph shall be added at the end of paragraph (c) of subsection (1)—

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- “(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.”;
- (c) at the end of paragraph (e) of subsection (2) there shall be added (but not as part of sub-paragraph (iii)) the words " unless they are used or intended to be used for the pro\* vision of treatment by specially controlled techniques and are not excepted by regulations under paragraph (g) below "; and
- (d) 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 start 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.
- (5) In this section ' treatment' includes diagnosis and ' treated ' shall be construed accordingly.”.
- 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—
- “3A 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—

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- “(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 ".
- 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—
- “8A 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 well-being 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.



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- (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.

### **8B 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,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.

### **8C 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.

#### **8D 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.

#### **8E 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—

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- (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—

**“10A 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, 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—

**“13A 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—

**“17 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 ".

*Child Care Act 1980*

- 38 In section 56 of the Child Care Act 1980 (definition of voluntary home) for the words from " mental" to the end of the section there shall be substituted the words " nursing home or mental nursing home within the meaning of the Nursing Homes Act 1975 or a residential care home within the meaning of Part I of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983 ".

- 39 In section 57 of that Act—

- (a) the following subsections shall be substituted for subsections (3) to (5)—

“(3) On an application duly made under subsection (2) above the Secretary of State may either grant or refuse the application, as he thinks fit, or may grant the application subject to such conditions as he considers appropriate.

- (3A) The Secretary of State may from time to time—

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

- (b) impose an additional condition,

either on the application of the person carrying on the home or without such an application.

- (4) Where at any time it appears to the Secretary of State that the conduct of any voluntary home is not in accordance with regulations made or directions given under section 60 of this Act or is otherwise unsatisfactory, he may cancel the registration of the home and remove it from the register.

- (5) Any person who carries on a voluntary home in contravention—

- (a) of subsection (1) above ; or

- (b) of a condition to which the registration of the home is for the time being subject by virtue of this Part of this Act,

shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding—

- (i) level 5 on the standard scale, if his offence is under paragraph (a) above ; and

- (ii) level 4 on that scale, if it is under paragraph (b) above.”;

- (b) in subsection (6)—

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(i) for the words from the beginning of the subsection to the end of paragraph (b) there shall be substituted the words—

“Where—

- (a) a voluntary home is carried on in contravention of the provisions of subsection (1) above or of a condition to which the registration of the home is for the time being subject by virtue of this Part of this Act, or
- (b) notice of a proposal to cancel the registration of a voluntary home is given under section 57A below;”;

(ii) for " 58 " there shall be substituted " 57D ";

- (c) in subsection (7), for the words " removes a home from the register " there shall be substituted the words " cancels the registration of a home "; and
- (d) the following subsections shall be substituted for subsection (8)—

“(8) Any notice or other document required under this Part of this Act to be served by the Secretary of State on a person carrying on, or intending to carry on, a voluntary 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.

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

(10) 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.

(11) 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 (9) 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.”.

40 The following sections shall be inserted after that section—

**“57A Procedure.**

(1) Subject to subsection (2) below, where—

- (a) a person applies for registration of a voluntary home ; and
- (b) the Secretary of State proposes to grant his application, 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 need not give notice of such a proposal if he proposes to grant the application subject only to conditions which—

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- (a) the applicant specified in the application ; or
  - (b) the Secretary of State and the applicant have subsequently agreed.
- (3) The Secretary of State shall give an applicant for registration of a voluntary home notice of a proposal to refuse his application.
- (4) The Secretary of State shall give any person carrying on a voluntary home notice of a proposal—
- (a) to cancel the registration of the home ;
  - (b) to vary any condition for the time being in force in respect of the home by virtue of this Part of this Act; or
  - (c) to impose any additional condition.
- (5) A notice under this section shall give the Secretary of State's reasons for his proposal.

**57B Right to make representations.**

- (1) A notice under section 57A 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 the matter.
- (2) Where a notice has been served under section 57A above, the Secretary of State shall not determine the matter 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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### **57C 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 his proposal.
- (2) A notice under this section shall be accompanied by a note explaining the right of appeal conferred by section 57D below.
- (3) A decision of the Secretary of State, other than a decision to grant an application for registration subject only to such conditions as are mentioned in section 57A(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 section 57D(3) below; and
  - (b) if an appeal is brought, until it is determined or abandoned.

### **57D Appeals.**

- (1) An appeal against a decision of the Secretary of State under this Part of this Act shall be made to a Registered Homes Tribunal.
- (2) An appeal shall be brought by notice in writing given to the Secretary of State.
- (3) No appeal may be brought by a person more than 28 days after service on him of notice of the decision.
- (4) On an appeal the Tribunal may confirm the Secretary of State's decision or direct that it shall not have effect.
- (5) A Tribunal shall also have power on an appeal—
  - (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 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.
- (6) The Secretary of State shall comply with any directions given by a Tribunal under this section.”.

41 In section 60(1)(a) of that Act after the word "accommodation " there shall be inserted the word " , staff ".

42 In subsection (4) of section 76 of that Act (inquiries) for the words from "mental" to the end of the subsection there shall be substituted the words " nursing home or mental nursing home within the meaning of the Nursing Homes Act 1975 or a residential care home within the meaning of Part I of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983 ".

43 In subsection (1) of section 87 of that Act (interpretation) the following definition shall be inserted after the definition of " the relevant authorities " —

“' standard scale' means the standard scale as defined in section 75 of the Criminal Justice Act 1982 ;”.

*Children's Homes Act 1982*

44 In paragraph (c) of section 1(2) of the Children's Homes Act 1982 (institutions excluded from application of Act) for the words "the Residential Homes Act 1980" there shall be substituted the words " Part I of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983 ".

45 In section 4 of that Act—

(a) the following subsection shall be substituted for subsection

“(2) A local authority may from time to time—

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

(b) impose an additional condition,

either on the application of the person carrying on the home or without such an application.”; and

(b) in subsection (3), after the word " imposed " there shall be inserted the words " or varied ".

46 The following sections shall be inserted after section 6 of that Act—

**“6A Procedure.**

(1) Subject to subsection (2) below, where—

(a) a person applies for the registration of a children's home; and

(b) the local authority propose to grant his application,

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

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

(4) The local authority shall give any person carrying on a registered 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.

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

**6B Right to make representations.**

(1) A notice under section 6A above shall state that within 14 days of service of the notice any person on whom it is served may in writing require the local authority to give him an opportunity to make representations to them concerning the matter.



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- (2) Where a notice has been served under section 6A above, the local authority shall not determine the matter until either—
  - (a) any person on whom the notice was served has made representations to them concerning the matter; or
  - (b) the period during which any such person could have required the local authority 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 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 local authority to give him an opportunity to make representations to them concerning the matter;
  - (b) that the local authority have 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 local authority that he desires to make oral representations, the local authority shall give him an opportunity of appearing before and of being heard by a committee or sub-committee of the local authority.

#### **6C Decision of local authority.**

- (1) If the local 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 section shall be accompanied by a note explaining the right of appeal conferred by section 6D below.
- (3) A decision of a local authority, other than a decision to grant an application for registration subject only to such conditions as are mentioned in section 6A(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 section 6D(3) below; and
  - (b) if an appeal is brought, until it is determined or abandoned.

#### **6D Appeals.**

- (1) An appeal against a decision of a local authority under this Act shall lie to a Registered Homes Tribunal.
- (2) An appeal shall be brought by notice in writing given to the local authority.
- (3) No appeal may be brought by a person more than 28 days after service on him of notice of the decision.

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- (4) On an appeal the Tribunal may confirm the local authority's decision or direct that it shall not have effect.
- (5) A Tribunal shall also have power on an appeal—
  - (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.
- (6) A local authority shall comply with any direction given by a Tribunal under this section.

### **6E Prohibition of further applications.**

- (1) Subject to subsection (2) below, where an application for the registration of a home is refused, no further application for the registration of the home may be made within the period of six months beginning with the date when the applicant is notified of the refusal.
- (2) Subsection (1) above shall have effect, where an appeal against the refusal of an application is determined or abandoned, as if the reference to the date when the applicant is notified of the refusal were a reference to the date on which the appeal is determined or abandoned.
- (3) Subject to subsection (4) below, where the registration of a home is cancelled, no application for the registration of the home shall be made within the period of six months beginning with the date of cancellation.
- (4) Subsection (3) above shall have effect, where an appeal against the cancellation of the registration of a home is determined or abandoned, as if the reference to the date of cancellation were a reference to the date on which the appeal is determined or abandoned.”.

47 The following section shall be substituted for section 12 of that Act—

### **“12 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 children's 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 Interpretation Act 1978 (which defines "service by post") a letter to a person carrying on a children's 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

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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.”

48 The following subsections shall be added at the end of section 16 of that Act—

“(4) This Act shall, in its application to the Isles of Stilly, have effect subject to such exceptions, adaptations and modifications as the Secretary of State may by order made by statutory instrument prescribe.

(5) A statutory instrument made in exercise of the powers conferred by subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament”.

### **PART III**

#### REGISTERED HOMES TRIBUNALS

##### *Preliminary*

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

- (a) the Nursing Homes Act 1975 ;
- (b) the Child Care Act 1980 ;
- (c) the Children's Homes Act 1982 ; and
- (d) Part I of this Schedule.

##### *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 appointed 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  
(including maternity homes) and mental nursing homes*

- 52 (1) A Registered Homes Tribunal to hear an appeal relating solely to registration under the 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 to registration under Part I of this Schedule shall include a person selected in accordance with sub-paragraph (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 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 Midwives Act 1951 or registered under the 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) of the 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.

*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 the constitution 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 the determination 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.

*Status: This is the original version (as it was originally enacted).*

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

54 The 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.

*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.

SCHEDULE 5

Section 12.

AMENDMENTS OF NATIONAL HEALTH SERVICE ACT 1977

1 The National Health Service Act 1977 shall have effect subject to the amendments specified in this Schedule.

2 In section 22 (co-operation between health authorities and local authorities)—

(a) the following subsection shall be inserted after subsection (3)—

“(3A) It is the Secretary of State's duty by order to secure as respects each joint consultative committee that it includes additional members appointed in a manner specified in the order by voluntary organisations.”;

(b) in subsection (4)(e), for the words " not members of the authorities represented by the joint consultative committee " there shall be substituted the words " neither—

(i) members of the authorities represented by the joint consultative committee ; nor

(ii) appointed by virtue of an order under subsection (3A) above " ; and

(c) the following subsection shall be inserted after subsection (5)—

“(6) Without prejudice to the generality of section 126(4) below, the power to make an order conferred by subsection (3A) above may be exercised so as to make different provision for England and Wales and different provision for different communities in either.”

3 In section 98 (accounts and audit)—

(a) the following paragraph shall be inserted after subsection (1)(c) —

“(cc) every Family Practitioner Committee;”;

- (b) in subsection (4)(a), for the words " those Authorities, special authorities and special trustees " there shall be substituted the words " the bodies mentioned in subsection (1) above, other than the Dental Estimates Board ".

## SCHEDULE 6

Section 14.

## MEDICAL PRACTITIONERS ETC.

*Medical practitioners whose registration is suspended*

- 1 The following subsection shall be inserted after subsection (2) of section 28 (appointments not to be held except by fully registered persons) of the Medical Act 1956—

“(2A) Suspension of the registration of a fully registered person by any of the following, namely—

- (i) a direction of the Health Committee of the General Medical Council under section 8(1) or (2) of the Medical Act 1978 (unfitness to practise by reason of physical or mental condition);
- (ii) an order of that Committee under section 9(1) of that Act (order for immediate suspension) ; or
- (iii) an interim order of the Preliminary Proceedings Committee of the Council under section 13(3)(b) of the Medical Act 1978,

shall not terminate any appointment such as is mentioned in subsection (1) above, but the person suspended shall not perform the duties of such an appointment during the suspension.”.

*Arrangements for provision of general medical services in England and Wales*

- 2 (1) The following paragraphs shall be added at the end of subsection (2) of section 29 (arrangements and regulations for general medical services) of the National Health Service Act 1977—

- “(f) for the making of arrangements for the temporary provision of general medical services ;
- (g) for the circumstances in which a name added to the list by virtue of subsection (6) below may be removed from it.”.

- (2) The following subsections shall be inserted after subsection (5) of that section—

“(6) The persons with whom arrangements for the temporary provision of general medical services in a district may be made by virtue of regulations under subsection (2) above include medical practitioners who are not on the list of medical practitioners providing such services in the district, and the power to prepare and publish lists of medical practitioners conferred by paragraph (a) of that subsection accordingly includes power to add the names of medical practitioners with whom such arrangements are made to the list.

- (7) Regulations may provide that this Act and any regulations made under it shall apply in relation—

- (a) to the making of arrangements for the temporary provision of general medical services ; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) to the provision of general medical services in pursuance of any such arrangements,  
subject to such modifications as may be specified in the regulations.
- (8) Where the registration of a medical practitioner in the register of medical practitioners is suspended—
  - (a) by a direction of the Health Committee of the General Medical Council under section 8(1) or (2) of the Medical Act 1978 (unfitness to practise by reason of physical or mental condition);
  - (b) by an order of that Committee under section 9(1) of that Act (order for immediate suspension); or
  - (c) by an interim order of the Preliminary Proceedings Committee of the Council under section 13(3)(b) of that Act,the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services in person during the suspension.”.

*Control of remuneration and conditions of service of health service officers*

- 3 (1) In paragraph 10(1) of Schedule 5 to the National Health Service Act 1977 for the words from the beginning to " of ", in the second place where it occurs, there shall be substituted the words " Subject to and in accordance with regulations and such directions as may be given by the Secretary of State, an authority (other than a Family Practitioner Committee) may employ such officers as it may determine at such remuneration and on such conditions of service as it may determine ; and regulations and directions under "
- (2) The following sub-paragraphs shall be inserted after that sub-paragraph—
  - “(1A) Regulations or directions under sub-paragraph (1) above may provide for approvals or determinations to have effect from a date specified in them.
  - (1B) The date may be before or after the date of giving the approvals or making the determinations but may not be before if it would be to the detriment of the officers to whom the approvals or determinations relate.”.

*Provisions relating to Preserved Boards of Governors*

- 4 For the purposes of section 15(3) of the National Health Service Reorganisation Act 1973 (which relates to a preserved Board of Governors)—
  - (a) section 14 of the National Health Service Act 1946 (conditions of service and appointment of officers) shall be treated as if—
    - (i) in subsection (1), for the words " subject to regulations," there were substituted the words " subject to and in accordance with regulations and such directions as may be given by the Secretary of State, "; and
    - (ii) the following subsections were inserted after that subsection—
      - “(1A) Regulations or directions under subsection (1) of this section may provide for approvals or determinations to have effect from a date specified in them.

*Status: This is the original version (as it was originally enacted).*

- (1B) The date may be before or after the date of making the regulations or giving the directions but may not be before if it would be to the detriment of the officers to whom the approvals or determinations relate.”;
- (b) section 66 (regulations as to qualifications, remuneration and conditions of service of officers) shall be treated as if, after the word " and ", in the second place where it occurs, there were inserted the words " , subject to directions under section 14(2) of this Act, " .

## SCHEDULE 7

Section 14.

### AMENDMENT OF NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978

#### *Delegation of functions to Health Boards*

- 1 In section 2 of the National Health Service (Scotland) Act 1978 (constituting of Health Boards) in subsection (1), for the words from "functions" to "determine" where it secondly occurs substitute " such of his functions under this Act as he may so determine, " .

#### *Arrangements for provision of general medical services in Scotland*

- 2 In section 19 (arrangements and regulations for general medical services) of that Act—
- (a) at the end of subsection (2) insert—
- “(f) for the making of arrangements for the temporary provision of general medical services in an area ;
- (g) for the circumstances in which a name added to the list by virtue of subsection (5) below may be removed from it.”.
- (b) after subsection (4) insert—
- “(5) The persons with whom arrangements for the temporary provision of general medical services in an area may be made by virtue of regulations under subsection (2) include medical practitioners who are not on the list of medical practitioners providing such services in the area, and the power to prepare and publish lists of medical practitioners conferred by paragraph (a) of that subsection accordingly includes power to add the names of medical practitioners with whom such arrangements are made to the lists.
- (6) Regulations may provide that this Act and any regulations made under it shall apply in relation—
- (a) to the making of arrangements for the temporary provision of general medical services ; and
- (b) to the provision of general medical services in pursuance of any such arrangements,
- subject to such modifications as may be specified in the regulations.



*Status: This is the original version (as it was originally enacted).*

(7) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

- (a) by a direction of the Health Committee of the General Medical Council under section 8(1) or (2) of the Medical Act 1978 (unfitness to practise by reason of physical or mental condition);
- (b) by an Order of that Committee under section 9(1) of that Act (order for immediate suspension) ; or
- (c) by an interim order of the preliminary Proceedings Committee of the Council under section 13(3)(b) of that Act,

the suspension shall not terminate any arrangements made with him for the provision of general medical services ; but he shall not provide such services in person during that period of suspension.”.

#### *Disposal of land*

3 In section 79 of that Act (purchase of land and moveable property) after subsection (1) insert—

“(1A) Without prejudice to any other power of disposal, the Secretary of State may dispose of any land which he considers is no longer required for the purposes of any service under this Act and where he has delegated any of his functions with regard to the acquisition, management or disposal of land to a Health Board or to the Agency, any instrument in connection with the exercise of those functions shall be deemed to be validly executed by him if it is executed on his behalf by any officer of the Health Board or the Agency authorised by him for the purpose ; and any instrument so executed shall, for the purposes of section 1(8) and (9) of the Re-organisation of Offices (Scotland) Act 1939, be deemed to have been executed by an officer of the Secretary of State duly authorised by him.”.

#### *Control of remuneration and conditions of service of employees*

4 (1) The following paragraph shall be added after paragraph 5 of Schedule 1 to that Act—

“5A Regulations or directions under paragraph 5 may provide for approvals, authorisations or determinations to have effect from a date (which may be before or after the date of giving or making them but may not be before if to the detriment of such officers and servants) specified in them.”.

(2) The following paragraph shall be added after paragraph 7 of Schedule 5 to that Act—

“7A Regulations or directions under paragraph 7 may provide for approvals, authorisations or determinations to have effect from a date (which may be before or after the date of giving or making them but may not be before if to the detriment of such officers and servants) specified in them.”.

## SCHEDULE 8

Section 25.

## SOCIAL SECURITY ADJUDICATIONS

**PART I**

## GENERAL

- 1 (1) The functions of insurance officers appointed under the Social Security Act 1975, benefit officers appointed under the Supplementary Benefits Act 1976 and supplement officers appointed under the Family Income Supplements Act 1970 shall be exercised by officers to be called adjudication officers.
- (2) The functions of local tribunals constituted under the Social Security Act 1975 and of Appeal Tribunals constituted under the Supplementary Benefits Act 1976 shall be exercised by tribunals to be called social security appeal tribunals.
- (3) Accordingly—
- (a) any enactment or instrument passed or made before the coming into force of this paragraph shall have effect, so far as may be necessary in consequence of the changes made by this paragraph, as if—
    - (i) for any reference to an officer whose functions are transferred by sub-paragraph (1) above there were substituted a reference to an adjudication officer ; and
    - (ii) for any reference to a tribunal whose functions are transferred by sub-paragraph (2) above there were substituted a reference to a social security appeal tribunal; and
  - (b) documents and forms printed or duplicated for use in connection with the officers and tribunals whose functions are so transferred may be used notwithstanding that they contain references to such officers and tribunals and those references shall be construed as references to adjudication officers and social security appeal tribunals.
- (4) Without prejudice to the generality of sub-paragraph (3)(a) above the enactments specified in Parts II to V of this Schedule shall have effect subject to the amendments there specified.

**PART II**

## AMENDMENTS OF SOCIAL SECURITY ACT 1975

- 2 The following subsections shall be substituted for section 97(1) and (2) of the Social Security Act 1975—

**“97 Adjudication officers and bodies.**

- (1) Adjudication officers shall be appointed by the Secretary of State, subject to the consent of the Treasury as to number, and may include officers of the Department of Employment appointed with the concurrence of the Secretary of State in charge of that Department.

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*Status: This is the original version (as it was originally enacted).*

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- (1A) An adjudication officer may be appointed to perform all the functions of adjudication officers under any enactment or such functions of such officers as may be specified in his instrument of appointment.
- (1B) The Secretary of State shall appoint a Chief Adjudication Officer.
- (1C) It shall be the duty of the Chief Adjudication Officer to advise adjudication officers on the performance of their functions under this or any other Act.
- (1D) The Chief Adjudication Officer shall keep under review the operation of the system of adjudication by adjudication officers under this and any other Act and matters connected with the operation of that system.
- (IE) The Chief Adjudication Officer shall report annually in writing to the Secretary of State on the standards of adjudication and the Secretary of State shall publish his report.
- (2) A social security appeal tribunal shall consist of a chairman and two other persons.
- (2A) One of those persons shall be drawn from the panel mentioned in sub-paragraph (3) of paragraph 1 of Schedule 10 to this Act.
- (2B) The other shall be drawn from the panel mentioned in sub-paragraph (4) of that paragraph.
- (2C) The President shall nominate the chairman.
- (2D) The President may nominate as chairman either himself or a person drawn—
- (a) from the panel appointed by the Lord Chancellor or, as the case may be, the Lord President of the Court of Session under section 7 of the Tribunals and Inquiries Act 1971; or
- (b) from the persons appointed to act as chairmen under paragraph IA of Schedule 10 to this Act.
- (2E) Subject to regulations under paragraph 31 of Schedule 8 to the Health and Social Services and Social Security Adjudications Act 1983, no person shall be appointed chairman of a tribunal under subsection (2D)(a) above unless he is a barrister, advocate or solicitor of not less than 5 years' standing.”.
- 3 The following subsection shall be inserted after section 104(1) of that Act—
- “(1A) Any decision of an adjudication officer may in prescribed circumstances be reviewed, upon the ground that it was erroneous in point of law, by an adjudication officer or, on a reference from an adjudication officer, by a social security appeal tribunal.”.
- 4 In section 112(3) of that Act (under which no appeal lies from a medical appeal tribunal to a Social Security Commissioner without the leave of the tribunal or of a Commissioner) for the words " medical appeal tribunal " there shall be substituted the words " person who was the chairman of the medical appeal tribunal when the decision was given or, in a case prescribed by regulations, the leave of some other chairman of a medical appeal tribunal " .
- 5 In section 115(2) Of that Act (tribunals) for the word "local" there shall be substituted the words " social security appeal " .

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*Status: This is the original version (as it was originally enacted).*

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6 In section 117(1) of that Act (finality of decisions) for the words " the decision of any claim or question in accordance with those provisions " there shall be substituted the words " and to section 14 of the Social Security Act 1980 (appeal from Social Security Commissioners etc. on a point of law) the decision of any claim or question in accordance with this Act ".

7 The following paragraph shall be substituted for paragraph 1 of Schedule 10 to that Act—

“1 (1) The panels referred to in section 97(2A) of this Act shall be constituted by the President for the whole of Great Britain, and shall act for such areas as the President thinks fit, and be composed of such persons as the President thinks fit to appoint.

(2) There shall be two panels for each area.

(3) One panel shall be composed of persons who appear to the President to represent employed earners.

(4) The other shall be composed—

(a) of persons who appear to him to represent employers and earners other than employed earners ; and

(b) of persons who appear to him to have knowledge or experience of conditions in the area and to represent persons living or working in it.

(5) Before appointing members to a panel, the President may take into consideration any recommendations—

(a) from such local committees representing employers or employed earners or both; or

(b) from such organisations concerned with the interests of employers or employed earners ; or

(c) from such other organisations or from such persons.

as he considers appropriate.

(6) The members of the panels shall hold office for such period as the President may direct, but the President may at any time terminate the appointment of any member of a panel.

(7) Subject to sub-paragraph (8) below, each member of a panel shall, so far as practicable, be summoned in turn to serve upon a social security appeal tribunal.

(8) If practicable, at least one of the members of the tribunal hearing a case shall be of the same sex as the claimant.”.

8 The following shall be inserted after the said paragraph 1—

*“The President of social security appeal tribunals and medical appeal tribunals and regional chairmen and other full-time chairmen*

1A (1) The Lord Chancellor may, after consultation with the Lord Advocate, appoint—

(a) a President of social security appeal tribunals and medical appeal tribunals ; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) regional and other full-time chairmen of such tribunals.
- (2) A person is qualified to be appointed President if he is a barrister, advocate or solicitor of not less than 10 years' standing.
- (3) A person is qualified to be appointed a full-time chairman if he is a barrister, advocate or solicitor of not less than 7 years' standing.
- (4) Subject to sub-paragraphs (5) to (9) below, a person appointed to an office under this paragraph shall hold and vacate that office in accordance with the terms of his appointment.
- (5) Subject to sub-paragraphs (6) and (7) below, a person appointed to such an office shall vacate his office at the end of the completed year of service in which he attains the age of 72.
- (6) Where the Lord Chancellor considers it desirable in the public interest to retain such a person in office after the time at which he would be required to sub-paragraph (5) above to vacate it, the Lord Chancellor may from time to time authorise the continuance of that person in office until any date not later than that on which that person attains the age of 75.
- (7) A person appointed to an office under this paragraph may be removed from office by the Lord Chancellor on the ground of misbehaviour or incapacity.
- (8) No person appointed to an office under this paragraph shall either directly or indirectly practise as a barrister, advocate or solicitor or as an agent for a solicitor.
- (9) Where the Lord Chancellor proposes to exercise a power conferred on him by sub-paragraph (6) or (7) above, it shall be his duty to consult the Lord Advocate with respect to the proposal.
- (10) The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of persons appointed to offices under this paragraph as, with the consent of the Treasury, he may determine.
- (11) The President may appoint such officers and staff as he thinks fit—
- (a) for himself;
  - (b) for other persons appointed to offices under this paragraph ; and
  - (c) for social security appeal tribunals,
- with the consent of the Secretary of State and the Treasury as to numbers and as to remuneration and other terms and conditions of service.

*Clerks of tribunals*

- 1B The President shall assign a clerk to serve the social security appeal tribunal for each area.
- 1C The duty of summoning members of a panel to serve on a tribunal shall be performed by the clerk to the tribunal.

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*Status: This is the original version (as it was originally enacted).*

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*Administrative duties of President*

- 1D It shall be the duty of the President—
- (a) to arrange—
    - (i) such meetings of chairmen and members of social security appeal tribunals ; and
    - (ii) such training for such chairmen and members, as he considers appropriate ; and
  - (b) to secure that such works of reference relating to social security law as he considers appropriate are available for the use of chairmen and members of social security appeal tribunals.”.
- 9 The following paragraph shall be substituted for paragraph 2 of Schedule 12 to that Act—
- “2 (1) A medical appeal tribunal shall consist of a chairman and two other persons.
- (2) The members other than the chairman shall be medical practitioners appointed by the Secretary of State after consultation with such academic medical bodies as appear to him to be appropriate.
- (3) The President shall nominate the chairman.
- (4) The President may nominate as chairman either himself or a person drawn—
- (a) from the panel appointed by the Lord Chancellor or, as the case may be, the Lord President of the Court of Session under section 7 of the Tribunals and Inquiries Act 1971;
  - (b) from the persons appointed to act as chairmen under paragraph 1A of Schedule 10 to this Act.
- (5) No person shall be appointed to the panel mentioned in subparagraph (4) above unless he is a barrister, advocate or solicitor of not less than 7 years' standing.”.
- 10 The following paragraph shall be inserted after paragraph 5 of that Schedule—
- “5A The President may appoint such officers and staff for medical appeal tribunals as he thinks fit, with the consent of the Secretary of State and the Treasury as to numbers and as to remuneration and other terms and conditions of service.”.
- 11 The following paragraph shall be added at the end of that Schedule—
- “9 It shall be the duty of the President—
- (a) to arrange—
    - (i) such meetings of chairmen and members of medical appeal tribunals, and
    - (ii) such training for such chairmen and members, as he considers appropriate; and
  - (b) to secure that such works of reference relating to social security law as he considers appropriate are available for the use of chairmen and members of medical appeal tribunals.”.

*Status: This is the original version (as it was originally enacted).*

12 In paragraph 9(a) of Schedule 13 to that Act (procedure) for the word " local " there shall be substituted the words " social security appeal ".

13 In Schedule 20 to that Act the following definition shall be inserted at the appropriate point—

“" President."

The President of social security appeal tribunals and medical appeal tribunals.”.

### PART III

#### AMENDMENTS OF SUPPLEMENTARY BENEFITS ACT 1976

14 The following subsections shall be substituted for section 2(1) and (1A) of the Supplementary Benefits Act 1976—

“(1) The question whether any person is entitled to supplementary benefit and the amount of any such benefit and any other question relating to supplementary benefit which arises under this Act or section 6 of the Social Security (No. 2) Act 1980 shall be determined by an adjudication officer appointed under section 97 of the Social Security Act 1975, a social security appeal tribunal constituted under that Act or a Social Security Commissioner in accordance with regulations made for the purposes of this section ; and any such regulations may in particular—

(a) contain provisions corresponding to, or apply with or without modifications, any of the provisions for the time being applying to the determination of questions as to the right to any benefit under the Social Security Act 1975 ;

(b) make provision for purposes corresponding to those for which provision may be made by regulations under section 115 of that Act.

(1A) Regulations may provide for prescribed questions to be determined otherwise than by adjudication officers, social security appeal tribunals or Social Security Commissioners and, without prejudice to the generality of this subsection, for such decisions, and any other prescribed decisions, to be effective or conclusive for prescribed purposes of this Act.”.

15 The following subsection shall be substituted for section 10(2) and (3) of that Act—

“(2) A direction under subsection (1) above shall not come into force until a prescribed date.”.

### PART IV

#### AMENDMENTS OF FAMILY INCOME SUPPLEMENTS ACT 1970

16 The following subsection shall be substituted for section 6(1) of the Family Income Supplements Act 1970—

“(1) The question whether any person is entitled to a family income supplement and the amount of any such supplement and any other question relating to family income supplement shall be determined by an adjudication officer

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*Status: This is the original version (as it was originally enacted).*

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appointed under section 97 of the Social Security Act 1975, a social security appeal tribunal constituted under that Act or a Social Security Commissioner in accordance with regulations made for the purposes of this section ; and any such regulations may in particular—

- (a) contain provisions corresponding to, or apply with or without modifications, any of the provisions for the time being applying to the determination of questions as to the right to any benefit under the Social Security Act 1975;
- (b) make provision for purposes corresponding to those for which provision may be made by regulations under section 115 of that Act.

(1A) Regulations may specify questions that are to be determined otherwise than by adjudication officers, social security appeal tribunals or Social Security Commissioners and, without prejudice to the generality of this subsection, may provide for such decisions, and any other decisions specified in the regulations, to be effective or conclusive for purposes of this Act so specified.”.

- 17 In section 8(3) of the said Act of 1970, for the words " satisfy a supplement officer or the Appeal Tribunal" there shall be substituted the word " establish " .

## PART V

### MISCELLANEOUS AMENDMENTS

#### *Social Security Act 1980 (c.30)*

- 18 In subsection (1)(b) of section 15 of the Social Security Act 1980 (appeal to Social Security Commissioner) for the words "if he refuses leave," there shall be substituted the words " subject to and in accordance with regulations "

#### *Social Security and Housing Benefits Act 1982 (c. 24)*

- 19 In paragraph 8 of Schedule 2 to the Social Security and Housing Benefits Act 1982—

- (a) in sub-paragraph (1)(b) for the words " a benefit officer appointed under section 27 of the Supplementary Benefits Act 1976 determines " there shall be substituted the words " it is determined "; and
- (b) sub-paragraph (4) shall cease to have effect.

- 20 In paragraph 12 of Schedule 3 to that Act—

- (a) for the words " if, in the opinion of" there shall be substituted the word " unless "; and
- (b) for the words from " disclosure " to the end of the paragraph there shall be substituted the words " otherwise directs " .



## PART VI

### MEDICAL BOARDS

#### *Amendments of Social Security Act 1975*

- 21 (1) The following subsection shall be substituted for section 108(2) of the Social Security Act 1975—
- “(2) Subject to and in accordance with regulations, the disablement questions shall be referred to and determined by an adjudicating medical practitioner or by two or more adjudicating medical practitioners or by a medical appeal tribunal.”.
- (2) In subsection (3) of that section, for the words "medical boards " there shall be substituted the words " adjudicating medical practitioners ".
- (3) The following subsections shall be substituted for subsection (4) of that section—
- “(4) Where the case of a claimant for disablement benefit has been referred by the insurance officer to one or more adjudicating medical practitioners for determination of the disablement questions and, on that or any other subsequent reference, the extent of the disablement is provisionally assessed, the case shall again be referred under this section, to one or more adjudicating medical practitioners as regulations may provide for the purposes of such subsequent references, not later than the end of the period taken into account by the provisional assessment.
- (5) In the following provisions of this Act " adjudicating medical practitioner " means, in relation to any case, one such practitioner, unless regulations applicable to cases of that description provide for references to more than one.”.
- 22 In section 109 of that Act—
- (a) in subsection (1), for the words " a medical board " there shall be substituted the words " an adjudicating medical practitioner ";
- (b) in subsection (2)—
- (i) for the words " medical board " there shall be substituted the words " adjudicating medical practitioner "; and
- (ii) the proviso shall cease to have effect; and
- (c) in subsection (3), for the words " medical board" there shall be substituted the words " adjudicating medical practitioner ".
- 23 In section 110 of that Act—
- (a) in subsection (1), for the words " a medical board " there shall be substituted the words " an adjudicating medical practitioner ";
- (b) in subsection (2), for the words " a medical board if the board are " there shall be substituted the words " an adjudicating medical practitioner if he is ";
- (c) in subsection (6)—
- (i) for the words " a medical board " there shall be substituted the words " an adjudicating medical practitioner ";
- (ii) for the word " they " there shall be substituted the word " he "; and

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- (iii) for the word " them " there shall be substituted the word " him ";  
and
- (d) in subsection (7), for the words " a medical board " there shall be substituted the words " an adjudicating medical practitioner ".
- 24 In section 113—
- (a) the following paragraph shall be substituted for subsection (2)(a)—
- “(a) for the appointment of specially qualified adjudicating medical practitioners and the appointment of medical officers for the purposes of the regulations (which shall be taken to include, in the case of specially qualified adjudicating medical practitioners, the purposes for which adjudicating medical practitioners are appointed and medical appeal tribunals are established) ;”;
- (b) in subsection (2)(b), for the words " any such board or" there shall be substituted the words " specially qualified adjudicating medical practitioners or any such ";
- (c) in subsection (3)—
- (i) for the words from "member", in the first place where it occurs, to " established " there shall be substituted the words " specially qualified adjudicating medical practitioner appointed ";
- (ii) for the word " member ", in the second place where it occurs, there shall be substituted the words " practitioner "; and
- (iii) for the words " any such board or with the work " there shall be substituted the words " the work under this section of any such medical practitioner or ".
- 25 In section 115(2) of that Act, for the words "a medical board or a single medical practitioner acting in place of a medical board" there shall be substituted the words " or an adjudicating medical practitioner ".
- 26 In section 117 of that Act the words "an adjudicating medical practitioner or a" shall be substituted for the words " a medical board or " in subsections (3) and (4).
- 27 In Schedule 12 to that Act—
- (a) the following paragraph shall be substituted for paragraph 1—
- “1 Adjudicating medical practitioners shall be appointed by the Secretary of State.”; and
- (b) the following paragraphs shall be substituted for paragraphs 3 to 6—
- “3 Subject to the foregoing paragraphs, the appointment of adjudicating medical practitioners and the constitution of medical appeal tribunals shall be determined by regulations.
- 4 The Secretary of State may pay to adjudicating medical practitioners and chairmen and other members of medical appeal tribunals such remuneration and such travelling and other allowances, as he may determine.
- 5 The Secretary of State may pay to persons required to attend on the consideration of a case before an adjudicating medical practitioner or a medical appeal tribunal such travelling and other allowances as he may determine.

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- 6 The Secretary of State may pay such other expenses as he may determine, being expenses incurred in connection with the work of adjudicating medical practitioners and medical appeal tribunals.”.
- 28 In Schedule 20 to that Act the following definition shall be inserted at the appropriate point—

““ Adjudicating medical practitioner.”	Construe in accordance with section 108(5).”.
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#### *Supplementary*

- 29 Any enactment passed before the coming into force of this paragraph and not amended by the foregoing provisions of this Part of this Schedule and any instrument made before the coming into force of this paragraph shall have effect, so far as may be necessary in consequence of the changes made by this Part of this Schedule, as if—
- (a) for any reference to a medical board constituted under the Social Security Act 1975 there were substituted a reference to an adjudicating medical practitioner ; and
  - (b) for any reference to a special medical board established by virtue of regulations under section 113 of that Act there were substituted a reference to a specially qualified adjudicating medical practitioner.
- 30 Documents and forms printed or duplicated for use in connection with medical boards and special medical boards may be used notwithstanding that they contain references to such boards and those references shall be construed respectively as references to adjudicating medical practitioners and specially qualified adjudicating medical practitioners.

## **PART VII**

### **SUPPLEMENTARY**

- 31 (1) The Secretary of State may by regulations made by statutory instrument make such transitional provision or saving as he considers necessary or expedient in connection with section 25 above and this Schedule.
- (2) Regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament
- (3) Neither section 141(2) of the Social Security Act 1975 nor section 10(1) of the Social Security Act 1980 (duty of Secretary of State to refer proposals for regulations to Industrial Injuries Advisory Council and Social Security Advisory Committee) shall apply to regulations made under any enactment and contained in a statutory instrument which states that it only contains regulations made in consequence of section 25 above and this Schedule and before the expiry of the period of six months beginning with the commencement of that section and this Schedule.
- (4) Nothing in the Industrial Injuries and Diseases (Old Cases) Act 1975 shall require a draft of a scheme under that Act to be laid before Parliament or approved by resolution of either House before the making of the scheme if the statutory instrument

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containing the scheme states that the scheme is made in consequence of section 25 above and this Schedule; but the statutory instrument containing the scheme shall instead be subject to annulment in pursuance of a resolution of either House of Parliament.

- (5) Subsections (2) and (3) of section 166 of the Social Security Act 1975 (which among other things make provision about the extent of powers to make orders and regulations) shall apply to the power to make regulations conferred by this paragraph as they apply to any power to make regulations conferred by that Act.
- (6) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of section 25 above and this Schedule—
- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
  - (b) shall be subject to annulment in pursuance of a resolution of either House.

## SCHEDULE 9

Section 29.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART I

##### MISCELLANEOUS AMENDMENTS

###### *Public Health Act 1936 (c. 49)*

- 1 So much of subsections (3) and (4) of section 143 of the Public Health Act 1936 (regulations for prevention and treatment of infectious disease etc.) as relates to the enforcement and execution of regulations under that section by officers and men employed in the coastguard shall cease to have effect.

###### *Public Health (Scotland) Act 1945 (c. 15)*

- 2 (1) In subsections (3) and (4) of section 1 of the Public Health (Scotland) Act 1945 (regulations for prevention and treatment of infectious diseases etc.) the words " and officers and men employed in the coastguard " shall be omitted wherever they occur.
- (2) In the proviso to subsection (3) of that section, for the words " officer, or person " there shall be substituted the words " or officer ".
- (3) In section (4) of that section after the word "Board" there shall be inserted the word " or ".

###### *National Assistance Act 1948 (c. 29)*

- 3 The following section shall be inserted after section 30 of the National Assistance Act 1948—

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*Status: This is the original version (as it was originally enacted).*

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### “30A Research.

Without prejudice to any powers conferred on them by any other Act.—

- (a) the Secretary of State may promote research into any matter relating to the functions of local authorities under this Part of this Act, and, in particular, may participate with or assist other persons in conducting such research; and
- (b) a local authority may conduct or assist other persons in conducting research into any matter relating to the functions of local authorities under this Part of this Act.”.

- 4 In section 41(2)(a) of the National Assistance Act 1948 (registration of charities for disabled persons) for the words " the Residential Homes Act 1980 " there shall be substituted the words " Part I of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983 ".

#### *Nurseries and Child-Minders Regulation Act 1948 (c. 53)*

- 5 In subsection (3) of section 3 of the Nurseries and Child-Minders Regulation Act 1948 (by virtue of which a local social services authority are required to issue a copy of a certificate under that section which has been lost or destroyed on payment of a fee not exceeding 25p) for the words from " fee " to " authority ", in the third place where it occurs, there shall be substituted the words " reasonable fee as they ".

#### *Mental Health Act 1959 (c. 72)*

- 6 In section 128(1)(b) of the Mental Health Act 1959 (sexual intercourse with patients) for the words from " home " to the end of the subsection there shall be substituted the words " care home within the meaning of Part I of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983 ".

#### *Public Bodies (Admission to Meetings) Act 1960 (c. 67)*

- 7 The following sub-paragraph shall be inserted after sub-paragraph (f) of paragraph 1 of the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which the Act applies)—
- “(g) Family Practitioner Committees, but only in so far as regards the exercise of their executive functions ;”.

#### *Social Work (Scotland) Act 1968 (c. 49)*

- 8 In section 10 of the Social Work (Scotland) Act 1968 (financial assistance to voluntary organisations), in subsection (5)—
- (a) the word " section" shall be substituted for the words " sections 64 and "; and
  - (b) after the word " 1968 " there shall be inserted the words " and section 16B of the National Health Service (Scotland) Act 1978 ".

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*Local Authority Social Services Act 1970 (c. 7)*

- 9 At the end of Schedule 1 to the Local Authority Social Services Act 1970 (which specifies the enactments conferring functions assigned to the social services committee of a local authority) there shall be inserted the following entry—

“Health and Social Services and Social Security Adjudications Act 1983 (c. 41) Part I of Schedule 4.	Registration of residential care homes.”.
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*Tribunals and Inquiries Act 1971 (c. 62)*

- 10 In subsection (3) of section 7 of the Tribunals and Inquiries Act 1971 (which specifies the tribunals mentioned in certain paragraphs of Schedule 1 to that Act of which the chairmen are to be selected from a panel of persons appointed by the Lord Chancellor) for the words " 30A(a) or (c) or 30B " there shall be substituted the words " or 30A(a) or (c) ".

- 11 In subsection (1) of section 13 of that Act (appeals from certain tribunals) after the word " Act", there shall be inserted the words " or to proceedings before a Registered Homes Tribunal ".

- 12 The following paragraph shall be substituted for paragraph 4 of Schedule 1 to that Act—

“Registration of voluntary homes under Child Care Act 1980 and children's homes under Children's Homes Act 1982.	4. Registered Homes Tribunals constituted under Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983.”.
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- 13 The following paragraph shall be inserted after paragraph 21 of that Schedule—

“Nursing Homes and Mental Nursing Homes Registration.	21A. Registered Homes Tribunals constituted under Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983.”.
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- 14 The following paragraph shall be inserted after paragraph 28 of that Schedule—

“Residential Care Homes Registration.	28A. Registered Homes Tribunals constituted under Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983.”.
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- 15 In paragraph 30A(a) of that Schedule for the word " Local" there shall be substituted the words " Social security appeal ".

*Local Government Act 1972 (c. 70)*

- 16 In subsection (1) of section 102 of the Local Government Act 1972 (appointment of committees) after the word "above" there shall be inserted the words " or section 31 of the Child Care Act 1980 ".

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*Status: This is the original version (as it was originally enacted).*

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*Guardianship Act 1973 (c. 29)*

- 17 In subsection (4)(d) of section 4 of the Guardianship Act 1973 (provisions as to order committing care of minor to local authority) for the word " or " there shall be substituted the word " and ".

*House of Commons Disqualification Act 1975 (c. 24)*

- 18 In Part III of Schedule I to the House of Commons Disqualification Act 1975 (disqualifying offices) there shall be inserted in the appropriate place in alphabetical order—

“A member of a panel appointed under section 7 of the Tribunals and Inquiries Act 1971 of persons to act as chairmen of Social Security Appeal Tribunals and Medical Appeal Tribunals.

The President of Social Security Appeal Tribunals and Medical Appeal Tribunals.

A regional or other full-time Chairman of Social Security Appeal Tribunals and Medical Appeal Tribunals.”.

*Adoption Act 1976 (c. 36)*

- 19 In section 32(3) of the Adoption Act 1976 (meaning of " protected child ") the following paragraph shall be substituted for paragraph (b)—

“(b) he is—

- (i) suffering from mental disorder within the meaning of the Mental Health Act 1983 ; and
- (ii) resident in a residential care home, within the meaning of Part I of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983 ;”.

*Supplementary Benefits Act 1976 (c. 71)*

- 20 In section 20(5) of the Supplementary Benefits Act 1976 for the words " Subsections (2) and (3)" there shall be substituted the words " Subsection (2) ".

*National Health Service Act 1977 (c. 49)*

- 21 So much of subsection (2) of section 100 of the National Health Service Act 1977 as requires that payments made under that section shall be in accordance with regulations made by the Secretary of State and approved by the Treasury shall cease to have effect

- 22 In section 128(1) of that Act (interpretation and construction) the following definition shall be inserted after the definition of " dental practitioner " —

“" disabled persons " means persons who are blind, deaf or dumb or who suffer from mental disorder of any description and other persons who are substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed ;”.

- 23 At the end of Schedule 8 to that Act (local social services authorities) there shall be added—

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*“Research*

- 4 Without prejudice to any powers conferred on them by any other Act, a local social services authority may conduct or assist other persons in conducting research into matters relating to the functions of local social services authorities under this Schedule.”.

*National Health Service (Scotland) Act 1978 (c. 29)*

- 24 In section 105(7) of the National Health Service (Scotland) Act 1978 (orders, regulations and directions) for the words " or orders " there shall be substituted the words " , orders or directions " .

*Employment Protection (Consolidation) Act 1978 (c. 44)*

- 25 In paragraph 1 of Schedule 5 to the Employment Protection (Consolidation) Act 1978 (National Health Service employers), for the words " Area Health Authority, District Health Authority," there shall be substituted the words " District Health Authority, preserved Board (within the meaning of section 15(6) of the National Health Service Reorganisation Act 1973), " .

*Foster Children Act 1980 (c. 6)*

- 26 In subsection (5) of section 2 of the Foster Children Act 1980 (exceptions to meaning of foster child for purposes of Act) for the words from " home " to the end of the section there shall be substituted the words " care home within the meaning of Part I of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983 " .

*Reserve Forces Act 1980 (c. 9)*

- 27 The following paragraph shall be substituted for paragraph 2 of Schedule 2 to the Reserve Forces Act 1980 (army and air force pensioners and other former soldiers not liable to be recalled for service)—
- “2 A person who is receiving treatment for mental disorder as an in-patient in any establishment in the United Kingdom and is under the supervision of a registered medical practitioner.”.

*Overseas Development and Co-operation Act 1980 (c. 63)*

- 28 The words " for an area or district" shall be omitted from Part II of Schedule 1 to the Overseas Development and Co-operation Act 1980 (bodies constituted under the National Health Service Act 1977).

**PART II**

MEALS AND RECREATION FOR OLD PEOPLE

- 1 A district council shall have power to make such arrangements as they may from time to time determine for providing meals and recreation for old people in their homes or elsewhere and may employ as their agent for the purpose of this paragraph



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- any voluntary organisation whose activities consist in or include the provision of meals or recreation for old people.
- 2 A district council may assist any such organisation as is referred to in paragraph 1 above to provide meals or recreation for old people—
- (a) by contributing to the funds of the organisation ;
  - (b) by permitting them to use premises belonging to the council on such terms as may be agreed ; and
  - (c) by making available furniture, vehicles or equipment (whether by way of gift or loan or otherwise) and the services of any staff who are employed by the council in connection with the premises or other things which they permit the organisation to use.
- 3 (1) District councils shall exercise their functions under this Part of this Schedule (including any discretion conferred on them under it) in accordance with the provisions of any regulations of the Secretary of State made for the purposes of this paragraph; and without prejudice to the generality of this paragraph, regulations under this paragraph—
- (a) may provide for conferring on officers of the Secretary of State authorised under the regulations such powers of inspection as may be prescribed in relation to the exercise of functions under this Part of this Schedule by or by arrangement with or on behalf of district councils ; and
  - (b) may make provision with respect to the qualifications of officers employed by district councils for the purposes of this Part of this Schedule or by voluntary organisations acting under arrangements with or on behalf of district councils for those purposes.
- (2) The power to make regulations under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament
- 4 In this Part of this Schedule—
- " functions " includes powers and duties; and
  - " voluntary organisation " means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

## SCHEDULE 10

Section 30.

### REPEALS AND REVOCATION

#### PART I

##### REPEALS

Chapter	Short Title	Extent of Repeal
26 Geo. 5 & 1 Edw.8. c. 49.	Public Health Act 1936.	In section 143, in subsection (3), the words "and officers and men employed in the coastguard

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Chapter	Short Title	Extent of Repeal
11 & 12 Geo.6. c. 29.	National Assistance Act 1948.	" and paragraph (ii) of the proviso, and in subsection (4), the words " and officers and men employed in the coastguard ". Section 29(5).
4 & 5 Eliz. 2. c. 16.	Food and Drugs Act 1955.	Section 82. In Schedule 10, in paragraph 1(b), the words " subsection (4) of section eighty-two."
10 & 11 Eliz. 2. c. 33.	Health Visiting and Social Work (Training) Act 1962.	The whole Act.
1966 c. 42.	Local Government Act 1966.	In Part II of Schedule 3, paragraph 31.
1968 c. 46.	Health Services and Public Health Act 1968.	Section 45(2). In section 48(2), in paragraph (a), the words " the Area Health Authority within whose area or " and in paragraph (b)(ii), the words " the Area Health Authority for the area ". Section 64 so far as it relates to Scotland.
1968 c. 49.	Social Work (Scotland) Act 1968.	Section 14(2). Section 31(2). In section 59A(1), the words " in residential establishments ". Section 59A(3). In section 78(1)(b), the words " and is engaged in remunerative employment".
1969 c. 54.	Children and Young Persons Act 1969.	In Schedule 4, paragraph 13.
1970 c. 42.	Local Authority Social Services Act 1970.	Section 11. In section 15, in subsection (6), the words "except section 11 " and in subsection (7), the words " section 11 and ".

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Chapter	Short Title	Extent of Repeal
1970 c. 46.	Radiological Protection Act 1970.	Section 4. In section 6(1), the words "and 4(2)".
1970 c. 55.	Family Income Supplements Act 1970.	Section 1(1A). Section 7. Section 10(2)(h) and (3). In section 17(1), the definition of "supplement officer".
1971 c. 62.	Tribunals and Inquiries Act 1971.	In section 13(1), the words "4" and "18(a)". In Schedule 1, paragraph 30B.
1972 c. 70.	Local Government Act 1972.	Section 101(9)(e). In Schedule 23, paragraph 12.
1973 c. 62.	Powers of Criminal Courts Act 1973.	In Schedule 5, paragraph 33.
1975 c. 14.	Social Security Act 1975.	In section 109(2), the proviso. Section 111. In section 117(4), the second paragraph. In section 155(d)(iii), the words "medical board or".
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part III of Schedule 1, in the entry beginning "Chairman of an Appeal Tribunal", the words "Schedule 4 to the Supplementary Benefits Act 1976 or" and in the entry beginning "Chairman of a Local Tribunal", the words "section 97(2) of, and Schedule 10 to, the Social Security Act 1975 or under".
1975 c. 37.	Nursing Homes Act 1975.	Section 6(a)(iii). In section 19(3)(b)(ii), the words "of those sections".
1975 c. 61.	Child Benefit Act 1975.	In section 24(1), the definitions of "insurance officer" and "local tribunal".

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Chapter	Short Title	Extent of Repeal
<a href="#">1975 c. 72.</a>	Children Act 1975.	In section 72, in section 59A(1), the words "in residential establishments" and section 59A(3). Section 109(3).
<a href="#">1976 c. 36.</a>	Adoption Act 1976.	Section 10. Section 27(4) and (5). Section 28(8) and (9). In section 63, in subsections (1) and (3), the words "Subject to subsection (4)," and in subsection (2), the words " and (4)". In Schedule 3, paragraphs 29 and 30.
<a href="#">1976 c. 71.</a>	Supplementary Benefits Act 1976.	In section 12(4), the words from " and " onwards. Section 14(2)(d). Sections 15 and 15A. Section 20(3). Section 27(2). Section 28. In section 34(1), the definitions of "the Appeal Tribunal" and "benefit officer". Schedule 4. In Schedule 7, paragraph 22.
<a href="#">1977 c. 5.</a>	Social Security (Miscellaneous Provisions) Act 1977.	Section 22(15).
<a href="#">1977 c. 45.</a>	Criminal Law Act 1977.	In Schedule 12, paragraph 1 of the entry relating to the Adoption Act 1976.
<a href="#">1977 c. 49.</a>	National Health Service Act 1977.	In section 8(1 A), in paragraph (b), the words " according as is provided in the order," and the words " with or without the word "Teaching"" , in paragraph (c), the words " according as is provided in

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Chapter	Short Title	Extent of Repeal
		<p>the order," and the words "with or without the word " Teaching" ", in both places where they occur and the words following paragraph (c).</p> <p>Section 9.</p> <p>In section 100(2), the words " in accordance with regulations made by the Secretary of State and approved by the Treasury, and shall be ".</p> <p>In section 128(1), in the definition of " Area Health Authority " and " District Health Authority", the words "the word " Teaching " or ".</p> <p>In Schedule 5, in paragraph 2(1), the words " Subject to paragraph 4 below," paragraph 4, in paragraph 5, in sub-paragraph(1)(c), the words from " or, where " to the end and in sub-paragraph (2)(a), the words from " or another " to " Teaching " ".</p> <p>In Schedule 8, paragraphs 1(2), 2(5) and 3(2).</p> <p>In Schedule 15, paragraph 35.</p>
1978 c. 18.	Adoption (Scotland) Act 1978.	<p>Section 10.</p> <p>Section 27(4) and (5).</p> <p>Section 28(8) and (9).</p>
1978 c. 22.	Domestic Proceedings and Magistrates' Courts Act 1978.	<p>In section 10(4)(b), the words " and is engaged in remunerative fulltime work ".</p>
1978 c. 44.	Employment Protection (Consolidation) Act 1978.	<p>In Schedule 15, paragraph 14.</p>
1979 c. 36.	Nurses, Midwives and Health Visitors Act 1979.	<p>In section 21(1), the words from " and the Health " onwards.</p> <p>Section 21(4).</p> <p>In Schedule 7, paragraph 11.</p>

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Chapter	Short Title	Extent of Repeal
1980 c. 5.	Child Care Act 1980.	<p>In section 10(2), the words from " and may " to the end of the subsection.</p> <p>In section 36(1), the words " for giving effect to the provision of the regional plan by which the home is designated as a controlled or assisted community home ".</p> <p>In section 39(2) in paragraph (c), the words " or voluntary organisation ", and paragraph (e).</p> <p>Section 43(3).</p> <p>In section 44(5), the words " but which were designated as a community home in a regional plan approved by the Secretary of State ".</p> <p>In section 45(1)(ii), the words from " and " to " work ".</p> <p>Section 58.</p> <p>Section 71.</p> <p>Section 79(5)(h).</p> <p>In section 87(1), the definitions of " planning area ", " regional plan " and " the relevant authorities ".</p> <p>Schedule 1.</p> <p>Schedule 3.</p> <p>In Schedule 5, paragraphs 23(a) and 34(a).</p>
1980 c. 7.	Residential Homes Act 1980.	The whole Act.
1980 c. 53.	Health Services Act 1980.	<p>In section 1, in subsection (1)(a), the words " or Area Health Authorities (Teaching)", in subsection (3), paragraph (6) and in paragraph (c) the words " with or without the word " Teaching " ", subsection (4) and in subsection (5), the words " the word " Teaching" or,".</p>

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Chapter	Short Title	Extent of Repeal
1980 c. 63.	Overseas Development and Co-operation Act 1980.	Section 4. In Schedule 1, paragraph 29, and in paragraph 78(6), the words from " and, for " to " the word " Teaching " " in both places where they occur.
1982 c. 20.	Children's Homes Act 1982.	In Schedule 1, in Part II, the words " for an area or district". In section 3, in subsection (4) the words after " application " where it first occurs and subsections (6) and (8). Section 6(4) and (5). Section 7. Section 15(2).
1982 c. 24.	Social Security and Housing Benefits Act 1982.	In section 26(1), the definitions of " insurance officer " and " local tribunal". In Schedule 2, paragraph 8(4).
1982 c. 48.	Criminal Justice Act 1982.	Section 25(1).

## PART II

### REVOCATION

Reference	Title	Extent of Revocation
S.I. 1981 No. 432.	European Communities (Medical, Dental and Nursing Professions) (Linguistic Knowledge) Order 1981.	Article 3(1)(b) and (3)(b).