

## SCHEDULE 1

### TRANSITIONAL PROVISIONS IN RESPECT OF THE COMMENCEMENT OF PART II OF THE 2000 ACT

#### **Transition from registration under the 1984 and 1989 Acts to registration under the 2000 Act**

6.—(1) The National Assembly, having regard to any representations made by the existing registered provider (referred to as “the provider” in the following provisions of this paragraph) under sub-paragraph (10), shall determine, at such time as it thinks fit, the matters described in sub-paragraph (2) in relation to an existing registered home, and serve notice of its determination upon the provider.

(2) The matters are—

- (a) the applicable description (if any) that applies to the existing registered home;
- (b) the conditions (if any) to which—
  - (i) in the case of a 1984 Act home, the registration of the provider under that Act was subject;
  - (ii) in the case of a 1989 Act home, the registration of the home under that Act was subject;
- (c) in a case where the provider was registered under Part I of the 1984 Act in respect of a residential care home, whether for the purposes of section 3 of that Act he or she was a manager of the home but not in control of it (whether as owner or otherwise);
- (d) any other matter in so far as the determination of that matter is necessary to enable the provider, in accordance with sub-paragraph (3), to be treated for the purposes of Part II of the 2000 Act as having applied for and been granted registration in respect of the establishment;

and any determination of the National Assembly under this sub-paragraph shall for the purposes of section 21 of the 2000 Act (appeals to the Tribunal) be treated as if it were a decision of the National Assembly under Part II of that Act.

(3) When the National Assembly has, for the purposes of sub-paragraph (2)(a) made a determination of the applicable description that applies to an existing registered home, then with effect from a date specified by the National Assembly (“the effective date”) (which may be specified by reference to the determination of an application under paragraph 5 in respect of the existing registered home, or to some other event)—

- (a) the provider shall, for the purposes of Part II of the 2000 Act, be treated as having applied for and been granted registration in respect of the existing registered home as an establishment of the applicable description determined in accordance with sub-paragraph 2(a);
- (b) the conditions (if any) determined in accordance with sub-paragraph (2)(b) shall, in so far as they are capable of being conditions to which the registration for the purposes of Part II of the 2000 Act is subject, have effect—
  - (i) as if they were conditions to which the registration for those purposes is subject; and
  - (ii) as if, for the purposes of section 19(1) of the 2000 Act, they had been agreed in writing between the provider and the National Assembly.

(4) On, or before, the effective date in respect of a determination under this paragraph the National Assembly shall issue a certificate to the provider—

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- (a) whose contents shall be in accordance with any regulations made under section 16(1)(b) of the 2000 Act about the contents of certificates issued under Part II of that Act<sup>(1)</sup>; and
  - (b) which shall be treated as if it were a certificate in respect of the existing registered home issued by the National Assembly under Part II of the 2000 Act.
- (5) Where, in accordance with this paragraph, a provider who is not registered under Part II of the 1984 Act in respect of a nursing home or mental nursing home is to be treated, for the purposes of Part II of the 2000 Act, as having applied for and been granted registration in respect of an existing registered home as a care home—
- (a) the registration shall be treated as being subject to the condition that the care home shall not provide nursing to any person;
  - (b) the condition mentioned in paragraph (a) above shall be treated, for the purposes of Part II of the 2000 Act, as if it had been agreed in writing between the existing provider and the National Assembly.
- (6) The provisions of sub-paragraphs (2), (3) and (5) shall be without prejudice to the powers of the National Assembly to vary, remove or impose any condition in accordance with Part II of the 2000 Act.
- (7) In this paragraph, references to a provider being treated as having applied for and been granted registration in respect of an existing registered home shall be taken to refer—
- (a) in a case where—
    - (i) the provider is treated as having applied for and been granted registration in respect of a care home; and
    - (ii) the National Assembly has determined in accordance with sub-paragraph (2)(c) that—
      - (aa) the provider is registered under Part I of the 1984 Act in respect of a residential care home; and
      - (bb) for the purposes of section 3 of that Act he is a manager of the home but is not in control of it (whether as owner or otherwise)
  - (b) in any other case, to registration as a person who carries on the establishment in question.
- (8) This sub-paragraph applies where—
- (a) the provider is to be treated, in accordance with sub-paragraph (3), as having applied for and been granted registration in respect of the existing registered home as an establishment of an applicable description; and
  - (b) not more than twelve months after the date upon which such treatment became effective, the National Assembly is satisfied that, in relation to the existing registered home, the applicable description is incorrect and was incorrect at the date just mentioned.
- (9) Where sub-paragraph (8) applies—
- (a) the National Assembly shall, having regard to any representations made under sub-paragraph (10), determine, with effect from the date specified in the determination, the applicable description that is to instead apply in the case of the provider, and serve notice of its determination upon the provider;
  - (b) the provider shall be treated, with effect from the date on which the determination takes effect, as having applied for and been granted registration in respect of the existing

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(1) Regulation 9 of the Registration of Social Care and Independent Health Care (Wales) Regulations 2002 (S.I.2002/919) makes provision under section 16(1)(b) of the 2000 Act about the contents of certificates of registration issued under Part II of the 2000 Act.

registered home as an establishment of the applicable description determined under paragraph (a) above;

(c) the National Assembly shall—

(i) ensure that, in relation to the registration of the provider for the purposes of Part II of the 2000 Act, any particulars required to be kept by the National Assembly are recorded or varied consistently with that determination; and

(ii) issue an amended certificate of registration to the provider;

and any determination of the National Assembly under this sub-paragraph shall for the purposes of section 21 of the 2000 Act (appeals to the Tribunal) be treated as if it were a decision of the National Assembly under Part II of that Act.

(10) Before making a determination as to the matters described in sub-paragraph (2) or (as the case may be) a determination under sub-paragraph (9)(a) in relation to an existing registered home the National Assembly shall give notice in writing to the provider informing the provider that he or she may, within twenty eight days of the receipt of that notice, make written representations about the determination, and that no determination will be made before the expiry of those twenty eight days.

(11) Sections 31 and 32 of the 2000 Act shall have effect for the purposes of this paragraph as if the words “, or for the purposes of the functions of the National Assembly under paragraph 6 of Schedule 1 to the Care Standards Act 2000 (Commencement No. 8 (Wales) and Transitional and Savings Provisions) Order 2002.” were inserted at the end of section 31(1).