



Nursing Homes Registration (Scotland) Act 1938

1938 CHAPTER 73 1 and 2 Geo 6

An Act to provide for the registration and inspection of nursing homes in Scotland and for purposes connected therewith. [29th July 1938]

1 Registration of nursing homes.

(1) If any person carries on a nursing home without being duly registered in respect thereof, he shall be guilty of an offence against this Act and [^{F1}shall be liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to a fine.]

[^{F2}(1A) If any person carries on a nursing home in contravention of a condition of his registration in respect of that home he shall be guilty of an offence against this Act.]

(2) Application for registration shall be made in writing to the [^{F3}Health Board] in whose area the home is situate in the form prescribed by the Department, . . . ^{F4}

(3) Subject as provided in this Act, the [^{F3}Health Board] shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration:

Provided that the [^{F3}Board] may by order refuse to register the applicant if they are satisfied—

- (a) that he or any person employed or proposed to be employed by him at the home is not a fit person, whether by reason of age, conduct or otherwise, to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or
- (b) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home or any premises used or to be used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home named in the application, or that the home or premises are used or to be used for purposes which are in any way improper or undesirable in the case of such a nursing home; or ^{F5}

Status: Point in time view as at 23/05/1991.

Changes to legislation: Nursing Homes Registration (Scotland) Act 1938 (Repealed) is up to date with all changes known to be in force on or before 13 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F6}(bb) that the home or any premises to be used in connection therewith consist of or include works executed in contravention of section 12(1) of the ^{M1}Health Services Act 1976]
- ; or
- [^{F7}(bc) that the use of the home or any premises used in connection therewith is in contravention of any term contained in an authorisation under section 13 of the said Act of 1976; or]
- [^{F8}(c) in the case of a nursing home other than a maternity home—
- (i) 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
 - (ii) that the condition mentioned in subsection (3B) below is not, or will not be, fulfilled in relation to the home; or
- (d) in the case of a maternity home—
- (i) that the home is not, or will not be, in the charge of a person who is either a registered medical practitioner or a certified midwife and qualified nurse; or
 - (ii) that the condition mentioned in subsection (3B) below is not, or will not be, fulfilled in relation to the home]

[^{F9}(3A) In relation to any nursing home, a person is to be treated as a qualified nurse if he possesses such qualifications as the Secretary of State considers to be requisite in the provision of nursing care for patients in that home.]

[^{F10}(3A) In the proviso to subsection (3) above “qualified nurse”, in relation to a home, means a nurse possessing such qualifications as may be specified in a notice served by the Board on the person carrying on or proposing to carry on the home.

(3B) The condition referred to in the proviso to subsection (3) above is that such number or nurses possessing such qualifications and, in the case of a maternity home, such number of certified midwives as may be specified in a notice served by the Health Board 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.

(3C) In preparing any notice under subsection (3A) or (3B) above, the Health Board shall have regard to the class and, in the case of a notice under subsection (3B) above, the number of patients for whom nursing care is or is to be provided in the home.

(3D) It shall be a condition of the registration of any person in respect of a 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.

(3E) Without prejudice to subsection (3D) above, any such registration may be effected subject to such conditions (to be specified in the certificate of registration) as the Health Board may consider appropriate for regulating the age, sex or other category of persons who may be received into the home in question.

(3F) The Health Board may, upon application in writing made to them by the person registered in respect of a nursing home, vary any condition of the registration of that person in respect of that nursing home imposed by or under subsection (3D) or (3E) above.

(3G) A variation under subsection (3F) above may be for a definite or indefinite period.]

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- (4) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the home, and, if default is made in complying with the foregoing requirement, the person carrying on the home shall be guilty of an offence against this Act.

Textual Amendments

- F1** Words substituted by [Health Services Act 1976 \(c. 83\), s. 19\(4\)](#)
- F2** [S. 1\(1A\)](#) inserted by [Health Services Act 1980 \(c. 53\), s. 26\(2\)](#), [Sch. 4 Pt. II para. 7\(a\)](#)
- F3** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 71](#)
- F4** Words repealed by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\), s. 6\(4\)](#)
- F5** [S. 1\(3\)\(bb\)](#) repealed (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(2\)](#), [Sch. 10](#)
- F6** [S. 1\(3\)](#) proviso (*bb*) inserted by [Health Services Act 1976 \(c. 83\), s. 19\(1\)\(b\)\(2\)](#)
- F7** [S. 1\(3\)\(bc\)](#) repealed (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(2\)](#), [Sch. 10](#)
- F8** [S. 1\(3\)](#) proviso (*c*)(*d*) substituted by [Health Services Act 1980 \(c. 53\), s. 26\(2\)](#), [Sch. 4 Pt. II para. 7\(c\)](#)
- F9** [S. 1\(3A\)](#) inserted (1.7.1983) by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36\), s. 24\(2\)](#), [Sch. 7 para. 1](#); [S.I. 1983/668, art. 2](#), [Sch. 7\(d\)](#); [S.I. 1981/884, art. 2\(2\)\(a\)](#)
- F10** [S. 1\(3A\)—\(3G\)](#) inserted (1.8.1981) by [Health Services Act 1980 \(c. 53\), s. 26\(2\)](#), [Sch. 4 Pt. II para. 7\(d\)](#); [S.I. 1981/884, art. 2\(2\)\(a\)](#)

Marginal Citations

- M1** [1976 c. 83.](#)

1 Registration of nursing homes.

- (1) If any person carries on a nursing home without being duly registered in respect thereof, he shall be guilty of an offence against this Act and ^{F11}shall be liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to a fine.]

^{F12}(1A) If any person carries on a nursing home in contravention of a condition of his registration in respect of that home he shall be guilty of an offence against this Act.]

- (2) Application for registration shall be made in writing to the ^{F13}Health Board] in whose area the home is situate in the form prescribed by the Department, . . . ^{F14}
- (3) Subject as provided in this Act, the ^{F13}Health Board] shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration:

Provided that the ^{F13}Board] may by order refuse to register the applicant if they are satisfied—

- (a) that he or any person employed or proposed to be employed by him at the home is not a fit person, whether by reason of age, conduct or otherwise, to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or
- (b) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home or any premises used or to be used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home named in the application, or that the

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- home or premises are used or to be used for purposes which are in any way improper or undesirable in the case of such a nursing home; or ^{F15}
- [^{F16}(bb) that the home or any premises to be used in connection therewith consist of or include works executed in contravention of section 12(1) of the ^{M2}Health Services Act 1976]
- ; or
- [^{F17}(bc) that the use of the home or any premises used in connection therewith is in contravention of any term contained in an authorisation under section 13 of the said Act of 1976; or]
- [^{F18}(c) in the case of a nursing home other than a maternity home—
- (i) 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
- (ii) that the condition mentioned in subsection (3B) below is not, or will not be, fulfilled in relation to the home; or
- (d) in the case of a maternity home—
- (i) that the home is not, or will not be, in the charge of a person who is either a registered medical practitioner or a certified midwife and qualified nurse; or
- (ii) that the condition mentioned in subsection (3B) below is not, or will not be, fulfilled in relation to the home]
- [^{F19}(e) that the applicant does not maintain financial procedures and controls adequate to ensure the safeguarding of any property of a resident of the home which the applicant will be required to manage.]
- [^{F20}(3A) In relation to any nursing home, a person is to be treated as a qualified nurse if he possesses such qualifications as the Secretary of State considers to be requisite in the provision of nursing care for patients in that home.]
- [^{F21}(3A) In the proviso to subsection (3) above “qualified nurse”, in relation to a home, means a nurse possessing such qualifications as may be specified in a notice served by the Board on the person carrying on or proposing to carry on the home.
- (3B) The condition referred to in the proviso to subsection (3) above is that such number or nurses possessing such qualifications and, in the case of a maternity home, such number of certified midwives as may be specified in a notice served by the Health Board 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.
- (3C) In preparing any notice under subsection (3A) or (3B) above, the Health Board shall have regard to the class and, in the case of a notice under subsection (3B) above, the number of patients for whom nursing care is or is to be provided in the home.
- (3D) It shall be a condition of the registration of any person in respect of a 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.
- (3E) Without prejudice to subsection (3D) above, any such registration may be effected subject to such conditions (to be specified in the certificate of registration) as the Health Board may consider appropriate for regulating the age, sex or other category of persons who may be received into the home in question.

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- (3F) The Health Board may, upon application in writing made to them by the person registered in respect of a nursing home, vary any condition of the registration of that person in respect of that nursing home imposed by or under subsection (3D) or (3E) above.
- (3G) A variation under subsection (3F) above may be for a definite or indefinite period.]
- (4) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the home, and, if default is made in complying with the foregoing requirement, the person carrying on the home shall be guilty of an offence against this Act.

Textual Amendments

- F11** Words substituted by [Health Services Act 1976 \(c. 83\), s. 19\(4\)](#)
- F12** [S. 1\(1A\)](#) inserted by [Health Services Act 1980 \(c. 53\), s. 26\(2\)](#), [Sch. 4 Pt. II para. 7\(a\)](#)
- F13** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 71](#)
- F14** Words repealed by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\), s. 6\(4\)](#)
- F15** [S. 1\(3\)\(bb\)](#) repealed (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(2\)](#), [Sch. 10](#)
- F16** [S. 1\(3\)](#) proviso (*bb*) inserted by [Health Services Act 1976 \(c. 83\), s. 19\(1\)\(b\)\(2\)](#)
- F17** [S. 1\(3\)\(bc\)](#) repealed (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(2\)](#), [Sch. 10](#)
- F18** [S. 1\(3\)](#) proviso (*c*)(*d*) substituted by [Health Services Act 1980 \(c. 53\), s. 26\(2\)](#), [Sch. 4 Pt. II para. 7\(c\)](#)
- F19** [S. 1\(3\)\(e\)](#) inserted (*prosp.*) by [2000 asp 4, ss. 35, 38\(1\), 46, 89\(2\)](#), [Sch. 4 paras. 5\(3\), 7\(d\)](#)
- F20** [S. 1\(3A\)](#) inserted (1.7.1983) by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36\), s. 24\(2\)](#), [Sch. 7 para. 1](#); [S.I. 1983/668, art. 2](#), [Sch.](#)
- F21** [S. 1\(3A\)—\(3G\)](#) inserted (1.8.1981) by [Health Services Act 1980 \(c. 53\), s. 26\(2\)](#), [Sch. 4 Pt. II para. 7\(d\)](#); [S.I. 1981/884, art. 2\(2\)\(a\)](#)

Marginal Citations

- M2** [1976 c. 83.](#)

[^{F22}1A Registration fees.

—A Health Board may impose fees, of such amounts and at such times as may be prescribed by the Secretary of State in regulations under this Act, in respect of—

- (a) an application for registration made by any person in respect of the carrying on of a nursing home;
- (b) the annual continuation of any such registration;
- (c) an application made under section 1(3F) above by the person registered in respect of the home for a variation in any condition such as is mentioned in section 1(3D) or (3E) above which has effect in relation to the home; and
- (d) the issuing under section 1(3) above of a new certificate following any variation, made as a result of an application under section 1(3F) above, in the conditions under section 1(3D) or (3E) above subject to which the registration has been granted.]

Subordinate Legislation Made

- P1** [S. 1A](#) : s. 4 (with s. 1A):power exercised by [S.I. 1991/1320](#)

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S. 1A: power previously exercised by S.I. 1988/1861 and S.I. 1990/1310

Textual Amendments

F22 S. 1A inserted by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\)](#), s. 6(3)

[^{F49}1A Registration fees. **S**

—A Health Board may impose fees, of such amounts and at such times as may be prescribed by the Secretary of State in regulations under this Act, in respect of—

- (a) an application for registration made by any person in respect of the carrying on of a nursing home;
- (b) the annual continuation of any such registration;
- (c) an application made under section 1(3F) above by the person registered in respect of the home for a variation in any condition such as is mentioned in section 1(3D) or (3E) above which has effect in relation to the home; and
- (d) the issuing under section 1(3) above of a new certificate following any variation, made as a result of an application under section 1(3F) above, in the conditions under section 1(3D) or (3E) above subject to which the registration has been granted.]

Textual Amendments

F49 S. 1A inserted by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\)](#), s. 6(3)

2 Cancellation of registration.

- (1) Subject as provided in this Act, a [^{F23}Health Board] may by order at any time cancel the registration of a person in respect of any nursing home on any ground which would entitle them to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence against this Act or against Part II of the ^{M3}Midwives and Maternity Homes (Scotland) Act 1927, or that any other person has been convicted of such an offence in respect of that home [^{F24}or on the ground that any condition imposed by or under section 1(3D) to (3G) of this Act has not been complied with]:

Provided that

- ^{F25}(a) where a person's registration in respect of a home is in force immediately before the coming into force of paragraph 8 of Schedule 4 to the Health Services Act 1980, the Health Board shall not cancel the registration on any ground mentioned in paragraph (c) or (d) of the proviso to subsection (3) of section 1 of this Act before the expiration of the period of three months beginning with the day on which the relevant notice is served by them under subsection (3A) or (3B) of that section; and
- (b) in the case of a person registered in respect of a maternity home under any enactment repealed by this Act, the [^{F23}Health Board] shall not cancel the registration of that person in respect of that home on the ground that it does not comply with the provisions of paragraph (d) of subsection (3) of section one of this Act until the expiration of three months after the [^{F23}Board] have given him notice in writing requiring that the provisions of the said paragraph shall be complied with.

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- (2) Upon the registration of any person in respect of any home being cancelled, the holder of the certificate of registration shall forthwith deliver up the certificate to the [^{F23}Health Board.]

Textual Amendments

- F23** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 72](#)
F24 Words inserted by [Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 8\(a\)](#)
F25 Words inserted by [Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 8\(b\)](#)

Marginal Citations

- M3** [1927 c. 17.](#)

[^{F26}2A Special provisions for jointly registrable establishments.

- (1) Subject to the provisions of this section, where a person registered or intending to be registered under section 62 of the Social Work (Scotland) Act ^{M4}1968 in respect of an establishment carrying out functions in respect of which registration is required under Part IV of that Act intends that that establishment should also carry out functions in respect of which registration is required under this Act, the provisions of this Act shall apply in relation to the registration of that person for the purpose of carrying out those functions in that establishment.
- (2) In this Act “jointly registrable establishment” means an establishment required to be registered under both this Act and Part IV of the said Act of 1968.
- (3) Any certificate of registration issued by a Health Board to such a person as is described in subsection (1) above shall relate to the whole of the establishment, excepting any part thereof which is used exclusively for the purpose of carrying out functions under Part IV of the said Act of 1968.
- (4) Where a Health Board cancel the registration of a jointly registrable establishment under section 2 above they shall inform the local authority with which the establishment is registered of the fact of and the reasons for the cancellation.
- (5) Any person who, on the date when this enactment comes into force, is carrying on a jointly registrable establishment which is not registered under this Act shall within 3 months of that date apply for such registration.
- (6) No fee shall be chargeable by a Health Board under section 1A(a) above in respect of any application made by virtue of subsection (5) above.]

Textual Amendments

- F26** [S. 2A](#) inserted by [Registered Establishments \(Scotland\) Act 1987 \(c. 40, SIF 81:3\), s. 5\(2\)](#)

Marginal Citations

- M4** [1968 c.49 \(81:3\).](#)

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3 Notice of refusal or of cancellation of registration.

- (1) Before making an order refusing an application for registration or an order cancelling any registration, the [^{F27}Health Board] shall give to the applicant or to the person registered, as the case may be, not less than fourteen days' notice of their intention to make such an order, and every such notice shall state the grounds on which the [^{F27}Board] intend to make the order and shall contain an intimation that, if within fourteen days after the receipt of the notice the applicant or person registered informs the [^{F27}Board] in writing that he desires so to do, the [^{F27}Board] will, before making the order, give him an opportunity of showing cause, in person or by a representative, why the order should not be made.
- (2) Where a [^{F27}Health Board] have made an order refusing an application for registration or cancelling any registration, they shall cause a copy of the order to be sent to the applicant or the person registered.
- (3) Any person aggrieved by an order refusing an application for registration or cancelling any registration may, within fourteen days after the date on which the copy of the order was sent to him, appeal against it to the sheriff, whose decision shall be final and shall be given effect to by the [^{F27}Health Board].
- (4) No such order shall come into force until the expiration of fourteen days from the date on which it was made, or, where notice of appeal is given against it, until the appeal has been decided or withdrawn.

Textual Amendments

F27 Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 72](#)

[^{F28}3A Conduct and inspection of nursing homes.

The Secretary of State may make regulations—

- (a) as to the conduct of nursing homes;
- (b) with respect to entry into and the inspection of premises used or reasonably believed to be used as a nursing home;
- (c) with respect to the production and inspection of records required to be kept under this Act,

and regulations made under paragraph (a) above may include provision as to the facilities and services to be provided in nursing homes.]

Textual Amendments

F28 S. 3A inserted by [Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 9](#)

4 Regulations.

- (1) The Department may make regulations prescribing anything which under this Act is to be or may be prescribed and prescribing the records to be kept in respect of every nursing home and, in particular, without prejudice to the foregoing generality—
 - (a) with respect to every nursing home, the records to be kept of—
 - (i) the patients admitted to the home, and

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- (ii) the persons engaged or employed at the home;
- (b) with respect to every maternity home, the records to be kept of—
 - (i) the infant children in the home;
 - (ii) the births, still-births, premature births and abortions or miscarriages occurring in the home; and
 - (iii) every child born in the home who is removed from the home otherwise than to the custody or care of a parent, guardian or relative of the child; and
- (c) with respect to every nursing home, the notices to be given when any death occurs therein.

[^{F29}and

- (d) with respect to such matters as appear to be expedient in order to secure continuity between the system of registration by local authorities and the system of registration by Health Boards.]

[^{F30}(2) Any regulations under this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

(3) Any person who acts in contravention of or fails to comply with the provisions of any regulations made under this Act, shall be guilty of an offence against this Act.

Subordinate Legislation Made

P2 S. 4: s. 4 (with s. 1A) power exercised by [S.I.1991/1320](#)

P3 S. 4: power previously exercised by [S.I. 1981/977](#), 1988/1861 and 1990/1310

Textual Amendments

F29 Words added by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 73](#)

F30 S. 4(2) substituted by [Health Services Act 1980 \(c. 53\)](#), s. 26(2), [Sch. 4 Pt. II para. 10](#), [Sch. 7](#)

5 ^{F31}

Textual Amendments

F31 S. 5 repealed by [Health Services Act 1980 \(c. 53\)](#), s. 26(2), [Sch. 4 Pt. II para. 11](#)

6 Power to exempt certain institutions.

(1) A [^{F32}Health Board] may grant exemption from the operation of this Act in respect of any hospital or similar institution not carried on for profit and may attach conditions to any exemption granted by them.

(2) Any exemption granted, or deemed to have been granted, under this section, in respect of any hospital or institution may be withdrawn at any time and, unless previously withdrawn, shall cease to have effect on the expiration of one year from the date on which it is granted, without prejudice to the power of the [^{F32}Health Board] to grant a further exemption:

Provided that, if the [^{F32}Board] deem it convenient that all such exemptions should expire on the same date in any year, they may, for the purpose of securing that object,

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grant exemptions for any period not being less than six months and not exceeding eighteen months.

- (3) Any person who is aggrieved by the refusal of a [^{F32}Health Board] to grant exemption under this section in respect of any hospital or institution, or by any conditions attached to an exemption, or by the withdrawal by the [^{F32}Board] of any exemption, may appeal against the refusal or conditions or withdrawal to the Department, and the Department, after considering the matter, shall give such directions therein as they think proper, and the [^{F32}Board] shall comply with any directions so given.

Textual Amendments

F32 Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 75](#)

7 Power to exempt Christian Science Homes.

- (1) The Department may, in respect of any nursing home which they are satisfied is being, or will be, carried on in accordance with the practice and principles of the body known as the Church of Christ Scientist, grant exemptions from the operation of [^{F33}the provisions of this Act.]
- (2) It shall be a condition of any exemption granted in respect of a nursing home under this section that the nursing home shall adopt and use the name of Christian Science house.
- (3) An exemption granted under this section in respect of a nursing home may at any time be withdrawn by the Department if it appears to them that that home is no longer being carried on in accordance with the said practice and principles.

Textual Amendments

F33 Words substituted by [Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 12](#)

Modifications etc. (not altering text)

C1 [S. 8](#) amended by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289C, Sch. 7C](#)

8 Penalty for offences against Act and provision as to offences by companies.

- (1) If any person is guilty of an offence against this Act (other than an offence in respect of which some other penalty is specifically provided by this Act), he shall be liable on summary conviction to a fine not exceeding [^{F34}level 1 on the standard scale] and, in the case of a continuing offence, to a further fine not exceeding two pounds in respect of each day on which the offence continues after conviction.
- (2) Where a person convicted of an offence against this Act is a company, the chairman and every director of the company and every officer of the company concerned in the management thereof shall be guilty of the like offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Textual Amendments

F34 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), ss. 289F, 289G](#) and by [1995 c. 40, ss. 3, 7\(2\), Sch. 1 para. 3\(1\), Sch. 2 Pt. II](#) it is provided (1.4.1996) that s. 8 shall have

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effect as if the maximum fine that may be imposed on summary conviction for an offence mentioned therein were a fine not exceeding level 4 on the standard scale instead of a fine not exceeding Â£20

9 ^{F35}

Textual Amendments

F35 S. 9 repealed by National Health Service (Scotland) Act 1972 (c. 58), Sch. 7 Pt. II

10 Interpretation.

[^{F36}(1)] In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“Department” means [^{F37}the Secretary of State ;]

^{F38}

“register” and

“registration” mean register and registration under this Act;

[^{F39}“nursing home” has the meaning given by subsection (2) below;]

“maternity home” means any premises used or intended to be used for the reception of pregnant women or of women immediately after childbirth;

^{F40},

^{F41},

^{F42}

[^{F43}“student midwife” means a person who is undergoing training with a view to becoming a registered midwife, and for that purpose attending women in childbirth, as part of a course of practical instruction in midwifery recognised by the National Board for Nursing, Midwifery and Health Visiting for Scotland.][^{F44}

(2) In this Act “nursing home” means, subject to subsection (3) below—

- (a) any premises used, or intended to be used, for the reception of, and the provision of nursing for, persons suffering from any sickness, injury or infirmity;
- (b) any maternity home; and
- (c) any premises not falling within either of the preceding paragraphs which are used, or intended to be used, for the provision of all or any of the following services, namely—
 - (i) the carrying out of surgical procedures under anaesthesia;
 - (ii) the termination of pregnancies;
 - (iii) endoscopy;
 - (iv) haemodialysis or peritoneal dialysis.

(3) The definition in subsection (2) above does not include—

- (a) any hospital or other premises maintained or controlled by a government department or local authority [^{F45}or a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978.] or any other authority or body established or incorporated by or under any local Act or by Royal Charter;

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- (b) any private hospital within the meaning of the ^{M5}Mental Health (Scotland) Act 1960;
- (c) any sanatorium provided at a school or educational establishment and used or intended to be used solely by persons in attendance at, or members of the staff of, that school or establishment or members of their families;
- (d) any first aid or treatment room provided at factory premises, at premises to which the ^{M6}Offices, Shops and Railway Premises Act 1963 applies or at a sports ground, show ground or place of public entertainment;
- (e) any premises used, or intended to be used, wholly or mainly—
 - (i) by a medical practitioner for the purpose of consultations with his patients;
 - (ii) by a dental practitioner or chiropodist for the purpose of treating his patients; or
 - (iii) for the provision of occupational health facilities;
- (f) any premises used, or intended to be used, wholly or mainly as a private dwelling; or
- (g) any other premises excepted from that definition by regulations made by the Secretary of State.]

Textual Amendments

- F36** S. 10 renumbered as subsection (1) of that section by [Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 14](#)
- F37** Words substituted by virtue of [Reorganisation of Offices \(Scotland\) Act 1939 \(c. 20\), s. 1\(1\)\(6\)\(b\)](#)
- F38** Definitions repealed by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 7 Pt. II](#)
- F39** Definition substituted by [Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 13\(b\)](#)
- F40** Definition repealed by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36\), s. 24\(2\), Sch. 8 and Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 13\(a\), Sch. 7](#)
- F41** Definition repealed by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36\), s. 24\(2\), Sch. 8](#)
- F42** Definition repealed by [Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 13\(a\), Sch. 7](#)
- F43** Definition substituted by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36\), s. 24\(2\), Sch. 7 para. 3\(b\)](#)
- F44** S. 10(2)(3) inserted by [Health Services Act 1980 \(c. 53\), s. 26\(2\), Sch. 4 Pt. II para. 14](#)
- F45** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 3](#)

Marginal Citations

- M5** 1960 c. 61.
- M6** 1963 c. 41.

11 Short title and extent, repeal and commencement.

(1) This act may be cited as the Nursing Homes Registration (Scotland) Act 1938.

(2) ^{F46}

- (i) any person who was, immediately before the commencement of this Act, registered under any enactment repealed by this Act in respect of any maternity home, shall be deemed for all the purposes of this Act to be as from the commencement of this Act a person duly registered thereunder in respect of that home; and

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- (ii) any exemption of a hospital or institution granted under paragraph (a) of subsection (1) of section fifteen of the ^{M7}Midwives and Maternity Homes (Scotland) Act, 1927, which was in force immediately before the commencement of this Act, shall be deemed to have been granted under section six of this Act.

Textual Amendments

F46 Words repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

Marginal Citations

M7 1927 c. 17.

(3) ^{F47}

(4) This Act shall apply to Scotland only.

Textual Amendments

F47 S. 11(3), Sch. repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

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F48F48 SCHEDULE

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Textual Amendments

F48 S. 11(3), Sch. repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

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F48

Status:

Point in time view as at 23/05/1991.

Changes to legislation:

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