

## SCHEDULE 4

### Accommodation for Residential Care Licences

## PART 2

### Interpretation

#### England and Wales

**5.**—(1) This paragraph applies to any establishment the sole or main object of which is, or is held out to be, the provision of accommodation, whether for reward or not, for disabled or retired persons and which is—

- (a) provided by a local authority under section 21(1)(a) of the National Assistance Act 1948<sup>(1)</sup>;
  - (b) an independent school within the meaning of the Education Act 1996<sup>(2)</sup>—
    - (i) which provides accommodation for 50 or fewer children under the age of 18 years and which is not for the time being approved by the Secretary of State under section 347 of the Education Act 1996<sup>(3)</sup>; and
    - (ii) which provides or is intended to provide residential accommodation with both board and personal care for children at the school who are in need of personal care by reason of being disabled, including by reason of a past or present mental disorder;
  - (c) an establishment that is carried on or managed by a person who is registered under Part II of the Care Standards Act 2000<sup>(4)</sup> to carry on or manage the establishment as a care home within the meaning of section 3 of that Act, or who would be so registered but for—
    - (i) regulation 3(1)(b) of the Care Homes Regulations 2001<sup>(5)</sup>, or
    - (ii) regulation 3(1)(a) or (d) of the Care Homes (Wales) Regulations 2002<sup>(6)</sup>;
  - (d) a care hospital; or
  - (e) an almshouse established as such before 1st November 1949.
- (2) In sub-paragraph (1)(d) the reference to a care hospital is to—
- (a) any establishment carried on or managed by a person who is registered under Part II of the Care Standards Act 2000 to carry on or manage the establishment as an independent hospital within the meaning of section 2 of that Act<sup>(7)</sup>; or
  - (b) a health service hospital.

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(1) 1948 c. 29; section 21(a) was amended by the Children Act 1989 (c. 41), section 108(5) and Schedule 13, paragraph 11(1), and by the National Health Service and Community Care Act 1990 (c. 19), section 42(1). Section 21 was repealed in relation to Scotland by the Social Work (Scotland) Act 1968 (c. 49), section 95(2) and Schedule 9, Part 1.

(2) 1996 c. 56; section 463 of the Education Act 1996 (c. 56) defines ‘independent school’. That definition has been amended by the Education Act 2002 (c. 32), section 172. The new definition is in force in relation to England but not yet in force in relation to Wales. The definition still in force for Wales has been amended by the School Standards and Framework Act 1998 (c. 31), section 140(1) and (3), Schedule 30, paragraph 124(a) and Schedule 31, paragraph 124(b).

(3) 1996 c. 56; section 347 was amended by the Special Educational Needs and Disability Act 2001 (c. 10), section 42(1) and Schedule 8, Part 1, paragraphs 1 and 12. Section 347 was also amended by the Education Act 2002 (c. 32), section 174. This amendment is in force in relation to England but not Wales. Functions of the Secretary of State, so far as exercisable in relation to Wales, have been transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), article 2 and Schedule 1.

(4) 2000 c. 14; section 11 contains the requirement to be registered under Part 2. Section 11 was amended by the Adoption and Children Act 2002 (c. 38), section 139(1) and Schedule 3, paragraphs 103 and 106.

(5) S.I. 2001/3965.

(6) S.I. 2002/324.

(7) 2000 c. 14; section 2 was amended, in relation to England, by S.I. 2001/3968, regulation 3(4).

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

(3) In this paragraph—

“health service hospital” has the same meaning as in section 128 of the National Health Service Act 1977<sup>(8)</sup>; and

“personal care” means care which includes assistance with bodily functions where such assistance is required.

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<sup>(8)</sup> 1977 c. 49; this definition was amended by the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, paragraph 77(d), the National Health Service and Community Care Act 1990 (c. 19), section 26(2)(c), and by the Health Act 1999 (c. 8), section 65 and Schedule 4, paragraphs 4 and 38(1) and (2)(a), the latter of these amendments not being in force in relation to Wales.