



Registered Homes Act 1984

1984 CHAPTER 23

PART II

NURSING HOMES AND MENTAL NURSING HOMES

Registration and conduct of nursing homes and mental nursing homes

23 Registration of nursing homes and mental nursing homes

- (1) Any person who carries on a nursing home or a mental nursing home without being registered under this Part of this Act in respect of that home shall be guilty of an offence.
- (2) Registration under this Part of this Act does not affect any requirement to register under Part I of this Act.
- (3) An application for registration under this Part of this Act—
 - (a) shall be made to the Secretary of State;
 - (b) shall be accompanied by a fee of such amount as the Secretary of State may by regulations prescribe ;
 - (c) in the case of a mental nursing home, shall specify whether or not it is proposed to receive in the home patients who are liable to be detained under the provisions of the Mental Health Act 1983.
- (4) Subject to section 25 below, the Secretary of State shall, on receiving an application under subsection (3) above, register the applicant in respect of the home named in the application, and shall issue to the applicant a certificate of registration.
- (5) Where a person is registered in pursuance of an application stating that it is proposed to receive in the home such patients as are described in subsection (3)(c) above—
 - (a) that fact shall be specified in the certificate of registration ; and
 - (b) the particulars of the registration shall be entered by the Secretary of State in a separate part of the register.

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

24 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 Part of this Act in respect of the premises as a nursing 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 Part of this Act in respect of the premises as a mental nursing home.

25 Refusal of registration

- (1) The Secretary of State may refuse to register an applicant in respect of a nursing home or a mental nursing home if he is satisfied—
- (a) that the applicant, or any person employed or proposed to be employed by the applicant at the home, is not a fit person (whether by reason of age or otherwise) to carry on or be employed at a home of such a description as that named in the application; or
 - (b) that, for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home is not, or any premises used in connection with the home are not, fit to be used for such a home; or
 - (c) that the home is, or any premises used in connection with the home are, used, or proposed to be used, for purposes which are in any way improper or undesirable in the case of such a home; or
 - (d) that the home or any premises to be used in connection with the home consist of or include works executed in contravention of section 12(1) of the Health Services Act 1976; or
 - (e) that the use of the home or any premises used in connection with the home is in contravention of any term contained in an authorisation under section 13 of the said Act of 1976 ; or
 - (f) that the home is not, or will not be, in the charge of a person who is either a registered medical practitioner or a qualified nurse or, in the case of a maternity home, a registered midwife ; or
 - (g) that the condition mentioned in subsection (3) below is not, or will not be, fulfilled in relation to the home.

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- (2) In subsection (1) above " qualified nurse ", in relation to a home, means a nurse possessing such qualifications as may be specified in a notice served by the Secretary of State on the person carrying on or proposing to carry on the home.
- (3) The condition referred to in subsection (1) above is that such number of nurses possessing such qualifications and, in the case of a maternity home, such number of registered mid-wives as may be specified in a notice served by the Secretary of State on the person carrying on or proposing to carry on the home are on duty in the home at such times as may be so specified.
- (4) In preparing any notice under subsection (2) or (3) above, the Secretary of State shall have regard to the class and, in the case of a notice under subsection (3) above, the number of patients for whom nursing care is or is to be provided in the home.

26 Regulations as to conduct of nursing homes and mental nursing homes

The Secretary of State may make regulations as to the conduct of nursing homes and mental nursing homes, and such regulations may in particular—

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

27 Supplementary regulations

The Secretary of State may make regulations—

- (a) with respect to the registration of persons under this Part of this Act in respect of nursing homes and mental nursing homes, and in particular with respect to—
 - (i) the making of applications for registration; and
 - (ii) the refusal and cancellation of registration;
- (b) with respect to the keeping of records relating to nursing homes and mental nursing homes, including records relating to the detention and treatment of persons detained under the Mental Health Act 1983 in a mental nursing home;
- (c) with respect to the notification of events occurring in nursing homes and mental nursing homes ;
- (d) with respect to entry into and the inspection of premises used or reasonably believed to be used as a nursing home;
- (e) requiring persons registered under this Part of this Act to pay an annual fee of such amount as the regulations may specify;
- (f) specifying when the fee is to be paid;
- (g) providing that a contravention of or failure to comply with any specified provision of the regulations shall be an offence against the regulations.

28 Cancellation of registration

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

- (a) on any ground which would entitle him to refuse an application for the registration of that person in respect of that home;
- (b) on the ground that that person has been convicted of an offence against the provisions of this Part of this Act relating to nursing homes or mental nursing homes, or on the ground that any other person has been convicted of such an offence in respect of that home;
- (c) on the ground that any condition for the time being in force in respect of the home by virtue of this Part of this Act has not been complied with;
- (d) on the ground that that person has been convicted of an offence against regulations made under section 26 or 27 above;
- (e) on the ground that the annual fee in respect of the home has not been paid on or before the due date.

29 Additional registration conditions

- (1) It shall be a condition of the registration of any person in respect of a nursing home or mental nursing home that the number of persons kept at any one time in the home (excluding persons carrying on, or employed in, the home, together with their families) does not exceed such number as may be specified in the certificate of registration.
- (2) Without prejudice to subsection (1) above, any such registration may be effected subject to such conditions (to be specified in the certificate of registration) as the Secretary of State may consider appropriate for regulating the age, sex or other category of persons who may be received in the home in question.
- (3) 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 Part of this Act; and
 - (b) as to the imposition of additional conditions.
- (4) If any condition for the time being in force in respect of a home by virtue of this Part of this Act is not complied with, the person carrying on the home shall be guilty of an offence.

30 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 Part 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.

- (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.

31 Ordinary procedure for registration etc. under Part II

- (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 30 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.

32 Right to make representations

- (1) A notice under section 31 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 31 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—

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- (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.

33 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 34 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 34(3) below; and
 - (b) if an appeal is brought, until it is determined or abandoned.

34 Appeals

- (1) An appeal against—
- (a) a decision of the Secretary of State under this Part of this Act; or
 - (b) an order made by a justice of the peace under section 30 above,
- shall lie to a Registered Homes Tribunal.
- (2) An appeal shall be brought by notice in writing given to the Secretary of State.
- (3) No appeal against a decision or order may be brought by a person more than 28 days after service on him of notice of the decision or order.
- (4) On an appeal against a decision of the Secretary of State the tribunal may confirm the decision or direct that it shall not have effect.
- (5) On an appeal against an order made by a justice of the peace the tribunal may confirm the order or direct that it shall cease to have effect.
- (6) A tribunal shall also have power on an appeal against a decision or order—
- (a) to vary any condition for the time being in force in respect of the home to which the appeal relates by virtue of this 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.

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

35 Inspection of mental nursing homes and visiting of patients

- (1) Subject to the provisions of this section, any person authorised in that behalf by the Secretary of State may at any time, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, enter and inspect any premises which are used, or which that person has reasonable cause to believe to be used, for the purposes of a mental nursing home, and may inspect any records kept in pursuance of section 27(b) above.
- (2) A person authorised under subsection (1) above to inspect a mental nursing home may visit and interview in private any patient residing in the " home who is, or appears to be, suffering from mental disorder—
- (a) for the purpose of investigating any complaint as to his treatment made by or on behalf of the patient; or
 - (b) in any case where the person so authorised has reasonable cause to believe that the patient is not receiving proper care;
- and where the person so authorised is a medical practitioner, he may examine the patient in private, and may require the production of, and inspect, any medical records relating to the patient's treatment in that home.
- (3) Regulations made under section 26 above may make provision with respect to the exercise on behalf of the Secretary of State of the powers conferred by this section, and may in particular provide—
- (a) for imposing conditions or restrictions with respect to the exercise of those powers in relation to mental nursing homes which, immediately before 1st November 1960, were registered hospitals as defined in subsection (4) below, and
 - (b) subject as aforesaid, for requiring the inspection of mental nursing homes under subsection (1) above to be carried out on such occasions, or at such intervals, as the regulations may prescribe.
- (4) In subsection (3)(a) above, " registered hospital" means a hospital registered as mentioned in section 231(9) of the Lunacy Act 1890.
- (5) Any person who refuses to allow the inspection of any premises, or without reasonable cause refuses to allow the visiting, interviewing or examination of any person by a person authorised in that behalf under this section or to produce for the inspection of any person so authorised any document or record the production of which is duly required by him, or otherwise obstructs any such person in the exercise of his functions, shall be guilty of an offence.
- (6) Without prejudice to the generality of subsection (5) above, any person who insists on being present when requested to withdraw by a person authorised as aforesaid to interview or examine a person in private shall be guilty of an offence.

36 Effect of cancellation or death on mental nursing home registration

- (1) This section applies to any mental nursing home the particulars of the registration of which are entered in the separate part of the register referred to in paragraph (b) of

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section 23(5) above, and in subsections (2) and (3) below "patient" means a person suffering or appearing to be suffering from mental disorder.

- (2) If the registration of any such home is cancelled under section 28 above at a time when any patient is liable to be detained in the home under the provisions of the Mental Health Act 1983, the registration shall, notwithstanding the cancellation, continue in force until the expiry of the period of two months beginning with the date of the cancellation, or until every such patient has ceased to be so liable, whichever first occurs.
- (3) If the person registered in respect of any such home (not being one of two or more persons so registered) dies at a time when any patient is liable to be so detained, the registration shall continue in force until the expiry of the period of two months beginning with the death, or until every such patient has ceased to be so liable, or until a person other than the deceased has been registered in respect of the home, whichever first occurs.
- (4) A registration continued in force by virtue of subsection (3) above shall continue in force—
 - (a) as from the grant of representation to the estate of the deceased, for the benefit of the personal representative of the deceased ; and
 - (b) pending the grant of such representation, for the benefit of any person approved for the purpose by the Secretary of State.
- (5) For the purposes of this Part of this Act, a person for whose benefit the registration continues in force by virtue of subsection (3) above shall be treated as registered in respect of the home.