

Status: Point in time view as at 14/10/1991.

Changes to legislation: Children Act 1989, SCHEDULE 4 is up to date with all changes known to be in force on or before 22 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 **E+W**

Section 53(6).

MANAGEMENT AND CONDUCT OF COMMUNITY HOMES

PART I **E+W**

INSTRUMENTS OF MANAGEMENT

Instruments of management for controlled and assisted community homes

- 1 (1) The Secretary of State may by order make an instrument of management providing for the constitution of a body of managers for any ^{F1} . . . home which is designated as a controlled or assisted community home.
- (2) Sub-paragraph (3) applies where two or more ^{F1} . . . homes are designated as controlled community homes or as assisted community homes.
- (3) If—
 - (a) those homes are, or are to be, provided by the same voluntary organisation; and
 - (b) the same local authority is to be represented on the body of managers for those homes,a single instrument of management may be made by the Secretary of State under this paragraph constituting one body of managers for those homes or for any two or more of them.
- (4) The number of persons who, in accordance with an instrument of management, constitute the body of managers for a ^{F1} . . . home shall be such number (which must be a multiple of three) as may be specified in the instrument.
- (5) The instrument shall provide that the local authority specified in the instrument shall appoint—
 - (a) in the case of a ^{F1} . . . home which is designated as a controlled community home, two-thirds of the managers; and
 - (b) in the case of a ^{F1} . . . home which is designated as an assisted community home, one-third of them.
- (6) An instrument of management shall provide that the foundation managers shall be appointed, in such manner and by such persons as may be specified in the instrument—
 - (a) so as to represent the interests of the voluntary organisation by which the home is, or is to be, provided; and
 - (b) for the purpose of securing that—

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- (i) so far as is practicable, the character of the home ^{F2} . . . will be preserved; and
 - (ii) subject to paragraph 2(3), the terms of any trust deed relating to the home are observed.
- (7) An instrument of management shall come into force on such date as it may specify.
- (8) If an instrument of management is in force in relation to a ^{F1} . . . home the home shall be (and be known as) a controlled community home or an assisted community home, according to its designation.
- (9) In this paragraph—
- “foundation managers”, in relation to a ^{F1} . . . home, means those of the managers of the home who are not appointed by a local authority in accordance with sub-paragraph (5); and
 - “designated” means designated in accordance with section 53.

Textual Amendments

- F1** Word in Sch. 4 para. 1(1)(2)(4)(5)(8)(9) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 28(1), Sch. 20; S.I. 1991/1883, art. 3, Sch.
- F2** Words in Sch. 4 para. 1(6)(b)(i) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 28(2), Sch. 20; S.I. 1991/1883, art. 3, Sch.

Commencement Information

- I1** Sch. 4 Pt. I para. 1 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 2 (1) An instrument of management shall contain such provisions as the Secretary of State considers appropriate.
- (2) Nothing in the instrument of management shall affect the purposes for which the premises comprising the home are held.
- (3) Without prejudice to the generality of sub-paragraph (1), an instrument of management may contain provisions—
- (a) specifying the nature and purpose of the home (or each of the homes) to which it relates;
 - (b) requiring a specified number or proportion of the places in that home (or those homes) to be made available to local authorities and to any other body specified in the instrument; and
 - (c) relating to the management of that home (or those homes) and the charging of fees with respect to—
 - (i) children placed there; or
 - (ii) places made available to any local authority or other body.
- (4) Subject to sub-paragraphs (1) and (2), in the event of any inconsistency between the provisions of any trust deed and an instrument of management, the instrument of management shall prevail over the provisions of the trust deed in so far as they relate to the home concerned.
- (5) After consultation with the voluntary organisation concerned and with the local authority specified in its instrument of management, the Secretary of State may by order vary or revoke any provisions of the instrument.

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Commencement Information

I2 Sch. 4 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

PART II E+W

MANAGEMENT OF CONTROLLED AND ASSISTED COMMUNITY HOMES

- 3 (1) The management, equipment and maintenance of a controlled community home shall be the responsibility of the local authority specified in its instrument of management.
- (2) The management, equipment and maintenance of an assisted community home shall be the responsibility of the voluntary organisation by which the home is provided.
- (3) In this paragraph—
“home” means a controlled community home or (as the case may be) assisted community home; and
“the managers”, in relation to a home, means the managers constituted by its instrument of management; and
“the responsible body”, in relation to a home, means the local authority or (as the case may be) voluntary organisation responsible for its management, equipment and maintenance.
- (4) The functions of a home’s responsible body shall be exercised through the managers.
- (5) Anything done, liability incurred or property acquired by a home’s managers shall be done, incurred or acquired by them as agents of the responsible body.
- (6) In so far as any matter is reserved for the decision of a home’s responsible body by—
(a) sub-paragraph (8);
(b) the instrument of management;
(c) the service by the body on the managers, or any of them, of a notice reserving any matter,
that matter shall be dealt with by the body and not by the managers.
- (7) In dealing with any matter so reserved, the responsible body shall have regard to any representations made to the body by the managers.
- (8) The employment of persons at a home shall be a matter reserved for the decision of the responsible body.
- (9) Where the instrument of management of a controlled community home so provides, the responsible body may enter into arrangements with the voluntary organisation by which that home is provided whereby, in accordance with such terms as may be agreed between them and the voluntary organisation, persons who are not in the employment of the responsible body shall undertake duties at that home.
- (10) Subject to sub-paragraph (11)—
(a) where the responsible body for an assisted community home proposes to engage any person to work at that home or to terminate without notice the employment of any person at that home, it shall consult the local authority

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- specified in the instrument of management and, if that authority so direct, the responsible body shall not carry out its proposal without their consent; and
- (b) that local authority may, after consultation with the responsible body, require that body to terminate the employment of any person at that home.
- (11) Paragraphs (a) and (b) of sub-paragraph (10) shall not apply—
- (a) in such cases or circumstances as may be specified by notice in writing given by the local authority to the responsible body; and
- (b) in relation to the employment of any persons or class of persons specified in the home’s instrument of management.
- (12) The accounting year of the managers of a home shall be such as may be specified by the responsible body.
- (13) Before such date in each accounting year as may be so specified, the managers of a home shall submit to the responsible body estimates, in such form as the body may require, of expenditure and receipts in respect of the next accounting year.
- (14) Any expenses incurred by the managers of a home with the approval of the responsible body shall be defrayed by that body.
- (15) The managers of a home shall keep—
- (a) proper accounts with respect to the home; and
- (b) proper records in relation to the accounts.
- (16) Where an instrument of management relates to more than one home, one set of accounts and records may be kept in respect of all the homes to which it relates.

Commencement Information

I3 Sch. 4 Pt. II para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

PART III E+W

REGULATIONS

- 4 (1) The Secretary of State may make regulations—
- (a) as to the placing of children in community homes;
- (b) as to the conduct of such homes; and
- (c) for securing the welfare of children in such homes.
- (2) The regulations may, in particular—
- (a) prescribe standards to which the premises used for such homes are to conform;
- (b) impose requirements as to the accommodation, staff and equipment to be provided in such homes, and as to the arrangements to be made for protecting the health of children in such homes;
- (c) provide for the control and discipline of children in such homes;
- (d) impose requirements as to the keeping of records and giving of notices in respect of children in such homes;

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- (e) impose requirements as to the facilities which are to be provided for giving religious instruction to children in such homes;
 - (f) authorise the Secretary of State to give and revoke directions requiring—
 - (i) the local authority by whom a home is provided or who are specified in the instrument of management for a controlled community home, or
 - (ii) the voluntary organisation by which an assisted community home is provided,to accommodate in the home a child looked after by a local authority for whom no places are made available in that home or to take such action in relation to a child accommodated in the home as may be specified in the directions;
 - (g) provide for consultation with the Secretary of State as to applicants for appointment to the charge of a home;
 - (h) empower the Secretary of State to prohibit the appointment of any particular applicant except in the cases (if any) in which the regulations dispense with such consultation by reason that the person to be appointed possesses such qualifications as may be prescribed;
 - (i) require the approval of the Secretary of State for the provision and use of accommodation for the purpose of restricting the liberty of children in such homes and impose other requirements (in addition to those imposed by section 25) as to the placing of a child in accommodation provided for that purpose, including a requirement to obtain the permission of any local authority who are looking after the child;
 - (j) provide that, to such extent as may be provided for in the regulations, the Secretary of State may direct that any provision of regulations under this paragraph which is specified in the direction and makes any such provision as is referred to in paragraph (a) or (b) shall not apply in relation to a particular home or the premises used for it, and may provide for the variation or revocation of any such direction by the Secretary of State.
- (3) Without prejudice to the power to make regulations under this paragraph conferring functions on—
- (a) the local authority or voluntary organisation by which a community home is provided; or
 - (b) the managers of a controlled or assisted community home,
- regulations under this paragraph may confer functions in relation to a controlled or assisted community home on the local authority named in the instrument of management for the home.

Commencement Information

I4 Sch. 4 Pt. III para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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