

Status: Point in time view as at 01/02/1991.

Changes to legislation: Health And Social Services And Social Security Adjudications Act 1983, Cross Heading: Children's Homes Act 1982 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4

REGISTERED HOMES

PART II

AMENDMENTS OF ACTS RELATING TO REGISTERED HOMES

Children's Homes Act 1982

[^{F1}44 In paragraph (c) of section 1(2) of the ^{M1}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".]

Textual Amendments

F1 Sch. 4 para. 44 repealed (E.W.) by Registered Homes Act 1984 (c. 23, SIF 113:3), s. 57, Sch. 3 and expressed to be repealed (E.W.) (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(7), Sch. 15, (with s. 108(6), Sch. 14 paras. 1(1), 27(4))

Marginal Citations

M1 1982 c. 20.

[^{F2}45 In section 4 of that Act—
(a) the following subsection shall be substituted for subsection 2—
“(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”.]

Textual Amendments

F2 Sch. 2 paras. 50, 60–62, Sch. 4 Pt. II paras. 45–48 and Sch. 9 para. 5 repealed (E.W.) (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(7), Sch. 15, (with s. 108(6), Sch. 14 paras. 1(1), 27(4))

Status: Point in time view as at 01/02/1991.

Changes to legislation: Health And Social Services And Social Security Adjudications Act 1983, Cross Heading: Children's Homes Act 1982 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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.
- (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.

Status: Point in time view as at 01/02/1991.

Changes to legislation: Health And Social Services And Social Security Adjudications Act 1983, Cross Heading: Children's Homes Act 1982 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 subcommittee 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.
- (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.

Status: Point in time view as at 01/02/1991.

Changes to legislation: Health And Social Services And Social Security Adjudications Act 1983, Cross Heading: Children’s Homes Act 1982 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 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 Scilly, 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.”.

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

Health And Social Services And Social Security Adjudications Act 1983, Cross Heading: Children's Homes Act 1982 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.